United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *109th* CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, MONDAY, MAY 23, 2005 *No. 69*

House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. PETRI).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 23, 2005.

I hereby appoint the Honorable THOMAS E. PETRI to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS) for 5 minutes.

CHINA'S UNDERVALUED CURRENCY

Mr. STEARNS. Mr. Speaker, since 1994 China has pegged its currency, the yuan, to the United States dollar. Many economists contend that for the first several years of this peg, the fixed value was likely close to market value, but in the past few years, economic conditions have changed, such that the yuan would likely have appreciated, like virtually every other currency, if its exchange rates were determined by simple market forces. This policy constitutes a form of currency manipulation and is intended to give China an unfair trade advantage. Also, it is contributing to the loss of United States manufacturing jobs.

China's currency is significantly undervalued vis-a-vis the United States dollar. Some experts contend that it is undervalued by as much as 40 percent, making Chinese exports to the United States cheaper and U.S. exports to China more expensive than they would be if market forces determined the exchange rates.

Furthermore, the undervalued currency has contributed to the large U.S. trade deficit with China. It has hurt United States production and employment in several U.S. manufacturing sectors, such as textiles and apparel and furniture, that are forced to compete domestically and internationally against artificially low-cost goods from China.

If the yuan is undervalued against the dollar, imported Chinese goods are cheaper than they would be if the yuan were market-driven. This lowers prices for United States consumers and diminishes inflationary pressures, but in turn, lower priced goods from China hurt U.S. industries that compete with those products, diminishing their production and eventually their employment. In addition, an undervalued yuan makes U.S. exports to China more expensive, thus diminishing the level of U.S. exports to China and job opportunities for U.S. workers in those particular sectors.

Pegging the yuan to the dollar has large implications for the United States-China trade. When a fixed exchange rate causes the yuan to be less expensive than it would be if it were floating, it causes Chinese exports to the United States to be relatively inexpensive and U.S. exports to China to be relatively expensive. As a result, U.S. exports and the production of U.S. goods and services that compete with Chinese imports fall in the short run. Many of the affected firms are in the manufacturing sector. This causes the U.S. trade deficit to soar, to rise, and reduces aggregate demand in the short run.

Mr. Speaker, in 2004, China became the United States' second largest supplier of imports. A large share of China's exports to the United States are labor-intensive consumer goods such as toys and games, textiles and apparel, shoes, and consumer electronics. Because the manufacturing of these products have, over the past several years, shifted overseas, many of these exports do not compete directly with the United States domestic producers.

However, there are a number of small- and medium-sized firms, including makers of machine tools, hardware, plastics, furniture, and tool and die that are concerned over the growing competitive challenge posed by China. An undervalued Chinese currency contributes to a reduction in the output of these industries.

In addition, the low value of the yuan is forcing other East Asian economies to keep the value of their currencies low vis-a-vis the U.S. dollar in order to compete with Chinese products, to the detriment of U.S. exporters and U.S. domestic industries competing against foreign imports.

Furthermore, while China is still a developing country, it has been able to accumulate a massive foreign exchange reserve, approximately $660 billion at the end of March, and thus, it has the resources to maintain the stability of its currency if it were fully convertible.

Appreciating the yuan would greatly benefit China by lowering the cost of imports for Chinese consumers and producers who have used imported parts and machinery.

Finally, China's accumulation of large amounts of foreign exchange reserves in order to maintain the currency peg could be better spent on investment in infrastructure and development of poor regions in their country.

Recently, the Treasury Department issued a strongly worded report warning China over its pegging its currency to the dollar. The report called the Chinese currency peg highly distortionary, but the report stops short of designating China as manipulating its currency for a trade advantage. This designation would have triggered formal negotiations between the Bush administration and Chinese officials that potentially could end this peg.

The administration has taken the right steps in taking a harder line against China. While I welcome the tough language in the Treasury Department report regarding China, Mr. Speaker, the time has come for China to act, which will result in freer, fairer trade for both countries.

WE ARE HEADED TOWARDS A THIRD RATE ECONOMY

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Kansas (Mr. TIAHRT) is recognized during morning hour debates for 5 minutes.

Mr. TIAHRT. Mr. Speaker, last year our trade deficit was $670 billion, our Federal budget deficit was about $300 billion, and our government made it more and more difficult last year to keep and create jobs here in America. Barriers have been created and erected by Congress, and the results have been the wrong environment for the current day economy.

The world is changing. The world is getting more and more technical, and we, as a country, are not measuring up, and we are headed towards a third rate economy.

What a third rate economy means to our national security, to the future of our children is rather startling, and it is something we need to start preparing today to change. We must change the environment for keeping and creating jobs here.

In 10 to 20 years from now, we are looking at countries like China, currently with 1.3 billion people, India with 1 billion people, add that to Southeast Asia, and they get a group of about 3 billion people. Currently, they are in talks with trying to create an Asian Union, similar to the European Union, with the yuan as the currency of choice. This would be a very strong economy. It would be very difficult for America, who currently has the strongest economy in the world and the envy of the world, to compete with that.

Last year, China graduated 350,000 engineers. India graduated 80,000 software engineers alone. They are preparing for the future.

Today, a columnist for MSNBC wrote an article called, ''Can China build its own Silicon Valley? Beijing's recipe for technological success.'' In this article, China lays out what China's doing in their Zhongguancun district to create an environment to develop new technological businesses. They have already quite a few small high-tech companies in that area, and they also have the prestigious Tsinghua University, which is creating a lot of research and development to go along with this world-class technology incubator.

They are also providing business support, venture capital, legal services, property management and health care. It is a total package, a culture, if you will, to try to develop new ideas.

Dr. Meng Mei at the university said, ''We need a culture that gives small companies the confidence to succeed.'' It sounds like something we need to do here in America. What they are giving them is an infrastructure, an entrepreneurial infrastructure, so that they can go out and create new technology, driving the leading edge, something that America has been doing for the last several decades. In China, the amount of money they spend on research and development has tripled between 1991 and 2001, according to the article.

In the meantime, what have we been doing here in America over the last generation? Well, starting in the 1960s, Congress started writing more rules and regulations and passing laws with good intent but terrible consequences.

We have come up with burdensome regulations that keeps new companies from starting up. We have a litigation system that works against success. We have health care costs that are rising faster than small employers can keep up with. We have got a tax policy that punishes success instead of rewarding success. We have an energy policy that is dependent on foreign sources. We have a trade policy that too often goes unenforced, and our research and development sometimes gets spent in wasteful ways instead of looking forward to the future. Our education system, sadly, is lagging behind, especially in math, science and engineering.

At the end of this article, it says, ''While the number of U.S. science and engineering graduates declines, year after year, China's numbers are surging. China already graduates more English-speaking electrical engineers than does the U.S. Last month the U.S. came in 17th in an annual international collegiate programming contest; a team from Shanghai University came in first. And U.S. middle school math and science scores continue to lag behind those of other developed Nations.''

We are on a path to a third rate economy that has worldwide implications for our future, for our kids, for our national security, and we have to change that environment.

This is the debate that we should be having today on the floor of the United States House of Representatives. This is how we are going to create the environment, by changing these rules and regulations, so that we can create new jobs, create new technology and prepare for the oncoming challenges of the future.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 43 minutes p.m.), the House stood in recess until 2 p.m. today.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. RADANOVICH) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, when Your servant Moses came down from Mount Sinai, he carried the two stone tablets of Your commands. Struck by Your awesome presence, he bowed down to the ground in worship. Then he said: ''If I find favor with you, O Lord, do come along and be in our company. Indeed, this is a stiff-necked people; yet pardon our wickedness and our sins and take us as Your very own.''

Today, in America, O Lord, facing the image of Moses before us in this Chamber, we are again struck by Your presence. We pray that You be in our company now. Pardon our sins, because we too can be a stiff-necked people. Truly take us as Your own. Make of us a strong and virtuous Nation, a people truly set apart to be Your hallmark of justice for all peoples and an instrument of peace in the world.

''For You are gracious and merciful, slow to anger, rich in kindness and fidelity'' both now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Michigan (Mr. KNOLLENBERG) come forward and lead the House in the Pledge of Allegiance.

Mr. KNOLLENBERG 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.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced

that the Senate has agreed to a concurrent resolution of the following titles:

S. Con. Res. 35. Concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania.

The message also announced that pursuant to section 1928a–1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the following Senators to the Senate Delegation to the NATO Parliamentary Assembly during the One Hundred Ninth Congress:

the Senator from Alabama (Mr. SESSIONS).

the Senator from Wyoming (Mr. ENZI).

the Senator from Kentucky (Mr. BUNNING).

the Senator from Minnesota (Mr. COLEMAN).

TRIBUTE TO DR. BETTY SIEGEL

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, today I rise in honor of Dr. Betty Siegel, president of Kennesaw State University in Georgia. After 25 years of service to the University, Dr. Siegel will be retiring at the end of the year, and what an amazing 25 years it has been for her and for the students of Kennesaw State.

Back in 1981, Betty Siegel made headlines and chose the path less traveled when she became the first woman ever to serve as president in the 34-school university system of Georgia. Today, she makes headlines for all she has accomplished.

Under her leadership, KSU has grown tremendously, from a 4,000-student college offering 15 bachelor's degree programs and no graduate programs to today, with 18,000 students choosing from over 55 undergraduate and graduate programs.

The KSU slogan, ''Dare to Dream,'' is epitomized by Dr. Betty Siegel in every imaginable way. Not only does she lead by example, but she instills every student with that motto.

So today I say thank you to Dr. Siegel. Thank you for daring to dream and thank you for daring to do all you have done to improve the lives of your students.

IT IS TIME FOR VOTES ON JUDICIAL NOMINEES

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, Senator JIM DEMINT published an excellent op-ed in The State newspaper yesterday that the Senate has an obligation to ensure timely up-and-down votes for all nominees, regardless of who is President or which party is in power.

Ensuring that our courthouses are filled with well-qualified judges is one of the most important responsibilities of the U.S. Senate. As Senator DEMINT notes, the majority of Americans trust the Senate's judgment on judicial nominees, and it is unfair for a minority of Senators to ignore the will of the American people. If the minority's case against these nominees is so strong, they should be able to convince other Senators to oppose the nominees during a fair up-and-down vote.

This week, Majority Leader BILL FRIST will lead the Senate to vote on the constitutional option, which will restore a 200-year tradition to ensure that each nominee receives a fair vote. After years of debate on this topic, it is time for the Senate to follow the will of the American people.

In conclusion, God bless our troops and we will never forget September 11.

FISCAL LEADERSHIP

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Mr. Speaker, I rise to praise the President and Republicans in this Congress for working to strengthen the economy and cut unnecessary spending. This is not rocket science or advanced economics. When we leave more money in the hands of citizens, the economy thrives.

Case in point: 274,000 new jobs were created in April. We have seen steady job gains for each of the last 23 months, and more Americans are working than ever before. In addition, our Federal deficit is forecast to be $50 billion lower than expected.

Clearly, the economy's growth is a direct result of the pro-growth agenda of the President and this Congress. By holding the line on fiscal responsibility in the budget and passing pro-growth bills such as the death tax repeal and the energy bill, Republican Members continue to show their commitment to America's economy.

The House has begun the appropriation season with Republicans working hard to display fiscal responsibility, just as we have been doing through out the session. We have reformulated the allocation process for Homeland Security funding so we can make sure these funds are not wasted and are used properly.

This Congress and this President are working hard and doing great work. Unfortunately, not enough focus is being put on the positive things happening in the world and in our country.

Let us not squander this opportunity to keep stepping in the right direction.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

STOP COUNTERFEITING IN MANUFACTURED GOODS ACT

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 32) to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks, as amended.

The Clerk read as follows:

H.R. 32

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Stop Counterfeiting in Manufactured Goods Act''.

(b) FINDINGS.—The Congress finds that—

(1) the United States economy is losing millions of dollars in tax revenue and tens of thousands of jobs because of the manufacture, distribution, and sale of counterfeit goods;

(2) the Bureau of Customs and Border Protection estimates that counterfeiting costs the United States $200 billion annually;

(3) counterfeit automobile parts, including brake pads, cost the auto industry alone billions of dollars in lost sales each year;

(4) counterfeit products have invaded numerous industries, including those producing auto parts, electrical appliances, medicines, tools, toys, office equipment, clothing, and many other products;

(5) ties have been established between counterfeiting and terrorist organizations that use the sale of counterfeit goods to raise and launder money;

(6) ongoing counterfeiting of manufactured goods poses a widespread threat to public health and safety; and

(7) strong domestic criminal remedies against counterfeiting will permit the United States to seek stronger anticounterfeiting provisions in bilateral and international agreements with trading partners.

SEC. 2. TRAFFICKING IN COUNTERFEIT MARKS.

Section 2320 of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting after ''such goods or services'' the following: '', or intentionally traffics or attempts to traffic in labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive,''.

(2) Subsection (b) is amended to read as follows:

''(b)(1) The following property shall be subject to forfeiture to the United States and no property right shall exist in such property:

''(A) Any article bearing or consisting of a counterfeit mark used in committing a violation of subsection (a).

''(B) Any property used, in any manner or part, to commit or to facilitate the commission of a violation of subsection (a).

''(2) The provisions of chapter 46 of this title relating to civil forfeitures shall extend

to any seizure or civil forfeiture under this section. At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States, shall order that any forfeited article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law.

''(3)(A) The court, in imposing sentence on a person convicted of an offense under this section, shall order, in addition to any other sentence imposed, that the person forfeit to the United States—

''(i) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as the result of the offense;

''(ii) any of the person's property used, or intended to be used, in any manner or part, to commit, facilitate, aid, or abet the commission of the offense; and

''(iii) any article that bears or consists of a counterfeit mark used in committing the offense.

''(B) The forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section. Notwithstanding section 413(h) of that Act, at the conclusion of the forfeiture proceedings, the court shall order that any forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed.

''(4) When a person is convicted of an offense under this section, the court, pursuant to sections 3556, 3663A, and 3664, shall order the person to pay restitution to the owner of the mark and any other victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii).

''(5) The term 'victim', as used in paragraph (4), has the meaning given that term in section 3663A(a)(2).''.

(3) Subsection (e)(1) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) a spurious mark—

''(i) that is used in connection with trafficking in any goods, services, labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature;

''(ii) that is identical with, or substantially indistinguishable from, a mark registered on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered;

''(iii) that is applied to or used in connection with the goods or services for which the mark is registered with the United States Patent and Trademark Office, or is applied to or consists of a label, patch, sticker, wrapper, badge, emblem, medallion, charm, box, container, can, case, hangtag, documentation, or packaging of any type or nature that is designed, marketed, or otherwise intended to be used on or in connection with the goods or services for which the mark is registered in the United States Patent and Trademark Office; and

''(iv) the use of which is likely to cause confusion, to cause mistake, or to deceive; or''; and

(B) by amending the matter following subparagraph (B) to read as follows:

''but such term does not include any mark or designation used in connection with goods or services, or a mark or designation applied to labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature used in connection with such goods or services, of which the manufacturer or producer was, at the time of the manufacture or production in question, authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation.''.

(4) Section 2320 is further amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

''(f) Nothing in this section shall entitle the United States to bring a criminal cause of action under this section for the repackaging of genuine goods or services not intended to deceive or confuse.''.

SEC. 3. SENTENCING GUIDELINES.

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

(1) section 1204 of title 17, United States Code; or

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

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

(c) RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall determine whether the definition of ''infringement amount'' set forth in application note 2 of section 2B5.3 of the Federal sentencing guidelines is adequate to address situations in which the defendant has been convicted of one of the offenses listed in subsection (a) and the item in which the defendant trafficked was not an infringing item but rather was intended to facilitate infringement, such as an anti-circumvention device, or the item in which the defendant trafficked was infringing and also was intended to facilitate infringement in another good or service, such as a counterfeit label, documentation, or packaging, taking into account cases such as U.S. v. Sung, 87 F.3d 194 (7th Cir. 1996).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentlewoman from California (Ms. ZOE LOFGREN) each will control 20 minutes.

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent to yield the balance of the time to the chairman of the committee, the gentleman from Wisconsin (Mr. SENSENBRENNER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 32, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 32, the Stop Counterfeiting in Manufactured Goods Act. This legislation will facilitate efforts by the Department of Justice to prosecute those who exploit the good names of companies by attaching counterfeit marks to substandard products.

This is a serious problem. Legitimate businesses work hard to build public trust and confidence in their products. When a legitimate company's name is attached to counterfeit products that are not authorized by the company to bear that name, the company suffers losses not only to its bottom line but to its reputation as well.

In addition, counterfeit products are often purchased unwittingly by consumers who have come to rely on the quality of the product by a company they know and trust. Instead, what they receive is a low-quality, often dangerous imitation. Some of these products are such poor imitations of the original that they have caused physical harm to consumers.

The FBI has identified counterfeit goods in a wide range of products, including pharmaceuticals, automobile parts, airport parts, baby formulas, and children's toys. The U.S. automobile industry has reported a number of instances of brake failure caused by counterfeit brake pads manufactured from wooden chips. Counterfeits of other products, such as prescription or over-the-counter medications, may have serious health consequences if they are used by an unsuspecting consumer.

Under this legislation, section 2320 of title 18 would be expanded to include penalties for those who traffic in counterfeit labels, symbols, or packaging of any type knowing that a counterfeit mark has been applied. Additionally, this legislation would require the forfeiture of any property derived directly or indirectly from the proceeds of the violations as well as any property used or intended to be used in relation to the offense. The legislation also requires that restitution be paid to the owner of the mark which was counterfeited.

By mid-fiscal year 2003, the Department of Homeland Security had already reported 3,117 seizures of counterfeit-branded goods, including cigarettes, books, apparel, hand bags, toys, and electronic games, with an estimated street value of $38 million. Fortune 500 companies are spending between $2 million and $4 million each and every year to fight counterfeiters.

The counterfeiting of manufactured goods produces staggering losses to businesses across the United States and around the world. Counterfeit products deprive the Treasury of tax revenues, add to the national trade deficit, subject consumers to health and safety risks, and leave consumers without any legal recourse when they are

financially or physically injured by counterfeit products.

In addition, established links between counterfeiting, terrorism, and organized crime have made this a priority for Federal law enforcement agencies. H.R. 32 will provide another tool for the Federal Government to stop the wave of counterfeit products flooding the marketplace.

This legislation has broad bipartisan support. It was amended in the Committee on the Judiciary to ensure only those individuals who are operating with an intent to deceive or confuse the consumer by attaching counterfeit labeling or packaging will be held criminally liable.

I urge my colleagues to support this very important piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this legislation. H.R. 32 is aimed at criminals who traffic in counterfeit labels and packaging rather than the products themselves.

Many counterfeit products are labeled with brand names or trademarks that consumers know and trust. However, under current law, trafficking in counterfeit labels is not illegal if the labels are not affixed to the counterfeit products. Counterfeiters have exploited this by importing the counterfeit labels and products separately, and then affixing the labels in the United States.

This bill expands criminal penalties to include those who traffic in counterfeit labels and packaging. It also requires forfeiture of any property derived from the proceeds of the violation and requires restitution to the trademark owner.

At the same time, H.R. 32 now includes language that will ensure that criminal sanctions do not reach legitimate businesses that repackage goods or services with no intent to deceive or cause confusion.

The original bill left open the question of whether someone other than the manufacturer could affix marks to goods that could correctly identify the source. This confusion struck at the very heart of the parallel market in which third parties lawfully obtain goods and make them available in discount stores. Not only has this practice been upheld by the Supreme Court, but it also saves consumers billions of dollars each year.

I appreciate that the majority worked with us to address this concern. We now have a bill that protects manufacturers, targets illegitimate actors, protects consumers, and leaves the legitimate parallel market unscathed. Therefore, I urge a ''yes'' vote on this legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1415

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding me this time and bringing this legislation to the floor, and I especially want to commend the gentleman from Michigan (Mr. KNOLLENBERG) for his persistence in this matter.

Several years ago I had an opportunity to bring forward legislation which passed the House and was signed into law by President Clinton which significantly increased the authority of the U.S. Customs Service to deal with this problem of counterfeit goods. Up until that time, when counterfeit goods were discovered by Customs inspectors, all they could do was refuse to allow them into the country.

What happened was they would simply bring them around to another port and try again. Eventually, they would succeed, or they would send them to another market in the world and wreak the havoc that these counterfeit goods do in terms of health and safety concerns and cost to businesses elsewhere in the world. That was changed so that now the Customs Service can seize and destroy these goods.

This is the next logical step to handling that. When the criminals bring these goods into the country and do not have the labels on them and escape liability because they have separated the labels from the counterfeit goods, that is obviously a loophole that needed to be plugged.

I commend the gentleman and the committee for offering this legislation. I urge my colleagues to adopt it.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. LEVIN), an original cosponsor of this bill.

Mr. LEVIN. Mr. Speaker, I am glad to join the gentleman from Michigan (Mr. KNOLLENBERG) and all of the members on the committee who have worked hard on this bill to make sure that it is targeted in the right direction and that it will be, indeed, effective.

We have an immense counterfeiting problem in this country. A lot of it occurs overseas outside of our shores, but a lot of it occurs right here in the United States. We need to do more about what is going on overseas. I heard on the radio coming in this morning that they are selling in China a counterfeit DVD of the new ''Star Wars'' movie, and people here in the United States are waiting in line to get into the theater.

Here in the U.S. the counterfeiting problem has grown, and that was the inspiration for this bill. It has struck manufacturing in many respects. It has surely hurt the automobile industry, including the auto parts industry. Some estimates are that counterfeiting has cost the automotive parts industry over $12 billion in the last year. This is a time when that industry, as so many other parts of manufacturing, are having an immense challenge. They face an unlevel playing field. There is much talk in trade and competition about the need to level it, and there is nothing that rigs a field more than counterfeiting. That is the ultimate rigging.

This bill is an effort to get at this problem, to increase the sanctions, to increase the ability of law enforcement to crack down.

Mr. Speaker, I hope there is unanimous support for this bill. There is surely bipartisan support. Again, we have been glad to work with the gentleman from Michigan (Mr. KNOLLENBERG) and others on this, and we salute the Committee on the Judiciary, the majority and the minority, for taking this issue seriously and working out any problems and placing this bill on a path where it could be brought up today and, we hope, supported across the board.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. KNOLLENBERG), the principal sponsor of the bill.

(Mr. KNOLLENBERG asked and was given permission to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, I rise today in support of my bill, H.R. 32, the ''Stop Counterfeiting in Manufactured Goods Act.'' This legislation will help stop the scourge of counterfeit manufactured goods.

Let me thank the Committee on the Judiciary in its entirety, particularly the gentleman from Wisconsin (Chairman SENSENBRENNER) for all of his assistance, the subcommittee chairmen, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Texas (Mr. SMITH), and the majority leader for his leadership in bringing the bill to the floor today.

Most people understand that counterfeit goods is a problem, but many people do not understand how severe the problem is and how severe it has become. Counterfeiters are endangering consumers, are stealing jobs and money away from legitimate companies, destroying brand names and requiring costly investigations. The numbers are staggering, in addition to safety issues, and it has been mentioned about counterfeit auto parts, but they cost the automotive supplier over $12 billion annually. It has been estimated if these losses were eliminated, the industry could hire some 200,000 additional workers.

The impact of counterfeiters affects almost every manufacturing industry in the country, including clothing, batteries, electronics and even pharmaceuticals. When it comes to the economy, the U.S. Customs Service has estimated that counterfeiting resulted in the loss of some 750,000 jobs and cost the U.S. around $20 billion annually. It is estimated almost 7 percent of world trade is counterfeit.

My bill has two key provisions that will help address the problem. The first provision is the most important. It requires the mandatory destruction and forfeiture of the equipment and materials used to make counterfeit goods.

Under current law, a convicted trademark counterfeiter is only required to give up the actual counterfeit goods, not the machinery used to make those goods. My bill would prohibit trafficking in counterfeit labels, patches, and medallions.

Passing this bill will send a signal to counterfeiters around the world that the U.S. will fight this growing problem. This bill will give prosecutors more tools to go after the criminals and punish them severely. This legislation also addresses the global problem, and has the widespread support of the MEMA, NEMA, and the U.S. Chamber of Commerce.

Mr. Speaker, I rise today in support of my bill, H.R. 32—the ''Stop Counterfeiting in Manufactured Goods Act.'' This legislation will help stop the scourge of counterfeit manufactured goods.

Let me thank the Judiciary Committee, including Chairman SENSENBRENNER, Subcommittee Chairman COBLE and Subcommittee Chairman LAMAR SMITH. They've all provided important leadership to bring this bill to the floor today. I'd also like to thank the leadership, including Majority Leader DELAY, for their help in getting this bill through the process.

The economy of my district is largely centered on the auto industry, particularly auto suppliers. In fact, my district includes the headquarters of over one-fourth of the 100 largest auto suppliers in North America, as well as a host of small suppliers.

To say that the manufacturing sector is important to my district and to the State of Michigan is an understatement. In my district alone, there are more than 1,500 manufacturing entities, and over 90 percent of them have less than 100 employees.

Most people understand that counterfeit goods are a problem. But many people don't understand just how severe the problem has become.

Early last year, I was made aware of the serious and growing problem of counterfeit auto parts. What I found out was the counterfeiters are making all sorts of fake parts including brake pads, spark plugs, old filters, and in one case even an entire car. I was struck by how large an impact counterfeiters are having on the auto supplier industry.

The numbers, in fact, are staggering. In addition to the obvious safety issues, counterfeit automobile parts cost the automotive supplier industry over $12 billion annually. It's estimated that if these losses were eliminated, and those sales were brought into legitimate companies, the auto industry could hire 200,000 additional workers. It's important to remember those numbers, because counterfeiting is not a victimless crime.

In addition to selling bogus products, the counterfeiters are stealing jobs and money away from legitimate companies, destroying brand names, increasing warranty claims, and requiring legal fees and costly investigations.

The fight against counterfeiters is not limited to the automotive industry. The impact of counterfeiters is broad and affects just about every manufacturing industry in the country—including clothing, batteries, electronics, and even pharmaceuticals.

When it comes to the economy overall, the U.S. Customs Service has estimated that counterfeiting has resulted in the loss of 750,000 jobs and costs the United States around $200 billion annually. The International Chamber of Commerce estimates that seven percent of the world's trade is in counterfeit goods and that the counterfeit market is worth $350 billion. We must provide more tools to fight counterfeiters, not only for the economy, but for the safety of our consumers.

My bill has two key provisions that will help stop criminals who use counterfeit trademarks.

The first provision is the most important and gets at the roots of the problem—it requires the mandatory destruction and forfeiture of the equipment and materials used to make the counterfeit goods.

Under current law, a convicted trademark counterfeiter is only required to give up the actual counterfeit goods, not the machinery used to make those goods. If we don't take away the equipment used to make the fake goods, what's to stop the criminals from going back to make more? My bill would require the convicted criminals to give up not just the counterfeit goods, but also the equipment they used to make those goods. This will help to dig up the counterfeiting networks by the roots.

In addition to this provision, my bill also prohibits trafficking in counterfeit labels, patches, and medallions.

Under current law, it is legal to make and sell these items if they are not attached to a particular counterfeit good. This just doesn't make sense. Why would counterfeiters make these labels, if not for the chance at illegal profits?

This bill will send a signal to counterfeiters that the United States is serious about fighting this growing problem. Passing this bill will give prosecutors more tools to go after the criminals here in the U.S. and punish them severely.

This bill is also necessary to address the problem globally. Most of the counterfeit goods are being manufactured in other countries, particularly China. Some countries are better than others at fighting counterfeiting, but we need to have ways to prod the stragglers. However, we can't demand that other countries take steps to combat trademark counterfeiting that we have not taken ourselves.

So, by passing my bill and improving our own law, Congress will empower our trade negotiators to press for stronger anti-counterfeiting provisions in other countries. We will show the world that the United States is serious about putting counterfeiters out of business for good.

This bill has broad support, including the U.S. Chamber of Commerce, the National Association of Manufacturers, the Motor and Equipment Manufacturers Association, the National Electrical Manufacturers Association, the IACC, International Trademark Association and a host of major associations and corporations.

As I have outlined, counterfeiting is a very serious worldwide problem that threatens public safety, hurts the U.S. economy and costs Americans thousands of manufacturing jobs. No one supports counterfeiters, and we must do everything we can to eliminate the problem.

For these reasons, Mr. Speaker, I respectfully urge my colleagues to support H.R. 32, the Stop Counterfeiting in Manufactured Goods Act, and I yield back the remainder of my time.

Mr. CONYERS. Mr. Speaker, I rise in support of this legislation and thank the Chairman and his staff for working with us to ensure the bill does not overreach.

The bill was designed to target illegitimate actors who trade in counterfeit marks. We all agree that manufacturers have a right to ensure that fake goods are not marketed in their names and that their own goods are not marketed under fake names.

The bill as originally written, however, could have been construed by some as going further than that. It left as an open question whether someone other than the manufacturer could affix marks to goods that correctly identify the source of the goods. This ambiguity could have had a negative impact on the parallel market, in which third parties lawfully obtain goods and make them available in discount stores. Not only has this practice been upheld by the Supreme Court, but it also saves consumers billions of dollars each year.

Fortunately, H.R. 32 was amended in the full committee pursuant to an amendment offered by Representative WEXLER to clarify that the legislation is not intended to be relied upon as a weapon against the secondary discount marketplace to the detriment of American consumers—consumers dependent upon the price options and competition afforded by alternative sources of genuine goods.

In particular, H.R. 32 was amended to specifically protect lawful repackaging of genuine goods by ensuring that any such third party repackaging, not intended to deceive or confuse, is specifically saved from criminal prosecution under this Act. The Committee specifically agreed that combining single genuine products into gift sets, separating combination set of genuine goods into individual items for resale, inserting coupons into original packaging or repackaged items, affixing labels to track or otherwise identify genuine products and removing genuine goods from original packaging for customized retail displays were not covered by the legislation as they provide important value to American consumers.

I am happy to report that the final language ensures that H.R. 32 adequately protects lawful American businesses, including those servicing the discount marketplace, while, at the same time punishes illicit counterfeiting activity. As a result of these good faith negotiations, we now have a bill that protects manufacturers, targets illegitimate actors, and leaves a legitimate industry unscathed.

I urge a ''yes'' vote on this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this legislation that concerns such an important matter that affects interstate commerce as referenced in Article I, Section 8 of the United States Constitution. The Committee on the Judiciary rightly exercised oversight over the issue of counterfeiting products and conspiring to commit retail theft, and I applaud the gentleman from Michigan for having crafted legislation that has garnered bipartisan support.

Similar legislation, namely H.R. 3632, the ''Anti-Counterfeiting Amendments Act of 2003'' in the 108th Congress, passed under suspension of the rules and became law, and I supported it. That measure regulated the trafficking of certain security components of products, for example, Certificates of Authenticity (COAs). Now that it has become law, piracy of these security markers, which are the source of each product's value, will be discouraged by way of criminal consequences.

In the context of discussing H.R. 3632, I cited a situation in Texas in which a crime ring was implicated for the import of over 100 million counterfeit cigarettes by mislabeling shipping documents and indicating that they were importing toys or plastic parts. That crime threatened the copyright royalties of property owners.

However, this legislation extrapolates that aspect of criminal activity by inserting the possibility that unsafe products as well as counterfeit products could be circulated in the flow of interstate commerce.

Last year, U.S. Immigration and Customs Enforcement officials seized fake goods valued at $22 million in the Houston area alone. Federal inspectors now work to curtail the flow of fake Louis Vuitton and Coach handbags and other items coming from Houston, which lags behind only New York and Los Angeles in supplying counterfeit products to the rest of the nation. Furthermore, during Super Bowl XXXVIII that was held in Houston this past year, NFL investigators seized about 1,000 counterfeit products in Houston that were peddled by two vendors.

Therefore, the subject matter of this bill is of great importance to me. This bill is largely bipartisan; however, we have a duty to ensure that its provisions are narrowly tailored before passing them into law.

At the Committee level, I had questions regarding the intended scope of search and seizure law and how H.R. 32 proposes to change it. One question that I posed relates to the property forfeiture provision found on page 3, line 21 of the bill as drafted. Subparagraphs (A) and (B) are conjunctive so as to require both findings before a forfeiture would follow—how proposes to prevent law enforcement from seizing the property of an innocent person (assuming it is in possession or use by the perpetrator of the underlying offense). I hope that this legislation is clear in its provisions to jurists in order to prevent future appellate litigation that can be both costly and time consuming—to the detriment of bona fide claimants.

Another question I posed goes to the matter of restitution. Section 2, page 4, lines 15–16 would require one convicted of the offense in question to pay restitution damages to the ''victim'' as defined in Title 18, Section 3663(A)(2):

a person directly and *proximately harmed* as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.

(emphasis added). I queried whether the drafter of this bill contemplate those proximately harmed by the perpetration of the crimes enumerated to include state governments. As I cited earlier in my statement, criminals trafficked over 1,000 counterfeit products in the stream of commerce and caused the State of Texas, among others, to lose significant revenues.

I believe that H.R. 32 can provide much needed legislative protection of the American consumer and of the owners of intellectual and licensed property.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RADANOVICH). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 32, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INTERNET SPYWARE (I–SPY) PREVENTION ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 744) to amend title 18, United States Code, to discourage spyware, and for other purposes, as amended.

The Clerk read as follows:

H.R. 744

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 ''Internet Spyware (I–SPY) Prevention Act of 2005''.

SEC. 2. PENALTIES FOR CERTAIN UNAUTHORIZED ACTIVITIES RELATING TO COMPUTERS.

(a) IN GENERAL.—Chapter 47 of title 18, is amended by inserting after section 1030 the following:

''§ 1030A. Illicit indirect use of protected computers

''(a) Whoever intentionally accesses a protected computer without authorization, or exceeds authorized access to a protected computer, by causing a computer program or code to be copied onto the protected computer, and intentionally uses that program or code in furtherance of another Federal criminal offense shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) Whoever intentionally accesses a protected computer without authorization, or exceeds authorized access to a protected computer, by causing a computer program or code to be copied onto the protected computer, and by means of that program or code—

''(1) intentionally obtains, or transmits to another, personal information with the intent to defraud or injure a person or cause damage to a protected computer; or

''(2) intentionally impairs the security protection of the protected computer with the intent to defraud or injure a person or damage a protected computer;

shall be fined under this title or imprisoned not more than 2 years, or both.

''(c) No person may bring a civil action under the law of any State if such action is premised in whole or in part upon the defendant's violating this section. For the purposes of this subsection, the term 'State' includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

''(d) As used in this section—

''(1) the terms 'protected computer' and 'exceeds authorized access' have, respectively, the meanings given those terms in section 1030; and

''(2) the term 'personal information' means—

''(A) a first and last name;

''(B) a home or other physical address, including street name;

''(C) an electronic mail address;

''(D) a telephone number;

''(E) a Social Security number, tax identification number, drivers license number, passport number, or any other government-issued identification number; or

''(F) a credit card or bank account number or any password or access code associated with a credit card or bank account.

''(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, is amended by inserting after the item relating to section 1030 the following new item:

''1030A. Illicit indirect use of protected computers.''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

In addition to any other sums otherwise authorized to be appropriated for this purpose, there are authorized to be appropriated for each of fiscal years 2006 through 2009, the sum of $10,000,000 to the Attorney General for prosecutions needed to discourage the use of spyware and the practices commonly called phishing and pharming.

SEC. 4. FINDINGS AND SENSE OF CONGRESS CONCERNING THE ENFORCEMENT OF CERTAIN CYBERCRIMES.

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

(1) Software and electronic communications are increasingly being used by criminals to invade individuals' and businesses' computers without authorization.

(2) Two particularly egregious types of such schemes are the use of spyware and phishing scams.

(3) These schemes are often used to obtain personal information, such as bank account and credit card numbers, which can then be used as a means to commit other types of theft.

(4) In addition to the devastating damage that these heinous activities can inflict on individuals and businesses, they also undermine the confidence that citizens have in using the Internet.

(5) The continued development of innovative technologies in response to consumer demand is crucial in the fight against spyware.

(b) SENSE OF CONGRESS.—Because of the serious nature of these offenses, and the Internet's unique importance in the daily lives of citizens and in interstate commerce, it is the sense of Congress that the Department of Justice should use the amendments made by this Act, and all other available tools, vigorously to prosecute those who use spyware to commit crimes and those that conduct phishing and pharming scams.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from California (Ms. ZOE LOFGREN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 744, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 744, the Internet Spyware Prevention Act of 2005. This legislation clarifies and enhances criminal penalties and provides additional tools to prosecute and deter those who utilize spyware and phishing schemes to engage in illegal behavior online.

Since its inception, the Internet has been transformed from an obscure research tool into an electronic medium of unprecedented reach. The impressive growth of the Internet has been facilitated by technology that has customized the online experience of Internet users. However, the same software and technology innovations that have enhanced and personalized usage of the Internet can also provide opportunities for privacy violations and criminal behavior.

This bill establishes strong criminal penalties for those who engage in online criminal behavior using spyware programs and phishing schemes. This legislation enhances criminal penalties for those who obtain personally identifiable information, including a Social Security number or other government-issued identification number or a bank or credit card number with the intent to defraud or injure a person or cause damage to a protected computer.

The bill also authorizes appropriations for the Justice Department to crack down on spyware, phishing, and other online schemes.

As we consider this legislation, Congress must be mindful that there is no single legal regulatory or technological silver bullet to end spyware or phishing. Greater consumer awareness and utilization of commercially available countermeasures are part of the solution. Congressional efforts to curb spyware and phishing are most likely to succeed if we focus on deterring and prosecuting illegal and abusive online behavior, rather than imposing burdensome requirements upon a medium whose growth can largely be attributed to the refusal of the Federal Government to heavily regulate it.

H.R. 744 does not impose a new statutory or regulatory regime that dictates the appearance of a computer's user screen, nor does it degrade the online experience by requiring that Internet users be bombarded with incessant notices. Most importantly, it does not represent a heavy-handed government mandate that may present a greater danger to the Internet than it seeks to correct. Rather, the bill preserves and promotes the integrity of the Internet by increasing criminal penalties for those who employ it to engage in abusive and illegal online activities.

Targeted legislation tailored to address illegal online activity rather than an invasive regulatory regime with unknown consequences represents the right approach to addressing the problems associated with spyware and phishing. Congress ratified this approach by passing substantially similar legislation last Congress by a vote of 415–0.

I would like to thank the gentleman from Virginia (Mr. GOODLATTE), the author and lead proponent of H.R. 744 for his leadership on this issue. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to have partnered with the gentleman from Virginia (Mr. GOODLATTE) on this legislation, H.R. 744, the Goodlatte-Lofgren I–SPY bill. Spyware is quickly becoming one of the biggest threats to consumers on the Internet. It is one of the reasons why we have an identity theft epidemic in this country. Thieves are using spyware to harvest personal information from unsuspecting Americans. Criminals are even using spyware to track every keystroke an individual makes, including credit and Social Security numbers.

Spyware also adversely affects the business community, who are forced to spend money to block and remove it from their systems. In fact, Microsoft has stated that spyware is at least partially responsible for approximately one-half of all application crashes reported to them. Experts estimate that as many as 80 to 90 percent of all personal computers contain some form of spyware.

Last year, Earthlink identified more than 29 million spyware programs. In short, spyware is a very real problem that is endangering consumers, damaging businesses and creating millions of dollars of additional costs. I am proud to be a party to H.R. 744, this bipartisan measure, because it identifies the truly unscrupulous acts associated with spyware and subjects them to criminal punishment.

This bill is unique, however, because it focuses on behavior rather than technology. It targets the worst forms of spyware without unduly burdening technological innovation. Why is this important? We know that innovation goes faster than legislation. It is important that we not try to fix the development of legislation in time. Instead, we need to focus on misbehavior, not technology, so that technology innovation can continue to move as rapidly as it does and yet the American consumer and businesses can be protected.

It is important, and this is an issue that there was some question about and I think we can answer quite easily, it is important to note that H.R. 744 does not prevent existing or future State laws which prohibit spyware. This bill only preempts civil actions that are based on violations of this new Federal criminal law in State courts. It does not prevent a State from passing a similar law, nor does it prevent any lawsuits that are premised on existing State laws.

□ 1430

H.R. 744 also gives the Attorney General the money he needs to find and prosecute spyware offenders. And, finally, it expresses the sense of Congress that the Department of Justice should vigorously pursue online phishing scams in which criminals send fake e-mail messages to consumers on behalf of famous companies and request personal information that is later used to conduct criminal activities.

Phishing and spyware are not just an inconvenience to consumers. They represent a direct threat to the vitality of the Internet itself because if people cannot trust the Internet, they will not utilize Internet commerce.

I would like to note that I also serve on the Committee on Homeland Security, and we are well aware that phishing to the extent that it yields identity theft information is of great concern as we seek to protect the Nation from terrorism. So what we are doing here today is important for consumers, it is important for business, it is important for the future of our high-tech economy, and it is important for the security of the Nation. I would urge my colleagues to strike a blow for the continued vitality of the Internet and again pass this bill unanimously.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. GOODLATTE), the principal author of the bill.

Mr. GOODLATTE. Mr. Speaker, I rise in strong support of the Internet Spyware I–SPY Prevention Act and thank the gentleman from Wisconsin, the chairman of the committee, for moving this legislation to the floor. This bipartisan legislation which I was pleased to introduce with the gentlewoman from California (Ms. ZOE LOFGREN) will impose tough criminal penalties on the truly bad actors without imposing a broad regulatory regime on legitimate online businesses. I believe that this targeted approach is the best way to combat spyware.

Specifically, this legislation would impose up to a 5-year prison sentence on anyone who uses software to intentionally break into a computer and uses that software in furtherance of another Federal crime. In addition, it would impose up to a 2-year prison sentence on anyone who uses spyware to intentionally break into a computer and either alter the computer's security settings or obtain personal information with the intent to defraud or injure a person or with the intent to damage a computer.

In addition to strong penalties, enforcement is crucial in combating spyware. The I–SPY Prevention Act authorizes $10 million for fiscal years 2006

through 2009 to be devoted to prosecutions and expresses the sense of Congress that the Department of Justice should vigorously enforce the law against spyware violations as well as against online phishing scams in which criminals send fake e-mail messages to consumers on behalf of well-known companies and request account information that is later used to conduct criminal activities.

The bill also directs resources to the Department of Justice to combat pharming scams in which hackers intercept Internet traffic and redirect unknowing Internet users to fake Web sites where they often trick consumers into giving their account information and passwords.

I believe that four overarching principles should guide the consideration of any spyware legislation: first, we must punish the bad actors while protecting legitimate online companies; second, we must not overregulate but, rather, encourage innovative new services and the growth of the Internet; third, we must not stifle the free market; and, fourth, we must target the behavior, not the technology.

The targeted approach of the I–SPY Prevention Act will protect consumers by punishing the bad actors without imposing liability on those that act legitimately online. In addition, this legislation will avoid excessive regulation such as one-size-fits-all notice and consent requirements prescribed by the Federal Government. A targeted approach will avoid red tape that hampers the creation of new and exciting technologies and services on the Internet.

By encouraging innovation, the I–SPY Prevention Act will help ensure that consumers have access to cutting-edge products and services at lower prices. Increasingly, consumers want a seamless interaction with the Internet, and we must be careful to not interfere with businesses' ability to respond to this consumer demand with innovative services. The I–SPY Prevention Act will help ensure that consumers, not the Federal Government, define what their interaction with the Internet looks like.

As we move forward, I look forward to continuing to work with all stakeholders to further ensure that bad actors are punished while legitimate businesses are protected including working with the Department of Justice which has expressed an interest in working with our office on this issue. In addition, technological solutions are crucial in winning the fight against spyware. As the spyware debate continues, I look forward to working to ensure that antispyware technologies are fostered and that they are not subjected to frivolous lawsuits from spyware providers.

I urge my colleagues to support this important legislation.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield myself such time as I may consume.

I would just note that the House will be considering at least two items having to do with spamming and phishing and the like today. Certainly we hope to move this issue forward. I strongly believe that the approach that this bill takes, which is targeting behavior instead of technology, puts us on the soundest footing; and I hope that in the end as we sort through the various approaches that that will be our guide to protect technology innovation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I support the legislation before us that has been introduced by my colleague from California, Representative LOFGREN as well as the Gentleman from Virginia, Representative GOODLATTE. It amends the federal computer fraud and abuse statute to make it a clear offense to access a computer without authorization or to intentionally exceed authorized access by causing a computer program or code to be copied onto the computer and using that program or code to transmit or obtain personal information (for example, first and last names, addresses, e-mail addresses, telephone numbers, Social Security numbers, drivers license numbers, or bank or credit account numbers).

Furthermore, H.R. 744 authorizes appropriations for these crimes and discourages the practice of 'phishing.' As we all know too well, spyware is quickly becoming one of the biggest threats to consumers on the information superhighway. Spyware encompasses several potential risks including the promotion of identity theft by harvesting personal information from consumer's computers. Additionally, it can adversely affect businesses, as they are forced to sustain costs to block and remove spyware from employees' computers, in addition to the potential impact on productivity.

Spyware has been defined as ''software that aids in gathering information about a person or organization without their knowledge and which may send such information to another entity with the consumer's consent, or asserts control over a computer with the consumer's knowledge.'' Among other things, criminals can use spyware to track every keystroke an individual makes, including credit card and social security numbers.

Some estimates suggest 25 percent of all personal computers contain some kind of spyware while other estimates show that spyware afflicts as many as 80–90 percent of all personal computers. Businesses are reporting several negative effects of spyware. Microsoft says evidence shows that spyware is ''at least partially responsible for approximately one-half of all application crashes'' reported to them, resulting in millions of dollars of unnecessary support calls.

Mr. Speaker, again, I am strongly in support of the legislation.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RADANOVICH). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 744, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SECURELY PROTECT YOURSELF AGAINST CYBER TRESPASS ACT

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 29) to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 29

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 ''Securely Protect Yourself Against Cyber Trespass Act'' or the ''Spy Act''.

SEC. 2. PROHIBITION OF [UNFAIR OR] DECEPTIVE ACTS OR PRACTICES RELATING TO SPYWARE.

(a) PROHIBITION.—It is unlawful for any person, who is not the owner or authorized user of a protected computer, to engage in unfair or deceptive acts or practices that involve any of the following conduct with respect to the protected computer:

(1) Taking control of the computer by—

(A) utilizing such computer to send unsolicited information or material from the computer to others;

(B) diverting the Internet browser of the computer, or similar program of the computer used to access and navigate the Internet—

(i) without authorization of the owner or authorized user of the computer; and

(ii) away from the site the user intended to view, to one or more other Web pages, such that the user is prevented from viewing the content at the intended Web page, unless such diverting is otherwise authorized;

(C) accessing, hijacking, or otherwise using the modem, or Internet connection or service, for the computer and thereby causing damage to the computer or causing the owner or authorized user or a third party defrauded by such conduct to incur charges or other costs for a service that is not authorized by such owner or authorized user;

(D) using the computer as part of an activity performed by a group of computers that causes damage to another computer; or

(E) delivering advertisements that a user of the computer cannot close without undue effort or knowledge by the user or without turning off the computer or closing all sessions of the Internet browser for the computer.

(2) Modifying settings related to use of the computer or to the computer's access to or use of the Internet by altering—

(A) the Web page that appears when the owner or authorized user launches an Internet browser or similar program used to access and navigate the Internet;

(B) the default provider used to access or search the Internet, or other existing Internet connections settings;

(C) a list of bookmarks used by the computer to access Web pages; or

(D) security or other settings of the computer that protect information about the owner or authorized user for the purposes of

causing damage or harm to the computer or owner or user.

(3) Collecting personally identifiable information through the use of a keystroke logging function.

(4) Inducing the owner or authorized user of the computer to disclose personally identifiable information by means of a Web page that—

(A) is substantially similar to a Web page established or provided by another person; and

(B) misleads the owner or authorized user that such Web page is provided by such other person.

(5) Inducing the owner or authorized user to install a component of computer software onto the computer, or preventing reasonable efforts to block the installation or execution of, or to disable, a component of computer software by—

(A) presenting the owner or authorized user with an option to decline installation of such a component such that, when the option is selected by the owner or authorized user or when the owner or authorized user reasonably attempts to decline the installation, the installation nevertheless proceeds; or

(B) causing such a component that the owner or authorized user has properly removed or disabled to automatically reinstall or reactivate on the computer.

(6) Misrepresenting that installing a separate component of computer software or providing log-in and password information is necessary for security or privacy reasons, or that installing a separate component of computer software is necessary to open, view, or play a particular type of content.

(7) Inducing the owner or authorized user to install or execute computer software by misrepresenting the identity or authority of the person or entity providing the computer software to the owner or user.

(8) Inducing the owner or authorized user to provide personally identifiable, password, or account information to another person—

(A) by misrepresenting the identity of the person seeking the information; or

(B) without the authority of the intended recipient of the information.

(9) Removing, disabling, or rendering inoperative a security, anti-spyware, or anti-virus technology installed on the computer.

(10) Installing or executing on the computer one or more additional components of computer software with the intent of causing a person to use such components in a way that violates any other provision of this section.

(b) GUIDANCE.—The Commission shall issue guidance regarding compliance with and violations of this section. This subsection shall take effect upon the date of the enactment of this Act.

(c) EFFECTIVE DATE.—Except as provided in subsection (b), this section shall take effect upon the expiration of the 6-month period that begins on the date of the enactment of this Act.

SEC. 3. PROHIBITION OF COLLECTION OF CERTAIN INFORMATION WITHOUT NOTICE AND CONSENT.

(a) OPT-IN REQUIREMENT.—Except as provided in subsection (e), it is unlawful for any person—

(1) to transmit to a protected computer, which is not owned by such person and for which such person is not an authorized user, any information collection program, unless—

(A) such information collection program provides notice in accordance with subsection (c) before execution of any of the information collection functions of the program; and

(B) such information collection program includes the functions required under subsection (d); or

(2) to execute any information collection program installed on such a protected computer unless—

(A) before execution of any of the information collection functions of the program, the owner or an authorized user of the protected computer has consented to such execution pursuant to notice in accordance with subsection (c); and

(B) such information collection program includes the functions required under subsection (d).

(b) INFORMATION COLLECTION PROGRAM.—

(1) IN GENERAL.—For purposes of this section, the term ''information collection program'' means computer software that performs either of the following functions:

(A) COLLECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—The computer software—

(i) collects personally identifiable information; and

(ii)(I) sends such information to a person other than the owner or authorized user of the computer, or

(II) uses such information to deliver advertising to, or display advertising on, the computer.

(B) COLLECTION OF INFORMATION REGARDING WEB PAGES VISITED TO DELIVER ADVERTISING.—The computer software—

(i) collects information regarding the Web pages accessed using the computer; and

(ii) uses such information to deliver advertising to, or display advertising on, the computer.

(2) EXCEPTION FOR SOFTWARE COLLECTING INFORMATION REGARDING WEB PAGES VISITED WITHIN A PARTICULAR WEB SITE.—Computer software that otherwise would be considered an information collection program by reason of paragraph (1)(B) shall not be considered such a program if—

(A) the only information collected by the software regarding Web pages that are accessed using the computer is information regarding Web pages within a particular Web site;

(B) such information collected is not sent to a person other than—

(i) the provider of the Web site accessed; or

(ii) a party authorized to facilitate the display or functionality of Web pages within the Web site accessed; and

(C) the only advertising delivered to or displayed on the computer using such information is advertising on Web pages within that particular Web site.

(c) NOTICE AND CONSENT.—

(1) IN GENERAL.—Notice in accordance with this subsection with respect to an information collection program is clear and conspicuous notice in plain language, set forth as the Commission shall provide, that meets all of the following requirements:

(A) The notice clearly distinguishes such notice from any other information visually presented contemporaneously on the computer.

(B) The notice contains one of the following statements, as applicable, or a substantially similar statement:

(i) With respect to an information collection program described in subsection (b)(1)(A): ''This program will collect and transmit information about you. Do you accept?''.

(ii) With respect to an information collection program described in subsection (b)(1)(B): ''This program will collect information about Web pages you access and will use that information to display advertising on your computer. Do you accept?''.

(iii) With respect to an information collection program that performs the actions described in both subparagraphs (A) and (B) of subsection (b)(1): ''This program will collect and transmit information about you and will collect information about Web pages you access and use that information to display advertising on your computer. Do you accept?''.

(C) The notice provides for the user—

(i) to grant or deny consent referred to in subsection (a) by selecting an option to grant or deny such consent; and

(ii) to abandon or cancel the transmission or execution referred to in subsection (a) without granting or denying such consent.

(D) The notice provides an option for the user to select to display on the computer, before granting or denying consent using the option required under subparagraph (C), a clear description of—

(i) the types of information to be collected and sent (if any) by the information collection program;

(ii) the purpose for which such information is to be collected and sent; and

(iii) in the case of an information collection program that first executes any of the information collection functions of the program together with the first execution of other computer software, the identity of any such software that is an information collection program.

(E) The notice provides for concurrent display of the information required under subparagraphs (B) and (C) and the option required under subparagraph (D) until the user—

(i) grants or denies consent using the option required under subparagraph (C)(i);

(ii) abandons or cancels the transmission or execution pursuant to subparagraph (C)(ii); or

(iii) selects the option required under subparagraph (D).

(2) SINGLE NOTICE.—The Commission shall provide that, in the case in which multiple information collection programs are provided to the protected computer together, or as part of a suite of functionally related software, the notice requirements of paragraphs (1)(A) and (2)(A) of subsection (a) may be met by providing, before execution of any of the information collection functions of the programs, clear and conspicuous notice in plain language in accordance with paragraph (1) of this subsection by means of a single notice that applies to all such information collection programs, except that such notice shall provide the option under subparagraph (D) of paragraph (1) of this subsection with respect to each such information collection program.

(3) CHANGE IN INFORMATION COLLECTION.—If an owner or authorized user has granted consent to execution of an information collection program pursuant to a notice in accordance with this subsection:

(A) IN GENERAL.—No subsequent such notice is required, except as provided in subparagraph (B).

(B) SUBSEQUENT NOTICE.—The person who transmitted the program shall provide another notice in accordance with this subsection and obtain consent before such program may be used to collect or send information of a type or for a purpose that is materially different from, and outside the scope of, the type or purpose set forth in the initial or any previous notice.

(4) REGULATIONS.—The Commission shall issue regulations to carry out this subsection.

(d) REQUIRED FUNCTIONS.—The functions required under this subsection to be included in an information collection program that executes any information collection functions with respect to a protected computer are as follows:

(1) DISABLING FUNCTION.—With respect to any information collection program, a function of the program that allows a user of the program to remove the program or disable operation of the program with respect to such protected computer by a function that—

(A) is easily identifiable to a user of the computer; and

(B) can be performed without undue effort or knowledge by the user of the protected computer.

(2) IDENTITY FUNCTION.—

(A) IN GENERAL.—With respect only to an information collection program that uses information collected in the manner described in subparagraph (A)(ii)(II) or (B)(ii) of subsection (b)(1) and subject to subparagraph (B) of this paragraph, a function of the program that provides that each display of an advertisement directed or displayed using such information, when the owner or authorized user is accessing a Web page or online location other than of the provider of the computer software, is accompanied by the name of the information collection program, a logogram or trademark used for the exclusive purpose of identifying the program, or a statement or other information sufficient to clearly identify the program.

(B) EXEMPTION FOR EMBEDDED ADVERTISEMENTS.—The Commission shall, by regulation, exempt from the applicability of subparagraph (A) the embedded display of any advertisement on a Web page that contemporaneously displays other information.

(3) RULEMAKING.—The Commission may issue regulations to carry out this subsection.

(e) LIMITATION ON LIABILITY.—A telecommunications carrier, a provider of information service or interactive computer service, a cable operator, or a provider of transmission capability shall not be liable under this section to the extent that the carrier, operator, or provider—

(1) transmits, routes, hosts, stores, or provides connections for an information collection program through a system or network controlled or operated by or for the carrier, operator, or provider; or

(2) provides an information location tool, such as a directory, index, reference, pointer, or hypertext link, through which the owner or user of a protected computer locates an information collection program.

SEC. 4. ENFORCEMENT.

(a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—This Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). A violation of any provision of this Act or of a regulation issued under this Act shall be treated as an unfair or deceptive act or practice violating a rule promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a).

(b) PENALTY FOR PATTERN OR PRACTICE VIOLATIONS.—

(1) IN GENERAL.—Notwithstanding subsection (a) and the Federal Trade Commission Act, in the case of a person who engages in a pattern or practice that violates section 2 or 3, the Commission may, in its discretion, seek a civil penalty for such pattern or practice of violations in an amount, as determined by the Commission, of not more than—

(A) $3,000,000 for each violation of section 2; and

(B) $1,000,000 for each violation of section 3.

(2) TREATMENT OF SINGLE ACTION OR CONDUCT.—In applying paragraph (1)—

(A) any single action or conduct that violates section 2 or 3 with respect to multiple protected computers shall be treated as a single violation; and

(B) any single action or conduct that violates more than one paragraph of section 2(a) shall be considered multiple violations, based on the number of such paragraphs violated.

(c) REQUIRED SCIENTER.—Civil penalties sought under this section for any action may not be granted by the Commission or any court unless the Commission or court, respectively, establishes that the action was committed with actual knowledge or knowledge fairly implied on the basis of objective circumstances that such act is unfair or deceptive or violates this Act.

(d) FACTORS IN AMOUNT OF PENALTY.—In determining the amount of any penalty pursuant to subsection (a) or (b), the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(e) EXCLUSIVENESS OF REMEDIES.—The remedies in this section (including remedies available to the Commission under the Federal Trade Commission Act) are the exclusive remedies for violations of this Act.

(f) EFFECTIVE DATE.—To the extent only that this section applies to violations of section 2(a), this section shall take effect upon the expiration of the 6-month period that begins on the date of the enactment of this Act.

SEC. 5. LIMITATIONS.

(a) LAW ENFORCEMENT AUTHORITY.—Sections 2 and 3 shall not apply to—

(1) any act taken by a law enforcement agent in the performance of official duties; or

(2) the transmission or execution of an information collection program in compliance with a law enforcement, investigatory, national security, or regulatory agency or department of the United States or any State in response to a request or demand made under authority granted to that agency or department, including a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, a court order, or other lawful process.

(b) EXCEPTION RELATING TO SECURITY.—Nothing in this Act shall apply to—

(1) any monitoring of, or interaction with, a subscriber's Internet or other network connection or service, or a protected computer, by a telecommunications carrier, cable operator, computer hardware or software provider, or provider of information service or interactive computer service, to the extent that such monitoring or interaction is for network or computer security purposes, diagnostics, technical support, or repair, or for the detection or prevention of fraudulent activities; or

(2) a discrete interaction with a protected computer by a provider of computer software solely to determine whether the user of the computer is authorized to use such software, that occurs upon—

(A) initialization of the software; or

(B) an affirmative request by the owner or authorized user for an update of, addition to, or technical service for, the software.

(c) GOOD SAMARITAN PROTECTION.—No provider of computer software or of interactive computer service may be held liable under this Act on account of any action voluntarily taken, or service provided, in good faith to remove or disable a program used to violate section 2 or 3 that is installed on a computer of a customer of such provider, if such provider notifies the customer and obtains the consent of the customer before undertaking such action or providing such service.

(d) LIMITATION ON LIABILITY.—A manufacturer or retailer of computer equipment shall not be liable under this Act to the extent that the manufacturer or retailer is providing third party branded computer software that is installed on the equipment the manufacturer or retailer is manufacturing or selling.

SEC. 6. EFFECT ON OTHER LAWS.

(a) PREEMPTION OF STATE LAW.—

(1) PREEMPTION OF SPYWARE LAWS.—This Act supersedes any provision of a statute, regulation, or rule of a State or political subdivision of a State that expressly regulates—

(A) unfair or deceptive conduct with respect to computers similar to that described in section 2(a);

(B) the transmission or execution of a computer program similar to that described in section 3; or

(C) the use of computer software that displays advertising content based on the Web pages accessed using a computer.

(2) ADDITIONAL PREEMPTION.—

(A) IN GENERAL.—No person other than the Attorney General of a State may bring a civil action under the law of any State if such action is premised in whole or in part upon the defendant violating any provision of this Act.

(B) PROTECTION OF CONSUMER PROTECTION LAWS.—This paragraph shall not be construed to limit the enforcement of any State consumer protection law by an Attorney General of a State.

(3) PROTECTION OF CERTAIN STATE LAWS.—This Act shall not be construed to preempt the applicability of—

(A) State trespass, contract, or tort law; or

(B) other State laws to the extent that those laws relate to acts of fraud.

(b) PRESERVATION OF FTC AUTHORITY.—Nothing in this Act may be construed in any way to limit or affect the Commission's authority under any other provision of law, including the authority to issue advisory opinions (under part 1 of volume 16 of the Code of Federal Regulations), policy statements, or guidance regarding this Act.

SEC. 7. ANNUAL FTC REPORT.

For the 12-month period that begins upon the effective date under section 12(a) and for each 12-month period thereafter, the Commission shall submit a report to the Congress that—

(1) specifies the number and types of actions taken during such period to enforce section 2(a) and section 3, the disposition of each such action, any penalties levied in connection with such actions, and any penalties collected in connection with such actions; and

(2) describes the administrative structure and personnel and other resources committed by the Commission for enforcement of this Act during such period.

Each report under this subsection for a 12-month period shall be submitted not later than 90 days after the expiration of such period.

SEC. 8. FTC REPORT ON COOKIES.

(a) IN GENERAL.—Not later than the expiration of the 6-month period that begins on the date of the enactment of this Act, the Commission shall submit a report to the Congress regarding the use of cookies, including tracking cookies, in the delivery or display of advertising to the owners and users of computers. The report shall examine and describe the methods by which cookies and the Web sites that place them on computers function separately and together, and shall compare the use of cookies with the use of information collection programs (as such term is defined in section 3) to determine the extent to which such uses are similar or different. The report may include such recommendations as the Commission considers

necessary and appropriate, including treatment of cookies under this Act or other laws.

(b) DEFINITION.—For purposes of this section, the term ''tracking cookie'' means a cookie or similar text or data file used alone or in conjunction with one or more Web sites to transmit or convey, to a party other than the intended recipient, personally identifiable information of a computer owner or user, information regarding Web pages accessed by the owner or user, or information regarding advertisements previously delivered to a computer, for the purpose of—

(1) delivering or displaying advertising to the owner or user; or

(2) assisting the intended recipient to deliver or display advertising to the owner, user, or others.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 9. FTC REPORT ON INFORMATION COLLECTION PROGRAMS INSTALLED BEFORE EFFECTIVE DATE.

Not later than the expiration of the 6-month period that begins on the date of the enactment of this Act, the Commission shall submit a report to the Congress on the extent to which there are installed on protected computers information collection programs that, but for installation prior to the effective date under section 12(a), would be subject to the requirements of section 3. The report shall include recommendations regarding the means of affording computer users affected by such information collection programs the protections of section 3, including recommendations regarding requiring a one-time notice and consent by the owner or authorized user of a computer to the continued collection of information by such a program so installed on the computer.

SEC. 10. REGULATIONS.

(a) IN GENERAL.—The Commission shall issue the regulations required by this Act not later than the expiration of the 6-month period beginning on the date of the enactment of this Act. In exercising its authority to issue any regulation under this Act, the Commission shall determine that the regulation is consistent with the public interest and the purposes of this Act. Any regulations issued pursuant to this Act shall be issued in accordance with section 553 of title 5, United States Code.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 11. DEFINITIONS.

For purposes of this Act:

(1) CABLE OPERATOR.—The term ''cable operator'' has the meaning given such term in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

(2) COLLECT.—The term ''collect'', when used with respect to information and for purposes only of section 3(b)(1)(A), does not include obtaining of the information by a party who is intended by the owner or authorized user of a protected computer to receive the information or by a third party authorized by such intended recipient to receive the information, pursuant to the owner or authorized user—

(A) transferring the information to such intended recipient using the protected computer; or

(B) storing the information on the protected computer in a manner so that it is accessible by such intended recipient.

(3) COMPUTER; PROTECTED COMPUTER.—The terms ''computer'' and ''protected computer'' have the meanings given such terms in section 1030(e) of title 18, United States Code.

(4) COMPUTER SOFTWARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''computer software'' means a set of statements or instructions that can be installed and executed on a computer for the purpose of bringing about a certain result.

(B) EXCEPTION.—Such term does not include computer software that is placed on the computer system of a user by an Internet service provider, interactive computer service, or Internet Web site solely to enable the user subsequently to use such provider or service or to access such Web site.

(C) RULE OF CONSTRUCTION REGARDING COOKIES.—This paragraph may not be construed to include, as computer software—

(i) a cookie; or

(ii) any other type of text or data file that solely may be read or transferred by a computer.

(5) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(6) DAMAGE.—The term ''damage'' has the meaning given such term in section 1030(e) of title 18, United States Code.

(7) DECEPTIVE ACTS OR PRACTICES.—The term ''deceptive acts or practices'' has the meaning applicable to such term for purposes of section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(8) DISABLE.—The term ''disable'' means, with respect to an information collection program, to permanently prevent such program from executing any of the functions described in section 3(b)(1) that such program is otherwise capable of executing (including by removing, deleting, or disabling the program), unless the owner or operator of a protected computer takes a subsequent affirmative action to enable the execution of such functions.

(9) INFORMATION COLLECTION FUNCTIONS.—The term ''information collection functions'' means, with respect to an information collection program, the functions of the program described in subsection (b)(1) of section 3.

(10) INFORMATION SERVICE.—The term ''information service'' has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(11) INTERACTIVE COMPUTER SERVICE.—The term ''interactive computer service'' has the meaning given such term in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)).

(12) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(13) PERSONALLY IDENTIFIABLE INFORMATION.—

(A) IN GENERAL.—The term ''personally identifiable information'' means the following information, to the extent only that such information allows a living individual to be identified from that information:

(i) First and last name of an individual.

(ii) A home or other physical address of an individual, including street name, name of a city or town, and zip code.

(iii) An electronic mail address.

(iv) A telephone number.

(v) A social security number, tax identification number, passport number, driver's license number, or any other government-issued identification number.

(vi) A credit card number.

(vii) Any access code, password, or account number, other than an access code or password transmitted by an owner or authorized user of a protected computer to the intended recipient to register for, or log onto, a Web page or other Internet service or a network connection or service of a subscriber that is protected by an access code or password.

(viii) Date of birth, birth certificate number, or place of birth of an individual, except in the case of a date of birth transmitted or collected for the purpose of compliance with the law.

(B) RULEMAKING.—The Commission may, by regulation, add to the types of information described in subparagraph (A) that shall be considered personally identifiable information for purposes of this Act, except that such additional types of information shall be considered personally identifiable information only to the extent that such information allows living individuals, particular computers, particular users of computers, or particular email addresses or other locations of computers to be identified from that information.

(14) SUITE OF FUNCTIONALLY RELATED SOFTWARE.—The term suite of ''functionally related software'' means a group of computer software programs distributed to an end user by a single provider, which programs are necessary to enable features or functionalities of an integrated service offered by the provider.

(15) TELECOMMUNICATIONS CARRIER.—The term ''telecommunications carrier'' has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(16) TRANSMIT.—The term ''transmit'' means, with respect to an information collection program, transmission by any means.

(17) WEB PAGE.—The term ''Web page'' means a location, with respect to the World Wide Web, that has a single Uniform Resource Locator or another single location with respect to the Internet, as the Federal Trade Commission may prescribe.

(18) WEB SITE.—The term ''web site'' means a collection of Web pages that are presented and made available by means of the World Wide Web as a single Web site (or a single Web page so presented and made available), which Web pages have any of the following characteristics:

(A) A common domain name.

(B) Common ownership, management, or registration.

SEC. 12. APPLICABILITY AND SUNSET.

(a) EFFECTIVE DATE.—Except as specifically provided otherwise in this Act, this Act shall take effect upon the expiration of the 12-month period that begins on the date of the enactment of this Act.

(b) APPLICABILITY.—Section 3 shall not apply to an information collection program installed on a protected computer before the effective date under subsection (a) of this section.

(c) SUNSET.—This Act shall not apply after December 31, 2011.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentlewoman from Illinois (Ms. SCHAKOWSKY) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and insert extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House will consider legislation to prohibit Internet spying. Spyware is a growing danger to Internet users and one that demands our immediate attention. Recent statistics indicate that spyware is on the rise, with the highest areas of growth in Trojans, keystroke loggers and system monitors, the worst-of-the-worst spyware technologies.

The Committee on Energy and Commerce has worked expeditiously this Congress to move antispyware legislation through the committee for consideration by the House. This legislation is largely the same as H.R. 2929 from the 108th Congress, a bill that passed the House by a vote of 399–1. It is my hope that H.R. 29 will receive a similar endorsement today on this floor.

The changes that have been made to the SPY ACT since the last Congress are of two general types. The Committee on Energy and Commerce worked hard to refine the legislation to take into account legitimate and benign business functions, as well as standard functionalities of the Internet while preserving meaningful consumer notice and consent. The committee has also continued to strengthen the antifraud provisions of the bill by giving the Federal Trade Commission better enforcement tools against the ever-increasing types of fraudulent behavior associated with Internet spying.

The legislation that we are considering today, number one, prohibits unfair and deceptive practices like home page hijacking, keystroke logging, and Web-based phishing; two, provides for a prominent opt-in for consumers prior to the collection of personally identifiable information by monitoring spyware. This is a very, very important provision of the bill. Three, provides for a prominent opt-in for consumers prior to the collection of information regarding Web pages accessed and the subsequent delivery of advertisements based on that information; four, requires that monitoring software be easily disabled at the direction of the consumer; five, requires companies that are sending ads to computers to identify with each ad the information collection program that is generating the ad. With this disclosure, consumers will know who is bombarding them with ads and will be able to make decisions about those pieces of software accordingly. Number six, provides for FTC enforcement with significant monetary penalties for those who knowingly violate the act; and, seven, sets up a uniform national rule. Internet commerce is inherently interstate in nature. We need one set of rules for such commerce, not 50.

We have just today also passed a bill that makes explicit some criminal penalties for purveyors of the worst kinds of spyware. I think it is appropriate that in certain instances, such as deceptive phishing leading to identity theft, the perpetrators need to go to jail. I want to thank the Committee on the Judiciary for their work in that area. However, I believe we need to do more to protect consumers. I believe we need to recognize the right of each consumer to be informed of spying taking place on his or her computer and be able to say no to that spying. This bill does that. The bill that we just passed from the Committee on the Judiciary does not do that.

I believe that we need to require of ad companies the responsibility to inform consumers and to get their consent before they start installing devices on consumers' computers that keep track of everything that they do, and their children do, on the Internet. This bill does that. The bill from the Committee on the Judiciary does not do that.

And I believe that companies have an obligation to disable spying programs if the consumers no longer want them. A consumer should have more options than just throwing away his computer if it is infected with spyware. This bill does that. The bill that came out of the Committee on the Judiciary does not do that.

It is this empowerment of consumers and the recognition that each consumer has the right to control what goes on his or her own computer that makes this bill, H.R. 29, a very important tool to protect consumers against spyware. That consumer protection will be my goal when we go to conference with the Senate.

I want to commend a number of Members for their outstanding leadership on this issue. The gentlewoman from California (Mrs. BONO) who will speak later in the debated introduced the original bill in the last Congress and has been a tireless educator on the dangers of spyware. The gentleman from New York (Mr. TOWNS) cosponsored the original legislation with the gentlewoman from California (Mrs. BONO), and he has been great in his bipartisan support of this particular project. The gentleman from Florida (Mr. STEARNS), the chairman of the Subcommittee on Trade and Consumer Protection, has been a leader on all the privacy-related issues in the committee and has worked with the gentlewoman from California (Mrs. BONO) and the gentleman from New York (Mr. TOWNS) on this legislation.

The gentleman from Michigan (Mr. DINGELL), the ranking member of the full committee, and the gentlewoman from Illinois (Ms. SCHAKOWSKY), who is leading the floor debate on the Democratic side, have worked tirelessly in both the subcommittee and the full committee to perfect this bipartisan legislation.

This is a good bill. It is a bipartisan bill. It passed the Committee on Energy and Commerce unanimously. I would urge that it pass the floor later this afternoon with that same level of support.

Mr. Speaker, I reserve the balance of my time.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself such time as I may consume.

I rise today as a cosponsor and in support of a strong consumer and privacy protection bill, H.R. 29, the Securely Protect Yourself Against Cyber Trespass Act, or the SPY ACT. I want to thank the gentleman from Texas (Mr. BARTON), the gentleman from Michigan (Mr. DINGELL), the gentleman from Florida (Mr. STEARNS), the gentleman from New York (Mr. TOWNS), and the gentlewoman from California (Mrs. BONO) for their work on the SPY ACT.

I would like first to commend the manner in which this bill was handled. The process was thorough, open to input and willing to address each other's concerns; and, most importantly, the work was organized around the goal of creating a strong and effective consumer protection bill. I believe we have accomplished our goal.

Spyware is software that has tracking capabilities so pervasive that it can record every keystroke computer users enter. It can take pictures of personal computer screens. It can snatch personal information from consumers' hard drives. People can see their bank account numbers, passwords, and other personal information stolen because they quite innocently went to a bad Web site or clicked a misleading agreement. Spyware is a serious threat to consumer privacy and potentially a powerful tool for identity theft, a serious crime that is on the rise. Spyware is a nonpartisan issue. As we learned last year while not yet a household word, spyware is a household phenomenon.

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America Online recently released a study which found that 80 percent of families with broadband access had spyware on their computers. Earthlink found that in 3 million scans of computers, there was an average of 26 instances of spyware on each and every computer. With those kinds of numbers, spyware will soon be a part of everyone's vocabulary.

Technological advances have brought ''the world into our homes,'' and the purveyors of spyware have interpreted that as an open door to come in whenever they want, whether invited or not. Still, because the software does have shady purposes, it usually comes in through the back door of consumers' computers. Because consumers do not know that spyware is on their computers, people are still surprised to hear about it. They experience the noticeable effects of the software, impossibly slow computers, hijacked home pages, unstoppable pop-ups, but they do not know where their problems are coming from or what is going on behind the scenes.

For instance, someone's computer may be sluggish because she may unwittingly have downloaded a program that records every key stroke entered and passes it on to a third party who wants to steal bank account numbers and passwords. The explosion of pop-up

ads may be because a program has been tracking a consumer's every move on the Web. Serious privacy and security issues are at stake here. Spyware could be a major contributor to the fact that identity theft is the fastest-growing financial crime today.

The time has come for a bill like the Spy Act. The gentleman from Texas (Chairman BARTON) very clearly outlined the specific provisions of the bill, but it bears briefly repeating. The Spy Act ensures that consumers are protected from the truly bad acts and actors while also protecting proconsumer functions of the software. It prohibits indefensible uses of the software like keystroke logging or the copying of every keystroke entered. Additionally, it gives the consumer the choice to opt in to the installation or activation of information collection programs on their computers, but only when they know exactly what information will be collected and what will be done with it. Furthermore, the Spy Act gives the Federal Trade Commission the power it needs on top of laws already in place to pursue deceptive uses of the software. The Spy Act puts the control of computers and privacy back in consumers' hands, and I am very glad I was a part of the process that brought this bill to the floor today.

So, again, I thank my colleagues for their work on this proconsumer, proprivacy, and bipartisan legislation, and I urge all Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. STEARNS), subcommittee chairman.

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I thank the gentleman from Texas (Mr. BARTON), my distinguished chairman of the full committee, for yielding me this time.

This is a very important bill. We have passed this bill once before, so it is clear the House is going to pass this. The question is, we have got to appeal to the Senate to pass this thing and move forward.

During the hearings we had on this bill, there were lots of witnesses that talked about this spyware Internet-based technology that can be used to defraud Americans today. So this bill is very important. We need to move it, and we need to move the Senate to move it. That is what we need to do.

This bill describes a broad array of activity, including keystroke logging, which tracks all of a computer user's keystrokes, they are recorded and then sent to a third party; homepage hijacking, in which spyware can take control of a computer and hijack the user's homepage to a commercial site or even to a pornographic site; and phishing, in which spyware directs a computer user with false messages purporting to be from some reputable merchant to basically steal the credit card, steal the credit card numbers and other financial information from a user.

In all of these cases, Mr. Speaker, spyware is downloaded without the knowledge and without the consent of the user. It is just not another cyber nuisance. It is a major Internet plague that threatens the privacy of the American consumer, and of course the very integrity of the Internet marketplace, on which we are relying more and more. I continue to meet people who have had their Web pages hijacked, their browsers corrupted, in some cases, their children exposed to inappropriate material from these dangerous programs hidden in their family computers.

Mr. Speaker, the Spy Act will bring control back to the consumer and give the on-line computer experience a positive message. It will preserve confidence in the Internet and its related technologies that make the lives of the consumer better and more convenient, more productive, and, of course, more secure. The Spy Act strikes a right balance between preserving legitimate and benign uses of this technology, while still, at the same time, protecting unwitting consumers from the harm caused when it is misused and, of course, designed for nefarious purposes.

The Spy Act prohibits keystroke logging, hijacking, and phishing. I mentioned that. It also provides a well-crafted opt-in for consumers before personal information is collected or prior to collection of Web history information. We in the Committee on Energy and Commerce think that is extremely important to have an opt-in for consumers. The legislation specifies that monitoring software should be easily disabled and requires companies that deliver ads to simply identify themselves. Further and more importantly, it gives the Federal Trade Commission the power to severely sanction violators with significant monetary penalties. In short, Mr. Speaker, this legislation creates a uniform Federal regulatory regime that will provide clear and consistent regulation in this area.

At the bottom, the elimination of spyware and the preservation of privacy for the consumer are critical goals if the Internet is to remain safe and reliable and credible.

As I mentioned earlier, the House passed the bill H.R. 2929 by a vote of 399 to 1. This year this legislation was passed unanimously out of the Committee on Energy and Commerce, 43 to zero. I expect the same strong showing this afternoon.

So, in conclusion, Mr. Speaker, H.R. 29, the Spy Act, has been a great exercise, as mentioned by the gentlewoman from Illinois (Ms. SCHAKOWSKY), ranking member, of our bipartisan leadership. Leadership that has been focused on achieving equitable results, that is good for the consumer, good for business, and good for America.

With that in mind, I would like to thank my colleagues on the Committee on Energy and Commerce, particularly the gentleman from Texas (Chairman BARTON) and the gentlewoman from California (Mrs. BONO), whose leadership provided this bill, for their consistent and, of course, their long-standing leadership in this area. I would also like to acknowledge the superb bipartisanship of my staff working with the staff of the gentlewoman from Illinois (Ms. SCHAKOWSKY).

And, of course, I would also like to thank the gentleman from Michigan (Mr. DINGELL), the ranking member of the full committee, and the gentleman from New York (Mr. TOWNS) for his support.

So, all in all, Mr. Speaker, we have a great bill. We need to move the Senate forward. Our bill will make America greater, and I urge support for the Spy Act of 2005.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself such time as I may consume.

I can only heartily agree with all that has been said. Let me just add a few words.

Spyware has changed the computing experience for so many people. Increasingly, consumers are finding that their home Web pages are changed or that their computers are sluggish; and they get, as I said, the pop-up ads that will not go away no matter how many times they try to close them. They find software in their computer they did not install and they cannot uninstall; and their computers are no longer their own, and they cannot figure out why. And consumers tend to blame viruses on their old computer or their Internet service providers, but because spyware is bundled with software people do want to download or because it is drive-by downloaded from unknowingly visiting the wrong Web site, people do not know that in many cases the real cause of their headaches is spyware.

And some of the above examples can be written off as merely annoying. Spyware is so much more than merely annoying, as we have pointed out, and there are these serious privacy and security issues at stake.

These problems of slow computers and pop-up ads are just symptoms of the real trouble spyware can cause. Again, the software is so resourceful that it can snatch personal information from computer hard drives and track every Web site visited and log every keystroke entered.

Spyware is a serious threat to consumer privacy and potentially a powerful tool for identity theft, a serious crime on the rise. As the FTC, the Federal Trade Commission, reports, in 2003 there were nearly 10 million Americans victimized by identity theft. Over the past 5 years, there have been 27 million victims, and my State of Illinois is in the top 10 for identity theft occurrences. On-line predators, like spyware transmitters, provide an easy access to personally identifiable information that can be used to steal people's identities and put them at greater risk of

being financially and otherwise victimized.

So this is now the time, once again, for the House to pass this important bipartisan legislation. And I too want to thank all of the leaders who have been involved in bringing this bill once again to the floor. I want to particularly thank the gentleman from Michigan (Mr. DINGELL), whose statement, though he could not be here today, will be in the RECORD, and the gentleman from New York (Mr. TOWNS), who has worked on this legislation from the very beginning with the gentlewoman from California (Mrs. BONO). And I want to thank the staff on our side, Diane Beedle and Consuela Washington, and the Republican staff for their hours of work.

I want to join the gentleman from Florida (Chairman STEARNS) in urging our Senate colleagues to move on this very important legislation. It is time that we not only pass it in the House, but that we make it the law of the land, and I look forward to seeing that happen in the near future. I thank my colleagues for the opportunity to work with all of them.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Palm Springs, California (Mrs. BONO), the author of the original bill, who knows more about these types of issues than anybody on the committee.

Mrs. BONO. Mr. Speaker, I want to thank the gentleman from Texas for yielding me this time.

The gentleman from Texas (Chairman BARTON) has been a steadfast leader and advocate for spyware legislation. He has worked tirelessly on this important issue. I appreciate his efforts in bringing H.R. 29 to the floor. I also extend my appreciation to the gentleman from Michigan (Mr. DINGELL), ranking member; the gentleman from Florida (Chairman STEARNS); the gentlewoman from Illinois (Ms. SCHAKOWSKY), ranking member; and the gentleman from New York (Mr. TOWNS), the original Democratic cosponsor. Each of them, as well as their staff, David Cavicke, Shannon Jacquot, Consuela Washington, Chris Leahy, Diane Beedle, Andy Delia, Dave Grimaldi; as well as my staffers, Jennifer Baird and Chris Lynch, have all worked diligently over the past 2 years to improve and refine this legislation.

I would also like to thank the industry participants and consumer groups who have contributed hundreds of comments on this legislation. I am confident that we have drafted a bill that incorporates several improvements that will empower consumers without impeding the growth of technology or on-line business models.

In the wake of recent data security breaches by ChoicePoint, DSW, LexisNexis, and other companies, consumers are finally realizing the importance of data security and their vulnerability to identity theft. While consumers are waking up to these risks, many continue to remain unaware of the consequences of having spyware programs on their computers. Spyware is software that is downloaded on one's computer that collects personally identifiable information such as Social Security numbers, credit card numbers, addresses, and phone numbers. This software passes personal information on to third parties without consent, or it is used to drive advertising to their computer. In short, it compromises personal data and can physically harm their computer.

Just how prolific is this problem? Here are a few of the staggering statistics: In a recent study by Webroot, the company identified at least one form of an unwanted program in 87 percent of the personal computers it scanned. Results from a consumer spy audit in 2005 found that 88 percent of personal computers scanned were infected with an average of 25 different spyware programs in each computer. In March, 2005, alone, a research system identified over 4,000 Web sites within nearly 90,000 total associated Web pages containing some form of spyware. Trojan horse infections grew by 30 percent since last year.

□ 1500

Mr. Speaker, this is not just a problem; it is an outright epidemic. As this Nation continues to push towards a global e-commerce marketplace, spyware stands to undermine the security and integrity of e-commerce and data security. Daily Web activities by consumers have become stalking grounds for computer hackers through spyware.

Consumers regularly and unknowingly download software programs that have the ability to track their every move. While some argue that consumers consented to these spyware downloads, the National Cyber Security Alliance and AOL found that 89 percent of users had no idea they had spyware on their computers. Moreover, there are Web sites and e-mail messages that deliberately trick computer users into downloading spyware.

In response to the rapid proliferation of spyware, the gentleman from New York (Mr. TOWNS) and I introduced H.R. 29. This bill prohibits such behavior by specifically outlawing Web hijacking, keystroke logging, drive-by downloads, phishing, evil-twin attacks and, several other perverse behaviors.

The concept of H.R. 29 is simple: tell consumers in plain English what personally identifiable information is going to be collected and how that information is going to be used. Consumers have a right to know and have a right to decide who has access to such highly personal information. Therefore, it is imperative that Congress pass this legislation and empower consumers while not impeding the growth of technology.

Earlier we heard my colleagues from the Committee on the Judiciary bring up their bill and talk about targeting behavior and not technology. I would ask them, what is Kazaa? Is Kazaa behavior or technology? What is Bonzi Buddy? Bonzi Buddy downloads a beautiful little purple gorilla which will dance about your screen which you cannot possibly eradicate from your computer. What is the Weather Bug? Again, the Committee on the Judiciary would say this is simply technology. I disagree. I say it is a terrible, terrible business practice, and it needs to be recognized by Congress. We need to stamp this out.

Mr. Speaker, I urge my colleagues to support H.R. 29.

Mr. BARTON of Texas. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I would like to read into the RECORD the companies and the organizations that support H.R. 29. This is with letters on the RECORD where they have written to me and the gentleman from Michigan (Mr. DINGELL) that they support the legislation: the Business Software Alliance; the Center For Democracy and Technology; the Council For Marketing and Opinion Research; Dell Corporation; DoubleClick, Incorporated, and ValueClick, Incorporated; eBay, Incorporated; Fidelity; Humana, Incorporated; Microsoft; 180 Solutions; the Recording Industry of America; Time Warner/AOL; United States Telecom Association; Webroot Software, Incorporated; WhenU; and Yahoo. These companies all officially on the record support H.R. 29.

Mr. Speaker, I think as the debate has shown, there is broad bipartisan support for this. There is also a need for this. I have spoken with Senator BURNS of the other body. He is preparing to move a companion bill. We have also obviously talked to the gentleman from Wisconsin (Chairman SENSENBRENNER) and the subcommittee chairman, the gentleman from Virginia (Mr. GOODLATTE), on their bill; and we are prepared to work with them to merge the bills at the appropriate time.

This is an issue whose time has come. Almost every American household now has a personal computer, and almost every one of those computers has spyware on them; and in most cases the owner of that computer does not know it. It is time to put a stop to that foolishness. It is time to say enough is enough. It is time to pass H.R. 29, work with the other body to pass a companion bill, go to conference, create a compromise bill, and then send the bill to the President's desk.

So I would encourage a ''yes'' vote, Mr. Speaker, and before I yield back, compliment you on your work on this. I think we should say the gentleman from California (Mr. RADANOVICH) also has been tireless in his support for the bill.

Mr. DINGELL. Mr. Speaker, identity theft is fast reaching epidemic proportions. Today we

will address one aspect of the problem—spyware.

Spyware programs sneak into your computer, and allow a third party to harvest your personal information. It is the equivalent of putting a wiretap on your phone and listening to your conversations. Adware tracks your Web surfing or online shopping so that marketers can send you unwanted ads. Spyware can hijack your computer to pornographic or gambling sites, or steal your passwords and credit care information.

The rapid proliferation of spyware and adware threatens legitimate Internet commerce. The most common consumer complaints are: hijacked home pages, redirected Web searches, a flood of pop-up ads, and sluggish and crashed computers.

This bill is carefully balanced. It prohibits a number of unfair and deceptive acts or practices related to spyware, and provides for strong Federal Trade Commission (FTC) enforcement and enhanced civil fines. It also recognizes that there are legitimate, applications of spyware and, thus, exempts law enforcement, national security, network security and maintenance, and fraud detection from the SPY Act. It contains narrowly prescribed exceptions for benign internal navigation tracking on Web sites, and the ordinary construction of Web pages that do not collect personal information. It preserves legitimate online commerce.

Most importantly, this legislation requires companies that distribute spyware and adware to obtain permission from consumers through an easily understood licensing agreement before installing spyware or adware on their computers. The programs, once downloaded, would have to provide a means to identify the spyware or adware and easily uninstall or disable it.

Without aggressive enforcement, the goals of this bill will not be met. We are asking the FTC to do a great deal in a very complex area and I trust that the appropriators will provide them with sufficient resources to fulfill these tasks. If not, this bill will be an empty promise, unless the state attorneys general step in forcefully.

This legislation is supported by a coalition that includes: the Business Software Alliance, the Center for Democracy and Technology, the Council for Marketing and Opinion Research, Dell, eBay Inc., Fidelity, Humana, Inc., Microsoft, 180 Solutions, Recording Industry Association of America, Time Warner/AOL, United States Telecom Association, Webroot Software, Inc., WhenU, and Yahoo!—all of whom have submitted letters of support. The coalition also includes DoubleClick, Inc., and ValueClick, Inc.—two of the leading companies in the rapidly growing online advertising industry.

The bill has improved at every stage of its consideration, and I want to commend the leadership and hard work of Chairman BARTON, Representatives STEARNS and SCHAKOWSKY, the Chairman and Ranking Member, respectively of the Subcommittee on Commerce, Trade, and Consumer Protection, and Representatives BONO and TOWNS, the lead Republican and Democratic sponsors of the bill. I also commend the bipartisan staff team who worked very hard to get this bill to the House floor.

I am proud to cosponsor this bill. I urge my colleagues to vote ''yes'' on passage of H.R. 29. It is a good bill. It is good for consumers. And it is good for honest commerce on the Internet.

Mr. BARTON of Texas. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RADANOVICH). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 29, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BARTON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

HEROES EARNED RETIREMENT OPPORTUNITIES ACT

Mr. SAM JOHNSON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1499) to amend the Internal Revenue Code of 1986 to allow a deduction to members of the Armed Forces serving in a combat zone for contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1499

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 ''Heroes Earned Retirement Opportunities Act''.

SEC. 2. COMBAT ZONE COMPENSATION TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING LIMITATION AND DEDUCTIBILITY OF CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Subsection (f) of section 219 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) SPECIAL RULE FOR COMPENSATION EARNED BY MEMBERS OF THE ARMED FORCES FOR SERVICE IN A COMBAT ZONE.—For purposes of subsections (b)(1)(B) and (c), the amount of compensation includible in an individual's gross income shall be determined without regard to section 112.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SAM JOHNSON) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM JOHNSON).

GENERAL LEAVE

Mr. SAM JOHNSON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1499.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of backing our troops, of backing them to the hilt, with the Heroes Earned Retirement Opportunities Act, or the HERO Act, H.R. 1499, introduced by the gentlewoman from North Carolina (Ms. FOXX).

As you know, people may contribute to $4,000 a year to the popular individual retirement account, IRA. However, the funds that go into an IRA are supposed to be post-tax money. Well, when you are serving your country in Camp Victory in Iraq or working in Afghanistan, your combat pay is tax-free. That is right, it is tax-free; and it ought to be. The theory behind that is if you are going to volunteer to risk your life, serve your country and protect our great freedom, you should not be taxed.

As a result, some military men and women come home serving in harm's way with money that they would like to put into an individual retirement account, but they cannot. It is against the law. That is wrong. The HERO Act changes that outdated and unintended tax law so that our soldiers, sailors, Marines and airmen can save some of that money for their retirement for their families' golden years.

Crazy as it may seem, right now these men and women come home with much more disposable income, yet they are not allowed to save some of it in an IRA; but they can spend it on cars, new clothes, family vacations. Yes, all of those things are nice, especially when you have been in the desert for 9 months and you just want the creature comforts and luxuries of home for you and your family. But those things are temporary. Retirement savings is about making a better future for yourself and your loved ones, and our troops should have the option of saving for retirement if they want to.

I say it is high time we change that, and that is what the HERO Act is all about. It is about tax simplification, it is about retirement savings, it is about helping our military who are out there fighting for us.

Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I stand today in support of H.R. 1499. This bill is supported by my Democratic colleagues. We acknowledge fully the work of our military personnel who continue to perform for our Nation. We honor their bravery and their sacrifice. Therefore, it goes without saying that we endorse this effort by this Congress to make it possible for these men and women to take advantage of every tax benefit

that is available to them, including saving for their retirement.

H.R. 1499, as my colleague and friend, the gentleman from Texas (Mr. SAM JOHNSON), has said, would allow our servicemen and -women to treat their compensation, received while serving in combat, as taxable income in order to help them meet the income eligibility retirement for making contributions to an individual retirement account.

At a recent hearing of our committee, two of our five witnesses highlighted the large shortfall in retirement savings many of our workers in this country face. I am sure that many members of the military fall within this group. This bill is a small step in the right direction of closing that gap.

Other larger steps need to be taken. For example, Democratic Members of this Congress are hopeful that we can work with our Republican colleagues to preserve another tax benefit that may be of even greater help to many military families. A provision in current law would permit military families to treat combat pay as taxable compensation for purposes of claiming the Earned Income Tax Credit. This provision is set to expire at the end of this year.

The EITC is a refundable credit many low- and middle-income taxpayers can claim when they file their Federal tax returns. Eligible families may claim a portion of their credit ratably during the year. The EITC helps to relieve the Federal tax burden on many families who are working full-time yet find themselves at or below the poverty level.

We had hoped that this provision could be included as part of the bill before us today to further help military families. However, we were assured that this provision will be taken up later in the year, and we will continue to press for the extension of this provision before it expires.

Also let me finish by expressing my hope and the hope of so many on my side of the aisle that this Congress and the administration will meet their responsibilities to our veterans on health, on re-employment, and so many other major needs of those in the military and the veterans of the United States of America.

Mr. Speaker, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield such time as she may consume to the gentlewoman from North Carolina (Ms. FOXX), the author of the bill.

Ms. FOXX. Mr. Speaker, I want to thank the gentlemen from Texas and Michigan for their eloquent words on behalf of this bill. I am truly honored to be here today, Mr. Speaker. I am honored because the mere consideration of this bill represents the greatness of our republican democracy.

At this time a year ago, I only dreamed of coming to the floor of this House and working for the people of the Fifth Congressional District in North Carolina. Here I am today promoting a bill I wrote to help those very constituents who deserve it most.

Just a few months ago, the father of Army Specialist Michael Hensley from my district in Clemmons, North Carolina, contacted me with a problem that his son and many of our other brave soldiers are facing. My constituent, Specialist Hensley, wanted to do the responsible thing by making the maximum allowable contribution to his individual retirement account, but found out that because of the nature of his wages, he would not be able to contribute to his nest egg this year. Thanks to the Republican leadership of this House and the bipartisan support from the minority, we stand here this afternoon to solve this problem.

Mr. Speaker, our current Tax Code wrongfully prohibits many of our brave men and women serving in combat zones from taking advantage of individual retirement accounts, or IRAs.

Most soldiers serving in these combat zones are paid in wages designated as military hazard pay. As deployment times have grown longer and longer, many soldiers now serve entire calendar years overseas, making their yearly compensation consist of hazard pay exclusively. These wages are not taxed; nor should they be. However, since this compensation is nontaxable, the wages are not eligible for IRA contributions. This is entirely unfair.

As we all know, IRAs are an excellent tool for responsible retirement savings, and responsible retirement savings should be encouraged for everyone, but especially for those who take up arms in war zones and fight for our freedom. The men and women defending America in harm's way overseas should not be excluded from fully participating in the important retirement investment opportunity that IRAs provide because of a glitch in our Tax Code. H.R. 1499, the Heroes Earned Retirement Opportunities, or HERO Act, will correct this serious injustice. The HERO Act simply designates combat hazard pay earned by a member of the Armed Forces as eligible for contribution to retirement accounts.

□ 1515

The legislation, which is endorsed by the Reserve Officers Association and the Military Officers Association of America, would not actually tax these wages, it would merely allow them to be invested in the same retirement accounts available to all Americans.

To quote the Military Officers Association of America in their letter of support for the bill, ''This change makes perfect sense in view of all we are asking our service members to do in the War on Terror in Iraq, Afghanistan, and elsewhere.''

I could not have said it better myself.

Mr. Speaker, our heroes defending America overseas certainly deserve the same access to retirement savings that we receive. In fact, we should be encouraging and even facilitating retirement savings whenever possible. Americans need to take responsibility for and control of their retirement. Those responsible enough to save their hard-earned wages should be rewarded, not burdened with taxes and regulations.

I would like to thank our Republican Majority Leader, the gentleman from Texas (Mr. DELAY), as well as the gentleman from California (Chairman THOMAS) for recognizing the importance of this bill and for expeditiously bringing it to the floor of this House.

I would also like to thank the gentleman from California (Chairman HUNTER) for his service to our Nation in Vietnam, for his excellent leadership of the House Committee on Armed Services, and for cosponsoring and supporting this great bill. His commitment to our troops is to be applauded.

A special thanks to the gentleman from Texas (Mr. JOHNSON) for his 29 years of service to our Nation, and for his cosponsorship of this bill and his assistance in the Committee on Ways and Means to bring the bill to the floor. He recognized immediately that this is a common-sense solution.

Lastly, I would like to thank my staff members, especially Bob Honald and Deana Funderburk for their support and effort to get a good idea transformed to good legislation. I urge all of my colleagues to help right this fundamental wrong by voting for this straightforward, common-sense legislation.

Mr. LEVIN. Mr. Speaker, I thank the gentleman from Texas (Mr. SAM JOHNSON) for his leadership on this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Hero Act is going to help our combat troops by modifying a tax law that has unintended consequences, given their situation. Most of us know that IRA contributions are limited to $4,000 this year, and the cap on annual contributions will increase to $5,000 in 2008.

All of this is temporary legislation, but we would like to have it permanent, as well, I say to the gentleman from Michigan (Mr. LEVIN).

According to the Joint Committee on Taxation, this bill would provide $31 million of tax benefits to military families over the next decade. H.R. 1499 provides meaningful assistance to our troops that we can all support as the House considers ways to improve the retirement security for Americans.

I work on retirement legislation in my membership on both the House Committee on Ways and Means and the House Committee on Education and the Workforce, and I look forward to meaningful legislation moving forward from both committees in the near future.

However, this legislation needs to move on its own as soon as possible. Our troops are earning combat pay in

dangerous situations, and to the extent that they can save some of it for their long-term needs, I think we ought to encourage them to do so.

We will pass this bill with no controversy, and I hope our colleagues in the other body follow suit in the near future. It is the right thing to do.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GINGREY). The question is on the motion offered by the gentleman from Texas (Mr. SAM JOHNSON) that the House suspend the rules and pass the bill, H.R. 1499, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: ''A bill to amend the Internal Revenue Code of 1986 to allow members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income, and for other purposes.''.

A motion to reconsider was laid on the table.

ANGEL ISLAND IMMIGRATION STATION RESTORATION AND PRESERVATION ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 606) to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California.

The Clerk read as follows:

H.R. 606

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 ''Angel Island Immigration Station Restoration and Preservation Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Angel Island Immigration Station, also known as the Ellis Island of the West, is a National Historic Landmark.

(2) Between 1910 and 1940, the Angel Island Immigration Station processed more than 1,000,000 immigrants and emigrants from around the world.

(3) The Angel Island Immigration Station contributes greatly to our understanding of our Nation's rich and complex immigration history.

(4) The Angel Island Immigration Station was built to enforce the Chinese Exclusion Act of 1882 and subsequent immigration laws, which unfairly and severely restricted Asian immigration.

(5) During their detention at the Angel Island Immigration Station, Chinese detainees carved poems into the walls of the detention barracks. More than 140 poems remain today, representing the unique voices of immigrants awaiting entry to this country.

(6) More than 50,000 people, including 30,000 schoolchildren, visit the Angel Island Immigration Station annually to learn more about the experience of immigrants who have traveled to our shores.

(7) The restoration of the Angel Island Immigration Station and the preservation of the writings and drawings at the Angel Island Immigration Station will ensure that future generations also have the benefit of experiencing and appreciating this great symbol of the perseverance of the immigrant spirit, and of the diversity of this great Nation.

SEC. 3. RESTORATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Interior $15,000,000 for restoring the Angel Island Immigration Station in the San Francisco Bay, in coordination with the Angel Island Immigration Station Foundation and the California Department of Parks and Recreation.

(b) FEDERAL FUNDING.—Federal funding under this Act shall not exceed 50 percent of the total funds from all sources spent to restore the Angel Island Immigration Station.

(c) PRIORITY.—(1) Except as provided in paragraph (2), the funds appropriated pursuant to this Act shall be used for the restoration of the Immigration Station Hospital on Angel Island.

(2) Any remaining funds in excess of the amount required to carry out paragraph (1) shall be used solely for the restoration of the Angel Island Immigration Station.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 606, introduced by the gentlewoman from California (Ms. WOOLSEY), would authorize an appropriation up to $15 million to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in San Francisco Bay.

The funds would be used in coordination with the Angel Island Immigration Station Foundation and the California Department of Parks and Recreation. The bill would also require funds appropriated by the Act to be used first for restoration of the Immigration Station Hospital on the island. Finally, the bill limits the Federal funding to 50 percent of the total funds from all the sources spent to restore the immigration station.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

(Mrs. CHRISTENSEN asked and was given permission to revise and extend her remarks.)

Mrs. CHRISTENSEN. Mr. Speaker, the majority has already explained the purpose of H.R. 606, which was introduced by my colleague, the gentlewoman from California (Ms. WOOLSEY).

Angel Island is a nationally significant resource, as evidenced by its previous designation as a national historic landmark. Angel Island tells an important historical story about immigration into the western United States; how entry was offered to some, but denied to others under the discriminatory practices of that day.

The gentlewoman from California (Ms. WOOLSEY) is to be commended for her leadership on H.R. 606. She has a bipartisan coalition of support for her initiative, including California Governor Arnold Schwarzenegger. Many individuals and organizations have come to recognize the importance of a Federal-State-private partnership in the preservation and interpretation of this important aspect of our Nation's history.

Mr. Speaker, we support H.R. 606 as a means to help preserve the rich history of the Angel Island Immigration Station and urge its adoption by the House today.

Mr. Speaker, I yield such time as she might consume to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise to speak on H.R. 606, out of order. I was working patiently at my desk. I flew in on the red eye so that I could talk about Angel Island and how wonderful it is. And I want to thank the ranking members of this committee for making this possible for me, and allowing the consideration of a piece of legislation that is very important to my district, the San Francisco Bay area, and to Asian Americans throughout the United States.

As you know, I have worked for the past 3 years with the Angel Island Immigration Station Foundation and the gentlewoman from California (Leader PELOSI) and the gentleman from Indiana (Mr. SOUDER) in an effort to preserve the historic Angel Island Immigration Station. It is located just east of Sausalito in the San Francisco Bay. Sausalito is in my district, California's 6th Congressional District.

This landmark is a particular high priority because of what it means to Asian Americans nationwide. Many of you are familiar, all of us are familiar with the symbolism of Ellis Island to European Americans. The same feelings of legacy and pride can be equated to the Americans of Asian heritage on the west coast. In fact, Angel Island was the first American soil most Asian immigrants stepped on.

With over one million people having been processed through the sites, millions of Asians and Asian descendents nationwide are eager to see their roots in this country honored in the same way that we honor Ellis Island.

In addition, Angel Island Immigration Station also houses a unique literary display of Asian American culture. The walls of the main building hold layers of poetry reflecting the record of hardship endured and the indignity suffered by the early Chinese as they were being processed into America. If these walls crumble, we will lose this one-of-a-kind documentation forever. And thank you for voting not to let that happen.

Because of its rich history, the site is currently used as a teaching tool for

students and a museum for visitors. Hundreds of school children and researchers have made the trip by ferry out to the site each year to learn about its rich history.

Mr. Speaker, I have worked with the foundation to find additional sources of funding for the restoration project to ensure future generations can learn from the site. The current estimate to complete the preservation is over $30 million, $16 million already raised through Federal grants, State funding, and private donations; $15 million still remains to finish the project.

With no more grants available and the State of California contributing close to half of the funding, it is important that the Federal Government become a part of this preservation effort, and that is what we are doing today. And I thank you for making that happen in the House.

Mr. Speaker, first I want to thank Chairman POMBO, Ranking Member RAHALL and the House Leadership for allowing us to consider this piece of legislation that is important to my district and the San Francisco Bay Area.

As you may know, I have worked for the past 3 years with the Angel Island Immigration Station Foundation and Leader PELOSI and Congressman MARK SOUDER in an effort to preserve the historic Angel Island Immigration Station, located just east of Sausalito in the San Francisco Bay.

This landmark is a particularly high priority because of what it means to Asian Americans nationwide. Many of you are familiar with the symbolism of Ellis Island to European Americans. The same feelings of legacy and pride can be equated to the Americans of Asian heritage on the west coast. In fact, Angel Island was the first American soil most Asian immigrants stepped on.

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With no grants available, and the State of California contributing close to half of the funding, it is important that the Federal Government become a part of this preservation effort. That is what we are doing today.

Mrs. CHRISTENSEN. Mr. Speaker, I reserve the balance of my time.

Ms. PELOSI. Mr. Speaker, I rise in strong support of H.R. 606, the Angel Island Immigration Station Restoration and Preservation Act.

For 30 years, between 1910 to 1940, Angel Island served as the first point of entry into our country for immigrants from around the world hopeful for the promise of America. While the history of Ellis Island, which served as a processing center for immigrants coming in from across the Atlantic, is well known, the story of Angel Island is one that is often lost between the pages of our nation's history.

While it was open, 1 million immigrants were processed on Angel Island, including immigrants from Japan, Korea, the Philippines, and Central and South America. It would be the first, and sometimes only, American soil that many of these people, who hoped to call this country their home, would walk upon.

Among these stories are the unforgettable voices of more than 170,000 Chinese immigrants, who sacrificed everything to come to what they referred to as the ''Gold Mountain,'' a land of unparalleled freedom and opportunity. While many found new life, others encountered discrimination, disappointment, and sometimes, despair.

The Chinese Exclusion Act of 1882 prevented many Chinese from entering the United States. Those allowed to enter were held in detention on Angel Island. Segregated and separated into barracks, the detainees faced stark living conditions, humiliating medical examinations, and grueling interrogations, while their detentions dragged on from days to months, and even years. All this while they awaited a decision on whether they would be permitted to enter the United States or sent back to China. While the detainees would eventually leave the Island and the Immigration Station would later close, they would leave behind their powerful testaments, inscribed as poetry, on the walls that confined them.

Today, more than 100 of these poems are still visible, etched on the barrack walls. Together, they capture the fears, sadness, and longing felt by the immigrants. Despite the extreme hardships faced on Angel Island, many of these poems also reflect the timeless legacy of the hope that is shared by all who are drawn to and believe in our country.

In 1940, Angel Island Immigration Station was closed after a fire destroyed the administration building. The U.S. Army used the Island during World War II, departing when the war was over. Angel Island became incorporated as a part of the California State Park system in 1963.

Abandoned and neglected, the structures fell into various states of disrepair and were scheduled for demolition in 1970, when a park ranger rediscovered the poetry carved on the walls. Although the buildings were spared from being torn down, more resources are needed to restore this unique and significant landmark.

This legislation would authorize $15 million, to be matched by state and private funding, to restore the buildings at Angel Island Immigration Station, and ensure its preservation for future generations.

Understanding our past is key to our nation's success and strength, today and in the future. Preserving Angel Island ensures that the collective voices of past immigrants live on in the proud immigrant heritage we all share.

I urge my colleagues to support this significant piece of legislation.

Mr. SOUDER. Mr. Speaker, I rise in support of H.R. 606, the Angel Island Immigration Station Restoration and Preservation Act.

Historic preservation is the key to remembering our past. Without key places and artifacts from our history, it would be impossible to tell future generations of Americans how, when and where our country came to be what it is. Whenever a place or object is lost, a piece of history is gone forever. It is our duty to ensure that history is preserved.

The Angel Island Immigration Station Restoration and Preservation Act aims to preserve part of our history. Known as the Ellis Island of the West, Angel Island was the primary entry point for hundreds of thousands of immigrants from the Pacific Rim, including Australia and New Zealand, Canada, Mexico, Central and South America, Russia, and in particular, Asia. During Angel Island's years of operation (1910–1940), an estimated 175,000 Chinese immigrants were processed through Angel Island.

In 1940, Angel Island Immigration Station closed after a fire destroyed the Administration Building. Following the Army's departure from Angel Island, the structures fell into disrepair. Many were removed by the Army Corps of Engineers and California State Parks. Of the original Immigration Station structures, only the Detention Barracks, Hospital, Power House, Pump House and Mule Barn remain. Today, these structures are in various states of disrepair; hence the need for this legislation.

Without H.R. 606, the structures on Angel Island will fall further into decay. Many of the buildings are crumbling and leak; consequently, many poems written by the Chinese immigrants detained at Angel Island are in danger of being destroyed. State, private, and local entities have already contributed mightily to this project; sadly, they have not been able to complete the project. This bill will authorize $15 million in funding so that this unique aspect of our history can be preserved for future generations. Compared to the $156 million spent to restore Ellis Island, this restoration project is a bargain and of no less significance.

Millions of people journey to Ellis Island every year in order to see where their ancestors came ashore. This bill would allow descendents of Angel Island arrivals the same opportunity to visit the place where their ancestors' American Dreams started.

Although the status of Angel Island as part of the California State Parks system sets it apart from many other historic sites that receive federal funding, the importance of the site and its contribution to the United States makes its official designation irrelevant. Our nation's history must be preserved regardless of official status.

I urge my colleagues to support the passage of H.R. 606, the Angel Island Immigration Station Restoration and Preservation Act. Keeping our immigration heritage in good repair is essential if the United States is to maintain its unique status as a beacon of democracy and opportunity.

Mr. HONDA. Mr. Speaker, I rise today in support of H.R. 4469, the Angel Island Immigration Station Restoration and Preservation Act.

I would like to recognize my colleague Representative LYNN WOOSLEY from California for

her steadfast leadership in ensuring Angel Island Immigration Station is preserved and restored.

As Chair of the Congressional Asian Pacific American Caucus (CAPAC), I support the federal authorization of $15 million for the preservation and restoration of Angel Island, where people from China, Japan, Russia, India, Korea, Australia, and the Philippines entered the United States to start a new life.

Angel Island Immigration Station is appropriately known as the ''Ellis Island of the West.'' Located in the San Francisco Bay, Angel Island served as a processing and detainment center for one million immigrants between 1910 and 1940. Of those one million people, 175,000 were Chinese immigrants and 150,000 were Japanese immigrants.

For the 30 years that Angel Island was in existence, detainees experienced overcrowded facilities, humiliating medical examinations, intense interrogations, and countless days—even years—waiting until approval of their applications or deportation. Although conditions could be deplorable, Angel Island was an entry point to a better future for many immigrants.

In 1940, Angel Island Immigration Station's administration building was destroyed. In 1963, California State Parks assumed the role of stewardship of the site when Angel Island became a state park.

In the 1970's, the site was set for demolition until a park ranger discovered etched writings on the walls. Etched by detainees, the writings and drawings on the wall reflect the hardships and hopes of detainees during the uncertain period in which they awaited decisions on their immigration applications. The cultural and historical value of these etchings sparked efforts to save this site. In 1997 Angel Island Immigration Station became a National Historic Landmark.

More than 50,000 people continue to visit Angel Island Immigration Station yearly, but sadly, the history of Angel Island is often left out of classroom lectures. However, with greater federal support, we can restore the Island's historic buildings, preserve irreplaceable immigration records, and keep alive the stories and memories of those who were detained on the Island.

While preserving the Angel Island Immigration Station is important to Asian Pacific Americans, it should be a priority for all Americans. Just as Ellis Island is a critical part of our nation's history, Angel Island offers American's a richer and more comprehensive understanding of our history and the diversity we celebrate in this nation.

Mr. Speaker, I wholeheartedly support H.R. 4469 and its authorization of $15 million to restore and preserve historic buildings at Angel Island Immigration Station. I urge my colleagues to join me in supporting this important piece of legislation.

Mr. RADANOVICH. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 606.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PROVIDING FOR THE CONVEYANCE OF CERTAIN PUBLIC LAND IN CLARK COUNTY, NEVADA, FOR USE AS A HELIPORT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 849) to provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport.

The Clerk read as follows:

H.R. 849

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF PROPERTY TO CLARK COUNTY, NEVADA.

(a) FINDINGS.—Congress finds that—

(1) the Las Vegas Valley in the State of Nevada is the fastest growing community in the United States;

(2) helicopter tour operations are conflicting with the needs of long-established residential communities in the Valley; and

(3) the designation of a public heliport in the Valley that would reduce conflicts between helicopter tour operators and residential communities is in the public interest.

(b) PURPOSE.—The purpose of this Act is to provide a suitable location for the establishment of a commercial service heliport facility to serve the Las Vegas Valley in the State of Nevada while minimizing and mitigating the impact of air tours on the Sloan Canyon National Conservation Area and North McCullough Mountains Wilderness.

(c) DEFINITIONS.—In this Act:

(1) CONSERVATION AREA.—The term ''Conservation Area'' means the Sloan Canyon National Conservation Area established by section 604(a) of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2010).

(2) COUNTY.—The term ''County'' means Clark County, Nevada.

(3) HELICOPTER TOUR.—

(A) IN GENERAL.—The term ''helicopter tour'' means a commercial helicopter tour operated for profit.

(B) EXCLUSION.—The term ''helicopter tour'' does not include a helicopter tour that is carried out to assist a Federal, State, or local agency.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) WILDERNESS.—The term ''Wilderness'' means the North McCullough Mountains Wilderness established by section 202(a)(13) of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2000).

(d) CONVEYANCE.—As soon as practicable after the date of enactment of this Act, the Secretary shall convey to the County, subject to valid existing rights, for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (e).

(e) DESCRIPTION OF LAND.—The parcel of land to be conveyed under subsection (d) is the parcel of approximately 229 acres of land depicted as tract A on the map entitled ''Clark County Public Heliport Facility'' and dated May 3, 2004.

(f) USE OF LAND.—

(1) IN GENERAL.—The parcel of land conveyed under subsection (d)—

(A) shall be used by the County for the operation of a heliport facility under the conditions stated in paragraphs (2) and (3); and

(B) shall not be disposed of by the County.

(2) IMPOSITION OF FEES.—

(A) IN GENERAL.—Any operator of a helicopter tour originating from or concluding at the parcel of land described in subsection (e) shall pay to the Clark County Department of Aviation a $3 conservation fee for each passenger on the helicopter tour if any portion of the helicopter tour occurs over the Conservation Area.

(B) DISPOSITION OF FUNDS.—Any amounts collected under subparagraph (A) shall be deposited in a special account in the Treasury of the United States, which shall be available to the Secretary, without further appropriation, for the management of cultural, wildlife, and wilderness resources on public land in the State of Nevada.

(3) FLIGHT PATH.—Except for safety reasons, any helicopter tour originating or concluding at the parcel of land described in subsection (e) that flies over the Conservation Area shall not fly—

(A) over any area in the Conservation Area except the area that is between 3 and 5 miles north of the latitude of the southernmost boundary of the Conservation Area;

(B) lower than 1,000 feet over the eastern segments of the boundary of the Conservation Area; or

(C) lower than 500 feet over the western segments of the boundary of the Conservation Area.

(4) REVERSION.—If the County ceases to use any of the land described in subsection (d) for the purpose described in paragraph (1)(A) and under the conditions stated in paragraphs (2) and (3)—

(A) title to the parcel shall revert to the United States, at the option of the United States; and

(B) the County shall be responsible for any reclamation necessary to revert the parcel to the United States.

(g) ADMINISTRATIVE COSTS.—The Secretary shall require, as a condition of the conveyance under subsection (d), that the County pay the administrative costs of the conveyance, including survey costs and any other costs associated with the transfer of title.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

GENERAL LEAVE

Mr. RADANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 849, introduced by my committee colleague, the gentleman from Nevada (Mr. GIBBONS), would provide for the conveyance of certain public land in Clark County, Nevada, currently being managed by the Bureau of Land Management, to the county for use as a heliport.

The Las Vegas Valley is among the fastest growing communities in the United States. This community thrives

on tourism with one of the most popular tourist excursions being the helicopter tour of the Grand Canyon. At present, helicopter tour flight paths impact long-standing residential neighborhoods. This bill would alleviate this growing conflict while providing a suitable location for the establishment of a commercial service heliport facility to serve the Las Vegas Valley.

Mr. Speaker, one of the primary goals of this conveyance is to minimize the impact of air tours on the Sloan Canyon National Conservation Area and the North McCullough Mountains Wilderness that lie just north of the major residential areas. In addition, any operator of a helicopter tour originating from or concluding at the new heliport would pay the Clark County Department of Aviation a $3 conservation fee for each passenger on the tour if any of the helicopter tours occurs over the Conservation Area. The fee collected will be placed in a special account in the Treasury of the United States. Those funds will then be made available to the Secretary for management of cultural, wildlife, and wilderness resource on public lands in the State of Nevada.

This bill is also the result of public hearings and local decision-making on this issue, and although not a perfect solution, it seeks a fair compromise to resolve the issue.

Mr. Speaker, I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is important legislation for Nevada that will hopefully alleviate some public safety concerns regarding helicopter overflights. As a result, we do not oppose H.R. 849.

In addition to her other colleagues in Nevada, the Nevada delegation, the gentlewoman from Nevada (Ms. BERKLEY) is to be commended for her tireless efforts on behalf of this legislation. She continues to be a forceful advocate for managing the explosive growth of her communities effectively and responsibly.

Of course, the distinguished Senate Minority Leader has been a powerful advocate for this legislation, and I know the delegation and the people of Nevada appreciate his leadership.

Mr. Speaker, I reserve the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. PORTER).

(Mr. PORTER asked and was given permission to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, I rise today to speak on H.R. 849 on behalf of my colleague, the gentleman from Nevada (Mr. GIBBONS), before I make my own remarks on this important piece of legislation.

First, I would like to read a prepared statement by the gentleman from Nevada (Mr. GIBBONS).

Again, on behalf of the gentleman from Nevada (Mr. GIBBONS): ''I would like to express my strong support for H.R. 849 to convey certain public land in Clark County, Nevada, for use as a heliport.

''Nevada is 84 percent owned and managed by the Federal Government. This large share of Federal lands makes management of Nevada's cities and counties difficult at best. Extensive Federal ownership of Nevada, coupled with the rapid growth we are currently experiencing, brings even greater need for planning and management of all types of transportation in Nevada.

''Currently, over 90 helicopter flights per day, over 32,850 flights per year, fly over the homes of 90,000 Las Vegas residents. As you can imagine, this high volume of air traffic poses challenges and problems for the residents of southern Nevada. To help alleviate this problem, Clark County has searched extensively for a separate site that will not only accommodate helicopter operators, but meet the needs of the surrounding communities.

''The heliport site agreed to in this legislation is the result of a great deal of study and planning. Several sites were identified as potentially suitable. However, the site outlined in my legislation is the most ideal location. The site outlined in this legislation is further out of the city and will not affect any of the current residential areas.

''Again, thank you, Mr. Speaker, for your consideration.''

Again, these comments were based upon written remarks from my colleague, the gentleman from Nevada (Mr. GIBBONS).

□ 1530

I would also like to express my strong support for H.R. 849. As an original cosponsor of this bill, I understand the problems that the current helicopter overflight path causes to many of my constituents. With almost 33,000 flights occurring per year over approximately 90,000 people, a viable alternative to the current flight path that not only meets the needs of Southern Nevadans but also the operators of the helicopters themselves is no longer wanted but needed.

In order to solve the conflict, Clark County and other major stakeholders collaborated to find this alternative. After many studies, the site outlined in H.R. 849 was determined to be the most suitable. The area chosen within the legislation moves the flight path away from the residential areas, yet still allows helicopter operators to continue their air tours over Hoover Dam, the Grand Canyon, the Las Vegas Strip, and other beautiful areas of the American Southwest.

Mr. Speaker, I would also like to voice my strong support for H.R. 849.

As an original cosponsor of this bill, I understand the problems that the current helicopter over-flight path causes to my constituents. With almost 33,000 flights occurring per year over approximately 90,000 people, a viable alternative to the current flight path that not only meets the needs of Southern Nevadans, but also the operators of the helicopters themselves, is no longer wanted, but needed.

In order to solve the conflict, Clark County and other major stakeholders collaborated to find this alternative. After many studies, the site outlined in H.R. 849 was determined to be the most suitable. The area chosen within the legislation moves the flight path away from residential areas yet still allows helicopter operators to continue their air tours over Hoover Dam, the Grand Canyon, the Las Vegas Strip, and other beautiful areas of the American Southwest.

Mr. GIBBONS. Mr. Speaker, I would like to express my strong support for H.R. 849, to convey certain public land in Clark County, Nevada for use as a heliport. Nevada is 84 percent owned and managed by the federal government. This large share of federal land makes management of Nevada's cities and counties difficult at best. Extensive federal ownership of Nevada coupled with the rapid growth we are currently experiencing brings even greater need for planning and management of all types of transportation.

Currently over 90 helicopter flights per day, or 32, 850 flights per year, fly over the homes of more than 90,000 Las Vegas residents. As you can imagine, this high volume of air traffic poses challenges and problems for the residents of Southern Nevada. To help alleviate this problem, Clark County has searched extensively for a separate site that will not only accommodate helicopter operators, but meet the needs of the surrounding communities. The heliport site agreed to in this legislation is a result of a great deal of study and planning. Several sites were identified as potentially suitable, however the site outlined in my legislation is the most ideal location. The site outlined in the legislation is further out of the city and will not affect any current residential areas. Again, thank you Mr. Speaker for your consideration of this legislation that is so important to Southern Nevada. Additionally, I would like to thank my colleague Mr. PORTER for his assistance, as well as the entire Nevada delegation for their support of this bill. I urge all of my colleagues to recognize the need for an alternative helicopter site and join me in supporting this legislation.

Mr. RADANOVICH. Mr. Speaker, does the gentlewoman from the Virgin Islands have any more speakers?

Mrs. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GINGREY). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 849.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

REVOKING PUBLIC LAND ORDER WITH RESPECT TO CERTAIN LANDS IN CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1101) to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

The Clerk read as follows:

H.R. 1101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVOCATION OF PUBLIC LAND ORDER WITH RESPECT TO LANDS ERRONEOUSLY INCLUDED IN CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA.

Public Land Order 3442, dated August 21, 1964, is revoked insofar as it applies to the following described lands: San Bernardino Meridian, T11S, R22E, sec. 6, all of lots 1, 16, and 17, and SE¼ of SW¼ in Imperial County, California, aggregating approximately 140.32 acres.

SEC. 2. RESURVEY AND NOTICE OF MODIFIED BOUNDARIES.

The Secretary of the Interior shall, by not later than 6 months after the date of the enactment of this Act—

(1) resurvey the boundaries of the Cibola National Wildlife Refuge, as modified by the revocation under section 1;

(2) publish notice of, and post conspicuous signs marking, the boundaries of the refuge determined in such resurvey; and

(3) prepare and publish a map showing the boundaries of the refuge.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

GENERAL LEAVE

Mr. RADANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1101.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume; and I am pleased to strongly support H.R. 1101, introduced by my good friend, the gentleman from California (Mr. HUNTER). The gentleman from California has done an excellent job of representing his constituents who, through no fault of their own, find themselves operating a concession within the National Wildlife Refuge System.

This concession, known as Walter's Camp, has existed since 1962. It has consistently provided recreational opportunities to thousands of Americans. It is one of the few places along the lower Colorado River that offers such a variety of healthy outdoor activities.

About 5 years ago, the concessionaire was advised by the Fish and Wildlife Service that Walter's Camp had been inadvertently added to the Cibola National Wildlife Refuge and that corrective legislation was necessary.

This is the purpose of this measure, to correct this mistake; and there is no opposition to returning the title of this property to the Bureau of Land Management. In fact, identical legislation passed the House unanimously on two separate occasions in the 108th Congress.

I urge an ''aye'' vote on H.R. 1101.

Mr. Speaker, I reserve the balance of my time.

(Mrs. CHRISTENSEN asked and was given permission to revise and extend her remarks.)

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this legislation is to correct an error in the 1964 public land withdrawal that created the Cibola National Wildlife Refuge in California.

H.R. 1101 is identical to legislation passed by the House during the 107th and 108th Congresses, and we have no objection to this noncontroversial bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 1101.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RADANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 606.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL SERVICES ADMINISTRATION MODERNIZATION ACT

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2066) to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes.

The Clerk read as follows:

H.R. 2066

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 ''General Services Administration Modernization Act''.

SEC. 2. FEDERAL ACQUISITION SERVICE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Section 303 of title 40, United States Code, is amended to read as follows:

''§ 303. Federal Acquisition Service

''(a) ESTABLISHMENT.—There is established in the General Services Administration a Federal Acquisition Service. The Administrator of General Services shall appoint a non-career employee as Commissioner of the Federal Acquisition Service, who shall be the head of the Federal Acquisition Service.

''(b) FUNCTIONS.—Subject to the direction and control of the Administrator of General Services, the Commissioner of the Federal Acquisition Service shall be responsible for administering the Acquisition Services Fund under section 321 of this title and carrying out functions related to the uses for which such Fund is authorized under such section, including any functions that were carried out by the entities known as the Federal Supply Service and the Federal Technology Service and such other related functions as the Administrator considers appropriate.

''(c) REGIONAL EXECUTIVES.—The Administrator may appoint up to five Regional Executives in the Federal Acquisition Service, to carry out such functions within the Federal Acquisition Service as the Administrator considers appropriate.''.

(2) CLERICAL AMENDMENT.—The item relating to section 303 at the beginning of chapter 3 of such title is amended to read as follows:

''303. Federal Acquisition Service.''.

(b) EXECUTIVE SCHEDULE COMPENSATION.—Section 5316 of title 5, United States Code, is amended by striking the item relating to the Commissioner of the Federal Supply Service of the General Services Administration and inserting the following:

''Commissioner of the Federal Acquisition Service, General Services Administration.''.

(c) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, reorganization plan, or delegation of authority, or in any document—

(1) to the Federal Supply Service is deemed to refer to the Federal Acquisition Service;

(2) to the GSA Federal Technology Service is deemed to refer to the Federal Acquisition Service;

(3) to the Commissioner of the Federal Supply Service is deemed to refer to the Commissioner of the Federal Acquisition Service; and

(4) to the Commissioner of the GSA Federal Technology Service is deemed to refer to the Commissioner of the Federal Acquisition Service.

SEC. 3. ACQUISITION SERVICES FUND.

(a) ABOLISHMENT OF GENERAL SUPPLY FUND AND INFORMATION TECHNOLOGY FUND.—The General Supply Fund and the Information Technology Fund in the Treasury are hereby abolished.

(b) TRANSFERS.—Capital assets and balances remaining in the General Supply Fund and the Information Technology Fund as in existence immediately before this section takes effect shall be transferred to the Acquisition Services Fund and shall be merged with and be available for the purposes of the Acquisition Services Fund under section 321 of title 40, United States Code (as amended by this Act).

(c) ASSUMPTION OF OBLIGATIONS.—Any liabilities, commitments, and obligations of the General Supply Fund and the Information Technology Fund as in existence immediately before this section takes effect shall

be assumed by the Acquisition Services Fund.

(d) EXISTENCE AND COMPOSITION OF ACQUISITION SERVICES FUND.—Subsections (a) and (b) of section 321 of title 40, United States Code, are amended to read as follows:

''(a) EXISTENCE.—The Acquisition Services Fund is a special fund in the Treasury.

''(b) COMPOSITION.—

''(1) IN GENERAL.—The Fund is composed of amounts authorized to be transferred to the Fund or otherwise made available to the Fund.

''(2) OTHER CREDITS.—The Fund shall be credited with all reimbursements, advances, and refunds or recoveries relating to personal property or services procured through the Fund, including—

''(A) the net proceeds of disposal of surplus personal property;

''(B) receipts from carriers and others for loss of, or damage to, personal property; and

''(C) receipts from agencies charged fees pursuant to rates established by the Administrator.

''(3) COST AND CAPITAL REQUIREMENTS.—The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall develop a plan concerning such requirements in consultation with the Chief Financial Officer of the General Services Administration. Any change to the cost and capital requirements of the Fund for a fiscal year shall be approved by the Administrator. The Administrator shall establish rates to be charged agencies provided, or to be provided, supply of personal property and non-personal services through the Fund, in accordance with the plan.

''(4) DEPOSIT OF FEES.—Fees collected by the Administrator under section 313 of this title may be deposited in the Fund to be used for the purposes of the Fund.''.

(e) USES OF FUND.—Section 321(c) of such title is amended in paragraph (1)(A)—

(1) by striking ''and'' at the end of clause (i);

(2) by inserting ''and'' after the semicolon at the end of clause (ii); and

(3) by inserting after clause (ii) the following new clause :

''(iii) personal services related to the provision of information technology (as defined in section 11101(6) of this title);''.

(f) PAYMENT FOR PROPERTY AND SERVICES.—Section 321(d)(2)(A) of such title is amended—

(1) by striking ''and'' at the end of clause (iv);

(2) by redesignating clause (v) as clause (vi); and

(3) by inserting after clause (iv) the following new clause:

''(v) the cost of personal services employed directly in providing information technology (as defined in section 11101(6) of this title); and''.

(g) TRANSFER OF UNCOMMITTED BALANCES.—Subsection (f) of section 321 of such title is amended to read as follows:

''(f) TRANSFER OF UNCOMMITTED BALANCES.—Following the close of each fiscal year, after making provision for a sufficient level of inventory of personal property to meet the needs of Federal agencies, the replacement cost of motor vehicles, and other anticipated operating needs reflected in the cost and capital plan developed under subsection (b), the uncommitted balance of any funds remaining in the Fund shall be transferred to the general fund of the Treasury as miscellaneous receipts.''.

(h) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 322 of such title is repealed.

(2) The heading for section 321 of such title is amended to read as follows:

''§ 321. Acquisition Services Fund''.

(3) The table of sections for chapter 3 of such title is amended by striking the items relating to sections 321 and 322 and inserting the following:

''321. Acquisition Services Fund.''.

(4) Section 573 of such title is amended by striking ''General Supply Fund'' both places it appears and inserting ''Acquisition Services Fund''.

(5) Section 604(b) of such title is amended—

(A) in the heading, by striking ''GENERAL SUPPLY FUND'' and inserting ''ACQUISITION SERVICES FUND''; and

(B) in the text, by striking ''General Supply Fund'' and inserting ''Acquisition Services Fund''.

(6) Section 605 of such title is amended—

(A) in subsection (a)—

(i) in the heading, by striking ''GENERAL SUPPLY FUND'' and inserting ''ACQUISITION SERVICES FUND''; and

(ii) in the text, by striking ''General Supply Fund'' and inserting ''Acquisition Services Fund''; and

(B) in subsection (b)(2)—

(i) by striking ''321(f)(1)'' and inserting ''321(f)''; and

(ii) by striking ''General Supply Fund'' and inserting ''Acquisition Services Fund''.

SEC. 4. PROVISIONS RELATING TO ACQUISITION PERSONNEL.

Section 37 of the Office of Federal Procurement Policy Act (41 U.S.C. 433) is amended by adding at the end the following new subsections:

''(i) PROVISIONS RELATING TO REEMPLOYMENT.—If an individual receiving an annuity from the Civil Service Retirement and Disability Fund on the basis of such individual's service becomes reemployed in an acquisition-related position (as described in subsection (g)(1)(A)), such annuity shall not be discontinued thereby. An individual so reemployed shall not be considered an employee for the purposes of chapter 83 or 84 of title 5, United States Code.

''(j) RETENTION BONUSES.—

''(1) The head of each executive agency, after consultation with the Administrator, shall establish policies and procedures under which the agency head may pay retention bonuses to employees holding acquisition-related positions (as described in subsection (g)(1)(A)) within such agency, except that the authority to pay a bonus under this subsection shall be available only if—

''(A) the unusually high or unique qualifications of an employee or a special need of the agency for the services of an employee makes the retention of such employee essential; and

''(B) the agency determines that, in the absence of such a bonus, it is likely that the employee would leave—

''(i) the Federal service; or

''(ii) for a different position in the Federal service under conditions described in regulations of the Office.

''(2)(A) Payment of a bonus under this subsection shall be contingent upon the employee entering into a written agreement with the agency to complete a period of service with the agency in return for the bonus.

''(B)(i) The agreement shall include—

''(I) the length of the period of service required;

''(II) the bonus amount;

''(III) the manner in which the bonus will be paid (as described in paragraph (3)(B)); and

''(IV) any other terms and conditions of the bonus, including the terms and conditions governing the termination of an agreement.

''(3) A bonus under this subsection—

''(A) may not exceed 50 percent of the basic pay of the employee;

''(B) may be paid to an employee—

''(i) in installments after completion of specified periods of service;

''(ii) in a single lump sum at the end of the period of service required by the agreement; or

''(iii) in any other manner mutually agreed to by the agency and the employee;

''(C) is not part of the basic pay of the employee; and

''(D) may not be paid to an employee who holds a position—

''(i) appointment to which is by the President, by and with the advice and consent of the Senate;

''(ii) in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a) of title 5, United States Code); or

''(iii) which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.''.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

□ 1545

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2066.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I rise in support of H.R. 2066, the General Services Administration Modernization Act. This legislation would provide a reorganization of the General Services Administration, the Federal agency that is charged with procuring the facilities, products, services, and technology that Federal agencies and their employees need every day. H.R. 2066 will ensure that the GSA maximizes its use of taxpayer funds.

This legislation has been under consideration in our Committee on Government Reform for a number of years, and it has been the subject of multiple legislative and oversight hearings and was included in the President's budget proposal for fiscal year 2006. Specifically, H.R. 2066 would combine GSA's current Federal Supply Service and Federal Technology Service into a single entity, operating out of a united fund. This would provide Federal agencies with a one-stop shop to acquire all of their commercial goods and services.

The separate technology fund was created in the 1980s to assist agencies as they incorporated complex mainframe computers into their daily operations. But today information technology is as common in the Federal workplace as furniture. Having two separate entities within GSA, one focusing on IT goods and services, one focusing on non-IT goods and services, is no longer appropriate. So H.R. 2066 would provide GSA with the statutory structure that it needs to bring it in line with the current commercial market.

Overall, the reforms provided in H.R. 2066 would help GSA streamline its operations, improve its performance and efficiency far into the future. I urge its passage today, Mr. Speaker, and I congratulate the bill's distinguished authors, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from California (Mr. HUNTER) for working to create such a thoughtful bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN), in consideration of H.R. 2066, the bill before us today.

H.R. 2066, the General Services Modernization Act, as reported by the Committee on Government Reform, represents the first major reorganization within the GSA in nearly 20 years. This bill would combine without substantive change the revolving funds used for the operations of the Federal Supply Service and the Federal Technology Service, both currently separate organizations within GSA.

The bill would also authorize a new unit, the Federal Acquisition Service, headed by a commissioner, to take over the operations of the combined services.

The Federal Supply Service provides an economic and efficient system for the procurement and supply of goods and services to Federal agencies. One way it does this is through the schedules program which manages long-term government-wide contracts for commercial goods and services. This provides customer agencies with benefits of volume discount pricing, lower administrative costs, and reduced inventories.

The Federal Technology Service offers agencies a wide range of information technology and telecommunication products and services on a number of contract vehicles. Its focus is oriented toward providing more full-service solutions for IT, telecommunications and professional services.

While I would have preferred a more thorough analysis of the benefits of the consolidation intended by this bill, the proposal would seem to offer increased organizational efficiency and improved coordination of the functions the services currently provide. I look forward to reviewing the detailed reorganization plans that the GSA is preparing.

The bill also contains provisions which would give civilian agencies additional tools to maintain their acquisition work forces. It would allow agencies to offer retention bonuses and to reemploy retirees in certain special circumstances. I would also like to thank the chairman for working with us to provide appropriate safeguards on the use of this authority and for accepting a Democratic amendment regarding the appointment of the new commissioner of the Federal Acquisition Service.

While not directly relevant to this legislation, I would like to take this opportunity to urge the GSA to consult more closely with Federal employee unions on its plans for reorganizing. A number of representatives of Federal employees have contacted the committee with concerns about the reorganization. Primary among those concerns is the fact that no one seemed to be talking to them about the plans for merging the two services. This approach can only breed distrust and fear, and I urge the administrator to improve communication with the affected employees.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I withdraw my motion to suspend the rules on H.R. 2066.

The SPEAKER pro tempore. The motion is withdrawn.

GENERAL SERVICES ADMINISTRATION MODERNIZATION ACT

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2066) to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2066

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 ''General Services Administration Modernization Act''.

SEC. 2. FEDERAL ACQUISITION SERVICE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Section 303 of title 40, United States Code, is amended to read as follows:

''§ 303. Federal Acquisition Service

''(a) ESTABLISHMENT.—There is established in the General Services Administration a Federal Acquisition Service. The Administrator of General Services shall appoint a Commissioner of the Federal Acquisition Service, who shall be the head of the Federal Acquisition Service.

''(b) FUNCTIONS.—Subject to the direction and control of the Administrator of General Services, the Commissioner of the Federal Acquisition Service shall be responsible for carrying out functions related to the uses for which the Acquisition Services Fund is authorized under section 321 of this title, including any functions that were carried out by the entities known as the Federal Supply Service and the Federal Technology Service and such other related functions as the Administrator considers appropriate.

''(c) REGIONAL EXECUTIVES.—The Administrator may appoint up to five Regional Executives in the Federal Acquisition Service, to carry out such functions within the Federal Acquisition Service as the Administrator considers appropriate.''.

(2) CLERICAL AMENDMENT.—The item relating to section 303 at the beginning of chapter 3 of such title is amended to read as follows:

''303. Federal Acquisition Service.''.

(b) EXECUTIVE SCHEDULE COMPENSATION.—Section 5316 of title 5, United States Code, is amended by striking ''Commissioner, Federal Supply Service, General Services Administration.'' and inserting the following:

''Commissioner, Federal Acquisition Service, General Services Administration.''.

(c) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, reorganization plan, or delegation of authority, or in any document—

(1) to the Federal Supply Service is deemed to refer to the Federal Acquisition Service;

(2) to the GSA Federal Technology Service is deemed to refer to the Federal Acquisition Service;

(3) to the Commissioner of the Federal Supply Service is deemed to refer to the Commissioner of the Federal Acquisition Service; and

(4) to the Commissioner of the GSA Federal Technology Service is deemed to refer to the Commissioner of the Federal Acquisition Service.

SEC. 3. ACQUISITION SERVICES FUND.

(a) ABOLISHMENT OF GENERAL SUPPLY FUND AND INFORMATION TECHNOLOGY FUND.—The General Supply Fund and the Information Technology Fund in the Treasury are hereby abolished.

(b) TRANSFERS.—Capital assets and balances remaining in the General Supply Fund and the Information Technology Fund as in existence immediately before this section takes effect shall be transferred to the Acquisition Services Fund and shall be merged with and be available for the purposes of the Acquisition Services Fund under section 321 of title 40, United States Code (as amended by this Act).

(c) ASSUMPTION OF OBLIGATIONS.—Any liabilities, commitments, and obligations of the General Supply Fund and the Information Technology Fund as in existence immediately before this section takes effect shall be assumed by the Acquisition Services Fund.

(d) EXISTENCE AND COMPOSITION OF ACQUISITION SERVICES FUND.—Subsections (a) and (b) of section 321 of title 40, United States Code, are amended to read as follows:

''(a) EXISTENCE.—The Acquisition Services Fund is a special fund in the Treasury.

''(b) COMPOSITION.—

''(1) IN GENERAL.—The Fund is composed of amounts authorized to be transferred to the Fund or otherwise made available to the Fund.

''(2) OTHER CREDITS.—The Fund shall be credited with all reimbursements, advances, and refunds or recoveries relating to personal property or services procured through the Fund, including—

''(A) the net proceeds of disposal of surplus personal property; and

''(B) receipts from carriers and others for loss of, or damage to, personal property; and

''(C) receipts from agencies charged fees pursuant to rates established by the Administrator.

''(3) COST AND CAPITAL REQUIREMENTS.—The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall develop a plan concerning such requirements in consultation with the Chief Financial Officer of the General Services Administration. Any change to the cost and capital requirements of the Fund for a fiscal year shall be

approved by the Administrator. The Administrator shall establish rates to be charged agencies provided, or to be provided, supply of personal property and non-personal services through the Fund, in accordance with the plan.

''(4) DEPOSIT OF FEES.—Fees collected by the Administrator under section 313 of this title may be deposited in the Fund to be used for the purposes of the Fund.''.

(e) USES OF FUND.—Section 321(c) of such title is amended in paragraph (1)(A)—

(1) by striking ''and'' at the end of clause (i);

(2) by inserting ''and'' after the semicolon at the end of clause (ii); and

(3) by inserting after clause (ii) the following new clause:

''(iii) personal services related to the provision of information technology (as defined in section 11101(6) of this title);''.

(f) PAYMENT FOR PROPERTY AND SERVICES.—Section 321(d)(2)(A) of such title is amended—

(1) by striking ''and'' at the end of clause (iv);

(2) by redesignating clause (v) as clause (vi); and

(3) by inserting after clause (iv) the following new clause:

''(v) the cost of personal services employed directly in providing information technology (as defined in section 11101(6) of this title); and''.

(g) TRANSFER OF UNCOMMITTED BALANCES.—Subsection (f) of section 321 of such title is amended to read as follows:

''(f) TRANSFER OF UNCOMMITTED BALANCES.—Following the close of each fiscal year, after making provision for a sufficient level of inventory of personal property to meet the needs of Federal agencies, the replacement cost of motor vehicles, and other anticipated operating needs reflected in the cost and capital plan developed under subsection (b), the uncommitted balance of any funds remaining in the Fund shall be transferred to the general fund of the Treasury as miscellaneous receipts.''.

(h) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 322 of such title is repealed.

(2) The heading for section 321 of such title is amended to read as follows:

''§ 321. Acquisition Services Fund''.

(3) The table of sections for chapter 3 of such title is amended by striking the items relating to sections 321 and 322 and inserting the following:

''321. Acquisition Services Fund.''.

(4) Section 573 of such title is amended by striking ''General Supply Fund'' both places it appears and inserting ''Acquisition Services Fund''.

(5) Section 604(b) of such title is amended—

(A) in the heading, by striking ''GENERAL SUPPLY FUND'' and inserting ''ACQUISITION SERVICES FUND''; and

(B) in the text, by striking ''General Supply Fund'' and inserting ''Acquisition Services Fund''.

(6) Section 605 of such title is amended—

(A) in subsection (a)—

(i) in the heading, by striking ''GENERAL SUPPLY FUND'' and inserting ''ACQUISITION SERVICES FUND''; and

(ii) in the text, by striking ''General Supply Fund'' and inserting ''Acquisition Services Fund''; and

(B) in subsection (b)(2)—

(i) by striking ''321(f)(1)'' and inserting ''321(f)''; and

(ii) by striking ''General Supply Fund'' and inserting ''Acquisition Services Fund''.

SEC. 4. PROVISIONS RELATING TO ACQUISITION PERSONNEL.

Section 37 of the Office of Federal Procurement Policy Act (41 U.S.C. 433) is amended by adding at the end the following new subsections:

''(i) PROVISIONS RELATING TO REEMPLOYMENT.—

''(1) POLICIES AND PROCEDURES.—The head of each executive agency, after consultation with the Administrator and the Director of the Office of Personnel Management, shall establish policies and procedures under which the agency head may reemploy in an acquisition-related position (as described in subsection (g)(1)(A)) an individual receiving an annuity from the Civil Service Retirement and Disability Fund, on the basis of such individual's service, without discontinuing such annuity. The head of each executive agency shall keep the Administrator informed of the agency's use of this authority.

''(2) SERVICE NOT SUBJECT TO CSRS OR FERS.—An individual so reemployed shall not be considered an employee for the purposes of chapter 83 or 84 of title 5, United States Code.

''(3) CRITERIA FOR EXERCISE OF AUTHORITY.—Polices and procedures established pursuant to this subsection shall authorize the head of the executive agency, on a case-by-case basis, to continue an annuity if—

''(A) the unusually high or unique qualifications of an individual receiving an annuity from the Civil Service Retirement and Disability Fund on the basis of such individual's service, or

''(B) a special need of the agency for the services of an employee,

makes the reemployment of an individual essential.

''(4) REPORTING REQUIREMENT.—The Administrator shall submit annually to the Committee on Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the use of the authority under this subsection, including the number of employees reemployed under authority of this subsection.

''(5) SUNSET PROVISION.—The authority under this subsection shall expire on December 31, 2011.

''(j) RETENTION BONUSES.—

''(1) IN GENERAL.—The head of each executive agency, after consultation with the Administrator, shall establish policies and procedures under which the agency head may pay retention bonuses to employees holding acquisition-related positions (as described in subsection (g)(1)(A)) within such agency, except that the authority to pay a bonus under this subsection shall be available only if—

''(A) the unusually high or unique qualifications of an employee or a special need of the agency for the services of an employee makes the retention of such employee essential; and

''(B) the agency determines that, in the absence of such a bonus, it is likely that the employee would leave—

''(i) the Federal service; or

''(ii) for a different position in the Federal service under conditions described in regulations of the Office.

''(2) SERVICE AGREEMENTS.—(A) Payment of a bonus under this subsection shall be contingent upon the employee entering into a written agreement with the agency to complete a period of service with the agency in return for the bonus.

''(B)(i) The agreement shall include—

''(I) the length of the period of service required;

''(II) the bonus amount;

''(III) the manner in which the bonus will be paid (as described in paragraph (3)(B)); and

''(IV) any other terms and conditions of the bonus, including the terms and conditions governing the termination of an agreement.

''(3) TERMS AND CONDITIONS.—A bonus under this subsection—

''(A) may not exceed 50 percent of the basic pay of the employee;

''(B) may be paid to an employee—

''(i) in installments after completion of specified periods of service;

''(ii) in a single lump sum at the end of the period of service required by the agreement; or

''(iii) in any other manner mutually agreed to by the agency and the employee;

''(C) is not part of the basic pay of the employee; and

''(D) may not be paid to an employee who holds a position—

''(i) appointment to which is by the President, by and with the advice and consent of the Senate;

''(ii) in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a) of title 5, United States Code); or

''(iii) which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.''.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we had discussed, the bill before us is going to provide the General Services Administration with the statutory structure that it needs to bring it in line with the current commercial market transactions, and it is going to streamline its operation and improve its performance. There are no objections to the bill.

Mr. Speaker, I reserve the balance of my time.

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I rise in support of H.R. 2066.

The bill before us today, H.R. 2066, the "General Services, Modernization Act" as reported by the Government Reform Committee represents the first major reorganization within GSA in nearly 20 years. The bill would combine, without substantive change, the revolving funds used for the operations of the Federal Supply Service and the Federal Technology Service, both currently separate organizations within GSA. The bill would also authorize a new unit, the Federal Acquisition Service, headed by a Commissioner, to take over the operations of the combined services.

The Federal Supply Service provides an economic and efficient system for the procurement and supply of goods and service to Federal agencies. One way it does this is through the schedules program, which manages long-term, governmentwide contracts for commercial goods and services. This provides customer agencies with benefits of volume discount pricing, lower administrative costs, and reduced inventories.

The Federal Technology Service offers agencies a range of information technology and telecommunications products and services on a number of contract vehicles. Its focus is more oriented toward providing "full service" solutions for IT, telecommunication, and professional services.

While I would have preferred a more thorough analysis of the benefits of the consolidation intended by this bill, the proposal would seem to offer increased organizational efficiency and improved coordination of the functions the Services currently provide.

I look forward to reviewing the detailed reorganization plans GSA is preparing.

The bill also contains provisions which would give civilian agencies additional tools to maintain their acquisition workforces. It would allow agencies to offer retention bonuses and to re-employ retirees in certain special circumstances. I would like to thank the Chairman for working with us to provide appropriate safeguards on the use of this authority, and for accepting a Democratic amendment regarding the appointment of the new Commissioner of the Federal Acquisition Service.

While not directly relevant to this legislation, I would like to take this opportunity to urge GSA to consult more closely with Federal employee unions on its plans for reorganizing. A number of representatives of Federal employees have contacted the Committee with concerns about the reorganization. Primary among those concerns is the fact that no one seems to be talking to them about the plans for merging the two services. This approach can only breed distrust and fear, and I urge the Administrator to improve communication with the affected Federal employees.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I urge all of my colleagues to support H.R. 2066, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and pass the bill, H.R. 2066, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CELEBRATING ASIAN PACIFIC AMERICAN HERITAGE MONTH

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 280) celebrating Asian Pacific American Heritage Month, as amended.

The Clerk read as follows:

H. RES. 280

Whereas the contributions of Asian Pacific Americans to our Nation have been historically significant;

Whereas at the direction of Congress in 1978, the President proclaimed the week of May 4 through 10, 1979, as Asian Pacific American Heritage Week, to provide the people of the United States with an opportunity to recognize the achievements, contributions, history, and concerns of Asian Pacific Americans;

Whereas this seven day period designated Asian Pacific American Heritage Week intended to mark two historical dates—May 7, 1843, when the first Japanese immigrants arrived in the United States, and May 10, 1869, Golden Spike Day, when, with substantial contributions from Chinese immigrants, the first transcontinental railroad was completed;

Whereas in 1992, Congress by law designated that the month of May be annually observed as Asian Pacific American Heritage Month;

Whereas according to the U.S. Census Bureau an estimated 14.5 million United States residents trace their ethnic heritage, in full or in part, to Asia and the Pacific Islands;

Whereas Asian Americans and Pacific Islanders can list innovative contributions to all aspects of life in the United States ranging from the first transcontinental railroad to the Internet;

Whereas in the mid-1700's Filipino sailors formed the first Asian American and Pacific Islander communities in the bayous of Louisiana;

Whereas Asian Americans and Pacific Islanders have added to the vast cultural wealth of our Nation; and

Whereas more than 300,000 Americans of Asian or Pacific Island heritage have bravely and honorably served to defend the United States in times of armed conflict from the Civil War to the present: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes that the United States draws its strength from its diversity, including contributions made by Asian Americans and Pacific Islanders;

(2) recognizes that the Asian American and Pacific Islander community is a thriving and integral part of American society and culture;

(3) recognizes the prodigious contributions of Asian Americans and Pacific Islanders to the United States; and

(4) supports the goals of Asian Pacific American Heritage Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 280.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 280 celebrates Asian Pacific American Heritage Month. The resolution honors the immense contributions that Asians and Pacific Islanders have made to our Nation.

This month, May, is Asian Pacific American Heritage Month, and the theme is ''Freedom For All—A Nation We Can Call Our Own.''

Today, more than 14 million native Hawaiians, Pacific Islanders and Asians call America their home nation. This legislation is a fitting tribute to our Asian and Pacific Island friends and neighbors. I thank the House leadership, particularly the Majority Leader for scheduling this meaningful resolution today.

Congress first observed this commemoration in 1978 as Asian Pacific American Heritage week during the first 10 days of May. Then, in 1992, Congress expanded the commemoration to designate the entire month of May as Asian Pacific American Heritage Month. The first 10 days of May include two important historical dates, May 7, which in 1843 marked the arrival of the first Japanese immigrants to the United States, and May 10, the date in 1869 on which the first North American transcontinental railroad was completed.

The railway was built heading east from Sacramento, California, and west from Omaha, Nebraska, and converged in Utah thanks to the hard work of thousands of laborers, most of whom were Chinese immigrants.

Mr. Speaker, as the war on terrorism continues today, I also wish to recognize the service that more than 300,000 Asian and Pacific veterans have made throughout American history. From the Army's courageous First and Second Filipino Regiments that General Douglas MacArthur sent to spy behind Japanese lines in World War II, to the indescribable bravery of today's soldier heroes like Marine Lance Corporal Victor Lu and Army Specialist Thai Vue, who have lost their lives in the past year in Iraq.

Asian and Pacific Americans have indeed sacrificed so much for our cherished liberty and freedoms. I know that all Members of the House join me in commending the selflessness of these veterans and active duty soldiers.

Mr. Speaker, I thank the distinguished chairman of our Committee on Government Reform, the gentleman from Virginia (Mr. TOM DAVIS) for his hard work on House Resolution 280.

I am pleased to be a cosponsor of the resolution, and I urge all of my colleagues to support its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased and proud to represent an area in Chicago known as Chinatown, and also to note that I just returned during the break from visiting both China and Sri Lanka.

□ 1600

So I rise today in support of H. Res. 280, celebrating Asian Pacific American Heritage Month.

I also want to take a minute to acknowledge the gentleman from Virginia (Mr. TOM DAVIS), the distinguished chairman of the Committee on Government Reform, for his leadership on this important matter.

H. Res. 280 was introduced on May 17, 2005, and enjoys the support and cosponsorship of 66 Members of Congress. Asian Pacific Americans have a long and distinguished history of involvement and participation in this country. From the early 1800s to the 21st century, Asian and Pacific peoples have played a vital role in the development of the United States and have made lasting contributions in all elements of American society.

Today, the U.S. Census Bureau estimates that 14.5 million Americans trace at least a portion of their ethnic heritage to Asian and Pacific Islanders. Asian Pacific American Heritage Month has a rich tradition in this country as well. In June 1977, Representatives Frank Horton of New York and Norman Mineta of California introduced a resolution that called upon President Carter to proclaim the first 10 days of May as Asian Pacific Heritage Week. The celebration remained in this form until President Bush extended the event into the full month of May in 1990.

It was decided that May was the appropriate month for Asian Pacific American Heritage Month because on May 7, 1843, the first group of Japanese immigrants came to the United States. Today, Asian Pacific American Heritage Month is celebrated with events throughout the country intended to educate all of our citizens about the positive impact the Asian Pacific community has had on our Nation. The theme of this year's celebration is Freedom For All—a Nation We Call Our Own.

Mr. Speaker, I want to again thank the gentleman from Virginia (Mr. TOM DAVIS) for sponsoring this measure and thank the Asian Pacific American community for their tremendous contribution to the wealth and success of our great Nation.

I also take a moment of personal privilege to thank a young woman who worked for several years with me as my legislative assistant, Miss Courtini Pugh, who was a member of the Asian Pacific community and is known as one of the most outstanding young persons in America. And so I urge swift passage of this bill.

Ms. BORDALLO. Mr. Speaker, I rise today in honor of Asian Pacific American Heritage Month. I welcome this opportunity to highlight the contributions of Asian and Pacific Islander American communities to our nation.

Asian Pacific American Heritage Month celebrates the contributions that Asian Pacific Islander Americans make in their daily lives. By sharing with us their heritage they bring us a greater understanding and appreciation for what it means to be Asian and Pacific Islanders and proud Americans.

Asian and Pacific Islander Americans have embraced America while honoring their heritage and passing their traditions on to their children. Asian and Pacific Islander Americans also serve our country with pride and distinction in the Armed Forces. I would especially like to honor the uniformed men from Guam who have given their lives to protect our freedom. Army Specialist Christopher Wesley, Lieutenant Michael Vega, Sergeant Eddie Chen, Corporal Jaygee Meluat, Specialist Jonathan Santos, and Officer Ferdinand Ibabao all paid the ultimate sacrifice while serving in Iraq.

We honor the way the experience of Asian and Pacific Islanders contributes to our national identity because while most of us understand words like freedom and oppression in the abstract, a Vietnamese-American can tell you how the dream of freedom can keep you alive while fleeing oppression on a boat in the high seas. A Chamorro or a Filipino-American who lived through enemy occupation during World War II can help you understand what freedom and liberty means because they had it taken away. If you have never experienced the immediate threat of war to your personal safety, a Korean-American can help you appreciate just how precious peace is. A Chinese-American or a Japanese-American can inspire you with their stories of making good on the American Dream after arriving in the United States without money, friends, or a strong understanding of the English language.

Asians and Pacific Islanders have powerful stories to tell. Their contribution to America is not just the varied foods and diverse cultures they have introduced to this land, it is also the stories of their incredible journeys to freedom.

As we celebrate Asian Pacific American Heritage Month, let us honor the contributions of all Asian and Pacific Islander Americans. Let us appreciate the cultural diversity, the patriotism, and the communities that make America great.

Mr. HONDA. Mr. Speaker, I rise today to honor the contributions of Asian Pacific Islander Americans, APIA. I would like to thank my colleagues for recognizing Asian Pacific American Heritage Month.

Thanks to the late Representative Frank Horton from New York and my good friend, Secretary Norman Mineta, along with Senators DANIEL INOUYE and Spark Matsunaga, May is designated as Asian Pacific American Heritage Month to celebrate and honor the contributions of the APIA community.

In the past year, the APIA community has lost extraordinary community activists, advocates, leaders, and long time friends, such as Fred Korematsu, Dr. John B. Tsu, K. Patrick Okura, Iris Chang, and my colleague and friend Congressman BOB MATSUI.

As Chair of the Congressional Asian Pacific American Caucus (CAPAC), I feel privileged to represent a community that is growing exponentially and exceedingly diverse in culture, ethnicities, and language. Today, there are over 12 million APIAs living in the U.S. and representing 4.5 percent of the total U.S. population. By the year 2050, there will be more than 33 million APIAs living in the U.S. My home state of California has both the largest APIA population—4.6 million—and the largest numerical increase of APIAs since April 2000.

I am proud to be a member of the APIA community, because we continue to serve as positive contributors to our many communities by investing in education, business, and cultural opportunities for all Americans.

APIAs continue to build clout and power in all sectors of society. For example, APIAs had a purchasing power of $296.4 billion in 2002, up 152 percent from 1990. APIAs in California had the most buying power—$104.1 billion—but APIA buying power is growing fast in places like Nevada, Georgia and North Carolina.

Mr. Speaker, as we honor the 40th anniversary of the Immigration Nationality Act of 1965 and the 30th anniversary of the Refugee Act of 1975 this year, we need to remember that our country was founded and created to protect our freedom and civil liberties. And, as a nation of immigrants we must embrace our diversity.

Embracing diversity also means we need to do a better job of disaggregating data and information about the APIA community. The APIA community is often misperceived as a monolithic racial group and is often seen as the model minority. Aggregating such a large and diverse group makes it difficult to understand the unique problems faced by the individual ethnicities and subgroups, such as the Southeast Asian Americans, who are refugees that fled their home countries during the late 1970s and early 1980s.

The APIA community continues to fight for our civil rights and against any injustices as Americans. Even after the internment of the Japanese Americans during World War II, we as a community did not grow embittered, or cowed by discrimination; instead, we progressed and moved forward.

In closing, this Asian Pacific American Heritage Month, we take pride in our history, accomplishments, and the promise of our future as we continue to pave the way for a better tomorrow in the name of "Liberty and Freedom for All."

Mr. CUMMINGS. Mr. Speaker, as I rise today to recognize Asian Pacific American Heritage Month, one word comes to mind when I think of the people to whom we dedicate this month—and that word is persistence.

From the transcontinental railroad to academy-nominated films, Asian Pacific Americans have helped shape this Nation in incredible ways.

In fact, as many may know, the backbone of our country's railroad system was built with a labor force that consisted of 80 percent Chinese Americans, who prepared the foundation of our railroad tracks by dangling over cliffs with a mere rope tied to their waists on mountains that rose over 7,000 feet.

In literature, we have the contributions of scholarly elites such as Maxine Hong Kingston and Amy Tan, who have opened our eyes to the different practices of the Far East.

In fitness, we are exposed to the discipline of the world of martial arts with disciplines ranging from Tai Chi to Judo. Finally, in philosophy, we are introduced to the idea of Confucius, Sun Tzu, who wrote The Art of War, and Feng Sui to guide our lives.

Not to mention the Chinatowns of our nation, with cuisines ranging from India, Thailand, Korea, Japan, and Vietnam, that has transformed our taste buds with some of the best and most diverse Asian dishes—but more importantly shown the diversity of the continent.

But this wonderful list of Asian contributions did not come without a price. Thousands of Chinese Americans died under dangerous working conditions while building the transcontinental railroad, yet when the railroad was finally completed, they were not even allowed to be a part of the official photograph that documented those involved with the construction. Their names were not mentioned anywhere in news articles, and their faces quickly forgotten in American history.

Chinatowns were created out of necessity as a form of protection from discrimination and a need for survival. Stereotypes that bias our perceptions today came to form as a result of Asian Americans being restricted to specific low-level jobs as deemed appropriate by the majority of the time.

Various anti-immigration laws during the early 1900s ensured racial offenses against Asian Americans were abundant and legal. Our nation should never forget the atrocious

violations we imposed on the Japanese Americans during World War II as we shunned them from society as a result of their ethnicity.

Mr. Speaker, despite all the hardship and adversity that Asian Americans have faced during their time in the United States, the persistence and resilience of Asian Americans have allowed them to flourish into the leading minority group they are today.

I encourage my colleagues to learn from the history of Asian Americans in the United States, so that we may avoid the civil rights violations and discriminatory practices that hurt ethnic communities in the name of national security.

I would also like to encourage the future generations of Asian Americans to follow in the footsteps of their ancestors. Persist in your dreams of a fair America, persist in your desires for an equal America, and persist in your fight for an America that is as dedicated and tolerant of you as your ancestors have been with us.

Mr. CROWLEY. Mr. Speaker, I rise today in strong support of the resolution offered by my friend from Virginia, Mr. DAVIS.

I represent approximately 85,000 Asian Pacific Islander Americans in my Congressional district in New York City.

I am proud to represent the most diverse Congressional District in the country. From the strong Korean community in Elmhurst to the Philippine community of Woodside to Indian American in Jackson Heights to Bangladesh Americans in Parkchester, this district reflects the diversity of the continent of Asia and is a true testament of the American melting pot experience.

Thousands of Asian Americans and South Asians have left their lives behind in their homeland, just as my grandparents did, to make a better life for themselves in New York City. They have succeeded from the shops of 74th Street to the presence of Asians at all levels of law, medicine and commerce in our city. They have also become true stakeholders in our political system.

From the election of Jimmy Meng and John Liu to the New York State Assembly and City Council respectively to Uma Sen Gupta's election as the first Indian American district leader, Asian and South Asians are a vibrant part of not only the culture and economic fabric of our City but the political fabric as well.

Asian Pacific American Heritage month began on June 30, 1977 when the first 10 days of May 1978 were declared Asian Pacific American Heritage week.

Today, there are over 12 million Asian Pacific Islander Americans living in the United States. By the year 2050, there will be an estimated 33.4 million U.S. residents who will identify themselves as Asian alone, which will comprise 8 percent of the total population. This is a projected 213 percent increase of Asian Pacific Islander Americans between 2000 and 2050.

I am proud to represent Asian American and celebrate Asian Pacific American Heritage with all my constituents and colleagues.

Mr. HOLT. Mr. Speaker, this month our nation pays tribute to the contributions of the Asian American and Pacific Islander community, including immigrants, refugees, and natives. More than 13 million Asian Americans and Pacific Islanders, representing a diverse community of backgrounds, cultures, and experiences, make their homes in the United States. Their unique contributions enhance the moral fabric and character of our great country.

The Asian American and Pacific Islander (AAPI) community is a fast-growing minority group in the United States. Asian Americans and Pacific Islanders are making valuable contributions to every aspect of American life—from business to education to science to the arts. For example, there are now more than 900,000 AAPI-owned small businesses across the country.

As we celebrate the significant progress made by Asian Americans and Pacific Islanders, it is right for us to honor the memory of great leaders of the AAPI community who have passed away recently, and by far one of the greatest was our own Congressman Bob Matsui, who despite imprisonment in an internment camp during World War II, never lost faith in our country, and went on to become a national champion for all of America's seniors. We miss Bob dearly, but the voters of California have blessed us by sending his wife, the Gentlelady from California, Ms. DORIS MATSUI, to carry on his wonderful legacy in this body.

In memory of Bob Matsui and other great figures in the history of our nation, it is only fitting that this year's theme for Asian Pacific American Heritage Month is ''Liberty and Freedom for All.'' In my own district, we have our share of emerging leaders from the Asian community, including my friend Shing-Fu Hsueh, the mayor of West Windsor, who is a model public figure. Like Bob Matsui, Shing-Fu Hsueh is a believer in the American ideal, that anyone—regardless of religion, race, or gender—can realize their dreams for themselves and their children. Unfortunately, the faith of every member of New Jersey's Asian community in that American ideal has been sorely tested recently.

You see, on the very eve of Asian Pacific American Heritage Month, two talk show hosts—whose program airs on one of the largest stations in New Jersey—made a most obnoxious, insulting, and despicable series of anti-Asian statements.

Last month, these shock jocks verbally demeaned Mr. Jun Choi, a Korean-American running for mayor of Edison, New Jersey, mockingly asking their listeners ''Would you really vote for someone named Jun Choi?'' They then preceded to say that ''Americans'' should govern our towns, counties, and country—as if Jun Choi, Shing-Fu Hsueh, and the thousands of other hard-working, tax-paying, and participating people of Asian heritage are not real Americans.

I could cite even more examples from this outrageous broadcast but I refuse to demean this House by repeating some of the other language that these two radio racists used. I'm extremely disappointed that the management of the radio station in question, 101.5 FM, has not issued a written public apology to Jun Choi and the entire Asian community. In my judgment it is the absolute minimum they should do, and I also believe the station management should pledge never again to allow such racist rants to be aired on their station.

Mr. Speaker, as the Asian Pacific American community continues to contribute to our society and grow in influence—poltically, economically, and culturally—I am pleased to say that Americans like Jun Choi, Shing-Fu Hsueh, and DORIS MATSUI are indeed taking leading roles in our self-governing country.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 280, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

RECOGNIZING 57TH ANNIVERSARY OF INDEPENDENCE OF STATE OF ISRAEL

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con.Res. 149) recognizing the 57th anniversary of the independence of the State of Israel, as amended.

The Clerk read as follows:

H. CON. RES. 149

Whereas in May 1948, the State of Israel was established as a sovereign and independent nation;

Whereas the United States was one of the first nations to recognize Israel, only 11 minutes after its creation;

Whereas Israel has provided the opportunity for Jews from all over the world to re-establish their ancient homeland;

Whereas Israel is home to many religious sites which are sacred to Judaism, Christianity, and Islam;

Whereas Israel provided a refuge to Jews who survived the horrors of the Holocaust and the evils committed by the Nazis which were unprecedented in human history;

Whereas the people of Israel have established a unique, pluralistic democracy which includes the freedoms cherished by the people of the United States, including freedom of speech, freedom of religion, freedom of association, freedom of the press, and government by the consent of the governed;

Whereas Israel continues to serve as a shining model of democratic values by regularly holding free and fair elections, promoting the free exchange of ideas, and vigorously exercising in its Parliament, the Knesset, a democratic government that is fully representative of its citizens;

Whereas Israel has bravely defended itself from attacks repeatedly since independence;

Whereas the Government of Israel has successfully worked with the neighboring Governments of Egypt and Jordan to establish peaceful, bilateral relations;

Whereas, despite the deaths of over one thousand innocent Israelis at the hands of murderous, suicide bombers and other terrorists during the past 4 years, the people of Israel continue to seek peace with their Palestinian neighbors;

Whereas the United States and Israel enjoy a strategic partnership based on shared mutual democratic values, friendship, and respect;

Whereas the people of the United States share affinity with the people of Israel and view Israel as a strong and trusted ally; and

Whereas Israel has made significant global contributions in the fields of science, medicine, and technology: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) recognizes the independence of the State of Israel as a significant event in providing refuge and a national homeland for the Jewish people;

(2) praises the efforts of President George W. Bush and Prime Minister Ariel Sharon to create the conditions for peace in the Middle East;

(3) commends the bipartisan commitment of all United States administrations and United States Congresses since 1948 to stand by Israel and work for its security and well-being; and

(4) extends warm congratulations and best wishes to the people of Israel as they celebrate the 57th anniversary of Israel's independence.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from New York (Mr. ENGEL) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H. Con. Res. 149, the concurrent resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Con. Res. 149 marks the 57th anniversary of the State of Israel. Since its birth in 1948, Israel has stood out as a symbol of morality and courage. It has struggled constantly to maintain its independence, surmounting military attacks from hostile neighbors and prolonged terrorist campaigns.

Even while at war, Israel's democracy and its vibrant diverse and free society have stayed strong. Its doors have remained open to victims of persecution and intolerance around the world. It is the nature of the Israeli nation and the character of the Israeli people that have helped form an unbreakable bond between our nations and our people, and we are proud to call Israel our friend and ally.

The United States and Israel have a long history of friendship and cooperation. In 1948, the United States was one of the first nations to recognize Israel, doing so only 11 minutes after its creation. From that point onward, the relationship between our Nation and Israel has continued to grow.

As the first and only true democracy in the Middle East, Israel is a remarkable example to its neighbors. Israel has an active free press that constantly holds up a mirror to the government and its policies. It holds regular, free, and fair elections and has a transparent independent judiciary. Israel is home to a remarkably diverse and multiethnic society that includes Jews of Middle Eastern descent, Arabs, Druze, and immigrant communities from Russia, Ethiopia, India and, indeed, all parts of the world. Israel exemplifies religious tolerance and respect.

The Israeli people have demonstrated over and over again their commitment to peace and to security in the face of terrorist threats. Israel has worked with the neighboring countries of Egypt and Jordan to establish peaceful bilateral relations and has seen those bonds flourish and strengthen through initiatives such as the Qualified Industrial Zones which have brought prosperity and development to all of the participants involved.

Israel has also continued seeking peace with its Palestinian neighbors, despite the relentless onslaught of suicide bombers that brought the deaths of over 1,000 innocent Israelis over the last 4 years.

Even while facing militant threats from its neighbors, Israel has flourished and has given the world great gifts through its literature and art and through its medical, technological, and scientific advances. The bond between our nations and our people has never been stronger.

Accordingly, I wish to extend my best wishes and congratulations to the people of the State of Israel on their 57th Independence Day and strongly urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

First of all, let me say what an honor and privilege it is to introduce this resolution today with our great chairwoman of our Subcommittee on the Middle East and Central Asia, my good friend and the gentlewoman from Florida (Ms. ROS-LEHTINEN). We have worked together so well and so closely on the Middle East and other things that it is an honor to do this with her again this afternoon.

I also want to commend my colleague, the gentleman from South Carolina (Mr. WILSON), for introducing this important resolution.

Mr. Speaker, I rise in strong support of this resolution. Fifty-seven years ago, the State of Israel was established as a sovereign and independent state. Rising from the ashes of the Holocaust, Israel represented not only a refuge for Jews of Europe, the Middle East and elsewhere, but the fulfillment of the age-old dream of the Jewish people for a homeland of their own once again after so many thousands of years.

As you may know, Mr. Speaker, the United States was one of the first nations to recognize Israel only 11 minutes after its creation. The home to many religious sites of Judaism, Christianity, and Islam, Israel provides fair and open access for people of all faiths to visit holy places. The people of Israel have established a unique pluralistic democracy. In fact, it is the only true democracy in the Middle East. This includes the rights and liberties cherished by the people of the United States, including freedom of speech, freedom of religion, freedom of association, freedom of the press, and government by the consent of the governed.

Today, Israel continues to serve as a shining model of democratic values by regularly holding free and fair elections, promoting the free exchange of ideas, and vigorously exercising through its parliament, the Knesset, a democratic government that is fully representative of its citizens. Indeed, Israel and the United States have shared traditions and shared values, and democracy is certainly one of them.

Unfortunately, ever since its independence, Israel has repeatedly, time and time again, been forced to defend itself from attacks. Yet even in the face of this adversity, the government of Israel has successfully worked with the neighboring governments of Egypt and Jordan to establish peaceful bilateral relations.

During the summer of 2000, President Clinton tried to broker a permanent end to the conflict, where the Israelis signed and agreed to a very generous and deep concession. Yet Yasar Arafat rejected the deal, walked out and sparked his terror war. Despite the deaths of over 1,000 innocent Israelis at the hands of murderous suicide bombers and other terrorists since then, the people of Israel continue to seek peace with their Palestinian neighbors.

Regardless, the United States and Israel enjoy a strategic partnership based on shared democratic principles, friendship, and respect. President Bush has said this many, many times. And, indeed, all Presidents of the United States have worked closely with Israel.

Our people share a true affinity of values and view each other as strong and trusted allies. As an American of Jewish heritage myself, I am proud to speak in favor of H. Con. Res. 149, which recognizes the independence of the State of Israel as a significant event in providing refuge and a national homeland for the Jewish people.

The resolution also praises American and Israeli efforts to create the conditions for peace in the Middle East, commends the bipartisan commitment of all United States administrations and United States Congresses since 1948 to stand by Israel and work for its security and well-being, and extends

warm congratulations and best wishes to the people of Israel as they celebrate their 57th anniversary of Israel's independence.

Finally, Mr. Speaker, I would like to welcome Prime Minister Ariel Sharon, who is now visiting the United States, and wish him a safe and productive visit. In fact, the APAC conference, which has been going on these past few days in Washington, as we speak, is a reminder of the work that needs to be done to continue to solidify and strengthen the U.S.-Israel relationship.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from South Carolina (Mr. WILSON), the author and the lead sponsor of this concurrent resolution.

Mr. WILSON of South Carolina. Mr. Speaker, I thank the gentlewoman from Florida (Ms. ROS-LEHTINEN) for yielding me this time, and for her leadership on this issue and her leadership on the Committee on International Relations. It is particularly an honor for me to follow my good friend, the gentleman from New York (Mr. ENGEL). It is wonderful we can be here together as Members of the House Israel Caucus.

Mr. Speaker, I urge my colleagues to join me in supporting House Concurrent Resolution 149, which recognizes the 57th anniversary of the independence of the State of Israel. Since its establishment, Israel has served as a trusted home and safe haven for Jews all over the world. After World War II, Israel welcomed Jews who survived the horrors of the Holocaust.

Mr. Speaker, I have visited firsthand to see the country continue to embrace Jews who are eager to reestablish in their ancient homeland. By regularly holding free and fair elections, promoting the exchange of ideas, and vigorously exercising in its parliament, Israel is a shining model of democracy.

The evolution of this great Nation is a true testament to the power of democracy and the resiliency of the people of Israel. Throughout the past 57 years, the relationship between Israel and the United States has continued to strengthen. Israel is a trusted ally of the United States, and our two countries now enjoy a strategic partnership based on shared mutual democratic values, friendship, and respect.

Additionally, I am grateful my home State of South Carolina and my hometown of Charleston were the home of the largest Jewish population in North America at the time of the American Revolution. Its provincial constitution was the first to recognize Judaism to be coequal to Christianity. The first Jew to be elected to public office in North America was in South Carolina. And the first Jewish fatality in the cause of liberty during the American Revolution was a patriot from South Carolina.

□ 1615

The bonds of Israel and South Carolina are strong.

Today's resolution also commends President George W. Bush of the United States and Prime Minister Ariel Sharon for continuing to work for peace in the Middle East. Despite the deaths of over 1,000 Israelis at the hands of murderous terrorists, the people of Israel continue to seek peace with their Palestinian neighbors. Their perseverance and strong spirit will ensure a bright future for their nation and the Middle East.

As we recognize the 57th anniversary of independence, please join me in extending warm congratulations and best wishes to the people of Israel.

In conclusion, God bless our troops, and we will not forget September 11.

Mr. ENGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to join with my colleagues in congratulating the people of Israel on the 57th anniversary of the independence of the State of Israel. Relationships between Israel and the United States remain strong, based on each country's expressed commitment to democracy, human rights and self-determination for all people.

This past year has been a momentous one for the people of Israel. Israel won its first Olympic gold medal this past summer. Israel won its first Nobel Prize this past year, and the Israeli economy continues to recover.

Israel as a nation continues to thrive. Its people remain strong and optimistic about the future. The negotiated end to violence and Prime Minister Sharon's proposed disengagement plan to dismantle Jewish communities in Gaza and parts of the West Bank move the peace process into a new and uncharted era.

Now the attention of the Israeli and Palestinian peoples turn to the outcome of talks between Israeli Prime Minister Sharon and Palestinian President Mahmoud Abbas as to what will come in the wake of the withdrawal from Gaza.

As we wish the Israeli people mazel tov on the anniversary of their independence, we stand ready to assist in every way in moving the peace process forward toward a permanent end to the violence and toward peace and mutual prosperity for Israel and her closest neighbor, Palestine.

On Sunday of this past week, I had an opportunity to participate with a number of my constituents in a Solidarity Day demonstration in our community. Again, I simply want to congratulate them for their continued steadfastness. I am proud and pleased to support this legislation.

Mr. HOYER. Mr. Speaker, I want to congratulate the citizens of Israel and the entire Jewish community on this 57th anniversary of the State of Israel's founding, also known as Yom Ha'atzmaut.

For 57 years, the Israeli people have faced persistent challenges and threats, and they have prevailed—and will continue to prevail and flourish—because of their unshakable courage and faith in Israel's democratic future.

Israel is today the only true democracy in the Middle East, and the foundation of her government is similar to our own—freedom of religion, freedom of speech, respect for basic human rights and respect for the rule of law. The American-Israel partnership is unbreakable. We are both nations of immigrants. We are safe havens for the oppressed. We are partners for peace. And we are united in fighting terrorism.

I am pleased that once again this summer I will have the opportunity to lead a delegation of Democratic Members of Congress to Israel. Two years ago, I had the honor of leading the largest Congressional delegation in Israel's history to the Jewish state. And, I believe it is imperative that our newer Members see Israel's security challenges first-hand and gain a better appreciation of her importance to America's national security interests.

I urge my colleagues to support this important Resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it was Theodore Herzl that said, ''im tirtzu ein zo agadah'' (EEm teer-su, ain so aga DAH); if you will it, it is no dream. Today we are here to celebrate his dream and recognize the 57th anniversary of the independence of the State of Israel.

On May 14, 1948, the State of Israel was established as a sovereign and independent nation and the United States was one of the first nations to recognize Israel, a mere 11 minutes after its creation.

Israel has provided a unique opportunity for Jews from all over the world to reestablish their ancient homeland. In addition, it is a home to many religious sites which are sacred to Judaism, Christianity, and Islam and attracts visitors every year.

Israel provided a refuge to Jews who survived the horrors of the Holocaust and the evils committed by the Nazis which were unprecedented in human history. The people of Israel have established a unique, pluralistic democracy which includes the freedoms cherished by the people of the United States, including freedom of speech, freedom of religion, freedom of association, freedom of the press, and government by the consent of the governed.

Israel continues to serve as a shining model of democratic values by regularly holding free and fair elections, promoting the free exchange of ideas, and vigorously exercising in its Parliament, the Knesset, a democratic government that is fully representative of its citizens. Israel continues to bravely defend itself from attacks repeatedly since independence, such horrors that have become a daily reality for the people who live there.

I want to applaud the Government of Israel for successfully working with the neighboring Governments of Egypt and Jordan to establish peaceful, bilateral relations. I have had the privilege of visiting Israel, and hearing firsthand how the government is taking great strides to ensure peace for generations.

The United States and Israel enjoy a strategic partnership based on shared mutual democratic values, friendship, and respect. The people of the United States share affinity with the people of Israel and view Israel as a

strong and trusted ally. I hope this friendship continues to grow and blossom for decades to come, as Israel settles itself in a firm place on our global map.

Mr. HOLT. Mr. Speaker, I rise today in strong support of H. Con. Res. 149 which celebrates the 57th anniversary of the independent and democratic State of Israel. Today we remember and pay tribute to the creation of the State of Israel. The United States took only eleven minutes after Israel had been declared a state to officially welcome her into the community of nations. For the last 47 years the United Stated and Israel built a unique and strong and special relationship.

The creation of the State of Israel was a bold step in May of 1948. The first Prime Minister of Israel, David Ben-Gurion, once said that, ''courage is a special kind of knowledge: the knowledge of how to fear what ought to be feared and how not to fear what ought not to be feared.'' It is from such courage that Israel was formed and it is that that continues to maintain Israel as a vibrant and strong democracy today. We can all learn examples from the struggles that the citizens of Israel have endured and the grief they have overcome to remain a democratic outpost in the Middle East.

Yet, much work remains unfinished. We all remain troubled by the continued violence in the Middle East and we all continue to pray for a peaceful end to the years of violence and terror. The United States and our citizens learned all too well about the effects of terrorism on an early morning in September of 2001. In that one day, the nations of the world rallied to our side, offered aid, and pledged to assist us in any way possible. Yet, sadly, events like that September morning have been frequent occurrences in Israel. This fact can to easily be lost as the continued violence and terror is pushed off the front pages of our news papers and out of the nightly news on TV. That is why it is important now, more than ever, to remember and support our strongest and oldest ally in the Middle East.

I am proud to join with my colleagues today to reiterate our continued strong support of Israel, its right to defend itself and its people from terrorism, and to focus on the special relationship that exists between our two nations. I have had the pleasure to travel to Israel on a number of occasions, and these visits have only reinforced my strong conviction that the United States needs to remain a strong partner of Israel and remain actively engaged in negotiating a peaceful and equitable agreement between the parties to this conflict.

Mr. Speaker, I am pleased to support this resolution in celebrating the 47 years of Israel's existence as a beacon of democracy and hope in the Middle East. I also celebrate today the daily courage exhibited by the citizens of Israel and want to express my personal commitment to Israel at this important milestone in its history. I look forward to future anniversaries, and to the day when Israel and her citizens can live in peace without the need for courage against fear.

Mr. VISCLOSKY. Mr. Speaker, I rise today in support of H. Con. Res. 149, a measure recognizing the 57th anniversary of the independence of the State of Israel. It is my honor to recognize this anniversary which marks the restoration of Jewish independence with the establishment of the State of Israel in 1948.

I commend the Israeli people for their remarkable achievements in building a new state and a pluralistic and democratic society in the Middle East in the face of terrorism and hostility. On this occasion, I extend my warmest congratulations and best wishes to the state of Israel and her people for a peaceful, prosperous, and successful future.

Independence Day is a celebration of the renewal of the Jewish state in the Land of Israel, the birthplace of the Jewish people. In this land, the Jewish people began to develop its distinctive religion and culture some 4,000 years ago, and here it has preserved an unbroken physical presence, for centuries as a sovereign state, at other times under foreign control.

On this 57th Anniversary of the establishment of the State of Israel, we recognize that the Israeli people have created one of the leading nations in the fields of science, technology, medicine, and agriculture. The people of Israel have established a vibrant and functioning pluralistic and democratic political system that guarantees the freedoms of speech and press, and free, fair, and open elections with respect for the rule of law. With a strong democracy in a troubled part of the world, Israel has absorbed millions of new immigrants from all over the world. Some of these immigrants arrived without a single possession, but Israel welcomed them by providing housing, education, social security, and health care.

I rise also to condemn the rising tide of anti-Semitism around the globe and to demonstrate the United States' lasting bond of friendship and cooperation with Israel, which has existed for the past 57 years.

Mr. Speaker, at this time, I ask that you and my other distinguished colleagues join me in recognizing and paying tribute to the state of Israel as she celebrates her 57th Independence Day and again extend my warmest wishes for a peaceful and prosperous future. I urge my colleagues to join me in supporting H. Con. Res. 149.

Mr. STEARNS. Mr. Speaker, I rise today in strong support of H. Con. Res. 149, honoring the 57th anniversary of Israel's independence and thank the gentleman from South Carolina for introducing this resolution. From the ashes of the Holocaust, Israel rose to become a shining example of democracy and liberty in a neighborhood otherwise dominated by totalitarian and dictatorially regimes.

The United States and Israel have had a special relationship since modem Israel's founding in 1948. The U.S. was the first country to recognize Israel, only 11 minutes after it was officially created. Since then, the two countries have developed a rock-solid friendship based on shared values and the fundamental principles of freedom and equality.

A strong U.S.-Israel relationship is in the best interest of both countries. Israel stands shoulder-to-shoulder with the U.S. in countering the greatest threats to American interests in the region. When terrorists strike U.S. targets in the region or elsewhere in the world, Israel does not duck for cover but stands by the U.S. Additionally, no other country in the region supports the American position at the United Nations as consistently as Israel.

Israel's 57th anniversary is a great day for not only Israel but for freedom loving people all around the world.

Mr. CROWLEY. Mr. Speaker, I am proud to speak in strong support of the resolution today honoring the 57th anniversary of the Independence of the State Israel.

I congratulate the people of the State of Israel and the greater Jewish community on the 57th anniversary of their Independence.

The creation of the Jewish State in 1948 was met with the immediate support and recognition from the United States, and our country has continued to consider Israel our closest friend and strongest ally.

As Israel continues to fight against terrorist groups, it is more important than ever the United States continues to show our solidarity and provide whatever aid and support both economic and moral, to our friend Israel.

Israel, as the only truly democratic nation in the Middle East should be lauded for 57 years of democracy.

Israel continues to show the world that this small state who has been surrounded by aggressive states for most of its existence is here to stay. I believe the survival of the Jewish state is paramount and the United States must continue to encourage Israel's sustained efforts to defend the freedoms and rights it has secured its citizens.

Since its Independence, Israel has endured the unstable and troubling conditions in the Middle East that have sparked several wars and incited much violence.

Yet the Israeli people remain united and strong and continue to stand up for their nation. That is why I re-affirm the right of the Israeli people to always protect themselves and their state from the forces of terrorism, no matter where it may exist.

Israel is a modern success story, the only Democracy in the Middle East, the only Middle Eastern country where Arabs have the right to vote for their elected officials and their political leaders.

Her detractors and those who hide their anti-Semitism behind anti-Zionism must not denigrate the success of Israel. I am proud to be one of Israel's strongest friends in Congress and to wish Israel a hearty Mazel Tov on 57 years of Independence.

Mr. LANTOS. Mr. Speaker, I commend our colleague from South Carolina, JOE WILSON, for his effort in introducing this is resolution and I am delighted to join him extending the heartfelt congratulations of the Congress and the American people to the Israeli people in recognition of the 57th anniversary of their independence, which they celebrated this month.

Mr. Speaker, Israel is a tiny island of refuge in the midst of a roiling sea of hostile neighbors. Although relentlessly under attack since their nation's birth, the Israeli people have succeeded in creating the only democracy in the Middle East, and one of the most prosperous, technologically advanced, and reliably just societies on earth.

In the 57 years of its independence, Israel has absorbed millions of Jewish immigrants from all around the world, including over a million immigrants from the former Soviet Union in just the past 15 years. This is a remarkable and unprecedented achievement for a country whose population was only 600,000 in 1948. Israel has given immigrants the opportunity to live lives of dignity and equality in a free society—people who otherwise would have lived, at best, as second- or third-class citizens in the countries they left behind.

An indication of the vibrancy and vitality of Israeli democracy, Mr. Speaker, is the fact that Israel celebrates its anniversary this year as it prepares to resettle civilian settlements and

disengage its military forces from Gaza and parts of the West Bank. This was Prime Minister Sharon's incredibly bold and courageous initiative. It will not be easy to implement, given the determined opposition of a minority of Israelis. But anyone who knows Ariel Sharon has little doubt that the disengagement will happen, just as the Prime Minister intends.

The disengagement from Gaza entails not only political risks for Prime Minister Sharon but also security risks for Israel. It is in our national interest to assist Israel to reduce those risks. The United States stood by Israel when it took courageous steps for peace with Egypt and Jordan, and we will continue to stand by Israel as it undertakes risks in order to make progress toward peace with the Palestinians. The United States is also committed to helping Israel deal with the emerging threats of radical regimes and terrorist organizations in the Middle East.

We must not forget, Mr. Speaker, that progress toward peace has come at a great cost. For the past four and half years, innocent civilians have been murdered by terrorists aiming to destroy the state, and Israelis have been killed only because they were Israelis. By supporting Israel in its struggle for peace, we honor the victims' memory and help to promote better future, both for Israelis and Palestinians and the region.

The establishment of the State of Israel has been a great boon not only for those who live there, but it is of great importance for our nation as well. We treasure Israel as our most loyal ally in the Middle East and as the embodiment of democratic values we cherish. It is no wonder that the United States has played a critical role in supporting Israel's security in a bipartisan fashion. It is a record about which we are justifiably proud and a standard to which we will aspire for years to come.

In recognizing Israeli independence, we reiterate our commitment to ensure the safety and security of the State of Israel for the sake of the Israeli people and for the sake of the American people. The historic ties and friendship between our two democratic states have been a source of great pride for both our nations, and we are committed to maintaining and reinforcing them. As the Israeli people continue to draw inspiration in their struggle for peace and security from their friends and supporters in the United States, the Israeli people should know that Israel has no greater friend and no stronger supporter than the people of the United States of America.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 149, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ENGEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

HONORING THE LIFE OF SISTER DOROTHY STANG

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 89) honoring the life of Sister Dorothy Stang.

The Clerk read as follows:

H. CON. RES. 89

Whereas Sister of Notre Dame de Namur Dorothy Stang, moved to the Amazon 22 years ago to help poor farmers build independent futures for their families, and was murdered on Saturday, February 12, 2005, at the age of 73, in Anapu, Para, a section of Brazil's Amazon rain forest;

Whereas, a citizen of Brazil and the United States, Sister Dorothy worked with the Pastoral Land Commission, an organization of the Catholic Church that fights for the rights of rural workers and peasants, and defends land reforms in Brazil;

Whereas her death came less than a week after meeting with the human rights officials of Brazil about threats to local farmers from some loggers and landowners;

Whereas, after receiving several death threats, Sister Dorothy recently commented, ''I don't want to flee, nor do I want to abandon the battle of these farmers who live without any protection in the forest. They have the sacrosanct right to aspire to a better life on land where they can live and work with dignity while respecting the environment.'';

Whereas Sister Dorothy was born in Dayton, Ohio, entered the Sisters of Notre Dame de Namur community in 1948, and professed final vows in 1956;

Whereas, from 1951 to 1966, Sister Dorothy taught elementary classes at St. Victor School in Calumet City, Illinois, St. Alexander School in Villa Park, Illinois, and Most Holy Trinity School in Phoenix, Arizona, and began her ministry in Brazil in 1966, in Coroata in the state of Maranhao;

Whereas, last June, Sister Dorothy was named ''Woman of the Year'' by the state of Para for her work in the Amazon region, in December 2004, she received the Humanitarian of the Year award from the Brazilian Bar Association for her work helping the local rural workers, and earlier this year, she received an ''Honorary Citizenship of the State'' award from the state of Para; and

Whereas Sister Dorothy lived her life according to the mission of the Sisters of Notre Dame: making known God's goodness and love of the poor through a Gospel way of life, community, and prayer, while continuing a strong educational tradition and taking a stand with the poor people especially women and children, in the most abandoned places, and committing her one and only life to work with others to create justice and peace for all: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress hereby honors the life and work of Sister Dorothy Stang.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from New York (Mr. ENGEL) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the gentleman from Ohio (Mr. RYAN) and his cosponsors for bringing this important resolution to the floor. I also wish to commend the gentleman from Illinois (Chairman HYDE) and our ranking member, the gentleman from California (Mr. LANTOS), for expediting the consideration of this resolution in our Committee on International Relations.

Sister Dorothy worked in Brazil to directly help the people who are most in need, rural workers and peasants. She showed great personal courage by continuing on in her work with the Pastoral Land Commission despite death threats.

Brazil and the world were shocked when Sister Dorothy was murdered on February 12, 2005. She was 73 years of age. It is fitting and proper that the United States Congress should recognize the extraordinary example that Sister Dorothy set for her countrymen here in the United States and in her adoptive country of Brazil.

Today, we stand together to remember Sister Dorothy's extraordinary life. Perhaps an even more eloquent and lasting testament to Sister Dorothy's memory is the fact that Americans of faith are working every day for their fellow man in the remotest corners of the world. Many are to be found across our own hemisphere. Throughout their good works, they also honor Sister Dorothy's sacrifice.

Mr. Speaker, I am certain my colleagues will join me in strong support of this concurrent resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution. I want to congratulate the gentleman from Ohio (Mr. RYAN) for his leadership in commemorating the life and work of Sister Dorothy Stang.

Mr. Speaker, Sister Dorothy Stang stood firmly on the side of the weak and disposed in the Brazilian rainforest for over 40 years. Her willingness to defend the indigenous people ultimately led to her untimely and tragic death.

Dorothy Stang entered the Sisters of Notre Dame de Namur community in 1948, and professed final vows in 1956. In 1966, she began her very important ministry in Brazil.

Sister Dorothy immediately encountered injustices which made her a lifelong crusader for the rights of indigenous minorities and a voice for the

voiceless before the powerful Pastoral Land Commission.

In her work, Sister Stang took on powerful land interests, and steadfastly defended small groups of families and their traditional ways of life. Sister Stang taught the local communities ways of sustainable development and peaceful community living.

Because she was a thorn in the side of those powerful interests, Sister Dorothy received numerous death threats, but she always shrugged them off. She did so not carelessly or lightheartedly, but with a deep sense of the importance of her work and the peaceful approach to conflicts she had always promoted.

With the brutal murder of Sister Stang in February, the indigenous communities of the rainforest have lost one of their most powerful voices. Indeed, Brazil has lost one of the most respected human rights leaders.

We call on the Brazilian Government to bring to justice not only the people who pulled the trigger, but also those who devised the evil plot to kill her for sheer financial greed.

Sister Dorothy Stang leaves a huge legacy which puts the burden on the Brazilian and U.S. Governments to protect those communities for whom Sister Stang gave her life.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I yield 7 minutes to the gentleman from Ohio (Mr. RYAN), the author of this resolution.

Mr. RYAN of Ohio. Mr. Speaker, I rise today in support of H. Con. Res. 89, and I thank the gentleman from New York (Mr. ENGEL) and offer very warm thanks to the gentleman from Illinois (Chairman HYDE) and to the ranking member, the gentleman from California (Mr. LANTOS), for their leadership and support on this resolution which honors the life and the work of Sister Dorothy Stang.

I would also like to acknowledge Sister Dorothy's family, her sister, Marguerite, and her family from Fairfax, Virginia, and her brother, David Stang from Denver, Colorado.

Sister Dorothy was an American Catholic nun with the Order of Sisters of Notre Dame de Namur. She was originally from Ohio, but had moved to Brazil nearly 40 years ago with four other sisters of Notre Dame in response to a request from then-Pope John XXIII who asked religious communities around the world to serve in Latin America.

She worked in earnest to profess the order's mission, to educate and stand with the poor. Sister Dorothy also worked with the Pastoral Land Commission, an organization of the Catholic Church that fights for the rights of rural workers and peasants. Sister Dorothy's selfless way of life brought comfort and hope to an area of the world wrought with corruption and despair. She was committed to social justice, and worked tirelessly to help poor farmers with sustainable development techniques, minister and teach the men of the village to be faith leaders, and help in the building of houses and school rooms.

Sister Dorothy taught the women of Brazil to sew and to sell clothing to finance the building of a dam to provide electricity to their community. She pioneered 21 community centers. These centers taught agriculture, health care, education, and spirituality.

Although she was a profound leader and was loved by many, her fate did not parallel her life's work. Sister Dorothy was brutally murdered on February 12 of this year after receiving several death threats from loggers and landowners. Knowing of this grave danger, Sister Dorothy wrote, ''I do not want to flee, nor do I want to abandon the battle of these farmers who live without any protection in the forest. They have the sacrosanct right to aspire to a better life on land where they can live and work with dignity while respecting the environment.''

She then went on to say, ''I am grateful to Notre Dame for not asking me to leave. This shows we are aware of the needs of the poor. The Sisters have said they are worried about any safety. It is not my safety, but that of the people which matters.''

At the time of her death, Sister Dorothy had just traveled to drop off cloth and food to families whose homes had been burned by ranchers and loggers. She was approached by two gunmen, and knowing her fate, reached into her cloth bag, took out her Bible and began reading the Beatitudes, ''Blessed are the peacemakers for they shall be called the children of God.''

Sister Dorothy Stang is a true martyr. She lived and died teaching and fighting for peace and justice among a people who were poor and disenfranchised. She lifted up the oppressed and taught people about their rights as human beings. She was named ''Woman of the Year'' by the state of Para for her work in the Amazon, and in 2004 she received the Humanitarian of the Year award from the Brazilian Bar Association for her work in the region.

Sister Dorothy's dream was to have an area of land set aside by the federal government of Brazil as a federal reserve where the poor families and landless peasants would be safe, where they could farm their land, build their own income-producing businesses, and above all, where they could live in peace and dignity without threats to their lives.

Sister Dorothy reminds us all to be courageous and to work for what we believe in. We must all be champions of our principles and causes, and that our religion is not merely a set of beliefs, but a series of actions. She gave her life to protect the downtrodden and forgotten. While her brutal murder shows the great challenges we face in the pursuit of social justice, her life shows the awesome power one human being has to change the world.

I hope that this simple act of commemoration will not be the end of Sister Stang's story, but the very beginning. That Congress will use this opportunity to demonstrate its concern for inequality and poverty all over the world by making available the resources needed to combat these social ills.

Finally, Mr. Speaker, President Kennedy once said in a speech at Amherst College, honoring Robert Frost, that ''A nation reveals itself not only by the men it produces, but also by the men it honors, the men it remembers.''

Today we honor a fearless, selfless defender of peace, a champion in sustainable development, a person affectionately known as ''Irma Doroty,'' and ''Angel of the Amazon,'' a brave martyr, Sister Dorothy Stang.

□ 1630

Mr. ENGEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 89.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

URGING ROMANIA TO PROVIDE RESTITUTION TO RELIGIOUS COMMUNITIES

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 191) urging the Government of Romania to recognize its responsibilities to provide equitable, prompt, and fair restitution to all religious communities for property confiscated by the former Communist government in Romania, as amended.

The Clerk read as follows:

H. RES. 191

Whereas the establishment of a Communist government in Romania after World War II proved disastrous for established religious institutions;

Whereas a central element of persecution by the Communist government in Romania was the uncompensated confiscation of real and personal property from religious communities and from leaders of religious communities, and the arrest and persecution of religious leaders;

Whereas 2,140 schools, hospitals, orphanages, and other charitable and civic institutions were illegally confiscated under communism from the four historic Hungarian churches (Roman Catholic, Hungarian Reformed, Evangelical Lutheran, and Unitarian) and actual possession and use of such properties has been denied in all but 30 cases;

Whereas Romania's wartime Fascist government began the process of confiscating Jewish property in September 1940 and its

postwar Communist government reaffirmed most of these confiscations;

Whereas only a handful of Jewish communal properties have been restituted, often with government agencies still using the facilities and paying no rent, and over 1,000 communal properties remain in the possession of the Government of Romania;

Whereas some Jewish claims have been willfully ignored for years, such as in the case of agricultural land in Iasi, where municipal authorities continue to sell parcels of this land;

Whereas on January 2, 1990, under terms of Decree-Law 126/1990, the 1948 decree which dissolved the Romanian Greek Catholic Church was abrogated, permitting Greek Catholics again to worship openly, and legal provisions and procedures were established for the return of confiscated properties that before 1948 belonged to the Greek Catholic Church;

Whereas the commission established under Decree-Law 126/1990 composed of representatives of the Romanian Government and Greek Catholic Church has proven ineffective in resolving disputed claims;

Whereas Romanian Law No. 501/2002, providing for the restitution of religious properties, was adopted in June 2002 without consultation with the affected religious communities, does not effectively meet the needs of those communities, contains numerous legal deficiencies, and is delayed in its implementation;

Whereas all of the religious communities have demanded the return of property seized by the Romanian Communist government;

Whereas since 1990, post-Communist countries in Central and Eastern Europe have grappled with the question of how to redress these wrongful confiscations of religious property, but Romania has lagged significantly behind other post-Communist countries;

Whereas since the early 1990s, the United States Commission on Security and Cooperation in Europe has monitored the property restitution and compensation efforts being made by the governments of post-Communist countries in Central and Eastern Europe;

Whereas with respect to the role of the Romanian courts in the restitution process, the Chairman of the United States Commission on Security and Cooperation in Europe observed: ''In the mid-1990s . . . hundreds of court decisions in favor of property claimants were reversed by the Supreme Court after they had become final and irrevocable judgments. The European Court of Human Rights has recently ruled that these actions violated the European Convention on Human Rights.''; and

Whereas Article 18 of the Universal Declaration of Human Rights provides that ''[e]veryone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.'': Now, therefore, be it

Resolved, That the House of Representatives—

(1) notes with concern the unwillingness of past governments of Romania to recognize the responsibility to provide equitable, prompt, and fair restitution of religious property that was confiscated by the former Communist government of Romania;

(2) calls on the Government of Romania—

(A) to respect the constitutional rights of existence and practice of all religious communities to celebrate and practice their own religion in respectable locations, the right to propagate the given beliefs, and the right to openly communicate the beliefs and laws of the religion;

(B) to provide fair, prompt, and equitable restitution to all religious communities under Romanian law and in accordance with the Constitution of Romania and all applicable international agreements to which Romania is a party; and

(C) to provide restitution for the property rights of all agricultural and forestry lands belonging to religious communities;

(3) calls upon the Government of Romania to amend Decree-Law 126/1990 to require that claims involving Romanian Greek Catholic properties be heard by an independent, disinterested, nonreligious commission, and calls upon the Government of Romania to prevent the demolition of Greek Catholic churches and to provide immediately for the security of all Greek Catholic churches and other religious buildings dating from the 18th and 19th centuries; and

(4) with respect to Romanian Law No. 501/2002, calls upon the Government of Romania—

(A) to amend the law to reflect the principle of ''restitution in integrum'' as urged by Resolution 1123/1997 of the Parliamentary Assembly of the Council of Europe and to restore full ownership of all property and all rights emanating from such ownership;

(B) to amend the law to reduce the five-year period to one year during which public institutions can continue to occupy confiscated religious properties;

(C) to amend the law to include compensation, according to an equitable formula, for demolished religious properties;

(D) to increase to fair market value the amount of rent paid to religious communities for properties of which they cannot immediately regain use under law;

(E) to eliminate the practice of requiring monetary compensation from religious communities to cover state costs for maintenance and ''improvement'' of the buildings since their confiscation in the 1940s; and

(F) to obligate local government officials, bodies, and agencies to provide all necessary documentation and cooperation to facilitate the implementation of decisions issued by the central government's Special Restitution Committee and to cease posing court challenges and other obstacles against such implementation.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from New York (Mr. ENGEL) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 191. This resolution was introduced by the distinguished gentleman from California (Mr. LANTOS). House Resolution 191 urges the Government of Romania to recognize its responsibilities to provide equitable, prompt, and fair restitution to all religious communities for property confiscated by the former Communist government in Romania.

Specifically, this resolution expresses concern at the unwillingness of past governments of Romania to provide restitution of religious property that was confiscated by former Communist government officials of Romania. A central element of persecution by the Communist government in Romania was the uncompensated confiscation of property from religious communities and religious leaders, and the arrest and persecution of religious leaders. After the collapse of the Communist regime in Romania in 1989 and 1990, the new government of Romania adopted legislation to provide for the restitution of religious property seized during the previous 45 years of Communist rule. That legislation has been poorly and slowly implemented by Romanian governments over the past 15 years, and very little of this property has been returned to Romania's religious communities.

The religious communities that have been adversely affected include the Romanian Greek Catholic Church, the Roman Catholic Church, the Hungarian Reformed Church, the Evangelical Lutheran Church, as well as the Unitarian Church, the Jewish community, and other religious communities. Given the inherent injustice in the confiscation of these properties as well as Romania's desire to engage with other democracies through Euro-Atlantic institutions such as NATO and the European Union, Romania must take steps to accelerate the return of these properties to their rightful owners.

Mr. Speaker, it is time for the government of Romania to face its responsibilities and implement what is necessary to resolve these issues. I urge the adoption of this important resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume. I rise in support of House Resolution 191.

I first want to thank the gentleman from Illinois (Mr. HYDE) for his effort in bringing this resolution forward for action in the House today. I also want to acknowledge our colleagues who introduced this legislation: the gentleman from California (Mr. LANTOS) and the gentleman from Colorado (Mr. TANCREDO). As our colleagues know, the gentleman from California (Mr. LANTOS) has had a longstanding interest and concern for Central Europe and these issues involving religious liberty.

Mr. Speaker, freedom of religion is one of the most important of the blessings of liberty that is assured to us in the United States by the first amendment to our Constitution. It is also a freedom that is explicitly guaranteed in the universal declaration of human rights. Article 18 states: ''Everyone has

the right to freedom of thought, conscience and religion and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.''

It is not enough, Mr. Speaker, for men and women to have freedom of conscience to believe what they choose. It is also essential that they have the right to join with others of like mind to practice and worship together as a religious community; and for this right to be meaningful, they must have the right to control property that they can use for religious, charitable, and educational purposes consistent with their beliefs.

The important resolution that we are considering today goes to the heart of this problem, and it raises serious questions about continuing difficulties of some religious communities in Romania. Romania, like many other countries in Central and Eastern Europe, faced 4½ decades of Communist rule, and Communist Party leaders feared that religion would undermine their authoritarian rule. As a result, most religious property in the country was seized by the Communist government.

Following the collapse of Communist rule, the countries of Central and Eastern Europe have all had to deal with the restitution of property to religious communities, and it has been a difficult and complex process everywhere. In Romania it has been more complex and much slower than elsewhere. For this reason, the resolution before us today urges the Romanian government to recognize its responsibilities to provide equitable, prompt, and fair restitution to all religious communities for property confiscated by the former Communist government in Romania.

Mr. Speaker, the resolution singles out the three categories of religious communities for whom restitution has been particularly slow and unsatisfactory in Romania. The Jewish community saw its properties confiscated beginning in September of 1940 under the Fascist government that preceded the Communist government, but the Communist government reaffirmed these confiscations after it came to power. Only a handful of Jewish communal properties have been restituted and over 1,000 communal properties are still under government control.

The religious communities of the Hungarian ethnic minority have also faced the same problem. Over 2,000 schools, hospitals, orphanages and other charitable and civic properties were seized from the Roman Catholic Church, which in Romania is primarily Hungarian; the Hungarian Reformed Church; the Evangelical Lutheran Church; and the Hungarian Unitarian Church.

The third community is the Greek Catholic Church, a community which is united with the Roman Catholic Church but which observes the Greek Orthodox liturgy. In 1948 the Greek Catholic Church was dissolved, and its members were forcibly merged with the Romanian Orthodox Church and its properties either seized by the government or given to the Romanian Orthodox Church. In 1990 the Romanian Government adopted legislation to recognize the Greek Catholic community and permit its members to worship openly. Unfortunately, the legal provisions to resolve property restitution have been singularly unsuccessful.

Mr. Speaker, the European Court of Human Rights and the Commission on Security and Cooperation in Europe have both criticized the succession of Romanian governments' failures to satisfactorily deal with the problems. House Resolution 191 urges the recently elected government to take the initiative and work to solve religious property restitution. The government has recently adopted legislation that attempts to deal with some of the issues, and we welcome that effort to put better legislation in place to solve these problems. It will require active and continuing efforts, however; and we urge the government to take those steps.

Members of all of these religious communities in Romania have immigrated to the United States over the past century and even before, and most of the Members of this Congress have constituents who have expressed concern to us about these issues. Mr. Speaker, this resolution reflects the legitimate interests and concerns of American citizens. Let me also add that since Romania is now a member of NATO, it has an urgent responsibility and an extra responsibility to perform its responsibilities. We in the United States are looking to Romania as a NATO member, a fellow NATO member, to now act accordingly.

Mr. Speaker, as a cosponsor of this resolution, I urge my colleagues to support it.

Mr. SMITH of New Jersey. Mr. Speaker, I am pleased to be a cosponsor of this bill, and I commend Mr. LANTOS and Mr. TANCREDO for bringing this matter before the Congress. The process of providing restitution or compensation for property confiscated by former regimes in Romania has been slow, complicated and difficult. We have raised concerns about this with Romanian authorities for many years now.

As of July 2003, more than 200,000 claims for property restitution had been filed in Romania by individuals, and more than 7,000 claims had been filed by religious denominations and communal groups. As the bill indicates, the historic Hungarian churches—including the Evangelical Lutheran, Hungarian Reformed, Roman Catholic and Unitarian—lost more than 2,000 schools, hospitals, orphanages and other institutions under the communist regime in Romania.

Jewish communal properties were decimated by the Fascist regime that ruled Romania during World War II, and those confiscations were reaffirmed by the postwar communist government. Mr. Speaker, the status of more than 1700 Jewish communal properties remains unresolved.

Further, the plight of Romania's Greek Catholic (Uniate) Church, which was banned by the communist government in 1948, is particularly distressful. More than 2,000 churches and other buildings seized from the Uniates were given to Orthodox parishes. The government decree that dismantled the Greek Catholic Church was abrogated in 1989; however, fewer than 200 of their confiscated properties have been returned.

Mr. Speaker, I was pleased that the new government of Romania recently announced the creation of the National Authority for Property Restitution to implement Romania's property restitution laws, and it is my understanding that next week a legislative package designed to remedy these property issues is expected to be introduced. Apparently special attention will be paid to properties once belonging to religious communities and national minorities. The goal is for all outstanding claims to be resolved by the end of 2006. This would be a welcomed achievement.

For 15 years, these property claims have been a source of anguish and frustration for so many Romanians. The political will being demonstrated by President Basescu and his government is commendable. Mr. Speaker, I join my colleagues in this action today, encouraging the Romanian authorities to provide equitable, prompt, and fair restitution of the confiscated properties.

Mr. CARDIN. Mr. Speaker, I rise in support of H. Res. 191 and I commend Mr. LANTOS and Mr. TANCREDO for bringing the issue of property restitution in Romania before the Congress.

More than 15 years since the fall of the communist regime in Romania, tens of thousand of claims for the restitution of, or compensation for, property remain unresolved. This situation is a source of anger and resentment for many citizens and, in my view, a destabilizing factor in Romanian society.

To date, more than 200,000 individual claims for property restitution have been filed with only 15,000—or 7 percent—resolved. The situation for religious and communal properties is equally as dismal. Of the more than 7500 claims for communal properties, less than 600 have been approved for restitution.

The resolution before us addresses the plight of religious and communal properties in Romania.

Jewish citizens of Romania suffered the appropriation of all of their personal and communal property by the fascist regime that ruled the country during World War II, only to have these confiscations confirmed by the post-war communist government that ruled Romania until the fall of Ceausescu in 1989. To date, the status of more than 1700 Jewish communal properties remains unresolved.

Romania's Greek Catholic (Uniate) Church has essentially been caught in a ''catch twenty-two'' for the past decade and a half. The Greek Catholic Church was banned by the communist government in 1948 and more than 2,000 churches and other buildings seized from them were given to Orthodox parishes. In 1989, the government of Romania annulled the earlier decree, yet to date, fewer than 200 of the Greek Catholic properties have been returned to the community. Successive Romanian administrations have maintained that even though it was a government decree that confiscated the Greek Catholic property, the government has no responsibility to secure the return of those properties to the community.

I am advised that the new government of Romania under President Basescu is taking administrative steps to resolve this crisis as soon as possible and that draft legislation to rectify the shortcomings of current law will be introduced in the near future. I urge the government of Romania to act expeditiously and to ensure a fair and equitable property restitution regime for all of its citizens.

Mr. LANTOS. Mr. Speaker, I want to acknowledge the cooperation of our distinguished colleague from Colorado, a member of the International Relations Committee, Mr. TANCREDO, for his excellent cooperation and work in behalf of H. Res. 191. I also want to thank my friend Chairman HENRY HYDE for his support in bringing this resolution to the floor today.

It is unconscionable, Mr. Speaker, that a decade and a half after the end of the communist regime in Romania we are still dealing with the problem of the restitution of religious property. The communist government in Romania, as well as communist governments elsewhere in Central and Eastern Europe, wanted no challenge to their authority, and throughout that area all religious groups were systematically and meticulously brought under government control. As part of that process, most religious properties were confiscated by the communist governments for state or party use. In Romania, that amounted to the government seizure of literally thousands of religious schools, hospitals, orphanages, and other properties that religious communities used for charitable and humanitarian purposes.

With the fall of the communist governments in 1989, new democratic governments have had to deal with the restitution of this property to the religious communities. Unfortunately, Mr. Speaker, the process in Romania has been slower and less equitable than most other post-communist countries. A series of Romanian governments since 1990 have failed to achieve a successful and fair resolution of this problem, which the European Court of Human Rights and the Commission on Security and Cooperation in Europe both have criticized. Resolution 191 urges the recently elected government to take the initiative and work to solve religious property restitution.

Mr. Speaker, after Congressman TANCREDO and I introduced this resolution, the recently elected government of Romania adopted legislation to deal with some of the issues that our resolution discusses, and we welcome that effort. Legislation, as we have seen, is not necessarily the solution to the problem. It will require active and continuing efforts on the part of the government to solve these problems, and we urge Romanian officials to work actively and aggressively to take the steps necessary to deal with restitution in a fair and equitable manner.

This problem essentially involves all of the religious communities in Romania other than the Romanian Orthodox Church.

The Jewish community saw communal properties confiscated by the Fascist Romanian government beginning in 1940, and these seizures were reaffirmed by the communist government when it came power after 1944. Today over 1,000 Jewish communal properties remain under Romanian government control, properties have not been restored to communal ownership, and no rent or compensation is being paid to the community for their continued use.

The four historic Hungarian religious communities—the Roman Catholic, the Hungarian Reformed, the Evangelical Lutheran, and the Unitarian churches—lost over 2,000 schools and other buildings used for charitable and humanitarian activities. Possession and use of these properties by government entities continues today in all but about thirty instances.

The Greek Catholic Church in Romania is one of the most complicated and clearly one of the most frustrating cases. In 1948, the Greek Catholic Church, which recognizes the authority of the Pope in Rome but uses the Greek Orthodox liturgy, was forcibly merged with the Romanian Orthodox Church, and its properties were merged as well or seized by the government. In 1990 the decree of 1948 was abrogated, but untangling the properties after more than a generation has been extremely difficult.

Mr. Speaker, we have seen Romanian governments delaying and postponing restitution, the Romanian courts have reversed cases that had already been resolved, and inaction by government officials have prevented equitable resolution of the vast majority of these property claims. The European Court of Human Rights ruled that the actions of various Romanian governments in religious property restitution cases in the mid–1990s "violated the European Convention on Human Rights."

Our resolution calls upon the Romanian Government to respect and resolve these religious restitution cases in a fair, prompt and equitable manner. In the case of the Greek Catholic Church, it calls upon the government to amend fundamentally the legislation establishing a commission for resolution of conflicting claims. In cases where property cannot be restituted within a period of one year, our resolution calls for fair compensation until the restitution can be carried out.

Mr. Speaker, I urge all of our colleagues to support this resolution urging the Government of Romania to recognize its responsibilities to provide equitable, prompt, and fair restitution to all religious communities for property confiscated by the former Communist government in Romania.

Mr. ENGEL. Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 191, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

URGING WITHDRAWAL OF SYRIAN FORCES FROM LEBANON

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 273) urging the withdrawal of all Syrian forces from Lebanon, support for free and fair democratic elections in Lebanon, and the development of democratic institutions and safeguards to foster sovereign democratic rule in Lebanon, as amended.

The Clerk read as follows:

H. RES. 273

Whereas the people of the Lebanese Republic have a rich, proud, and honorable history dating from ancient times to the present;

Whereas Lebanon and the United States have enjoyed a history of friendship and cooperation which has been marked by the immigration of many Lebanese to the United States where they and their descendants have contributed greatly to the fabric of American life;

Whereas Syria has dominated the Lebanese political scene, resulting in a deterioration of Lebanon's human rights situation, the manipulation of Lebanese election results to meet Syria's requirements, and the imposition of curbs on Lebanon's media, once the freest in the Arab world;

Whereas Syria has publicly withdrawn its military forces from Lebanon, leaving behind, however, an intelligence structure;

Whereas Congress conditioned the lifting of sanctions on Damascus in the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (Public Law 108–175) upon the Government of Syria ending its occupation of Lebanon (including the complete withdrawal of intelligence and all other security-related personnel in Lebanon) and upon other factors;

Whereas the international community has, through the passage of United Nations Security Council Resolution 1559 (2004), reaffirmed its call for the strict respect of Lebanon's sovereignty, territorial integrity, unity, and political independence under the sole and exclusive authority of the Government of Lebanon;

Whereas there remains unresolved and as a matter of national and world concern the assassination of Rafiq al-Hariri, former Lebanese prime minister, which has justly been condemned as a terrorist act;

Whereas the international community has begun investigations into the assassination of Rafiq al-Hariri and it is the policy of the United States to urge full cooperation with the investigations;

Whereas the international community is considering further action to promote Lebanese sovereignty;

Whereas the emancipation of political prisoners and detainees held in Syrian and Lebanese prisons is a precondition for national reconciliation and a rebuilding of Lebanon's democratic institutions; and

Whereas general elections in Lebanon are scheduled to begin on May 29, 2005: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) Syria should complete its withdrawal of all remaining intelligence and security forces from the Lebanese Republic in accordance with United Nations Security Council Resolution 1559 (2004);

(2) Lebanon should allow unfettered access to international monitors present for the purpose of verifying compliance with United Nations Security Council Resolution 1559 (2004);

(3) Lebanon should hold free, fair, and transparent elections to begin on May 29, 2005, in accordance with all international standards and agreements;

(4) the United States should aid the people of Lebanon in their efforts to restore the separation of powers, the rule of law, and a proper respect for fundamental freedoms of every citizen; and

(5) it should be the policy of the United States Government to—

(A) support free and fair elections in Lebanon by encouraging international election assistance and observers;

(B) support a national dialogue that transcends sectarian divisions and urge the development of democratic institutions and safeguards to foster sovereign democratic rule in Lebanon; and

(C) call for the immediate release of all political prisoners and detainees held in Lebanese and Syrian prisons.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from New York (Mr. ENGEL) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Today I stand here filled with emotion and hope. When the gentleman from New York (Mr. ENGEL) and I began working on legislation that expressly called for Syria's full and unconditional withdrawal from Lebanon toward the restoration of the Lebanese independence, we could not have imagined that this day would come just a few years later. This is a testament to the unwavering commitment, determination, and courage of the Lebanese people and to the tireless efforts of the Lebanese-American community in the United States.

The elections scheduled to begin on May 29 mark a very important moment; but it is only the beginning of a journey toward full sovereignty and free, democratic governance. Electoral reform is necessary to ensure that future parliamentary and municipal elections are to be considered fair. We must help the Lebanese people in their quest for a free and fair electoral law as opposed to the current Syrian-orchestrated 2000 law that discriminates against certain sectors of Lebanese society and would actually help perpetuate Syrian influence in Lebanese politics.

The resolution reflects our commitment to supporting the people of Lebanon in their quest to strengthen civil society, develop democratic institutions and safeguards, and transcend sectarian divisions. A free and democratic Lebanon would have the potential to become a model for the region and a source for stability and peace.

Within this context, we must work to ensure full and immediate implementation of all aspects of U.N. Security Council Resolution 1559, beginning with international verification that Syria has withdrawn all security and intelligence forces from Lebanon. That must include the removal of pro-Syrian security officers such as the military intelligence chief, the police chief, the directors of general security and state security. United Nations Security Council Resolution 1559 clearly calls for free and fair elections devised without foreign interference and influence. We must safeguard against manipulation of the election registration process to allow Syria to keep its tentacles in Lebanese politics.

Simultaneously, steps must be undertaken, both bilaterally and in consultation with European allies and the United Nations, to ensure the immediate and unconditional disarming of all militias and terrorist organizations prior to the next round of elections.

The people of Lebanon should not have to live under repressive terrorist organizations any more than being forced to live under an oppressive Syrian-sponsored regime. For freedom and justice to fully blossom in Lebanon, all Lebanese prisoners of conscience held in Syrian and Lebanese jails must be released and the disappeared must be fully accounted for.

□ 1645

The policy of apathy must end.

Lebanon was once a land of promise, a vibrant democratic society known as the ''Paris of the Middle East.'' Ending the occupation and conducting free, fair, and transparent elections would take a quickly recovering Lebanon one step closer to realizing its full promise.

To the people of Lebanon, I would like to say that they are an inspiration to us all. They remind us of how precious liberty is; and we assure them, as they stand for their freedom, the United States will stand with them.

I want to thank the distinguished gentleman from Michigan (Mr. MCCOTTER) for introducing this important resolution. It was a pleasure working on this text with the gentleman from Michigan (Mr. MCCOTTER) and the gentleman from New York (Mr. ENGEL), my partner on all of these issues. My utmost appreciation goes to the gentleman from Illinois (Chairman HYDE) and the gentleman from California (Mr. LANTOS), ranking member of the Committee on International Relations, as well as to our leadership for moving this resolution expeditiously and bringing it to the floor.

I urge my colleagues to support this measure and, in turn, to support the Lebanese people in their efforts to cast off the shackles of tyranny and occupation.

Mr. Speaker, I reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of this resolution. I would first like to commend the gentleman from Michigan (Mr. MCCOTTER) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) for their work on this important resolution.

And let me say that I quite agree with the gentlewoman from Florida (Ms. ROS-LEHTINEN), my dear friend; when we worked together on the Syria Accountability and Lebanese Sovereignty Restoration Act, we knew that we were doing the right thing. We absolutely made the Syrian withdrawal of Lebanon one of the four pillars of that act. But even in our wildest expectations and dreams, we could never have imagined the series of events since the passage of that act, which leads today to freedom for the Lebanese people. And I want to thank my colleagues for standing with us and passing the Act, giving it bipartisan support and enabling us to bring forward this resolution today.

It is an honor to stand on the floor of the House today, approximately 1 month after the Syrian armed forces ended their military occupation of Lebanon. Lebanon is at a crossroads, a place from which it can move forward towards democracy and freedom or take steps back toward the violence which tore it apart so many years ago.

The people of the Lebanese Republic have a rich, proud, and honorable history dating from ancient times to the present, and Lebanon has been a free and democratic nation for most of its modern history. Lebanon and the United States have enjoyed a history of friendship and cooperation which has been witnessed by the immigration of millions of Lebanese to the United States where they and their descendants have contributed greatly to the fabric of American life.

Let me say, Mr. Speaker, that in my years in Congress, I have had the honor and the pleasure to make many friends in the Lebanese American community, and I am proud of the contributions they have made to our country and American policy toward Lebanon. The Lebanese American community was a very important part of the Syria Accountability Act, and the Lebanese American community has played and is continuing to play a very important part in the freedom and democracy of Lebanon.

However, tragically, Syria dominated Lebanese politics and political leaders during its occupation, resulting in a deterioration of Lebanon's human rights situation, the engineering of Lebanese election results to Syria's liking and the imposition of curbs on Lebanon's media, once the freest in the Arab world.

Lebanon, in effect, became a Syrian satellite state where none of its leaders would dare defy the Syrian regime in Damascus. Yet a series of events caused pressure on the Syrian regime to grow. Beginning with the passage of the Syria Accountability and Lebanese Sovereignty Act, Congress showed very strongly that we would not tolerate this continued Syrian occupation of Lebanon.

While Syria could have made smart choices at any point, it never did, and pressure continued to grow for its full withdrawal from Lebanon, again with the President's signing the Syria Accountability Act 1 year ago. Our law

ultimately led to the Security Council's adoption of Resolution 1559, which demanded Syria's withdrawal from Lebanon and the disarmament of Hezbollah and other armed groups.

Yet the most recent developments in the effort to press Syria to leave Lebanon were sparked by the terrorist murder of former Prime Minister Rafik Hariri in Beirut. His assassination, which must still be thoroughly investigated by Lebanon and the international community, triggered a series of popular protests with hundreds of thousands of Lebanese taking to the streets. At one point in one of the demonstrations, literally one-quarter of the entire population of Lebanon took to the streets of Beirut to demand that the Syrian occupation end.

Yet, while Syria has today withdrawn its military forces from Lebanon, reports indicate that it has left behind a pro-Syrian intelligence structure within the Lebanese intelligence agencies. There are lots of spies, Syrian spies, still in Lebanon and lots of Syrian nationals still in Lebanon trying to control things. These people must leave, as well, and the sooner the better.

And it must be pointed out, Mr. Speaker, that not all parts of Security Resolution 1559 have been implemented. Hezbollah, the terrorist organization which receives support from Iran and Syria, remains armed to the teeth and occupies much of southern Lebanon. As Hezbollah has not given up its weaponry and its intent to maintain a military answer to the political questions of the Middle East, Hezbollah must remain completely isolated by the international community.

Earlier this year, the House passed a resolution urging the European Union to put Hezbollah on its terrorist list. As we consider this resolution today, let us renew that call. Hezbollah is a terrorist organization.

Finally, all political prisoners and the ''disappeared'' must be released and returned to their families. They are still existing in Lebanon, and we must get to the bottom of the disappeared people as well.

Today, the United States must stand for the same basic values in Lebanon to which we adhere at home and around the world.

Mr. Speaker, Lebanon is scheduled to hold elections on May 29, this Saturday. As such, Congress stands with the Lebanese people as they proceed to restore democracy in their once again sovereign nation. It is our hope that the upcoming elections will be free, fair, transparent, and in accordance with all relevant international standards on elections.

However, I must express one note of concern about the elections. The electoral districts in which Lebanese candidates for parliament run later this week were drawn in accordance with the 2000 electoral law, which was written by the Syrian-dominated regime during the occupation. I am concerned that this has deprived many Lebanese from true representation as the districts were apparently drawn unfairly, packing certain groups of people into some districts while underrepresenting others. However, once these elections are completed, the United States should help the people of Lebanon in their efforts to restore the separation of powers, the rule of law, the changing of these districts, and the proper respect for fundamental freedoms of every citizen. As goes the rule of law in Lebanon and the respect for individuals, so goes the nation.

Mr. Speaker, as the sponsor, with the gentlewoman from Florida (Ms. ROS-LEHTINEN), of the Syria Accountability Act, it is an honor to be on the floor today in support of this important resolution, and I strongly urge a ''yes'' vote.

Mr. LANTOS. Mr. Speaker, next Sunday the people of Lebanon will go to the polls to start a series of parliamentary elections that will play out over the next four weeks. This resolution expresses Congress's ongoing concern that the Lebanese people be allowed to choose their own leaders freely and fairly, in light of the recent withdrawal from Lebanon of all Syrian security forces and intelligence officials, which is not yet verifiably complete. I commend our colleague Ms. ROS-LEHTINEN for bringing these important issues before us.

Mr. Speaker, freedom-loving people everywhere cheered earlier this year as the Lebanese people defied the odds, spurred on by the assassination of former prime minister Rafik Hariri, and peacefully rose up and forced the caretaker government to step down, letting key exile leaders return, and leading to the expelling of nearly all of Syria's uninformed forces from long-occupied Lebanese soil. We all hope that there will continue to be a peaceful transition to sovereign, democratic rule in Lebanon.

Sadly, the upcoming elections saw their first casualty this weekend, when adherents of rival parties clashed in the region of Metn. Government soldiers were summoned to disperse the crowds, and as they did so, one man was shot and killed. It was a somber reminder of how volatile the situation surrounding the elections can be.

Political rivalries, particularly between pro-Syrian factions and those who seek to continue reforms, threaten to further destabilize the electoral process in Lebanon; some have already threatened to boycott, which could undermine the legitimacy of the process. And the elections will be conducted according to a law passed under full Syrian occupation five years ago, which could stack the deck in favor of the Syrian elements, particularly Hezbollah. Let us hope that the wisdom of the Lebanese people, displayed in vast numbers, will over-ride the structural deficiencies of the law.

Mr. Speaker, I fully endorse this resolution's advocacy of U.S. assistance to help Lebanon restore democratic rule, including the separation of powers, the rule of law, and respect for fundamental freedoms. It is undeniably in our interest to support this process, as the flourishing of democracy in Lebanon will no doubt have a multiplier effect throughout the region.

Jordan's King Abdullah, speaking this weekend at the World Economic Forum meeting, said that this is a time for positive political reform in the Middle East, but it is Arabs themselves who need to develop it.

''Never has there been a greater sense of agreement that the future is in our hands,'' King Abdullah said. ''Today, positive change is in the air across the region. It is an effort for the whole Middle East to create its own positive change. That demands a real-world process, specific steps that can be implemented by regional governments and civil society.''

Mr. Speaker, one such specific step for Lebanon will be to fulfill its obligations under U.N. Security Council Resolution 1559, especially the requirement that all militias, including Hezbollah, be disarmed and disbanded. We will expect the Lebanese Armed Forces to put an immediate halt to the flow of arms across the Syrian border to Hezbollah as a first step.

Four years ago I sponsored legislation passed by the Congress that made a portion of U.S. aid to Lebanon contingent upon Lebanon's taking control of all of its borders. I do not intend to introduce a similar resolution at this moment, as I am hopeful that the new Lebanese government, once it gains its footing, will take the necessary actions to demonstrate its adherence to all aspects of U.N. Security Council Resolution 1559—the resolution that made possible Lebanon's rebirth as a nation.

But I will remain seized with these issues regarding Lebanon's borders and Hezbollah—and, in the near future, I will introduce a resolution that I hope will demonstrate that Congress shares these concerns. The stability of the entire region depends on an end to militia rule in Lebanon and full implementation of Lebanese sovereignty throughout that country and along all of its borders.

The resolution before us, Mr. Speaker, focuses on certain crucial ingredients of Lebanese sovereignty—the withdrawal of Syrian troops and the holding of free and fair elections. This is an important resolution. I support it, and I urge all of my colleagues to do likewise.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today as a long time supporter of free and fair democratic elections in the Middle East and throughout the world. Clearly, I am in support of free and fair democratic elections in Lebanon, every human being deserves the right to choose their leaders without the fear of persecution and retribution. I stand firmly in favor of honoring the voice of the Lebanese people, who have clearly called for democratic reform. I can not deny that Syria has had a long mixed history in Lebanon, clearly the will of the Lebanese people dictated it was time for the Syrian forces to leave. However, I do not believe complete condemnation of the nation of Syria will yield the results we seek. We must continue to push for completely free and fair elections in Lebanon, but I feel that we must engage Syria in a dialogue instead of turning a cold shoulder to them.

I fully support the idea that Syria should complete its withdrawal of all remaining intelligence and security forces from the Lebanese Republic in accordance with United Nations Security Council Resolution 1559. However, I do not believe we should condemn Syria for their relationship with Lebanon, but we must now engage in an examination to determine if the current relationship between Syria and Lebanon can now be improved. We must seek

to build relationships in the Middle East as opposed to tearing them down. Our goal is to establish greater stability and a more free society in the Middle East; to accomplish these lofty goals we must press forward with new initiatives as opposed to complete condemnations. Therefore, we must push for international election monitors in Lebanon so that free, fair, and transparent elections can be held on May 29, 2005, in accordance with all international standards and agreements. We must ensure that no outside nation or entity has undue influence on these elections, which should be determined only by the will of the Lebanese people.

I am in support of H. Res. 273 because the ideal of free and fair elections can not be questioned, especially when sanctioned by international law. However, I do hope the sponsors and supporters of this resolution will try to use this as an opportunity to open relations with Syria instead of further closing them. If we are to have true success in the Middle East we must ensure that we reach out to every nation in the region and its people, otherwise we are only cheating ourselves of a historic prospect for peace.

Mr. ENGEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 273, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The title of the resolution was amended so as to read: ''Resolution recognizing the courageous efforts of the people of Lebanon to restore their independence and urging the withdrawal of all Syrian forces from Lebanon, the support for free and fair democratic elections in Lebanon, and the development of democratic institutions and safeguards to foster sovereign democratic rule in Lebanon.''.

A motion to reconsider was laid on the table.

WELCOMING HAMID KARZAI AND SUPPORTING STRONG AND ENDURING STRATEGIC PARTNERSHIP BETWEEN UNITED STATES AND AFGHANISTAN

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 153) welcoming His Excellency Hamid Karzai, the President of Afghanistan, on the occasion of his visit to the United States in May 2005 and expressing support for a strong and enduring strategic partnership between the United States and Afghanistan.

The Clerk read as follows:

H. CON. RES. 153

Whereas Afghanistan, a great nation located at the crossroads of many civilizations, has suffered the ravages of war, foreign intervention, occupation, and oppression;

Whereas the Afghan people courageously resisted the decade-long occupation of their country by the former Soviet Union, forcing a Soviet withdrawal in 1989 and thereby contributing to the end of the Cold War;

Whereas following the Soviet withdrawal, Afghanistan went through a period of chaos and conflict, exacerbated by insufficient attention from the international community, during which time the Taliban militia seized control of much of the country and provided a base of operations to Al Qaeda and other terrorist elements;

Whereas following the terrorist attacks of September 11, 2001, the United States launched Operation Enduring Freedom, liberating the Afghan people from tyranny, transforming Afghanistan from a haven for terrorists into a strategic partner in the struggle against international terrorism, and helping Afghans build a democratic government;

Whereas the Afghan Constitution, drafted by a broadly representative Loya Jirga, or Grand Council, and enacted on January 4, 2004, provides for equal rights for and full participation of women, mandates full compliance with international norms for human and civil rights, establishes procedures for free and fair elections, creates a system of checks and balances between the executive, legislative and judicial branches, encourages a free market economy and private enterprise, and obligates the state to prevent all types of terrorist activity and the production and trafficking of narcotics;

Whereas more than 10.5 million Afghan men and women voted in national presidential elections in October 2004, demonstrating commitment to democracy, courage in the face of threats of violence, and a deep sense of civic responsibility;

Whereas Hamid Karzai, formerly the interim President, was elected to a five-year term as Afghanistan's first democratically-elected President in the country's history;

Whereas nationwide parliamentary elections are planned for September 18, 2005, and further demonstrate the Afghan Government's commitment to adhere to democratic norms;

Whereas the Government of Afghanistan has demonstrated a firm commitment to halting the cultivation and trafficking of narcotics and has cooperated fully with the United States and its allies on a wide range of counter-narcotics initiatives;

Whereas in addition to military and law enforcement operations, President Karzai welcomes the United States and the international community to assist Afghanistan's counter-narcotics campaign by supporting programs to provide alternative livelihoods for farmers, sustained economic development, and governmental and security capacity building;

Whereas recognizing that long-term political stability requires sustained economic security, Afghanistan is striving to create an economic base to provide meaningful livelihoods for all of its people, and the United States has a cooperative interest in helping Afghanistan achieve this goal;

Whereas section 101(1) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7511(1)) declares that the ''United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan'';

Whereas on June 15, 2004, during President Karzai's visit to the United States, President George W. Bush stated: ''Afghanistan's journey to democracy and peace deserves the support and respect of every nation. . . . The world and the United States stand with [the people of Afghanistan] as partners in their quest for peace and prosperity and stability and democracy.'';

Whereas on June 15, 2004, in his address to a joint meeting of Congress, President Karzai stated: ''We must build a partnership that will consolidate our achievements and enhance stability, prosperity and democracy in Afghanistan and in the region. This requires sustaining and accelerating the reconstruction of Afghanistan, through long-term commitment. . . . We must enhance our strategic partnership. The security of our two nations are intertwined.'';

Whereas on April 13, 2005, while receiving the visiting United States Secretary of Defense, Donald Rumsfeld, President Karzai, in expressing the desire of the Afghan people for a long-term strategic partnership with the United States, stated: ''They want this relationship to be a wholesome one, including a sustained economic relationship, a political relationship, and most important of all, a strategic security relationship that would enable Afghanistan to defend itself, to continue to prosper, to stop interferences, the possibility of interferences in Afghanistan.''; and

Whereas the people of the United States, and their elected representatives, are honored to welcome President Karzai back to the United States in May 2005 on a visit that will further advance the close partnership between the United States and Afghanistan: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) Congress welcomes the first democratically-elected President of Afghanistan, His Excellency Hamid Karzai, as an honored guest and valued friend upon his visit to the United States in May 2005; and

(2) it is the sense of Congress that—

(A) a democratic, stable, and prosperous Afghanistan is a vital security interest of the United States; and

(B) a strong and enduring strategic partnership between the United States and Afghanistan should continue to be a primary objective of both countries to advance a shared vision of peace, freedom, security, and broad-based economic development between the two countries and throughout the world.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from New York (Mr. ENGEL) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

It is a pleasure to welcome His Excellency Hamid Karzai, the President of Afghanistan, to the United States and

to underscore the growing and strong friendship between our two nations.

As we continue to lead the fight against the forces of terror and oppression, we are joined by courageous leaders such as President Karzai, and we are motivated and strengthened by the strong will of the Afghan people, who experienced, firsthand, what it is to live under these dual threats.

Despite the Taliban's brutality and intolerable injustices that comprise the Taliban's legacy, their removal from power has generated clear and evident signs that the future of Afghanistan holds great promise. Millions of Afghans, once oppressed by the Taliban's terrorist regime, cast their ballots in their country's free elections in October of 2004 and elected Hamid Karzai as their leader.

A defender of freedom, President Karzai has worked tirelessly to unite and rebuild Afghanistan during this time of transition and has strived to bring security and stability while working to improve daily life.

Afghanistan has made great strides with respect to democracy, to reform, and to political openness. The women of Afghanistan, once forced to live as subhumans under a shroud that served as both a physical and symbolic instrument of the Taliban's oppression, are now vibrant and active participants in Afghan society. Afghans enjoy restored liberties and opportunities that were unheard of in recent memory. Schools have been reopened. A new banking law is in place. Businesses are blossoming around the country. But most importantly, there is hope for a better future.

The United States has stood by the Afghanistan dilemma during this critical time. We have stood by the Afghan people, helping them with the construction of centers for women, schools, building up their infrastructure, providing assistance to promote political participation, and to improve human rights for all. The United States must continue to fulfill its role as a friend to Afghanistan by providing resources and expertise and assistance to the people and the government of Afghanistan as they struggle to reconstruct themselves socially, economically, and politically.

I, therefore, Mr. Speaker, urge my colleagues to support this important resolution and clearly demonstrate to the people and the Government of Afghanistan that the United States stands firmly with them.

Mr. Speaker, I reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of this resolution.

Mr. Speaker, I, first, again would like to commend the gentlewoman from Florida (Ms. ROS-LEHTINEN), my good friend, and the gentleman from New York (Mr. ACKERMAN), the Chair and ranking member of the Middle East and Central Asia Subcommittee, for introducing this important resolution.

□ 1700

Mr. Speaker, Afghanistan has made real progress toward becoming a stable, peaceful, and democratic state. The Taliban has been forced from power. The presidential election last October was an unqualified success with a massive turnout among men and women in defiance of Taliban threats, and progress has been made in restoring the basic human rights of Afghan women.

Before we even heard about the Taliban, Mr. Speaker, I was talking about them when they were in control when they were denying religious freedom to Hindus and others and talking about some of their despicable acts which, unfortunately, the world had then come to know.

But even today, Afghanistan is far from out of the woods. The Taliban and al Qaeda remnants have used recent events to further their agenda of undermining the peace and stability that President Karzai aims to bring to Afghanistan and its people. Progress in reconstruction and development, which is crucial to bringing economic opportunity and hope to millions, is painfully slow. But the biggest obstacle to democracy and development is the unprecedented scale of opium cultivation and narco-trafficking.

Mr. Speaker, in the face of these obstacles, President Karzai has remained steadfast and determined to bring democracy, prosperity, and security to the people of Afghanistan; and the United States must help President Karzai achieve this goal.

This resolution welcomes President Karzai upon his visit to the United States this week and recognizes that a democratic, stable, and prosperous Afghanistan is a vital national security interest of the United States. The resolution wisely states that a strong and enduring partnership between our two countries must remain a primary objective.

President Bush met today with President Karzai in the Oval Office. I am sure the President continued to offer the strong support of the American people to President Karzai. It is my hope that President Karzai offered his thoughts on how efforts against illegal drugs can and will be intensified.

Mr. Speaker, we cannot allow Afghanistan to lapse into chaos, war, and ruin once again. The United States must demonstrates its long-term commitment to a strong and enduring partnership with Afghanistan. President Karzai is Afghanistan's best chance at achieving peace, and we must do everything to help him realize this goal.

I had the pleasure of meeting President Karzai when he was last in town and met with members of the Committee on International Relations, and I must also add on a personal note that a very good friend of mine is a first cousin of his, so he does have strong family ties to the United States as well.

Mr. Speaker, I urge my colleagues to support this resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today as a proud cosponsor of H. Con. Res. 153, which welcomes His Excellency Hamid Karzai, the President of Afghanistan, on the occasion of his visit to the United States in May 2005 and expresses support for a strong and enduring strategic partnership between the United States and Afghanistan. As the Co-Chair for the Congressional Afghan Caucus along with my colleague Chairman NEY, I am proud to welcome President Karzai back to the United States. I want to thank my colleague Ms. Ros-Lehtinen for introducing this appropriate concurrent resolution.

While there will be those who have the view that the war in Afghanistan is over and we should shift our view, the truth is that Afghanistan is as vital to our nation now as it was shortly after September 11th. Operation Enduring Freedom was a success in removing the Taliban leadership and giving the Afghan people new hope, however our work there is far from done. We must ensure that Afghanistan has a bright and productive future ahead of itself, in which peace and prosperity, will be possible. We can not make the same mistake we made in Afghanistan after the conclusion of the Cold War. The brave Afghan warriors defeated the Red Army, stopping them for completing another brutal assault upon an innocent nation. However, we rewarded their bravery by ignoring Afghanistan and allowing it to be a place where extremists like the Taliban and Al Qaeda could take refuge and indeed have sanctuary to build upon. We can not allow ourselves to make that same mistake again, we must show the Afghan people that we stand with them even after our own short term interests have been fulfilled. I have traveled to Afghanistan on a couple different occasions and I have seen the faces of the Afghan people and I know they are ready to embrace us, if only we can really support them for the long term.

I want to applaud President Karzai; he is a man of courage and vision. More than 10.5 million Afghan men and women voted in national presidential elections in October 2004, again giving credence to the fact that they have embraced democratic reform. The Afghan people have chosen Hamid Karzai, formerly the interim President, for a five-year term as Afghanistan's first democratically-elected President. I congratulate President Karzai for this victory, his job has not been easy and surely there were few who would have been willing to assume the burden of leadership that he did. His goals and aspirations will be for the long term health and security of Afghanistan and to get to that point he needs and deserves the full support of our nation.

Again, let me welcome President Karzai back to the United States, I stand among many Members who admire his will and resolve on behalf of his people. His accomplishments despite all the obstacles are certainly praiseworthy and deserving of recognition from the United States Congress. Let us all hope that this pattern of progress and success continues for President Karzai and Afghanistan as we move forward.

Mr. ENGEL. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 153.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

RECOGNIZING THE COAST GUARD, COAST GUARD AUXILIARY AND NATIONAL SAFE BOATING COUNCIL FOR THEIR EFFORTS TO PROMOTE NATIONAL SAFE BOATING WEEK

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 243) recognizing the Coast Guard, the Coast Guard Auxiliary and the National Safe Boating Council for their efforts to promote National Safe Boating Week.

The Clerk read as follows:

H. RES. 243

Whereas recreational boating is one of our Nation's most popular pastimes, with an estimated 78,000,000 recreational boaters in the United States and nearly 13,000,000 recreational vessels registered;

Whereas the number of recreational boating fatalities has declined by more than half since 1970, thanks to the increased use of life jackets, cooperative boating safety education, enforcement efforts between the Coast Guard and State governments, and safer vessels and equipment manufactured in accordance with Coast Guard standards;

Whereas recreational boating accidents have nevertheless claimed the lives of 703 Americans in 2003, more than half of whose lives could have been saved with the proper use of a personal flotation device;

Whereas a continued emphasis on accident prevention can reduce recreational boating fatalities still further, and in particular deaths by drowning, which remain the leading cause of recreational boating fatalities; and

Whereas the National Safe Boating Council, with the support of the Coast Guard and the Coast Guard Auxiliary, has proposed designating the week of May 21 through 27, 2005, as National Safe Boating Week: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports initiatives for recreational boating safety education and accident prevention to minimize the number of annual recreational boating fatalities;

(2) recognizes the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts each year during May to highlight the importance of safe recreational boating; and

(3) supports the goals of National Safe Boating Week.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. GILCHREST) and the gentleman from California (Mr. FILNER) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Res. 243 was introduced by my colleagues, the gentleman from Tennessee (Mr. COOPER) and the gentleman from Florida (Mr. SHAW), and recognizes the work of the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council in promoting boat safety.

I represent a district in which recreational boating plays a huge role in the lives of many of my constituents. Sailors, waters sports enthusiasts, and fishermen enjoy recreational boating on the Chesapeake Bay and the ocean side of my district.

Recreational boating is one of the Nation's most popular pastimes, and while the number of recreational boating fatalities has declined by more than half since 1970, many lives are still lost each year. More than half of these lives could be saved with the proper use of boating safety equipment. This resolution highlights the importance of safe recreational boating, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, represent an area where boating is a very important recreational activity, representing San Diego, California, with its wonderful bay, Mission Bay Park, and, of course, the Pacific Ocean, all as places where tens of thousands of people do their recreation; so I also support House Resolution 243.

This is National Safe Boating Week. Over 70 million people this year will participate in recreational boating activities in the United States. Unfortunately, about 700 of them will die from boating accidents. National Safe Boating Week is always the week before the Memorial day weekend, the start of the summer boating season. The goal this week is to educate the public about what they can do to enjoy our Nation's waters in a safe manner. In my State of California, two-thirds of the deaths from recreational boating accidents will occur during these summers months.

Mr. Speaker, safe boating begins before you even step in a boat by planning your trip and being safety conscious. The most important thing a boater can do to save their life is to wear a life jacket. That sounds simple; but in 2003, 416 boaters were drowned while not wearing their life jackets. Today there are Coast Guard-approved life jackets that are inflatable so you can easily sail and still be safe.

Just as in driving a car, alcohol and boating do not mix. Do not drink and drive in a boat.

Today there are over 17 million boats in our Nation's waterways. It is getting crowded, so everybody should know and follow the nautical rules of the road. If you are in a small boat, do not stand up. You could flip your boat, sending you and your family into the water.

Mr. Speaker, these are simple, but they are a few of the basic tips that people should follow to have a safe and enjoyable time when they are boating.

The Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council have boating safety education programs to help everyone learn how to boat safely. I encourage everyone to take advantage of these courses. If you follow their simple guidelines, you can have a fun and relaxing time while being as safe as possible.

Mr. Speaker, I strongly urge my colleagues to join us in support of House Resolution 243.

Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman for sponsoring this piece of legislation as well. I would like to reiterate some of the comments that the gentleman made about boat safety, and that is when you get in a boat, it is like getting in a car. Do not drink and drive; do not drink and boat. Snap your safety belt in the car; put your life jacket on in the boat. Respect the people in your boat and respect other people in their boats; and respect the ecosystem that you are now treading on.

When you go out in a boat, enjoy yourself, enjoy the people that you are around, and enjoy the pristine nature of that particular environment. Boat Safety Week hopes to motivate people to understand the nature of their responsibility when they step in a boat, whether it is one with a big, powerful engine; whether it is a small motor boat; or I would recommend you try a kayak and canoe.

Of course, wear your life jacket regardless, respect yourself, respect your passengers, respect other boaters, and respect the pristine nature of the water.

Mr. BISHOP of New York. Mr. Speaker, I rise in strong support of H. Res. 243, a bill recognizing the Coast guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts to promote National Safe Boating Week.

In my district on Eastern Long Island, water safety is of paramount concern to residents, vacationers, and the tourism industry—one of the most important contributing elements of the local economy, which includes pleasure and commercial boating.

I commend the men and women of the Coast Guard, the Coast Guard Auxiliary and the National Safe Boating Council for their steadfast dedication to protecting boaters throughout the country. As we approach Memorial Day, kicking off the summer, we recognize National Safe Boating Week to encourage American boaters to be safe on the water and to promote the use of personal flotation devices (PFDs).

It is important to highlight the progress made to safeguard boating enthusiasts in recent years, particularly with more than 13 million watercraft registered in the U.S., a number that continues to skyrocket. Even with the ever-increasing number of people enjoying the water, there are fewer fatalities on the sea. This is in no small part due to the diligence of

hard-working groups like the National Safe Boating Council and the selfless, intrepid men and women of the Coast Guard.

As vacationers throughout the country head for the coasts, it is our responsibility to encourage caution. I echo the National Safe Boating Council's important message urging all Americans to be safe on the water while they enjoy their family vacations this summer.

Mr. GILCHREST. Mr. Speaker, I have no further speakers, I yield back the balance of my time, and urge the adoption of this resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. GILCHREST) that the House suspend the rules and agree to the resolution, H. Res. 243.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 243.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

BUSINESS CHECKING FREEDOM ACT OF 2005

Mrs. KELLY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1224) to repeal the prohibition on the payment of interest on demand deposits, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1224

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 ''Business Checking Freedom Act of 2005''.

SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.

(a) DAILY TRANSFERS ALLOWED INTO DEMAND DEPOSIT ACCOUNTS.—Section 2 of Public Law 93–100 (12 U.S.C. 1832) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(2) by inserting after subsection (a) the following:

''(b) TRANSFERS.—Notwithstanding any other provision of law, any depository institution, other than a nonqualified industrial loan company, may permit the owner of any deposit or account which is a deposit or account on which interest or dividends are paid and is not a deposit or account described in subsection (a)(2) to make up to 24 transfers per month (or such greater number as the Board of Governors of the Federal Reserve System may determine by rule or order), for any purpose, to another account of the owner in the same institution. An account offered pursuant to this subsection shall be considered a transaction account for purposes of section 19 of the Federal Reserve Act unless the Board of Governors of the Federal Reserve System determines otherwise.''; and

(3) by adding at the end of subsection (a) the following new paragraph:

''(3) NONQUALIFIED INDUSTRIAL LOAN COMPANIES.—

''(A) DEFINITION.—For purposes of this section, the term 'nonqualified industrial loan company' means any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956 that is determined by an appropriate State bank supervisor (as defined in section 3 of the Federal Deposit Insurance Act) to be controlled, directly or indirectly, by a commercial firm.

''(B) COMMERCIAL FIRM DEFINED.—For purposes of this paragraph, the term 'commercial firm' means any entity at least 15 percent of the annual gross revenues of which on a consolidated basis, including all affiliates of the entity, were derived from engaging, on an on-going basis, in activities that are not financial in nature or incidental to a financial activity during at least 3 of the prior 4 calendar quarters.

''(C) GRANDFATHERED INSTITUTIONS.—The term 'nonqualified industrial loan company' does not include any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956—

''(i) which became an insured depository institution before October 1, 2003, or pursuant to an application for deposit insurance which was approved by the Federal Deposit Insurance Corporation before such date; and

''(ii) with respect to which there is no change in control, directly or indirectly, of the company, bank, or institution after September 30, 2003, that requires an application under section 7(j) or 18(c) of the Federal Deposit Insurance Act, section 3 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners' Loan Act.''.

(b) INTEREST ON BUSINESS NOW ACCOUNTS.—

(1) IN GENERAL.—Section 2(a) of Public Law 93–100 (12 U.S.C. 1832(a)) is amended—

(A) by striking paragraph (2) and inserting the following new paragraph:

''(2) PAYMENT OF INTEREST ON CERTAIN NOW ACCOUNTS.—An industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956 may not pay interest on any deposit or account of a corporation, business partnership, or other business entity from which funds may be withdrawn by negotiable instrument for payment to third parties, unless the appropriate State bank supervisor (as defined in section 3 of the Federal Deposit Insurance Act) of such company, bank, or institution determines that such company, bank, or institution is not a nonqualified industrial loan company.''; and

(B) by adding at the end the following new paragraph:

''(4) RULE OF CONSTRUCTION RELATING TO DEMAND DEPOSITS.—No provision of this section may be construed as conferring the authority to offer demand deposit accounts to any institution that is prohibited by law from offering demand deposit accounts.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 2(b) of Public Law 93–100 (12 U.S.C. 1832(b)) (as added by subsection (a)(2) of this section) is amended by striking ''and is not a deposit or account described in subsection (a)(2)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 3. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED.

(a) REPEAL OF PROHIBITION ON PAYMENT OF INTEREST ON DEMAND DEPOSITS.—

(1) FEDERAL RESERVE ACT.—Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended to read as follows:

''(i) [Repealed]''.

(2) HOME OWNERS' LOAN ACT.—The first sentence of section 5(b)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by striking ''savings association may not—'' and all that follows through ''(ii) permit any'' and inserting ''savings association may not permit any''.

(3) FEDERAL DEPOSIT INSURANCE ACT.—Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows:

''(g) [Repealed]''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 4. PAYMENT OF INTEREST ON RESERVES AT FEDERAL RESERVE BANKS.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following new paragraph:

''(12) EARNINGS ON RESERVES.—

''(A) IN GENERAL.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate or rates not to exceed the general level of short-term interest rates.

''(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTION.—The Board may prescribe regulations concerning—

''(i) the payment of earnings in accordance with this paragraph;

''(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

''(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal reserve bank by any such entity on behalf of depository institutions.

''(C) DEPOSITORY INSTITUTIONS DEFINED.—For purposes of this paragraph, the term 'depository institution', in addition to the institutions described in paragraph (1)(A), includes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978).''.

(b) AUTHORIZATION FOR PASS THROUGH RESERVES FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking ''which is not a member bank''.

(c) CONSUMER BANKING COSTS ASSESSMENT.—

(1) IN GENERAL.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(A) by redesignating sections 30 and 31 as sections 31 and 32, respectively; and

(B) by inserting after section 29 the following new section:

''SEC. 30. SURVEY OF BANK FEES AND SERVICES.

''(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System shall obtain annually a sample, which is representative by type and size of the institution (including small institutions) and geographic location, of the following retail banking services and products provided

by insured depository institutions and insured credit unions (along with related fees and minimum balances):

''(1) Checking and other transaction accounts.

''(2) Negotiable order of withdrawal and savings accounts.

''(3) Automated teller machine transactions.

''(4) Other electronic transactions.

''(b) MINIMUM SURVEY REQUIREMENT.—The annual survey described in subsection (a) shall meet the following minimum requirements:

''(1) CHECKING AND OTHER TRANSACTION ACCOUNTS.—Data on checking and transaction accounts shall include, at a minimum, the following:

''(A) Monthly and annual fees and minimum balances to avoid such fees.

''(B) Minimum opening balances.

''(C) Check processing fees.

''(D) Check printing fees.

''(E) Balance inquiry fees.

''(F) Fees imposed for using a teller or other institution employee.

''(G) Stop payment order fees.

''(H) Nonsufficient fund fees.

''(I) Overdraft fees.

''(J) Fees imposed in connection with bounced-check protection and overdraft protection programs.

''(K) Deposit items returned fees.

''(L) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

''(2) NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNTS AND SAVINGS ACCOUNTS.—Data on negotiable order of withdrawal accounts and savings accounts shall include, at a minimum, the following:

''(A) Monthly and annual fees and minimum balances to avoid such fees.

''(B) Minimum opening balances.

''(C) Rate at which interest is paid to consumers.

''(D) Check processing fees for negotiable order of withdrawal accounts.

''(E) Fees imposed for using a teller or other institution employee.

''(F) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

''(3) AUTOMATED TELLER TRANSACTIONS.—Data on automated teller machine transactions shall include, at a minimum, the following:

''(A) Monthly and annual fees.

''(B) Card fees.

''(C) Fees charged to customers for withdrawals, deposits, and balance inquiries through institution-owned machines.

''(D) Fees charged to customers for withdrawals, deposits, and balance inquiries through machines owned by others.

''(E) Fees charged to noncustomers for withdrawals, deposits, and balance inquiries through institution-owned machines.

''(F) Point-of-sale transaction fees.

''(4) OTHER ELECTRONIC TRANSACTIONS.—Data on other electronic transactions shall include, at a minimum, the following:

''(A) Wire transfer fees.

''(B) Fees related to payments made over the Internet or through other electronic means.

''(5) OTHER FEES AND CHARGES.—Data on any other fees and charges that the Board of Governors of the Federal Reserve System determines to be appropriate to meet the purposes of this section.

''(6) FEDERAL RESERVE BOARD AUTHORITY.—The Board of Governors of the Federal Reserve System may cease the collection of information with regard to any particular fee or charge specified in this subsection if the Board makes a determination that, on the basis of changing practices in the financial services industry, the collection of such information is no longer necessary to accomplish the purposes of this section.

''(c) ANNUAL REPORT TO CONGRESS REQUIRED.—

''(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsections (a) and (b) of this section and section 136(b)(1) of the Consumer Credit Protection Act.

''(2) CONTENTS OF THE REPORT.—In addition to the data required to be collected pursuant to subsections (a) and (b), each report prepared pursuant to paragraph (1) shall include a description of any discernible trend, in the Nation as a whole, in a representative sample of the 50 States (selected with due regard for regional differences), and in each consolidated metropolitan statistical area (as defined by the Director of the Office of Management and Budget), in the cost and availability of the retail banking services, including those described in subsections (a) and (b) (including related fees and minimum balances), that delineates differences between institutions on the basis of the type of institution and the size of the institution, between large and small institutions of the same type, and any engagement of the institution in multistate activity.

''(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than June 1, 2007, and not later than June 1 of each subsequent year.

''(d) DEFINITIONS.—For purposes of this section, the term 'insured depository institution' has the meaning given such term in section 3 of the Federal Deposit Insurance Act, and the term 'insured credit union' has the meaning given such term in section 101 of the Federal Credit Union Act.''.

(2) CONFORMING AMENDMENT.—

(A) IN GENERAL.—Paragraph (1) of section 136(b) of the Truth in Lending Act (15 U.S.C. 1646(b)(1)) is amended to read as follows:

''(1) COLLECTION REQUIRED.—The Board shall collect, on a semiannual basis, from a broad sample of financial institutions which offer credit card services, credit card price and availability information including—

''(A) the information required to be disclosed under section 127(c) of this chapter;

''(B) the average total amount of finance charges paid by consumers; and

''(C) the following credit card rates and fees:

''(i) Application fees.

''(ii) Annual percentage rates for cash advances and balance transfers.

''(iii) Maximum annual percentage rate that may be charged when an account is in default.

''(iv) Fees for the use of convenience checks.

''(v) Fees for balance transfers.

''(vi) Fees for foreign currency conversions.''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on January 1, 2006.

(3) REPEAL OF OTHER REPORT PROVISIONS.—Section 1002 of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and section 108 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 are hereby repealed.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended—

(1) in subsection (b)(4) (12 U.S.C. 461(b)(4)), by striking subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(2) in subsection (c)(1)(A) (12 U.S.C. 461(c)(1)(A)), by striking ''subsection (b)(4)(C)'' and inserting ''subsection (b)''.

SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXIBILITY IN SETTING RESERVE REQUIREMENTS.

Section 19(b)(2)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(2)(A)) is amended—

(1) in clause (i), by striking ''the ratio of 3 per centum'' and inserting ''a ratio not greater than 3 percent (and which may be zero)''; and

(2) in clause (ii), by striking ''and not less than 8 per centum,'' and inserting ''(and which may be zero),''.

SEC. 6. TRANSFER OF FEDERAL RESERVE SURPLUSES.

(a) IN GENERAL.—Section 7(b) of the Federal Reserve Act (12 U.S.C. 289(b)) is amended by adding at the end the following new paragraph:

''(4) ADDITIONAL TRANSFERS TO COVER INTEREST PAYMENTS FOR FISCAL YEARS 2005 THROUGH 2009.—

''(A) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to subsection (a)(3), the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, such sums as are necessary to equal the net cost of section 19(b)(12) in each of the fiscal years 2005 through 2009.

''(B) ALLOCATION BY FEDERAL RESERVE BOARD.—Of the total amount required to be paid by the Federal reserve banks under subparagraph (A) for fiscal years 2005 through 2009, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

''(C) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—During fiscal years 2005 through 2009, no Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under subparagraph (A).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 7(a) of the Federal Reserve Act (12 U.S.C. 289(a)) is amended by adding at the end the following new paragraph:

''(3) PAYMENT TO TREASURY.—During fiscal years 2005 through 2009, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the paid-in capital and surplus of the member banks of such bank shall be transferred to the Secretary of the Treasury for deposit in the general fund of the Treasury.''.

SEC. 7. RULES OF CONSTRUCTION.

In the case of an escrow account maintained at a depository institution for the purpose of completing the settlement of a real estate transaction—

(1) the absorption, by the depository institution, of expenses incidental to providing a normal banking service with respect to such escrow account;

(2) the forbearance, by the depository institution, from charging a fee for providing any such banking function; and

(3) any benefit which may accrue to the holder or the beneficiary of such escrow account as a result of an action of the depository institution described in subparagraph (1) or (2) or similar in nature to such action, including any benefits which have been so determined by the appropriate Federal regulator,

shall not be treated as the payment or receipt of interest for purposes of this Act and any provision of Public Law 93–100, the Federal Reserve Act, the Home Owners' Loan Act, or the Federal Deposit Insurance Act relating to the payment of interest on accounts or deposits at depository institutions. No provision of this Act shall be construed so as to require a depository institution that maintains an escrow account in connection

with a real estate transaction to pay interest on such escrow account or to prohibit such institution from paying interest on such escrow account. No provision of this Act shall be construed as preempting the provisions of law of any State dealing with the payment of interest on escrow accounts maintained in connection with real estate transactions.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Mrs. KELLY) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. KELLY).

GENERAL LEAVE

Mrs. KELLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1224, as amended

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. KELLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for the fifth time in three Congresses, we are here to pass legislation to bring our banking system into the 21st century. Five times this House has passed this legislation to help our small businesses, only for it to fall in the other body. We come to the floor once again with a strong hope that the enactment of this bill will finally be enacted into law this Congress.

The Business Checking Freedom Act provides important benefits for our local small businesses and our financial system alike. First, it repeals an outdated law prohibiting banks from paying interest on business checking accounts. In our 21st century economy, no American should be losing the option of making money on their assets simply because they own a small business, yet our small business owners across the country are losing potential interest income on a daily basis until the Business Checking Freedom Act becomes law.

This legislation will allow banks to better meet the needs of their small business customers while providing a necessary phase-in period to protect existing business relationships from a sudden change, and it clarifies the treatment of escrow accounts maintained for the purpose of completing the settlement of real estate transactions, and that is not changed by this bill.

H.R. 1224 also gives the Federal Reserve the opportunity to pay interest on reserves that banks keep within the Federal Reserve system. Consumers and banks will be rewarded for saving and investment by this bill. The Federal Reserve strongly supports this change and a related change on reserve requirements to better enable banks to operate safely and soundly.

H.R. 1224 will once again ensure that banks can best meet the needs of their customers while increasing the safety and soundness of our financial system. I urge all Members to join with me in passing this important bipartisan legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur with the explanation given by the gentlewoman from New York, the major author of the bill. This House has previously passed the bill, and it did not emerge from the Senate. We hope that it does this year.

There were, if you go back 20 years or more, a number of restrictions on what various financial institutions can do. They have been outdated by technology, and passing this bill is one more step towards making sure that our financial institutions can in fact take full advantage of that.

There is one issue that is of some interest to many Members that I want to note. We have in some parts of the country institutions known as ''industrial loan corporations'' that have many of the functions of banks, but, unlike more traditional banks, have many of their assets in nonbanking activities. Hence the name ''industrial loan corporation.''

They have become somewhat controversial. The Federal Reserve system is very much unhappy with them. There have been other concerns about other entities getting into the banking business when they are primarily not banks, but doing this in various ways.

□ 1715

When the Congress passed the bill reorganizing the financial systems and removing a lot of the constraints on various financial institutions known as the Gramm-Leach-Bliley Act, it adopted a test that institutions had to be 85 percent financial in their total to get certain powers.

Working with the gentleman from Ohio (Mr. GILLMOR), I have put that formula into place, or the gentleman from Ohio (Mr. GILLMOR) and I together have, with the concurrence of most of the members of our committee, so that as we expand bank powers, whether it is for branching or, today, for interest on business checking or in other ways, we have maintained that principle that these new powers should only go to institutions that have an 85 percent financial entity.

This does not displace existing industrial loan corporations; indeed, it allows them to continue with whatever powers they get from the States where they are chartered, where they are State chartered, but it does say that as we expand banking powers, that expansion will be limited to institutions which would qualify under the 85–15 test.

That provision is in here, and with that provision and a couple of other minor changes, I think this is a piece of legislation that is very appropriate.

I would note that a question was raised about one aspect of it by people interested in land title. My colleague, the gentleman from North Carolina (Mr. WATT) negotiated, I think, a very reasonable response to their question, and we now have a bill that I hope will pass overwhelmingly.

Mr. Speaker, I reserve the balance of my time.

Mrs. KELLY. Mr. Speaker, I yield myself such time as I may consume.

I simply want to say that this bill is a bill that will encourage savings. It will also encourage the banks to keep more reserves at the Federal Reserve, which is a good thing for bank stability. We have passed this bill, as I said before, five times in the Congress. It is very important, I believe, to the small businesses of this Nation that this bill be passed today and that it get passed appropriately in the Senate.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

Mrs. KELLY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from New York (Mrs. KELLY) that the House suspend the rules and pass the bill, H.R. 1224, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. KELLY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SERVICEMEMBERS HEALTH INSURANCE PROTECTION ACT OF 2005

Mr. BOOZMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2046) to amend the Servicemembers Civil Relief Act to limit premium increases on reinstated health insurance on servicemembers who are released from active military service, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2046

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 ''Servicemembers' Health Insurance Protection Act of 2005''.

SEC. 2. LIMITATION ON PREMIUM INCREASES FOR REINSTATED HEALTH INSURANCE OF SERVICEMEMBERS RELEASED FROM ACTIVE MILITARY SERVICE.

(a) PREMIUM PROTECTION.—Section 704 of the Servicemembers Civil Relief Act (50 U.S.C. App. 594) is amended by adding at the end the following new subsection:

''(e) LIMITATION ON PREMIUM INCREASES.—

''(1) PREMIUM PROTECTION.—The amount of the premium for health insurance coverage that was terminated by a servicemember and required to be reinstated under subsection (a) may not be

increased, for the balance of the period for which coverage would have been continued had the coverage not been terminated, to an amount greater than the amount chargeable for such coverage before the termination.

''(2) INCREASES OF GENERAL APPLICABILITY NOT PRECLUDED.—Paragraph (1) does not prevent an increase in premium to the extent of any general increase in the premiums charged by the carrier of the health care insurance for the same health insurance coverage for persons similarly covered by such insurance during the period between the termination and the reinstatement.''.

(b) TECHNICAL AMENDMENT.—Subsection (b)(3) of such section is amended by striking ''if the'' and inserting ''in a case in which the''.

SEC. 3. PRESERVATION OF EMPLOYER-SPONSORED HEALTH PLAN COVERAGE FOR CERTAIN RESERVE-COMPONENT MEMBERS WHO ACQUIRE TRICARE ELIGIBILITY.

(a) CONTINUATION OF COVERAGE.—Subsection (a)(1) of section 4317 of title 38, United States Code, is amended by inserting after ''by reason of service in the uniformed services,'' the following: ''or such person becomes eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title,''.

(b) REINSTATEMENT OF COVERAGE.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by inserting after ''by reason of service in the uniformed services,'' the following: ''or by reason of the person's having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title,''; and

(B) by inserting ''or eligibility'' before the period at the end of the first sentence; and

(2) by adding at the end the following new paragraph:

''(3) In the case of a person whose coverage under a health plan is terminated by reason of the person having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title but who subsequently does not commence a period of active duty under the order to active duty that established such eligibility because the order is canceled before such active duty commences, the provisions of paragraph (1) relating to any exclusion or waiting period in connection with the reinstatement of coverage under a health plan shall apply to such person's continued employment, upon the termination of such eligibility for medical and dental care under chapter 55 of title 10 that is incident to the cancellation of such order, in the same manner as if the person had become reemployed upon such termination of eligibility.''.

SEC. 4. TECHNICAL CORRECTIONS TO VETERANS BENEFITS IMPROVEMENT ACT OF 2004.

(a) CORRECTIONS.—Section 2101 of title 38, United States Code, as amended by section 401 of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454; 118 Stat. 3614), is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) a new subsection (c) consisting of the text of subsection (c) of such section 2101 as in effect immediately before the enactment of such Act, modified—

(A) in paragraph (1)—

(i) in the first sentence, by striking ''paragraph (1), (2), or (3)'' and inserting ''subparagraph (A), (B), (C), or (D) of paragraph (2)''; and

(ii) in the second sentence, by striking ''the second sentence'' and inserting ''paragraph (3)''; and

(B) in paragraph (2)—

(i) in the first sentence, by striking ''paragraph (1)'' and inserting ''paragraph (2)''; and

(ii) in the second sentence, by striking ''paragraph (2)'' and inserting ''paragraph (3)''; and

(3) in subsection (a)(3), by striking ''subsection (c)'' in the matter preceding subparagraph (A) and inserting ''subsection (d)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of December 10, 2004, as if enacted immediately after the enactment of the Veterans Benefits Improvement Act of 2004 on that date.

SEC. 5. NOTIFICATION TO MEMBER'S SPOUSE OR NEXT OF KIN OF CERTAIN ELECTIONS UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE PROGRAM.

(a) REPEAL.—Subsections (f) and (g) of section 1012 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act, 2005 (Public Law 109–13), and the amendments made by those subsections, are repealed, and sections 1967 and 1970 of title 38, United States Code, shall be applied as if those subsections had not been enacted.

(b) NOTIFICATION REQUIRED.—Section 1967 of title 38, United States Code, is amended by adding at the end the following new subsection:

''(f)(1)(A) Whenever a member who is eligible for insurance under this subchapter executes a life insurance option specified in subparagraph (B), the Secretary concerned shall notify the member's spouse or, if the member is unmarried, the member's next of kin, in writing, of the execution of that option.

''(B) A life insurance option referred to in subparagraph (A) is any of the following:

''(i) An election under subsection (a)(2)(A) not to be insured under this subchapter.

''(ii) An election under subsection (a)(3)(B) for insurance of the member in an amount that is less than the maximum amount provided under subsection (a)(3)(A)(i).

''(iii) An application under subsection (c) for insurance coverage under this subchapter or for a change in the amount of such insurance coverage.

''(iv) In the case of a married member, a designation under section 1970(a) of this title of any person other than the spouse or a child of the member as the beneficiary of the member for any amount of insurance under this subchapter.

''(2) Whenever an unmarried member who is eligible for insurance under this subchapter marries, the Secretary concerned shall notify the member's spouse in writing as to whether the member is insured under this subchapter. In the case of a member who is so insured, the Secretary shall include with such notification—

''(A) if the member has made an election described in paragraph (1)(B)(ii), notice that the amount of such insurance is less than the maximum amount provided under subsection (a)(3)(A)(i); and

''(B) if the member has designated a beneficiary other than the spouse or a child of the member for any amount of such insurance, notice that such a designation has been made.

''(3)(A) Notification of a spouse under paragraph (1) or (2), or of any other person under paragraph (1), for purposes of this subsection shall consist of a good faith effort to provide information to the spouse or other person at the last address of the spouse or other person known to the Secretary concerned.

''(B) Failure to provide such notification, or to provide such notification in a timely manner, does not affect the validity of any life insurance option referred to in paragraph (1)(B).''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arkansas (Mr. BOOZMAN) and the gentlewoman from South Dakota (Ms. HERSETH) each will control 20 minutes.

The Chair recognizes the gentleman from Arkansas (Mr. BOOZMAN).

Mr. BOOZMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2046, as amended, the Servicemembers' Health Insurance Protection Act of 2005, provides several improvements to the Servicemembers' Civil Relief Act and the Uniformed Services Employment and Reemployment Rights Act.

Mr. Speaker, this is a bipartisan bill and was passed by unanimous consent in both the Subcommittee on Economic Opportunity and the full Committee on Veterans Affairs. I am delighted to bring this important piece of legislation before the House.

The bill has several components. Section 2 of the bill would amend section 704 of the Servicemembers Civil Relief Act, otherwise known as the SCRA, to limit premium increases on reinstated health insurance coverage of servicemembers who are released from active duty. Section 704 provides that a servicemember who is ordered to active duty is entitled, upon release, to reinstatement of any health insurance in effect on the day before actually beginning active duty.

This amendment would prohibit any increase in individual health insurance premiums from the period of time for which coverage would have been continued, had the coverage not been terminated due to military service. However, a health care insurance carrier would be allowed to increase the servicemember's premium if the general premium increase was implemented for all persons similarly covered during the period between the termination and the reinstatement.

Section 704 of the SCRA currently contains no express provision regarding premium increases. This amendment to the SCRA would ensure that servicemembers are treated fairly upon reinstatement of their health insurance and are not discouraged by premium increases from exercising their reinstatement entitlement rights.

Section 3 of the bill would amend section 4317 of the Uniformed Services Employment and Reemployment Rights Act, better known as USERRA, to preserve employer-sponsored health plan reinstatement rights for certain Reservists who, prior to entering active duty, acquire TRICARE coverage under Title X. This TRICARE option only became available by an amendment to the TRICARE authority enacted in the National Defense Authorization Act for fiscal year 2004 on November 24, 2003.

Under existing law, an employer is only required to provide employees returning from active duty with the same employer-sponsored health benefits they had when they reported for active duty. Unless the employer voluntarily chooses to allow immediate reinstatement of coverage, an employee would be required to wait for the next open enrollment opportunity provided by the employer.

Section 3 would confirm the health insurance reinstatement rights under USERRA to the change in TRICARE. This amendment to section 4317 of USERRA would protect both employees who did not actually report because

of cancellation of active duty orders and employees who served a period of active duty.

Section 4 of the bill would make a technical correction to the Public Law 108–454 regarding the VA's adaptive housing grant program.

Finally, section 5 of the bill would make a correction to the servicemembers' group life insurance provisions of H.R. 1268 regarding spousal notification for servicemembers' elections of coverage and designation of beneficiaries.

Mr. Speaker, I reserve the balance of my time.

Ms. HERSETH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 2046, as amended, the Servicemembers' Health Insurance Protection Act of 2005.

I would like to thank the gentleman from Indiana (Chairman BUYER) and the gentleman from Illinois (Ranking Member EVANS) for their leadership on the full committee and for their good work in shepherding this bill to the floor today. I would also like to personally thank the gentleman from Arkansas (Chairman BOOZMAN) of the Subcommittee on Economic Opportunity for his steady bipartisan leadership on the subcommittee.

Mr. Speaker, I support this legislation and am an original cosponsor of the bill. This legislation is aimed at improving the quality of life of our servicemembers, veterans, and military families. It is very important for the increasingly activated National Guard and Reserve components, our citizen-soldiers who leave behind their families, employment, and comforts of home to defend this Nation.

The State of South Dakota has had and continues to have National Guard units activated and serving in the Middle East. This legislation will protect them and their families as they return home to civilian life and seek to reinstate their private or employer-sponsored health insurance coverage.

Mr. Speaker, this legislation also includes two corrective provisions, as the gentleman from Arkansas (Chairman BOOZMAN) described, which amend and improve the administration of the disabled veteran adaptive housing grant program and the servicemembers' group life insurance program respectively. I am pleased we were able to include these important corrective measures.

Mr. Speaker, the servicemembers, military families and veterans of this Nation have earned and deserve our best efforts here in Congress. Indeed, they deserve so much more. I am proud to support this legislation, and I am confident it will benefit the veterans of my home State of South Dakota, as well as the other veterans across the country.

I fully support H.R. 2046, as amended, and urge my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. BOOZMAN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to thank our Committee on Veterans' Affairs Chairman, the gentleman from Indiana (Chairman BUYER), as well as the gentleman from California (Mr. FILNER), the Ranking Member, the gentleman from Illinois (Mr. EVANS), and the subcommittee chairman, the gentleman from Arkansas (Mr. BOOZMAN) for giving Congress the opportunity to vote on the Servicemembers' Health Insurance Protection Act.

Today, when a man or a woman makes a decision to serve their country through the Armed Forces, most have to give up their employer-sponsored health care. Although TRICARE insures these enlistees, in the eyes of their health care providers, they are technically without coverage until they return, and then they are subject to unfair premium increases as a ''new employee.'' America asks these young men and women to fight for our country, then we allow their insurance costs to increase when they return. How, many would ask, is this at all fair?

The bill that we have before us, H.R. 2046, specifies that when a person enlists in the military, they will return to the same low-cost, employer-sponsored health insurance that they had before their absence. This commonsense legislation enjoyed unanimous support from Committee on Veterans' Affairs members, is supported by the Department of Defense, Department of Labor, and veterans' groups around the country.

I look forward to voting in favor of H.R. 2046 and I encourage my colleagues to do the same. Certainly those members of the military, whether it is active or the Reserve, when we have so many people serving today in the war on terrorism, they deserve to have this kind of legislation passed so that they can come back home and again provide the kind of health care insurance that their family needs.

Ms. HERSETH. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS), the ranking member of the Committee on Veterans' Affairs.

Mr. EVANS. Mr. Speaker, I rise in strong support of H.R. 2046, as amended. I would like to thank the gentleman from Indiana (Chairman BUYER) and the chairman and ranking member of the Subcommittee on Economic Opportunities, the gentleman from Arkansas (Mr. BOOZMAN) and the gentlewoman from South Dakota (Ms. HERSETH) for their hard work in bringing this legislation to the floor today.

Mr. Speaker, this has been a bipartisan effort. Let us keep it that way and get the job done for the veterans who deserve our help through the difficult times that they are facing. They face danger every day, and I am proud to represent them here in the United States House of Representatives. It is our responsibility to provide them the necessary benefits and protections as they serve this Nation.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. BOOZMAN. Mr. Speaker, I reserve the balance of my time.

Ms. HERSETH. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I thank the gentleman from Arkansas (Chairman BOOZMAN) for his great work on this very necessary item.

I too rise today in support of the Servicemembers' Health Insurance Protection Act of 2005, a bill that we have heard will assure the men and women in active service that their private health insurance premiums will not be increased, nor will reinstatement be delayed when they return from Iraq or Afghanistan. The last thing these servicemembers need while they are at war is to worry about the details of their life after service, and health insurance, of course, being one of the most important.

H.R. 2046 will ensure a smooth transition from health care under the military to health care in civilian life.

□ 1730

This bill has support from the veterans service organizations around the country, as well as our Department of Defense.

I think, as we have heard, in addition to the primary purpose of the bill, a technical change is included which will help many disabled veterans to use what is called their adaptive housing grant prior to their discharge from the military. This will expedite their release from hospitalization because they will not have to wait for changes to be made to their homes to accommodate their disability. This provision was inadvertently omitted when changes were made in 2004 in the Veterans Benefit Act, and I am glad that we are fixing this problem today.

Congress must do everything it can to recognize and reward our brave men and women fighting today. Many are serving longer than they expected. Many are in danger each and every day.

They serve with pride and with dignity. Let us honor their service by passing this legislation to treat them with the respect that they deserve.

Mr. BOOZMAN. Mr. Speaker, I reserve the balance of my time.

Ms. HERSETH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no further requests for time. I would just like to reiterate my appreciation for the leadership of the full committee, the gentleman from Arkansas (Chairman BOOZMAN), and his leadership on the subcommittee, of course the efforts of committee staff and all of their hard work in advancing this important legislation, as well as those that were in hearings with the chairman and me and other members of the subcommittee, those from the Department

of Labor, the Department of Defense, the Department of Veterans Affairs, as well as many veterans organizations serving as advocates for veterans and their families across the country and servicemembers as they return.

Mr. Speaker, I yield back the balance of my time.

Mr. BOOZMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Indiana (Chairman BUYER); the gentleman from Illinois (Mr. EVANS), our full committee ranking member; and the gentlewoman from South Dakota (Ms. HERSETH), the Economic Opportunities Subcommittee ranking member, for their leadership and hard work on this bill. And, again, as was noted, I especially want to thank the staff.

Once again, this is a bipartisan bill, and I urge all Members to support the Servicemembers Health Insurance Protection Act of 2005.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to support H.R. 2046, the Servicemembers Health Insurance Protection Act of 2005. This legislation offered by the Chairman of the Veterans Affairs Committee Mr. BUYER, would limit premium increases on health insurance for reservists who return to their civilian jobs after serving on active duty and ensure that reservists whose activation is cancelled before they report for duty can reinstate their health care coverage. It also would allow disabled service members to qualify for a housing grant provided by the Department of Veterans Affairs before being discharged from active duty. I support these provisions of the legislation because they protect the rights the men and women of our Armed Forces when they are on duty.

While I do support the provisions of this legislation, I do have concerns about the possible adverse impact on private insurance carriers. I strongly believe it is the responsibility of the Federal government to provide for the healthcare needs of our veterans. Private insurance should not carry the entire national burden of health care for military personnel. I hope that as the agenda of the Veterans Affairs Committee continues to unfold, further legislation will be introduced to provide healthcare for our veterans through the Federal government. We made a promise to our men and women in the Armed Forces that we would take care of them when they were no longer on active duty and we as a Government would be negligent if we did not keep our promise.

Mr. BISHOP of New York. Mr. Speaker, I proudly rise today as a cosponsor and in support of H.R. 2046, the Servicemembers' Health Insurance Protection Act of 2005.

As our brave men and women continue to put their lives on the line for our Nation, we owe each of them the health care coverage they were promised and make it easier for their families to manage the transition to active duty and back to civilian life.

Reservists, who fulfill a critical mission in supplementing our fighting forces, should be treated equally and feel as safe as their active duty counterparts in that their employer provided insurance will still be available upon termination of federal benefits. But for too many reservists, this is not the case.

The Servicemembers' Civil Relief Act was passed, in part, to guarantee reinstatement of employer-provided health care following separation from active duty. However, an unintended consequence of that law allowed insurance companies to unfairly single out reservists by inflating their premiums once they returned to civilian life.

Mr. Speaker, I am pleased that we are working to correct this problem by offering this bill as a remedy by protecting our brave reservists from inflated insurance premiums and giving them a helping hand as they return to civilian life.

Mr. REYES. Mr. Speaker, I rise today in support of H.R. 2046, the Servicemembers Health Insurance Protection (SHIP) Act of 2005, and to voice my strong commitment and appreciation to our nation's servicemembers and veterans as we head into the Memorial Day weekend.

On May 11, 2005, my colleagues and I on the House Veterans Affairs Committee considered H.R. 2046. This important legislation would assist in providing a seamless transition for our Reservists and Guardsmen by curbing health insurance premium increases and preserving employer-sponsored health care coverage. I voted for this legislation because our servicemembers deserve better protections and improved quality of life.

I would also like to take this time to thank our past and current members of the U.S. Armed Forces for their selfless service to our country. We owe each of them a great deal of respect and appreciation, especially those who have made the ultimate sacrifice for our nation. While many of us will be fortunate enough to be surrounded by loved ones this Memorial Day weekend, I encourage all Americans to take this special time to reflect on the sacrifice of those who died while serving their country and to pray for our troops currently in harm's way.

Mr. Speaker, I urge my colleagues in Congress to continue caring for our servicemembers by ensuring passage of H.R. 2046.

Mr. CARDIN. Mr. Speaker, as our soldiers face a time of war and strife across the globe, we must be mindful not only of the risks that they face in combat, but also the barriers that they face to planning a secure future here at home after the battle is done.

There are currently about 180,000 Americans serving in Iraq, and another 18,000 in and around Afghanistan. It is estimated that there are 1,652 Maryland national guard and reservists serving in combat today.

This bill is important, because it shows our commitment to the future of our troops, to the future of their families. Today soldiers do not pay taxes on their combat pay, as our way of saying that they are paying more than their fair share in the gift of service they bestow on their country. This is only right, and we owe our soldiers our gratitude. But we also owe them the gift of a future, and this bill allows soldiers to plan for that future even as they are protecting ours.

This bill gives soldiers the opportunity to save for their retirement by including combat zone pay as earned income in calculating the tax deduction for contributions to retirement savings plans.

I think we should go further. In my bill, the Pension Preservation and Savings Expansion Act, I included a provision that allows National Guard members and military reservists called up on active duty to continue contributing to their workplace retirement plans where their employers pay them their salary differential during their active duty service. This important provision should also be brought to the floor for a vote.

We have an obligation to ensure that our soldiers have a secure present and a secure future, and this bill takes one important step in that direction. I urge a "yes" vote on the Heroes Earned Retirement Opportunities Act.

Mr. BOOZMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. BOOZMAN) that the House suspend the rules and pass the bill, H.R. 2046, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOOZMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2046, as amended.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a), rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 o'clock and 32 minutes p.m.) the House stood in recess until approximately 6:30 p.m.

□ 1831

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DUNCAN) at 6 o'clock and 31 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2419, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

Mr. LINCOLN DIAZ-BALART of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 109–94) on the resolution (H. Res. 291) providing for consideration of the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 744, by the yeas and nays;

H.R. 29, by the yeas and nays;

H. Con. Res. 149, by the yeas and nays.

The first and third electronic votes will be conducted as 15-minute votes. The second vote in this series will be a 5-minute vote.

The vote on the motion to suspend the rules and pass H.R. 1224 will be taken tomorrow.

INTERNET SPYWARE (I-SPY) PREVENTION ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 744, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 744, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 395, nays 1, not voting 37, as follows:

[Roll No. 200]

YEAS—395

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—1

Paul

NOT VOTING—37

Barrett (SC)
Becerra
Brown (OH)
Burton (IN)
Buyer
Clay
Cubin
Davis (AL)
Delahunt
English (PA)
Fattah
Ferguson
Gallegly
Gibbons
Gohmert
Hastings (WA)
Istook
Kennedy (RI)
Kingston
LaTourette
Lynch
McCrery
Meeks (NY)
Millender-McDonald
Miller (MI)
Moore (KS)
Poe
Pryce (OH)
Rush
Sanchez, Loretta
Sessions
Shaw
Shays
Shimkus
Stark
Velázquez
Young (AK)

□ 1854

Mr. CONYERS and Mr. TIERNEY changed their vote from ''nay'' to ''yea.''

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SECURELY PROTECT YOURSELF AGAINST CYBER TRESPASS ACT

The SPEAKER pro tempore (Mr. DUNCAN). The pending business is the question of suspending the rules and passing the bill, H.R. 29, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 29, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 393, nays 4, not voting 36, as follows:

[Roll No. 201]

YEAS—393

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva

Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (FL)

NAYS—4

Jackson-Lee (TX)
Lofgren, Zoe
Paul
Wu

NOT VOTING—36

Barrett (SC)
Becerra
Brown (OH)
Burton (IN)
Buyer
Clay
Cubin
Davis (AL)
Delahunt
English (PA)
Fattah
Ferguson
Gallegly
Gibbons
Gohmert
Hastings (WA)
Istook
Kennedy (RI)
Kingston
LaTourette
Lynch
McCrery
Meeks (NY)
Millender-McDonald
Miller (MI)
Poe
Pryce (OH)
Rush
Sanchez, Loretta
Sessions
Shaw
Shays
Shimkus
Stark
Velázquez
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DUNCAN) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1903

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECOGNIZING 57TH ANNIVERSARY OF INDEPENDENCE OF STATE OF ISRAEL

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 149, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 149, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 397, nays 0, not voting 36, as follows:

[Roll No. 202]

YEAS—397

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—36

Barrett (SC)
Becerra
Brown (OH)
Burton (IN)
Buyer
Clay
Cubin
Davis (AL)
Delahunt
English (PA)
Fattah
Ferguson
Gallegly
Gibbons
Gohmert
Hastings (WA)
Istook
Kennedy (RI)

Kingston	Miller (MI)	Shays
LaTourette	Poe	Shimkus
Lynch	Pryce (OH)	Stark
McCrery	Rush	Velázquez
Meeks (NY)	Sanchez, Loretta	Young (AK)
Millender-McDonald	Sessions	
	Shaw	

□ 1920

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GIBBONS. Mr. Speaker, I rise today to explain how I would have voted on May 23, 2005 during rollcall vote No. 200, No. 201, and No. 202 during the first session of the 109th Congress. The first vote was on H.R. 744—the Internet Spyware (I–SPY) Prevention Act of 2005, the second vote was on H.R. 29—Securely Protect Yourself Against Cyber Trespass Act, and the last vote was on H. Con. Res. 149—Recognizing the 57th Anniversary of the independence of the State of Israel.

I respectfully request that it be entered into the CONGRESSIONAL RECORD that if present, I would have voted "yes" on the rollcall votes.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, I was regrettably delayed in my return to Washington, DC from an official visit to Venezuela for meetings with various officials and therefore unable to be on the House Floor for rollcall votes 200, 201, and 202. Had I been here I would have voted "yea" for rollcall vote 200, "yea" for rollcall vote 201, and "yea" for rollcall vote 202.

REPORT ON H.R. 2528, MILITARY QUALITY OF LIFE AND VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATION ACT, 2006

Mr. WALSH, from the Committee on Appropriations, submitted a privileged report (Rept. No. 109–95) on the bill (H.R. 2528) making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. WESTMORELAND). Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF H.R. 810, STEM CELL RESEARCH ENHANCEMENT ACT OF 2005

Mr. BISHOP of Utah. Mr. Speaker, I ask unanimous consent that it shall be in order at any time without intervention of any point of order to consider in the House H.R. 810. The bill shall be considered as read; the previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) three hours of debate on the bill, equally divided and controlled by the chairman of the Committee on Energy and Commerce and the gentlewoman from Colorado (Ms. DEGETTE) or their designees; (2) one motion to recommit; and during consideration of H.R. 810, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

ECONOMIC GROWTH IN TENNESSEE

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, you know last year this body passed the 2004 Jobs and Growth Act, and this restored sales tax deductibility to our State.

Mr. Speaker, I wanted to rise tonight just to give an update on the good work this is doing in the State of Tennessee. We have a $272 million boost in our State revenues. Now, we are one of those States that does not have a State income tax. We have a State sales tax, and restoring that deductibility that the Republican leadership pushed forward in this House has paid dividends for the State of Tennessee.

It is like a lot of the other economic news that we are hearing: 274,000 new jobs that were created in the month of April; employment ranks grew by 598,000 jobs this last month, pushing it to over 141 million Americans who are working. These are the right decisions, the right steps to promote positive economic growth in our great Nation, and I thank the leadership for their work on that issue.

DEFENSE AUTHORIZATION AMENDMENTS TO STRENGTHEN CLEANUP OF BRAC SITES

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Mr. Speaker, one reason there is so much opposition to the BRAC base closing process is that people do not know what they are going to get stuck with when their base closes. Seventeen bases from the 1988 round are still contaminated and have not been transferred back to the benefit of local communities. Over 140,000 acres on closed or realigned bases have not been cleaned up.

I am offering an amendment to the defense authorization legislation tomorrow that would delay the implementation of the 2005 Base Realignment and Closure round until the Secretary of Defense submits a strategy including an estimate of the amount of funds necessary to complete unexploded ordinance clean up and environmental remediation of the bases closed during the 1988 round. Not trying to stop the BRAC, just getting plans in place that are 17 years overdue.

At a time when we are asking communities to bear the trauma of the BRAC process, it is unacceptable that we have not finished cleaning up the first round.

TRIBUTE TO DR. LUIS GLASER

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to pay special tribute to an outstanding citizen from my south Florida community, Dr. Luis Glaser. For the past 19 years, Dr. Glaser has served as provost for the University of Miami. He has been one of the university's most dynamic and energetic leaders.

As a recent graduate of the University of Miami, I am proud to have experienced firsthand his exceptional leadership.

As a Jewish refugee who fled his native Austria at the dawn of the Holocaust, Dr. Glaser understands the experience of refugees of so many countries who have made the University of Miami the international academic center that it is.

His sensitivity and his insight have allowed him to fully engage in the academic life of the university and to maintain direct personal contact with its students.

I ask my colleagues to join me in thanking Dr. Luis Glaser for his wonderful service, as well as to his great wife, Ruth, for their unparalleled commitment to our south Florida community and to the University of Miami community. Go Canes. Thank you, Louie.

ALLOW STEM CELL RESEARCH

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, yesterday I met with a group of folks who are urging the House to allow commonsense, reasonable stem cell, embryonic stem cell research to continue. I talked to Dr. Charles Murray of the University of Washington Cardiovascular Regenerative Biology Center, who told us that this research some day could repair damaged hearts.

I talked to Dr. Tony Blau, a hematologist at the University of Washington, who said that they had to put some research on the shelf because of these restrictive rules that President

Bush's administration has placed on this research.

I talked to Dr. Connie Davis, who works with kidney and liver transplantees, who told us about the potential that this research could bring for the health of citizens, who said, why can people not make their own decisions? When you donate a kidney or you donate embryonic cells, she said, it should be the same thing.

We should pass, tomorrow, a commonsense measure that removes these restrictions that put handcuffs on our researchers right now where we are falling behind the rest of the country. Folks who have diabetes and Parkinson's know what is at stake tomorrow. Let us pass the bill.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

(Mr. GUTKNECHT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

OPPOSITION TO CAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I rise tonight, joining with many of my friends on the Democratic side, because I am opposed to CAFTA; and I would like to take just a few minutes to explain why I am opposed to CAFTA, the Central American Free Trade Agreement; and I like to quote from a gentleman I have great respect for, particularly when it comes to protecting American jobs, Pat Buchanan.

□ 1930

The title of his article is called ''CAFTA: Last Nail In The Coffin?'' And I will read a few paragraphs from the article. He says, ''As I write, the Department of Commerce has just released trade deficit numbers for February of 2005. Again, the monthly trade deficit set a record of $61 billion. In January-February 2005, the annual U.S. trade deficit was running $100 billion above the all-time record of $617 billion in 2004.''

Let me go read a little bit more from his article. ''Between 1993 and 2004, the United States trade deficit with Beijing, China, grew 700 percent to $162 billion. Since NAFTA which passed a few years ago, the U.S. trade surplus with Mexico has vanished and the annual trade deficit is now running above $50 billion that we owe Mexico. One-and-a-half million illegal aliens are caught each year crossing our borders and 500,000 make it in to take up residence and enjoy all the social programs generous but over-taxed Americans cannot afford to pay.

''The highest per capita income in Central America is $9,000 a year in Costa Rica, which is less than the U.S. minimum wage, but CAFTA will enable agribusiness and transnational companies to set up shop in Central America to dump into the United States and drive our last family farmers out of business and kill our last manufacturing jobs in textiles and apparel.''

Mr. Speaker, I also want to read just a paragraph from a letter I received recently that was not signed. It is a full page and a half. I will read one paragraph. I intend to come to the floor day after day after day to talk about this issue.

He says, ''Dear Congressman JONES: It is my understanding that you share my deep concern that our country is losing its industrial base. We are losing the vital jobs that are so important to support our economy and ultimately preserve the excellent standard of living that prior generations passed on to us. My view is that leaders in government and business are doing an inadequate job of protecting America's industrial base.''

There is no question about that, Mr. Speaker. The gentleman that wrote this letter knows because he is a subcontractor.

Mr. Speaker, I want to show in my great State of North Carolina, which I am very proud to be one of 13 representatives, that since NAFTA we have lost over 200,000 manufacturing jobs. The United States itself, since NAFTA, has lost 2.5 million manufacturing jobs.

Mr. Speaker, this first chart shows you Pillowtex, which happens to be in the district of my dear friend, the gentleman from North Carolina's (Mr. HAYES), in July 31 of 2003. It says, ''Pillowtex Goes Bust, Erasing 6,450 Jobs.'' The subtitle says, ''5 North Carolina plants closing in largest single job loss in State's history.''

Mr. Speaker, we need to get serious about what is happening to the manufacturing jobs in America, and I am very disappointed that this administration does not seem to get it.

I will also say that 2 weeks ago in my home county of Wilson County, which I share with the gentleman from North Carolina (Mr. BUTTERFIELD), it says, ''VF Jeanswear Closes Plant, Last 445 Jobs Gone By Next Summer.'' It further states in the article that operations performed in Wilson, which include fabric cutting and finishing garments, will be moved to Central America.

Mr. Speaker, I hope that we in a bipartisan way can defeat CAFTA, and I will do everything I can to help my friends, Republican and Democrat, to defeat CAFTA because it is about time that we care about the American workers.

Mr. Speaker, I ask God to please bless our men and women in uniform and their families.

CHEMICAL SECURITY

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, in 2003 the U.S. General Accounting Office released a report that was done at the request of myself and the gentleman from Michigan (Mr. DINGELL) and, I believe, other Members of Congress that found with regard to terrorist threats that no Federal agency has assessed the extent of security preparedness at chemical plants and that no Federal requirements are in place to require chemical plants to assess their vulnerabilities and take steps to reduce them.

I wanted to talk briefly tonight about this issue of the need for security at chemical plants. I was very pleased to note yesterday in the New York Times the lead editorial addressed this issue. I wanted to read from some sections of that editorial and comment on it.

In one part of the New York Times editorial yesterday it says, ''There is no way to guarantee that terrorists will not successfully attack a chemical facility, but it would be grossly negligent not to take defensive measures. The question Americans should be asking themselves, says Rick Hind, Legislative Director of the Greenpeace Toxics Campaign, is, 'If you fast-forward to a disaster, what would you want to have done?' ''

And this is what the New York Times and what Greenpeace say should be some of the priorities:

''First, tighter plant security. There should be tough Federal standards for perimeter fencing. Concrete blockades, armed guards and other forms of security at all of the 15,000 facilities that use deadly chemicals.

''Second, use of safer chemicals. Refineries, when practical, should adopt processes that do not use hydrofluoric acid, the chemical that is now putting New Orleans at risk. Some plants that once used chlorine, such as the Blue Plains wastewater treatment plant in Washington, D.C., have switched to safer alternatives.

''Third, reducing quantities of dangerous chemicals. An important reason that chemical facilities make such tempting targets for terrorists is the enormous quantity of chemicals they

have on hand. The industry should be encouraged and in some cases required to store and transport dangerous chemicals in smaller quantities.

''Fourth, limiting chemical facilities in highly populated areas. Many chemical facilities were built long before terrorism was a concern and when fewer people lived in their surrounding areas. There should be a national initiative to move dangerous chemical facilities, where practical, to lower population areas.

''Fifth, government oversight of chemical safety. The chemical industry wants to police itself through voluntary programs, but the risks are too great to leave chemical security in private hands. Facilities that use dangerous chemicals should be required to identify their vulnerabilities to the Environmental Protection Agency and the Department of Homeland Security and to meet Federal safety standards.''

Now, those are the five points that were are mentioned by the New York Times yesterday in their editorial, and also by Greenpeace. But I wanted to say, Mr. Speaker, that more than 3 years have passed since 9/11 and Congress has yet to seriously address the need to secure our Nation's chemical plants. We are finally seeing some movement in the Senate, but not yet in the House. And it is time to take serious action to reduce the threat of an attack on a chemical facility which would endanger millions of lives.

Last month I reintroduced the Chemical Security Act, H.R. 2237, which requires the EPA and the Department of Homeland Security to work together to identify high-priority chemical facilities. Once identified, these facilities would be required to assess vulnerabilities and hazards and then development and implement a plan to improve security and use safer technologies within 18 months. Senator CORZINE has introduced this bill in the Senate.

Now, since the legislation was first introduced in the House in 2002, I have tried to get the Republican leadership to conduct a congressional hearing on chemical security. And I welcomed the announcement last week on the House floor during the discussion or debate on the Homeland Security bill, there was an announcement that the House Select Committee on Homeland Security chairman, the gentleman from California (Mr. COX) said his committee would hold a hearing or start a series of hearings on chemical security beginning June 14.

I would also like to see my own committee, the House Committee on Energy and Commerce, which has jurisdiction over chemical facilities, to follow the gentleman from California's (Mr. COX) lead and schedule hearings or begin to have hearings this summer.

Hopefully, we will see some positive signs, some movement in the House, at least to have hearings on the issue, but it really is a very important issue, not only for New Jersey, my home State, but throughout the country. I am also pleased that the New York Times has pointed this out.

Greenpeace, of course, has talked about a number of initiatives even beyond the ones that were mentioned in the New York Times, and I plan to spend some time over the next few weeks talking to Greenpeace about whether additional legislation is necessary to address some of their concerns.

HOLES IN NATIONAL GUARD BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, last weekend I traveled back to Oregon, as I frequently do, and participated in an Armed Forces Day parade in Cottage Grove, Oregon. The particular focus this year was the return from Iraq of the 2162nd, a National Guard unit which is based in Cottage Grove, in the last 60 days. There was a good turnout among members of the community.

Of course, we are looking forward next week to Memorial Day, which will be a sober event, as we will honor some of those who have recently lost their lives in service to our Nation.

But one thing stands out in both of these celebrations and that is that there is tremendous support for our troops in uniform, but that support somehow is not getting translated in many ways into policy here in Washington, D.C., in the budgets proposed by the President that relate to offset of benefits for disabled veterans, a disabled veterans tax, that relate to other services for veterans or equity in benefits for the National Guard.

Today, as I got to the plane, I saw an article ''Dental Problems Stymie Guard Call-ups.'' This particular article was about the National Guard in Washington State where 30 percent of the 4,500 called up were ineligible for active duty because of dental problems, 20 percent nationally. I do not know the percentage for Oregon; I have not seen it. But when I was meeting with members of the 2162nd, when they were down in Fort Hood prior to their deployment to Iraq, and the gentlewoman from Oregon (Ms. HOOLEY) and I were meeting with them, this one fellow in the front says, I have a problem, Congressman; I would like you to try and help me out here.

He opens up his mouth really wide and he is missing a couple of front teeth. I said, What is going on there? He said, I had two bad teeth. I went to my predeployment physical. They said, You have those bad teeth; we have to take care of them. So they yanked his teeth out and sent him to Fort Hood. But at Fort Hood they said, You are not active duty military. We are not going to take care of your problem. You go to the end of the line and you will be in Iraq before we get around to it.

So he was going to go home to Oregon on his leave before he left to try to get false teeth inserted so he would not spend a year in Iraq with a big gap in his front teeth.

We need equity in benefits and better benefits for our Guard members. We are treating the National Guard indistinguishable from active duty forces, yet they still often suffer in terms of equipment and they definitely suffer in terms of equity of benefits, health coverage for our Guard members before they are activated. All Guard members should receive health benefits during their service in the Guard. That means they will be ready to defend the country at the drop of a hat. They are ready to deploy. But it also is a good way to induce and recognize the service of these people in our National Guard.

This morning when I got to the plane there was another Guard member there from Kingsley Air Force Base who does military police work, on his way to a conference. And he and I got in a little chat and we were talking about the proposed base closure in Portland. Then he said, When are we going to get recognition on our retirement benefits. The fact that Guard members have a set age instead of a set number of years of service, they are discriminated against.

Education benefits, they are discriminated against. Active duty military soldiers serve in Iraq, come back, leave the military, can get education benefits. National Guard soldiers serve in Iraq, come back having finished their contract in their term, want to get education benefits. No. They have to sign up for another term in the Guard.

But the active duty soldier did nothing to earn those benefits.

We need equity in education benefits. We need better health care benefits. We need better pension benefits. We have to begin treating our National Guard members like the essential component they are of the Nation's national defense today.

They are not an afterthought. They are the front line as much as the active duty military. And there can be no more fitting recognition by this House of Representatives coming up to Memorial Day, in the wake of Armed Forces Day, than to deliver on those changes in benefits and those improvements for our Guard soldiers and to better deliver veterans benefits for all of our Nation's veterans so that Lincoln's words do not become a hollow promise.

□ 1945

We will take care of our veterans. We can afford it in the greatest Nation on earth, and we should make good those promises before Memorial Day.

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under a previous order of the House, the gentleman from Florida (Mr. WELDON) is recognized for 5 minutes.

(Mr. WELDON of Florida addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

FOREIGN FELONS BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

Mrs. MCCARTHY. Mr. Speaker, earlier this month the U.S. Supreme Court ruled the law preventing convicted felons from purchasing guns does not apply to individuals convicted of felonies in foreign countries.

In the case of Small v. United States, the ruling stated the law needs to explicitly state that foreign felons are also prohibited from buying firearms. This ruling has opened the doors for dangerous criminals to purchase guns in this country with no questions asked. But the loophole can easily be fixed.

That is why I have introduced H.R. 1931, the Foreign Felons Gun Prohibition Act. My legislation will ensure our gun laws take crimes committed in other countries into consideration before allowing a firearm purchase to go forward.

We cannot allow convicted drug dealers, murderers, rapists and even terrorists to purchase guns just because their crimes were committed in another country.

Mr. Speaker, a convicted drug dealer from South America can purchase all of the guns and ammunition that he wants and can buy in this country legally. This loophole puts the lives of our police officers, ATF officers and innocent bystanders in danger. And as demonstrated in the recent GAO report, it is already too easy for individuals with terrorist ties to buy guns in this country. This loophole will allow someone actually convicted of assisting terrorists overseas to purchase weapons like an AK–47 or a 50 caliber sniper weapon that can shoot down a plane.

I completely understand some felony convictions handed down by foreign courts have legitimacy questions. Convictions can be trumped up for political reasons by corrupt regimes. And nations involved in civil wars or other political disputes may have more than one illegitimate court administering justice. This legislation takes that into consideration.

My bill allows individuals to challenge the legitimacy of foreign felony convictions in our courts. If the foreign felony is found to be out of bounds legally, the individual would be allowed to purchase that gun.

This would do nothing to take away the right of someone to be able to own a gun. I want this bill to ensure that anyone charged with an illegitimate or a politically motivated foreign felony is not discriminated against. This may be inconvenient for some, but we must make sure that gun sales are limited to law-abiding citizens.

Mr. Speaker, we are at war. We cannot allow our enemies in the war on terror to arm themselves within our borders just because of a loophole. This is a homeland security problem with a common-sense solution.

Congress must work to close all of the loopholes in our pre-9/11 gun laws. It is too easy for person with ties to terrorism and criminal organizations to access guns in this Nation. Passing H.R. 1931 will help us win the war on terror and keep our streets safe from gangs and criminal.

We should be working together to make this country as safe as possible, certainly for our police officers, our ATF agents and the innocent bystanders. We can do this, but we must learn to work together. We must change the rhetoric of the gun issue. We are working for gun safety, not taking away the right of someone to own a gun.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado (Ms. DEGETTE) is recognized for 5 minutes.

(Ms. DEGETTE addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. SNYDER) is recognized for 5 minutes.

(Mr. SNYDER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

(Mr. INSLEE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

SUPPORT EMBRYONIC STEM CELL RESEARCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. RAMSTAD) is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, critics of embryonic cell stem research maintain it is wrong to promote science which destroys life in order to save life. As the leading prolife legislator in Washington, Senator ORRIN HATCH put it, ''Since when does life begin in a petri dish in a refrigerator?''

To reduce this issue to an abortion issue is a horrible insult to 100 million Americans suffering the ravages of diabetes, spinal cord paralysis, heart disease, Parkinson's and Alzheimer's disease, multiple sclerosis and Lou Gehrig's disease.

I have met with medical researchers from the University of Minnesota Stem Cell Institute, the National Institutes of Health, the Mayo Clinic, and Johns Hopkins University. As one prominent researcher told me, ''The real irony of the President's policy is that at least 100,000 surplus frozen embryos could be used to produce stem cells for research to save lives. Instead, these surplus embryos are being thrown into the garbage and treated as medical waste.''

Only 22 of the 78 stem cell lines approved by the President in 2001 remain today. This limit on research has stunted progress on finding cures for a number of debilitating and fatal diseases, according to scientists and patient advocacy groups across America.

Mr. Speaker, the scientific evidence is overwhelming that embryonic stem cells have great potential to regenerate specific types of human tissues, offering hope for millions of Americans suffering from debilitating, fatal and cruel diseases.

Mr. Speaker, it is too late for my beloved mother who was totally debilitated by Alzheimer's disease, which led to her death. It is too late for President Reagan who suffered a similar fate. It is too late for my cousin, Joey, who died a cruel death in his 20s from diabetes, but it is not too late for the 100 million other American people counting on this House to support funding for life-saving research on stem cells derived from donated, surplus embryos created through in vitro fertilization.

Let us not turn our backs on these people and take away their hope. Let us listen to respected colleagues and friends like Senator ORRIN HATCH, Senator CONNIE MACK, and former HHS Secretary Tommy Thompson, all prolife people, all who tell us this is not an abortion issue. Let us make it clear that abortion politics should not determine this critical vote. Embryonic stem cell research will prolong life, improve life, and give hope for life to millions of people.

Mr. Speaker, I urge Members to support funding for life-saving and life-enhancing embryonic stem cell research. The American people deserve nothing less.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. CLEAVER) is recognized for 5 minutes.

(Mr. CLEAVER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

STEM CELL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes as the designee of the majority leader.

Mr. BARTLETT of Maryland. Mr. Speaker, we have just heard an impassioned plea to proceed with embryonic stem cell research. Tomorrow we are going to vote on a bill that would expedite embryonic stem cell research. I have here the latest issue of Time magazine. It just arrived in our office, May 23, and the lead article in it says ''Why Bush's Ban Could Be Reversed.'' It is talking about stem cell research.

In view of the interest all across America and in view of the fact that tomorrow we are going to be voting on a bill, I thought it might be well this evening to spend a few minutes putting this debate in context.

What are stem cells? This is a new term to many Americans. Our first chart is a depiction of the development of early embryos and then all of the tissues in the body which develop from this embryo.

The ultimate stem cell here is the zygote itself. The zygote is produced by the union of the egg from the mother and the sperm from the father. A stem cell is a cell which has the capability of differentiating into a number of other cells. Of course, that is the hope of embryonic stem cell research, that we might induce a cell to develop into a tissue, an organ or cells which will be useful in treating diseases.

This is a very abbreviated depiction of the early development of the embryo because it skips the morula stage, and we will come back to that in a few moments because that is the stage where most of the attention is focused now.

This goes from the zygote through the morula and finally, to the blastula and then to the gastrula. Here we see in the gastrula the development of what we call the germ layers. I guess you would say that a cell from each of these three germ layers, a cell from the endoderm, a cell from the mesoderm or a cell from the ectoderm, are all stem cells because they are destined to become a lot of different tissues and organs in the body.

From the ectoderm develops our nervous system and the skin. From the mesoderm develops most of the mass of the body, all of the bones and all of the muscles, the heart, the red blood cells and so forth. And then the endoderm, although widely dispersed in the body represents less mass in the body because it is the lining of the lung and the digestive tract. My chart shows the germ cells, the sperm in the male and the egg in the female.

Now there are cells in all of these that one could say were stem cells. Tissue, and blood is a tissue, the tissue which has the most obvious stem cell that students were taught at least 50 years ago when I first was studying these things, is the stem cell in the bone marrow from which a number of different blood cells develop.

When you are working with adult stem cells, if you want something other than the organs from which this cell could differentiate, then you need to de-differentiate the cell. In other words, you need to convince the cell that it is not exactly what it is as a result of the development process, that it returns to its original undifferentiated, or relatively undifferentiated state, and then it can make other tissues.

The embryonic stem cells philosophically certainly hold the most promise because they are cells from which all of the tissues and organs of the body develop. There is the rationale then that these embryonic stem cells hold the promise of producing anything and everything that might be needed for fighting diseases.

□ 2000

There is enormous theoretical potential from working with stem cells. They are useful in treating diseases that result from tissue or organ deficiencies. We need to differentiate these diseases that result from the action of pathogens. There is a very large list of diseases that theoretically might be treated by stem cell application. Diabetes is one of those. It, by the way, represents the largest cost of all the diseases in this country.

This is probably the one that in my experience is the most heart wrenching because I have seen these little children come to my office. Many times during the day and frequently at night they have to prick their finger, their hand, their ear lobe, something in their body to get a drop of blood, and now we have new instruments that require a pretty small drop of blood, and then this new almost miracle instrumentation analyzes that blood to see what the glucose content is so that they know how to set that pump. Many of them have embedded in their side a little hockey puck size pump that pumps insulin.

This of all the diseases, Mr. Speaker, is the one that perhaps most obviously might lend itself to cure through stem cell research. Giving insulin to a diabetic does not cure the disease. It simply delays the inevitable. The person whether they are young or old will go on to have circulatory problems. They may lose their eyesight. Circulation in their legs may be so bad that their toes become gangrenous and have to be removed. When you see these little children come through your office suffering with this disease, your heart really goes out to them and you want to do everything that you possibly can to make sure that they have every potential for a healthy life. And they will not live so long, they will not live so well as the average person in spite of all the miracles of medicine today because insulin does not cure diabetes.

But if through embryonic or adult, for that matter, if you could do it, stem cell research, if you could develop islet of Langerhan cells, you could then put them anywhere in the body. In our bodies, they reside in the pancreas. I am not sure why because what they do and what the pancreas does are two very different things. The pancreas secretes a large number of enzymes for digestion in the small intestine and the islet of Langerhan cells just happen to be resident there. They could be anywhere. They could be in your tongue, they could be in your toe, they could be in your ear lobe. They could be anywhere as long as there is a blood supply there to pick up the insulin that is made by these islet cells.

There is a long list of diseases: multiple sclerosis, lateral sclerosis, Lou Gehrig's disease. I have personal familiarity with this because my grandmother died of this a number of years ago, and I remember as a little boy standing by her bedside as she deteriorated and finally the only way that she could communicate with us was by blinking her eyes. She could not move anything else. She had no other way to communicate with us.

There is a hope, realizable, who knows, until we conduct the research and do the medical experimentation, but there is a hope that one might develop from stem cells tissues that could be injected into people with multiple sclerosis or lateral sclerosis. Sclerosis, by the way, means a scarring. What happens is that there is a scarring that inhibits the function of these nerves.

Alzheimer's disease, that is frequently mentioned. That is a particularly tragic disease. Although it was not specifically diagnosed in my mother because she had other ailments that were easier to diagnose, she lived to be 92 and I am sure that she had Alzheimer's because she had many of the symptoms. It was really tragic to watch a woman who was very bright and vital lose her ability to remember, lose a sense of proportion, to be calling, Roscoe, Roscoe. I would say, I'm here. She said, oh, you're not Roscoe because my father was Roscoe, Sr. and she was way back 50 years earlier in her memory. There is a hope that stem cell research could help cure diseases like this.

I have here a very large number of autoimmune diseases. There are 63 of them here. I have mentioned a couple of them. Autoimmune diseases are diseases where the body fails to recognize itself, that is, the parts of the body that have to do with recognizing foreign invaders and assimilating them, ejecting them, killing them.

Very early in our embryonic development, we have a very special kind of life cell which we call T cells. Very early in embryonic development, they are imprinted with who you are. There are 6.5 billion of us in the world and these T cells are smart enough to recognize a difference. There may be somebody out there close to you, but nobody out there quite like you; and you try to take their body organ and put it in you, these T cells are going to recognize it as foreign and move to reject it. Sometimes for reasons we do not understand, these immune reactions in the body get confused, and they attack the body itself.

We have a large number. Lupus was probably the first widely recognized of

these diseases. What has happened is that when the body is attacked, the specific tissues of the body are attacked, they degenerate and become not useful. There is some evidence that the body develops an ability to recognize its own; and so the hope is that after this has happened, if you could replace the damaged tissues, that the person gets returned to normal function. There is enormous potential from use of stem cells, whether they are embryonic or adult, to cure many, many diseases.

The argument today is about whether it should be adult stem cells or whether it should be embryonic stem cells. We have been working with adult stem cells, Mr. Speaker, for over 3 decades, and so there have been a fair number of applications to medicine. You will hear the figure 58. We have been working with embryonic stem cells a little over 6 years. There just has not been time to make those applications, but the fact that there are presently no applications to medicine of embryonic stem cell work does not mean that there will not be and it does not mean that those applications might not be more efficacious than adult stem cell applications.

Indeed, if you will talk to the researchers and the experts in this area, they will all tell you to a man and to a woman that the potential for embryonic stem cell application to medicine should be greater than adult stem cell application just because embryonic stem cells, they are called totipotent, they can produce anything and everything that is in the body. The adult stem cells have already been differentiated, at least to some extent; and so they are limited in their potential application.

There is another very interesting potential that I do not hear often discussed of embryonic stem cells. Fifty years ago when I was studying and teaching in this area, there was an experiment where the researcher went into a mother black mouse and took a little patch of skin in the uterus from one of her little black babies and then he took that little patch of skin, and he went into the uterus of a white mouse with her white babies, and he cut a little patch of skin out of the white mouse and put in that little patch of black skin and when the white mouse was born with that patch of black skin, it did not reject it.

This gives the promise, Mr. Speaker, that there may be less rejection of tissues and organs developed from embryonic stem cells than from adult stem cells. I do not know whether this was a host or donor phenomenon. Both were embryos. All we know is that when the black skin was sewed onto the little embryonic mouse that there was no rejection. If you tried to do that after they were born, I do not know if we have determined at precisely what time they lose that ability, it certainly would have been rejected.

The debate that we are going to vote on tomorrow and the debate which was the subject of the Special Order just before I spoke has to do with whether or not we can effect the needed cures in medicine from adult stem cells or whether we need to move to embryonic stem cells to make this happen. Early in this debate, I had a personal involvement which was kind of an interesting one.

In a former life, I got a doctorate in human physiology. I taught medical school. I did medical research. I went out to NIH in 2001, before the President made his executive order. It was an information meeting at NIH where the scientists working in this field were briefing, they were largely staff members from the Hill. I think I was the only Member there. It occurred to me that you ought to be able to take cells from an early embryo without hurting the embryo, because nature has been doing that forever as far as we know. That is what happens in identical twinning.

I would like to look at the next chart. This is two zygotes. This is not identical twinning. I just wanted to contrast this with identical twinning. This is where we have fraternal twins. They are so-called wombmates. They could be two boys, two girls, one of each. They are conceived at the same time. The mother that ordinarily sloughs one ovum a month this month sloughed two ovums and the sperm, and there are a whole lot of those, millions of them, they found both of them and they fertilized both of them and the uterus was receptive so they both were implanted in the uterus. This simply shows how they present at birth, depending upon how they implanted. If they are implanted far apart, they present one way at birth. If they are implanted very close together, they present another way at birth.

The next chart shows twins from monozygotic twins, that is, from a single zygote, from a single egg. This presentation looks very much like the dizygotic, that is from two eggs, dizygotic twins that implanted in the uterus very close together. Knowing that in identical twinning, regardless at what stage it occurs and it can occur all the way from the two-cell stage clear up to the inner cell mass and there are several stages between these two, but no matter where it occurs, the embryo has lost half of its cells and both parts go on to produce a perfectly healthy baby.

So I reasoned that it should be possible to take cells from an early embryo without hurting the early embryo and I asked the researchers at NIH, was that possible. They said, yes, of course that is possible. But with all the embryos out there that could be simply destroyed to get the stem cells, nobody had determined how easy this was to do. But they said that it certainly was doable.

A little bit later, and this was again before the President gave his executive order, I met the President at an event and I told him very briefly that I had met with NIH, and there was this possibility that we could take cells from an early embryo without harming the embryo. He asked Karl Rove to follow up on that. Several days later, Karl Rove called me, Mr. Speaker, and he said, ROSCOE, I went to NIH and I told them what you told the President, and they told me they cannot do that.

I said, Karl, there is some problem here. Either they misunderstood your question or something because these are the same people that go into a single cell and take out the nucleus and put another nucleus in the cell. Of course they can go into a relatively large embryo and take out a cell or two. He went back to talk with them again and called me back and said, they are telling me the same thing. And so the President came out with his executive order which said that Federal funds could be used in research only on the cell lines that had been developed from embryos that had been killed in the process of developing them, that no new cell lines could begin with embryos that had to be killed.

□ 2015

This is only with Federal money, of course. The private sector can do whatever it wishes because there is no law prohibiting the use of embryos. My concern, Mr. Speaker, is that we in Congress ought to be a player in this, and now we are standing on the sidelines.

Mr. Speaker, I see that the gentleman from Georgia (Mr. GINGREY) has joined us, and I yield to the gentleman.

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Maryland for yielding to me. And I think particularly at this point I wanted to interject some thoughts.

First of all, the gentleman from Maryland (Mr. BARTLETT), as he pointed out just a second ago, is a Ph.D. physiologist who taught years ago in medical school and taught physiology but, more importantly, has also taught the subject matter, which is difficult to understand. I know. I was there in medical school. And that is the subject of embryology. Embryology. Medical students get maybe in a 4-year period of time, 6 months' worth of embryology; and of course, to hear my colleague from Maryland explaining the embryologic process, it sort of takes me back to those days.

But I realize, of course, how difficult it is to understand for Members of the body. There are 435 of us, of course, and just a handful have ever taken any embryology. There are no embryologists other than maybe the gentleman from Maryland (Mr. BARTLETT) in the body; so it is not an easy concept to understand.

But what I hear my colleague tell us, Mr. Speaker, is that it is possible to get stem cells from an embryo without destroying the embryo. Is it being done today? No, it is not being done today because, quite honestly, it is easier to

scramble an egg than to do one over easy.

It is a little more difficult. It will take some study. And we are not talking about long, many years, science fiction at all; and the gentleman from Maryland explained it very clearly. We are close. We need a little research, nonhuman primate research, but we are a lot closer to this possibility than a lot of our colleagues and the general public understand.

Mr. Speaker, I want to share with my colleagues, as an OB/GYN physician, there is a procedure that probably has been done for at least 10, 12, maybe 14 years now. There is an acronym; everything has an acronym. It is called ICSI, intracytoplasmic sperm injection.

What do I mean by that? An infertile couple where the problem is male infertility and a low sperm count. A normal sperm count is 60 million. That is a lot. When we get below 1,000, it is very difficult and the chances of a natural conception are markedly diminished at that point.

But with this ICSI technique, they literally can obtain sperm by a biopsy in someone who has just a few sperm, not 1,000, not 60 million, but maybe just a few; and take one sperm from that biopsy and under the proper laboratory techniques, maybe a specialized microscope, take the wife's egg and inject that sperm with a needle, with a very fine needle, under the microscope. Intracytoplasmic sperm injection, and all of a sudden an embryo is created. Life is created. A child is created. And after several days in cell multiplication, as the gentleman from Maryland (Mr. BARTLETT) was explaining, then that is implanted in the mom's uterus, and the miracle of birth can occur for that couple.

We are not talking about a procedure, ICSI, that is being done exclusively at the National Institutes of Health. This is being done right in my community of Marietta, Georgia, by reproductive endocrinologists, those doctors who specialize in infertility and doing those kinds of things; and it has been going on for 10, 12 years now.

So this is an opportunity to come and share this time with my colleague and say that this is not Star Wars. For goodness sake, we put a man on the moon in 1969. There is a way to do this. That is to obtain embryonic stem cells without destroying or indeed even harming the embryo, and that analogy, that explanation of twinning and how the mono-zygotic single egg identical twin that the egg divides at a certain stage; and indeed, they are taking away 50 percent of the cells, and in most instances, if the division is complete, they have two perfectly identical, beautiful children that develop. I know. I have got two precious identical twin granddaughters now who are 7 years old, Mr. Speaker. They were born at 26 weeks, right at that point where it is perfectly legal with very little prescription in our respective States to destroy those lives.

So this is a hugely important thing to me, and I thank my colleague for pointing out the fact that we are not that far away. With a little study, a little funding to be able to develop this technique of obtaining these stem cells, these totipotential cells, as he described, without scrambling the egg and doing it the easy way, the simple way, killing the embryo, which is destruction of life. It is not necessary.

And we are going to be talking, Mr. Speaker, tomorrow in this Chamber about the great successes that we are achieving today with stem cell technology, but not embryonic stem cells. The results there have been pretty dismal. We are talking about the great success, 58 different research endeavors where progress has been made in these various diseases that the gentleman from Maryland (Mr. BARTLETT) described, utilizing either stem cells obtained from umbilical cord blood or from adult stem cells, bone marrow and other tissues.

So this is why it is so important for our colleagues to hear from the gentleman from Maryland (Mr. BARTLETT) and to think about this, to understand exactly what he is saying, because I think it is really on point and very timely.

Mr. BARTLETT of Maryland. Mr. Speaker, I appreciate my colleague's coming and entering into this discussion.

Before leaving this little experience with NIH, I will, Mr. Speaker, submit for the RECORD a letter which I received today from Dr. Battey, who is the spokesman for embryonic stem cell at NIH, and what the letter says is, and I will come back to it in a few moments to read a couple parts from it, that what we are proposing to do is certainly possible; that there is no medical or scientific impediment to doing this. I just wanted to put to bed the suggestion that NIH says what we are doing cannot be done in spite of the fact that that is what Karl Rove thought they said.

In my office just a few months ago, NIH kind of sheepishly admitted that there was some misunderstanding in conversation because they had never said that we could not go into an early embryo and take a cell. What they had said, which is true, which is why I am proposing this research, was that we have never developed a stem cell line from that early an embryo. Ordinarily, we develop a stem cell line from the inner mass cell stage of the embryo. But the earlier we get the stem cell, the more totipotent it ought to be and the more efficacious it ought to be in treating the diseases.

I have here, Mr. Speaker, a little diagram which shows the ontogeny, the development of the embryo. It begins, of course, with the egg that comes from the mother, the oocyte, and then the sperm, and it shows only four or five there. There will be millions there, I assure my colleagues. And there is really a miracle that occurs here because as soon as one of them penetrates that egg, there is a big barrier put up so that there is no other candidate. It would be quite disastrous if two of them penetrated that egg because that would create an embryo which would certainly die.

And then the egg, called a zygote, goes on to develop, and it is two cells. And it may split here to make two babies, by the way, identical twins. And then the four-cell and then the eight-cell stage. It is at the eight-cell stage, and I am jumping a little ahead here, it is at the eight-cell stage in a petri dish.

This is what happens in the body. If this kind of thing happens, they can fertilize it in a petri dish. It is at this eight-cell stage in more than 1,000 times now in clinics. It started in England. It is now in this country. They have gone into the eight-cell stage and taken out one cell. They might get two. And they then do a preimplantation genetic diagnosis on that. In other words, they determine whether or not there are any genetic defects like Down's disease, for instance, in which case they would not want to implant that embryo. They do this for the benefit of their baby because one would not want, if they had a choice, to bring a child into the world that was going to have a less than optimum quality of life because they had a genetic defect.

This is not genetic engineering. Genetic engineering is when they change the genetics. All they are doing here is seeing what genetics are there, and if there is no deficiency in the genetics, they implant the six or seven cells that remain, and more than 1,000 times they have had a normal baby.

All of this happened in the intervening years between 2001 and now. This may have been going on when I talked to the President and when I talked to NIH. I did not know that it was going on, but just a few months ago, this report came out, and now I spent the other day, for a half-hour, probably, talking with two investigators here in Virginia who are doing this.

I just want to spend a couple of moments talking about the debate. The debate is between the use of discarded embryos that the proponents, and that is what the bill is tomorrow, say are going to be thrown away anyhow and why do we not get some good from them by developing stem cell lines from them since they are going to be discarded anyhow?

The argument on the other side is twofold. First of all, it is not certain they are going to be discarded because they can be adopted. What is it? Operation Snowflake where parents can adopt one of these embryos and have them implanted in a mother other than the one from whom the ovum was taken. So it is not certain that they are going to be discarded.

The other challenge to this is that this is a life. In the proper environment, this is a human being. It is an

embryo. Put it in the mother's womb, and it will become a very distinct human being, unlike any other out of the 6.5 billion people in the world. And there are those who feel that it is immoral. The President is among them, and he has said this, that it is immoral to take one life so that we might help another.

The good news is, as the gentleman from Georgia (Mr. GINGREY) said, we do not have to do that because we can take cells from an early embryo without hurting the embryo.

By the way, umbilical cord blood stem cells are not an alternative to embryonic stem cells. Just a little quote here. This is from a scientist at the Johns Hopkins University School of Medicine, one of the best medical schools in the world: ''As a physician-scientist who has done research involving umbilical cord blood stem cells for over 20 years, I am frequently surprised by the thought from nonscientists that cord blood stem cells may provide an alternative to embryonic stem cells for research. This is simply wrong,'' he says.

Do they have a place in treating? Yes, they do. But they are not a substitute for embryonic stem cells, and he makes that very plain.

Opponents of embryonic stem cell research suggested that 58 diseases have been successfully treated using adult stem cells. That is true.

I asked NIH, is that true that we had 58 treatments from adult stem cells and none from embryonic stem cells?

□ 2030

They said yes, that is true. I said, why is that true? That is true because we have had more than 3 decades' experience with adult stem cells, and just a little over 6 years' experience with embryonic stem cells. There simply has not been time. All of the 58 listed, all of them, are represented by organizations that support stem cell research. So what this says is that all of those physicians that are involved with these 58 applications of adult stem cells, all of them support stem cell research.

The argument on the other side is that it is immoral, that we should not take one life to support another life; and in making those claims, they state the following: this kills human embryos. It does. You may not think that is a problem. You may not see this little bit of life that holds the miracle of chromosomes and against that will develop the whole unique individual, not like any other. Out of 6.5 billion in the world, you may not see that as human life, but it clearly is. It kills a human embryo. You may be okay with that, you may not be, but a great number of people are not okay with that.

They argue that H.R. 810, which is the bill we will be voting on tomorrow, is an empty promise because the embryonic stem cells have not treated a single human disease, and that is true. We just gave the reason for it: they have not been worked with long enough to know whether they can treat a disease or not.

H.R. 810 does not have 400,000 discarded embryos to use, that is true; and the statement is made that if you used these 400,000 embryos, you would only get 275 stem cell lines, and that is because only 2.8 percent of them have been donated for research. That gets you down to 11,000, not 400,000. Only 65 percent of those will survive the thawing. They are frozen. This is not an event that is not traumatic. It is very traumatic to the embryos. A third of them do not survive the freezing and rethawing.

Twenty-five percent of those that are still alive after they thaw, only 25 percent will go on through this development stage, through the blastula, gastrula and so forth, so they can be implanted. Then, even if it has gone that far, in one trial only one out of 18 attempts produced a stem cell line, and in another trial only three out of 40 produced a stem cell line. So that now gets you down to about 275.

Yes, we have not developed perfection yet in these techniques; but 275 stem cell lines is more than 10 times more than all the stem cell lines we have now, which, by the way, I think are almost all in this country contaminated with mouse feeder cells.

I see that we have been joined by my colleague from Nebraska. I would be happy to yield to the gentleman from Nebraska (Mr. OSBORNE) for his comments.

Mr. OSBORNE. Mr. Speaker, I thank the gentleman very much and applaud him for his effort. I have been able to listen to most of what was said tonight. Obviously, the gentleman has a tremendous depth of scientific understanding. I do not have that depth, but I would just like to reflect on the dilemma that many Members will be placed in tomorrow as we decide on this particular vote.

As the gentleman has mentioned, those who are in favor of embryonic stem cell research, many of them are people who have children who have juvenile diabetes. There are many who have parents or others with Parkinson's or Alzheimer's and Lou Gehrig's disease and so on. We have heard from these people personally, and our hearts go out to them. We have heard that 400,000 embryos are going to be discarded anyway, and on and on and on.

Yet, on the other side of the argument, as the gentleman has amplified so well, there are some other dilemmas. One thing that is of concern to me is when is a life a life? Obviously, we would not take a 2-year-old and do any harm to that child; we would not experiment on that child. We would not do it to a 1-year-old. Probably, in many cases, most of us would say an 8-month-old fetus would not be appropriate to do some harm to. But where is it that you draw the line? Is it at 6 months? Is it at 4 months? Is it at 1 month? Is it at 1 week?

So therein lies the horns of the dilemma. So many of us are of the persuasion that you really cannot draw that line. When a life is a life is at conception, and therefore you have to respect life. There is a certain sanctity of life.

So, again, the arguments will range wide and far tomorrow. Some will say that embryos can be adopted, and they can. So whether we have 400,000 or 20,000, maybe 1,000, maybe 10,000, maybe 15,000, maybe more than that will be adopted out.

Many will argue that adult stem cells are more productive in research. As the gentleman has pointed out so effectively here, some of that has to do with the length of time of research. There is no question. But there is no question that adequate resources and adult stem cell research will produce results.

There is also the question about private funding. There is no restriction on private funding on embryonic stem cell research. If it is so promising, then why has the private sector not stepped up, because obviously there are huge profits to be made if you have some type of a cure for juvenile diabetes or Alzheimer's or whatever; and yet we do not seem to see that afoot.

Then I guess the last thing that I would mention is that there is the ethical question, should we use public funds in doing research that is so divisive, that has so many people on both sides of the fence? It seems we should have more unanimity in using public funds to do this type of research.

So I applaud the gentleman for the proposed legislation that he has before us, because in this legislation is the prospect of using embryonic stem cells without destroying the embryo. Of course, that removes the dilemma on both sides. So we think that the legislation, even though it is in its early stages, certainly has great promise and is one that we ought to pay very close heed to and one that would certainly be much more appealing to me than the other alternatives at the present time.

Mr. Speaker, I just wanted to come down briefly and let the gentleman from Maryland (Mr. BARTLETT) know I appreciate his efforts. I have read the White House white paper. I understand most of what is in there.

One other thing that is also mentioned is the fact that when these frozen embryos are thawed out, many of them die, as the gentleman mentioned; and some of those apparently will yield stem cells in the early stages.

Anyway, Mr. Speaker, I thank the gentleman again for this legislation.

Mr. BARTLETT of Maryland. Mr. Speaker, reclaiming my time, I thank the gentleman very much.

Mr. Speaker, let me yield to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding, and I thank my friend, the gentleman from Nebraska (Mr. OSBORNE), for being here with us tonight and for his very, very pertinent remarks in regard to where do you draw the line as far as life.

I have heard people on the other side of this argument say, well, we are talking about getting these stem cells, and they are not really embryos, they are pre-embryos.

Maybe our Ph.D. physiologist knows about the definition of pre-embryo, but I never learned that in embryology or any medical school course I took or in my obstetric and gynecology training and my 30 years of experience in the field. An embryo is an embryo. An embryo begins at the moment of conception when that sperm and egg come together. That is the embryonic stage.

Really, an embryo, that stage lasts until the birth of the child. Now, you can differentiate and say at 8 weeks or 10 weeks we start calling it a fetus, but there is no, to my knowledge, definition of a pre-embryo.

I wanted to just kind of follow on the gentleman from Nebraska's remarks. We are hearing a lot now about we have to catch up, Mr. Speaker, that we are behind. The South Koreans have come up with therapeutic cloning and they have cloned an embryo and they are going to get embryonic stem cells from a cloned embryo, and we are getting further and further behind.

The thing that the American public maybe does not understand is that when they are asked the question, are you for embryonic stem cell research that can cure some of these dreaded diseases, my colleagues have talked about, naturally the response is going to be, oh, yes. And use Federal funding for that? Sure. We are going to cure juvenile type I diabetes, and Christopher Reeves, God rest his soul, we are going to restore the function of his limbs, and we are going to cure Alzheimer's.

But I think so many people, Mr. Speaker, and even some of our colleagues, need to understand that in getting those embryonic stem cells, the life is destroyed. And when you ask that question, well, wait a minute now, if you are talking about sacrificing one life to get these cells in hopes that they might lead to at some point in the future a cure, no, I am not for that.

So I think we need to be very clear by it, Mr. Speaker. We need to make sure that people understand that the harvesting today and the way it is done and the way it is proposed and the way we are hearing from the Castle-DeGette bill we are going to discuss tomorrow is using Federal dollars, taxpayer dollars, where people had no choice, they had to pay their taxes, we are going to use those dollars to fund research that involves the destruction of human life, a little, tiny infant, who with a little bit of luck and ingenuity could grow up and be a Member of this body some day. We were all, were we not, embryos at one time. Of course we were.

And when you get this and you start down this slippery slope in regard to what the South Koreans are doing, suppose, Mr. Speaker, that the harvesting of these stem cells from these cloned embryos that the results are not very good, as they have not really been very good in the embryonic stem cells we have retained from these so-called throw-away babies, these 400,000 in these fertility clinics. The results have not been that good. That is why the gentleman from Nebraska said that most of the private funding is going toward adult stem cells.

But what I am saying, and I will wrap this up pretty quickly because I know the gentleman's time is running short, in these cloned embryos, if it is not working too well with the fetal cells, the embryonic cells, why not let these babies develop, maybe to the point 26 weeks, the stage at which my precious twin granddaughters were born, and then you have got an organ that you can transplant, a liver, a pancreas, and you can then just simply destroy the child at that point and take their organs?

This is a slippery slope upon which we are about to start if we do not defeat this bill tomorrow, and the gentleman from Maryland (Mr. BARTLETT) has an alternative to this, and it is something that I think is timely and it is good and I commend him for his efforts.

Mr. BARTLETT of Maryland. Mr. Speaker, reclaiming my time, I thank the gentleman.

I have here a very recent report, ''Alternative Sources of Human Pluripotent Stem Cells,'' a white paper by the President's Council on Bioethics, and the next chart shows page 25 from this.

The highlighted part says: ''It may be some time before stem cells can be reliably derived from single cells,'' the process we have been talking about, ''extracted from early embryos and in ways that do no harm to the embryo,'' thus biopsy. ''But the initial success of the Verlinsky Group's efforts at least reaches the possibility that embryonic stem cells could be derived from single blastomas removed from early human embryos without apparently harming them.''

Then there is an asterisk, and if you go to the bottom of the page it says: ''A similar idea was proposed by Representative ROSCOE BARTLETT of Maryland as far back as 2001 before the President gave his executive order.''

There are four potential sources listed here. This source is number two. They do a very good job of discussing this in the body of the text. They talk about parents going for pre-implantation genetic diagnosis. They talk about the possibility that you could develop from the cell or cells taken a repair kit.

□ 2045

This is a fascinating potential. This is why we are collecting and freezing umbilical cord blood, because we hope that through the life of that person, there might be some opportunity to use stem cells. They are not embryonic, they have limited application, but maybe, just maybe, we could produce something that would help that person later on with a disease.

But in this case, if they did preimplantation genetic diagnosis and if they developed a repair kit from that, then all that we would ask for is that a few surplus cells from the repair kit could be made available for a new stem cell line.

But that is not even what our research, our paper, our bill asks for. What our bill asks for is simply Federal money to do research on animals, on nonhuman primates, that is, the great apes, which genetically are remarkably similar to humans, if it works there, it probably would work in humans, to determine the efficacy and the safeness of doing this.

Unfortunately, if all that you read was their recommendations, you would be disappointed, because they never therein mention that the parents have made an ethical decision to make sure they do not have a baby with a genetic defect, the parents who made a decision to establish a repair kit so that their baby at any time during their life could have available compatible tissue to fix a medical problem. They simply state in their recommendation section that they consider it unethical to go to an embryo and take a cell out of it just to establish a stem cell lot.

It must be that a different person wrote the recommendations at the end as compared to the person or persons that wrote the text in the front, because they certainly should have mentioned the parents' decision to develop a repair kit, the parents' decision to make sure that their baby did not have a defect. These are decisions that parents make, I think, ethically to the benefit of their baby and for all that we would hope in the future. And, again, our bill deals only with animal experimentation to determine the efficacy and the reliability of doing this.

The next chart shows another development chart, and I would just like to reemphasize: Now, imagine this is not in the mother; this is an infant dibulum, in the ovary and the fallopian tube here. Imagine that this is in a petri dish and not in the mother, and we fertilized the egg, and it has now developed to the eight-cell stage, and we can take a cell from that stage and do a preimplantation genetic diagnosis. Maybe, as the authors of the white paper said, you could develop a stem cell line from that. We do not know. They simply have not tried. It has been too easy to take and kill embryos to get stem cell lines from them.

There is one other ethical argument that maybe is a problem, Mr. Speaker. They address this in the President's white paper. They do not think it is a problem. When you read that white paper you will see that they are bending over backwards to satisfy all of the concerns that even the most concerned prolife person could have. They do not believe that you could develop an embryo from a single cell.

But if we waited a little later, and I have asked the researchers, the medical people who are doing this preimplantation and genetic diagnosis, if they could wait until the inner cell mass stage, if they could wait until the inner cell mass stage to take the cell. Now we avoid even that potential ethical argument, because we already have a differentiation that has occurred. There are now two kinds of cells in what we call the embryo. There is the inner cell mass, which will become the baby; and then there is the rest of the trophoblast which will become the decidua. The decidua is the amnion and chorion.

Now, you cannot have a baby without amnion and chorion; it cannot grow. So if you take cells only from the inner cell mass, they could never become an embryo because these cells have lost all of their ability to produce the decidua, but they retain all of the ability to produce the cells of the body, the great variety of cells in the body.

I am prolife. I have an impeccable, 100 percent prolife voting record. I would not be here on the floor today talking about a possible solution to this debate if I did not think that this was perfectly ethical and probably perfectly doable.

I hope, Mr. Speaker, that a number of my colleagues will sign on to our bill. We are going to hold this until about noon tomorrow, because we would like to get as many prolife signers as possible.

If the other bill reaches the President's desk, no matter what he decides, some people are not going to be happy. If he vetoes the bill, as he has said he would, then all of those Americans, and I believe it is a majority, as there will be a majority tomorrow that vote for H.R. 810, will wonder why it is not okay to take these embryos that hardly look like a baby, just eight cells, to take these embryos, and they are going to be discarded anyhow. And given the two arguments, they may not be discarded, they may be adopted, and at the end of the day, you are taking a life.

If you think it is okay to take one life to help another, that is okay, but a lot of people do not think that is okay. On the other hand, if he lets it become law, then he is going to offend all of those prolife people who really see this as life.

What I hope, Mr. Speaker, is that my bill can be on the President's desk when he is faced with the unhappy choice that he will have with this bill, so that he can now say, Gee, I have a bill which supports what I want, and that is embryonic stem cell research without harming an embryo.

We are not ready yet to work with humans. This bill addresses only animal experimentation. But as we saw earlier, Mr. Speaker, from this chart that we had from that page of the white paper, let me put that back up because I think it makes the point, it may be some time. That is why we have researchers and that is why we have money from NIH, because it may be some time before stem cell lots can be reliably derived from single cells. They believe that it is possible to do that. It may take some time, taken from early embryos in ways that do not harm the embryo. As we have pointed out, they will be taken to benefit the embryo, to do preimplantation genetic diagnosis and to develop a repair kit for the embryo.

But the initial success of the Verlinsky group's efforts at least raises the future possibility that pluripotent stem cells could be derived from single-blast embryos removed from early human embryos without apparently harming them. Indeed, if it is taken for preimplantation genetic diagnosis and to establish a repair kit, not only are they not harmed, they are benefited by it.

Mr. Speaker, I know that all America will be watching this debate; they just voted $3 billion in Alaska to pursue this. I believe we can pursue all of the potential miracles that could come from embryonic stem cell research and applications to medicine without harming embryos, and I urge an early vote and adoption of this bill.

Mr. Speaker, I submit the following for the RECORD:

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
Washington, DC, May 23, 2005.

Hon. ROSCOE G. BARTLETT,
Rayburn House Office Building,
Washington, DC.

DEAR MR. BARTLETT: I am pleased that Drs. Allen Spiegel and Story Landis were able to meet with you, Mr. Otis and Mr. Aitken during your visit to the National Institutes of Health (NIH) last month to discuss ways to derive human embryonic stem cells (hESCs). Drs. Spiegel and Landis were serving as Acting Co-Chairs of the NIH Stem Cell Task Force during my leave of absence from this position. Earlier this month, I returned to chair the Task Force. NIH shares your enthusiasm on the therapeutic potentials of hESC research and thank you for your continued support of this field.

Drs. Spiegel and Landis briefed me about your April 26th meeting. I am also aware that you have had previous meetings with NIH officials, including myself, Lana Skirboll and Richard Tasca, on this topic. You propose the possibility of using a cell (or two) removed from the 8–cell stage human embryo undergoing pre implantation genetic diagnosis (PGD) to: 1) create a ''personal repair kit'' made up of cells removed from the embryo and stored for future use; and 2) for deriving human embryonic stem cell lines.

You suggested that creating hESC lines in this manner would avoid ethical questions surrounding the fate of a human embryo. Live births resulting from embryos which undergo PGD and are subsequently implanted seem to suggest that this procedure does not harm the embryo, however, there are some reports that a percentage of embryos do not survive this procedure. In addition, long-term studies would be needed to determine whether this procedure produces subtle or later-developing injury to children born following PGD. Also, it is not known if the single cell removed from the 8–cell stage human embryo has the capacity to become an embryo if cultured in the appropriate environment.

NIH is not aware of any published scientific data that has confirmed the establishment of hESC lines from a single cell removed from an 8-cell stage embryo. We are aware of the published research of Dr. Yury Verlinsky in the Reproductive Genetics Institute in Chicago that showed that a hESC line can be derived by culturing a human morula-staged embryo (Reproductive BioMedicine Online, 2004 Vo. 9, No.6, 623–629, Verlinsky, Strelchenko, et al). It is also worth noting, however, that in these experiments, the entire morula was plated and used to derive the hESC lines. The human morula is generally composed of 10–30 cells and is the stage that immediately precedes the formation of the blastocyst.

At the April 26th meeting, NIH agreed that such experiments might be pursued in animals, including non-human primates. That is, animal experiments could be conducted to determine whether it is possible to derive hESCs from a single cell of the 8-cell or morula stage embryo. To date, to the best of our knowledge no such derivations have been successful. NIH also does not know whether these experiments have been tried and failed in animals and/or humans and, therefore, have not been reported in the literature. NIH agreed to explore whether there have been any attempts to use single cells from the 8-cell or morula stage of an animal embryo to start embryonic stem cell lines by consulting with scientists that are currently conducting embryo research. From these discussions, these scientists believe it is worth attempting experiments using a single cell from an early stage embryo or cells from a morula of a non-human primate to establish an embryonic stem cell line.

Of note, a recent 2003 paper from Canada shows that when single human blastomeres are cultured from early cleavage stage embryos, before the morula stage, that there is an increased incidence of chromosomal abnormalities. Even with hESCs derived from the inner cell mass of the human blastocyst, the odds of starting a hESC line from a single cell are long, perhaps one in 20 tries. Thus, the odds of being able to start with a single cell from an 8-celled or morula staged embryo are equally challenging. This would make it difficult to accomplish the goal of establishing ''repair kits'' and hESC lines from any single PGD embryo. (Fertil Steril, 2003 June, 79(6): 1304–11, Bielanska, et al). It is possible, however, that improvements in technologies for deriving and culturing hESCs may improve these odds.

NIH concludes that the possibility of establishing a stem cell line from an 8-cell or morula stage embryo can only be determined with additional research. NIH would welcome receiving an investigator-initiated grant application on this topic using animal embryos. The Human Embryo Research Ban would preclude the use of funds appropriated under the Labor/HHS Appropriations Act for pursuing this research with human embryos. As with all grant applications, the proposal must be deemed meritorious for funding by peer review and then will be awarded research funds if sufficient funds are available. It also bears keeping in mind that it may take years to determine the answer.

At the April 26th meeting, you had mentioned that twins can develop when the inner cell mass splits in the blastocyst and forms two embryos enclosed in a common trophoblast. You asked if cells from the inner cell mass could be safely removed without harming the embryo. In animal studies, it has been shown that the blastocyst can be pierced to remove cells of the inner cell mass and the embryo appears to retain its original form but it is not known whether the embryo will result the birth of a healthy baby. Since this experiment in

human embryos at either the morula or the blastocyst stage would require evaluations of not only normal birth but also unknown longterm risks to the person even into adulthood, it would have to be considered a very high risk and ethically questionable endeavor. Because of the risk of harm, this research would also be ineligible for federal funding.

You had also asked NIH about the latest stage in development that an embryo can be artificially implanted into the womb. We know that infertility clinics transfer embryos at the blastocyst stage (approximately Day 5 in human embryo development) as well as at earlier stages.

Finally, I am providing an additional resource that was discussed at the April meeting. I have enclosed a copy of a recently released white paper developed by the President's Council on Bioethics (PCB) on Alternative Sources of Human Pluripotent Stern Cells. In this white paper, the PCB raised many ethical, scientific and practical concerns about alternate sources for deriving human pluripotent stem cells without harming the embryo. Your proposal is specifically discussed in this report.

I hope this information is helpful.

Sincerely,

JAMES F. BATTEY, Jr.,
Chairman, NIH Stem Cell Task Force.

Enclosure.

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Mr. Speaker, once again, it is an honor to be here before the House of Representatives and have an opportunity to speak to the Members and to the American people.

Mr. Speaker, we would also like to thank the Democratic leader, the gentlewoman from California (Ms. PELOSI), along with the Democratic whip, the gentleman from Maryland (Mr. HOYER), and our chairman, the gentleman from New Jersey (Mr. MENENDEZ), the chairman of the Democratic Caucus, and also the vice chair, the gentleman from South Carolina (Mr. CLYBURN) for providing the kind of leadership that Americans need and want here in this great country of ours.

This week, as every week, we come to the Floor, the 30-something Working Group that was formed in the 108th Congress by Leader PELOSI to talk about the issues that are not only facing the 30-somethings, but also facing the American people in general.

We also come to the Floor, along with the gentleman from Ohio (Mr. RYAN), my good friend, we come to the floor to be able to talk about a number of issues, not only Social Security, but also student loans; to talk about issues facing the environment, as well as the ever-growing debt, which is always on our agenda.

Without any further ado, I would say to the gentleman from Ohio (Mr. RYAN) how much I appreciate the fact that he commits, and our good friend, the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), who will not be here tonight, every night to come to the floor to share good and accurate information not only with the Members of Congress, but with the American people.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for the opportunity too.

In the past several months, really since the beginning of the year, the President initiated a Social Security plan that he wanted to promote to the country, to say that privatization, these private accounts were going to be the answer to the Social Security solvency problem. We have been, just about every week since the beginning of the year that we are in session here in Washington, we have been talking about why the President's privatization scheme really is not the answer for the country.

The President, when he initiated this discussion after the election, began to say that it was a crisis and it was a crisis for the country that we all needed to address. What we want to do tonight is, we want to begin by saying that Social Security is a solvent program. There is no crisis within the Social Security program. Do we need to make some minor adjustments? Of course, we do. Do we need to tinker with the program? Yes, we do. But is there a crisis there? We really do not think so.

So tonight we are going to begin to talk a little bit about why Social Security is a solvent program and show a few numbers that we have shared with the American public every week that we have been on, but also to get into some of the areas where we believe a crisis does exist in this country that needs immediate attention.

So we have this graph here that basically shows that Social Security is secure for many, many decades to come. These are facts. These are the Congressional Budget Office numbers that they have given us.

The CBO is a nonpartisan organization, a nonpartisan group, and if they would lean one way or the other, the Republicans control the House, the Senate, and the White House, so if they are going to lean any one way, which I do not believe that they do, they would certainly lean in favor of making it look like Social Security is less secure than it actually is.

So this graph here, we can see it starts in 2005, and it goes to 2075, so it gives us a 70-year span. And from 2005 to about 2047, 2048, 2049, right in there, if we do absolutely nothing with Social Security, Social Security recipients will still receive 100 percent of their benefits. And all in the blue here. So from 2005 to the late 2040s, if we do absolutely nothing with the program, if we do not touch it at all, we are still going to get 100 percent of our benefits up to the late 2040s, 2047, 2048. So at 32 years old, after 40 years, I will be 72 years old, just about 72, on Social Security. So I will be guaranteed, if we do nothing, to at least get 100 percent of what I would earn right in here, or someone else who is 32 years old. Then, after that, from the late 2040s into 2075, one would still receive 80 percent of one's benefits if we did nothing.

So what we are saying on this side of the aisle is, is there a problem? Yes, of course. From 2047 to 2075 and beyond a recipient would only get 80 percent of what they should be getting now. So that is a problem.

Is that a crisis? No, that is not a crisis. Something that happens 40 years from now is not a crisis. What we want to do is just show tonight that this is not a crisis; 100 percent of the benefits will be paid until the late 2040s and, beyond, still get 80 percent.

So if the President wants to sit down and work out a program, we are going to be able to deal with this 80 percent issue here coming 40-some years from now, and we will sit down and talk with the President.

□ 2100

But, unfortunately, the plans that are floating around Congress cut into the 100 percent benefits here and begin to reduce some of the 100 percent benefits there.

Mr. MEEK of Florida. Mr. Speaker, I would say to the gentleman from Ohio (Mr. RYAN), just one moment. I want to ask just a quick question. What is a crisis? I mean, the President is saying, and some of the Members of the majority side leadership are saying that Social Security is in a crisis. And I cannot help but look in the dictionary when we start talking about crisis, because a crisis, there are a number of things that we can point out that are actually a crisis. And as the gentleman from Ohio knows, we received some e-mails that I hoped the gentleman would read early in our Special Order here. But we took a look at Webster's and exactly what does crisis mean. And basically it says, an unstable situation of extreme danger or difficulty.

Now, 40 years from now, as the gentleman from Ohio had the other chart here, I could say that it would be a crisis if Social Security, like the administration and the majority side use words like, is going bankrupt. What does bankrupt mean? Bankrupt means that there is no money coming in or no money going out, and it is tomorrow, and it is eminent danger.

Mr. RYAN of Ohio. There is no money.

Mr. MEEK of Florida. There is no money. And I can tell the gentleman from Ohio right now, from what the gentleman has just said, and it is not just the gentleman from Ohio's (Mr. RYAN) report. That is from the Congressional Budget Office of this House of Representatives that put forth the kind of information that we need here in Congress, that we need to share with the American people and the Members of this Congress.

I think it is also important to understand that, yes, we do want to work on Social Security and strengthen Social Security on this side of the aisle, but

we will not buy into the rhetoric of a crisis.

I would say to the gentleman from Ohio (Mr. RYAN), a crisis, in my opinion, is what we are in on the deficit. We are at a crisis level when it comes down to the deficit. Highest deficit in the history of the Republic.

You want to know what a crisis is? And I hope that we continue to share this with our colleagues. A crisis is that family right now that is a part of the 46 million American families that are working that do not have health insurance. That is a crisis. A crisis is the fact that small businesses cannot provide health care insurance for their employees. Many businesses are telling their employees you can get a better plan if you apply for Medicaid. That is a crisis.

Furthermore, if you want to talk about a crisis, a crisis is families trying to put gas in their tank. That is a crisis, because some families have had to put their car down to try to figure out some sort of way that they can be able to take their kids to school or football or soccer or Boy Scouts or Girl Scouts, to be able to conduct themselves in the way that they want to. That is a crisis, these gas prices that have doubled and tripled in some cases.

And then we talk about issues that are facing our veterans. Providing health care for our veterans, that is a crisis. And so there are a number of issues that are out there. And I say to the gentleman from Ohio (Mr. RYAN) this whole issue of abuse of power, I am sorry, I just want to point out a few things.

Mr. RYAN of Ohio. Nothing to be sorry about.

Mr. MEEK of Florida. Because we are, I think those of us that are in 30-something, and Members of the Congress, are sick and tired of individuals in Washington using Social Security as though there is some sort of imminent danger or, going back to the definition, an unstable situation.

Mr. RYAN of Ohio. And I thank the gentleman. And let us take the definition and apply it to this chart. A crisis is an unstable situation of extreme danger, or difficulty. Unstable situation.

Now, how could you call this, 100 percent of the benefits for the next 40 some years, how is that an unstable situation? It is a very stable situation. And I would even argue that 80 percent, without doing anything, 45 years from now is not unstable. That is a stable situation. It needs to be dealt with. But extreme danger or difficulty? How could you call from 2005 to the late 2040s extreme danger or difficulty? It does not apply here. And using the word ''crisis'' is extreme, and it is trying to scare the American public. And you see it in the poll results. The American people are beginning not to buy it.

Now, we could even try to go to the second definition of what a crisis is, a crucial stage or turning point in the course of something. There is no crucial stage or turning point that needs to happen here. We are not on a brink here that we have got to change something immediately. There is no crisis here. And as the gentleman from Florida (Mr. MEEK) stated very eloquently, there are many more issues that I think we need to deal with.

And there was one other thing, and we are kind of moving things around a little bit here, that I want to share just briefly.

Mr. MEEK of Florida. I would say to the gentleman from Ohio (Mr. RYAN) just briefly, but before the gentleman moves from that chart, I think I know the reason why some in Washington want to try to fool the American public that there is a crisis, because we have individuals that are on Wall Street that have been guaranteed, if the President has his way, if the majority side leadership have their way, that they will receive over the next 20 years $944 billion worth of the taxpayers' money in risky investment, Social Security. So I think that is the crisis of trying to close the deal before the term runs out on the present President and the term may run out on the present leadership.

But I can tell the gentleman from Ohio (Mr. RYAN), I want to talk, when the gentleman is finished, when the gentleman makes the point that the gentleman is about to make, I want to make sure that we share with the Members, if we had the opportunity to lead, not necessarily you and me, but the Democratic side, working with some of our Republican friends that understand the importance of making sure that we work for all Americans and making sure that Social Security is strengthened.

Mr. RYAN of Ohio. Well, I thank the gentleman. And after this we are going to move on to what we believe that the real issues are that need to be dealt with immediately, issues that we think are causing unstable situations, issues that we think are providing extreme danger or extreme difficulty for families here and issues, quite frankly, that we think the country is at a crucial stage or at a turning point on. We want to talk about what we believe those issues really are.

Now, last week we asked Americans who were watching to write in and to e-mail us with what they thought were the immediate issues that needed to be dealt with, what was the crisis that they believed the country needed to address. And I am just going to share a couple of these because we want to get into some other issues. Mrs. Richard from Kansas said she had been watching and listening to our program on C–SPAN. Our country now has so many needs. And we asked her to give them to us and she said, I will write them to you.

To me, the number one need is to get out of Iraq. Stop losing lives and spending money. That may be a crisis. Probably is. After that, health care, fixing our national deficit, which we are definitely going to get into tonight, and many more things that need to be fixed. She appreciates the concern.

Christie Fox, from the gentleman's great State of Florida, she is a second generation American. And on C–SPAN you asked for our comments or suggestions on what we think is important to America. Safety, the environment, the oceans heating and rising, need for solar power, recycling, windmills, fuel efficient vehicles, terrorism, which is a major issue that we are not really dealing with here, and to keep God in America. Great issues that we think may be or will have more of a profound effect if we address them immediately.

So, again, we ask the citizens who are out there tonight to give us an e-mail, what you believe to be your crisis of choice, that is, something that we need to deal with immediately in the United States of America. Send us something,
30somethingdems@mail.house.gov.
That is the number 30, the word ''something,'' and then dems, D-E-M-S @ mail.house.gov. Send us what you think, because, quite frankly, we do not believe that Social Security that is solvent for the next 45 years and will pay 100 percent of the benefits and then for the next 20-some years and into the future will still provide 80 percent is not a crisis.

Mr. MEEK of Florida. Mr. Speaker, I think it is important that we bring about great clarification of our message to make sure that individuals do not get confused of what the real issue here is. The real issue, I think, the reason why individuals want to, leadership on the majority side and the White House, want to talk about a crisis situation in Social Security is because they do not want to talk about health care. They do not want to talk about the issues that many Americans have to deal with on a day-in-and-day-out basis. I call it drugstore health care; when your child is sick, because you do not have health insurance, 46 million Americans without health insurance that are working families without health insurance, they have to go to a CVS or a Walgreens or a Rite-Aid or whatever the case may be, or Wal-Mart pharmacy, to make their kids better or try to hope that they just have a cold because they do not have the proper health care.

And I am so glad that House Democrats are committed to taking the bold necessary steps to move us in the right direction of making sure that we do what we are supposed to do for Americans.

In the 108th Congress, we worked very hard with Partnership for America's Future that reaffirms our commitment in six core areas. And those six areas are, making sure that we have American values, prosperity, national security, fairness, opportunity, community, and also accountability. And I think it is important that we think about that, and that is something that is not happening right now.

Now, one may argue, well, what is stopping you from doing that? I can tell you what is stopping us from doing that, not being in the majority here in the House of Representatives.

And I say to the gentleman from Ohio (Mr. RYAN) that I think what is important is that we have to share with our colleagues and also with the American people, Mr. Speaker, that it is important that we hold the individuals that are sent here to Washington accountable not only for their actions but also for their inactions. And so when we start talking about crisis, look right, but we are really going left. And I think it is important that we point these issues out.

It is important that we take bold steps in expanding affordable health care and the health care coverage, including mental health coverage, making sure that we cut health care costs, increasing biomedical research, and also reducing racial and ethnic disparities, expanding affordable health care as it relates to coverage for small businesses by creating a new purchasing pool that will allow 50 percent tax credit to help small businesses and self-employed individuals in their health care costs.

That is Democratic legislation that is already filed in this Congress that should move, would move, if we had the Democratic leadership that we talked about early on in this hour. If they were in control, it would not be an issue of saying that is what we would like to do. And I think it is important, it is very important that not only Members of Congress understand our responsibility in standing up to the real needs of Americans that are out there now, but to make sure that we are able to stand up and say that health care is a crisis, the issue of our environment is a crisis, the deficit is a crisis, and not just say it as buzz words or in a speech or a punch line.

Mr. RYAN of Ohio. Mr. Speaker, I had a Social Security town hall meeting last night at Warren G. Harding High School in Warren, Ohio; and we were having a discussion about these kinds of issues. And one of the gentlemen, as we were talking about him as a small business owner, self-employed, he had to pay his own Social Security tax. He had to pay the whole amount, the employer's share and the employee's share for himself. And he was struggling because he had health care issues that he had to deal with. The health care costs were going through the roof. He had two kids in college. And tuition costs in Ohio have doubled over the past few years. And when we get back after the break we are going to get into a little more about the cost of college tuition.

But the point is, the Social Security privatization scheme sounds like a good idea to some employers, because the way that the blueprint has it set up is that the employee will be able to take 4 percent and divert it to an account, and the employer will not have to match that 4 percent; and so it is basically a tax break for the business person, which may be okay for small business folks and help them a great deal.

But what we are saying as Democrats is, why are we not dealing with the real issue, the health care costs that are going through the roof? And if we want to help small business people, then we need to use the Democratic proposal that we have that is going to help small business people contain health care costs and contain tuition costs and give them aid and assistance and grants and lower tuition costs with block grants to different universities. We have a plan to do that. And what we are saying is, let us stick together on the greatest social program in the history of mankind, and let us fix these other programs that have been causing a great deal of economic pain to the small businessperson. We want to be there, and we have a plan to do it.

Mr. MEEK of Florida. When you have employees that are healthy, you have what? A more productive company. And then what do you have then? You have more productive American workers that will be able to compete against other countries that are competing against us now.

Before the gentleman from Ohio (Mr. RYAN) goes to the chart, I think it is important we talk about the fact that health care costs, when we start talking about cutting health care costs, we have to look at the issue as it relates to prescription drugs.

Mr. RYAN of Ohio. Absolutely.

□ 2115

Mr. MEEK of Florida. I think it was a blown opportunity here on this floor by the majority side saying they were carrying out true prescription drug reform and failed to do so by not allowing us to negotiate with drug companies to have lower prices, not only for seniors but for people with disabilities. Also, guaranteed American consumers the right to deal with the whole issue of importation.

I have some reservations about that, but the real issue is the fact that we have Americans that are now making a choice between groceries and prescription drugs. We still have Americans, and I am not just talking about older Americans, I am talking about middle-aged Americans and even children, because a number of children are on prescription drugs, be it for allergies, or middle-aged Americans taking heart medication or medication for diabetes or other ailments that we found that through prescription drugs that can prevent death or prolong life they are making decisions.

They have to make decisions. So they are excited about the fact that we are looking at prescription drug reform, but it was not a true bipartisan effort because if it was we would have negotiating power. And I will tell Members right now, because I want to make sure that my Republican colleagues on the other side of the aisle and I want to make sure, Mr. Speaker, that the American people understand that the Democrats have a bill filed right now to allow that to happen. Prescription drug costs would go down if we were in charge of this House right now.

Mr. RYAN of Ohio. We have a discharge petition too that will allow Members of Congress to sign it and discharge it out of the committee process and bring it right to the floor. We have had this debate. We can bring it to the floor and let us vote on it.

Mr. MEEK of Florida. But still, if we were in control of this House, if the American people said they were going to allow Democrats to be the majority in this House, we would have the following:

We would have a Social Security debate about strengthening Social Security, not privatizing it. We will have not only a debate but we will have a bipartisan bill to make sure we can combine buying power to take prescription drug costs down for everyday Americans. We would not only have legislation that will be true environmental legislation, but it would be bipartisan legislation because we believe in working together with, at that time if we have a perfect situation where we are in a majority, working with the minority party in doing that.

We would also have a health care plan, a health care plan that is a 6-point plan that would bring about health insurance for everyday working Americans, and also allow those Americans between the ages of 55 and 65 to be able to buy into Medicare early so they would have an opportunity to take advantage of good health care at a low cost as they reach their years of the 60s and 70s. So that is so very important.

I am not laying ''what if,'' but I am saying what could be. And so I am saying this more of a challenge to the Members on the majority side because they do have the power. They have the power to be able to set the agenda and say what will be able to come to the floor. They have the power to be able to say that this is what we are going to work on and this is what we are not going to work on. I think it is important that the American people and I think the Members of this Congress also understand, Mr. Speaker, that the power of the majority sets the agenda and what happens in this House, nothing comes to this floor without the authority of the Republican leadership in this House.

Now, I am going to tell you, because I always, I do not use it as a disclaimer, I am seeing it as a Member of this House and someone that communicates with Members of the majority party, there are a number of Republicans that will go unnamed because of repercussions that want to see that kind of environment return back to this House, a true bipartisan environment that we had in 1983 when Ronald Reagan and Tip O'Neill brought about the kind of bipartisan partnership we

needed to save Social Security at that time, a true bipartisan vote, not bickering, not we are going to run Social Security into the ground in some sort of schemey privatization plan, but a true approach to making sure that we do the right thing.

So it is important that individuals understand that bills like the bill that we have here on the floor to drive down prescription drug costs that we would like to pull out of on this discharge petition that is right here behind the gentleman for Members to sign to be able to have a true debate as it relates to bringing down prescription drugs costs, the buying power which AARP is on board with us on. But I think it is also important for issues as it relates to the deficit.

Mr. Speaker, I hope that the gentleman does not leave out what is happening to the American worker and our negative trade balance. If I can say the word China, I would like to say that, because I think it is important that not only Members of Congress understand our responsibility but the American people also understand what is happening right now. It is not on the 6 o'clock news, but if someone is at home right now without a job wondering where their job went, wondering why the factory, especially in the gentleman's State of Ohio, the whistle in that factory is no longer blowing when they knock off, like a blue collar worker would say, for the evening, while no lunch box is there, be it a man or woman.

The reason why we are continuing to put forth trade agreements in my State that are putting agriculture industries out of business or having them to give away jobs like the citrus industry, like the sugar industry and the nursery plant industry that is in my county of Miami Dade County that are concerned about these free trade agreements that are taking place.

Now, I voted for some free trade agreements, but I will state that some of those agreements that are coming down the pike are going to hurt the American worker and continue to give away the kind of apple pie that we have been talking about for so many years.

Mr. RYAN of Ohio. Mr. Speaker, I think this is the issue for me, that this is the crisis. This is just the issue that how can we say that a problem 40 years out from now is the crisis when you look at the numbers here. This is the crisis here. This is the manufacturing jobs loss, and I will go through some quick charts here.

Manufacturing jobs lost. In Ohio we lost 216,000. In Florida, the gentleman's home State, they lost almost 73,000. All the red States here have lost more than 20 percent of jobs in their States: Ohio, Pennsylvania, New York, Michigan, Illinois, all of these. And all throughout the country, the only two States with any kind of net gain are North Dakota and Nevada. That is the crisis and that is the issue that we need to be dealing with here in the United States.

Mr. MEEK of Florida. Before the gentleman leaves that chart, would he please let the Members know and, Mr. Speaker, we definitely want the American people to know where this information comes from, because I want to make sure we are clear.

Mr. RYAN of Ohio. This is the U.S. Bureau of Labor Statistics, so it is nonpartisan. It is from June 1998 to February 2005. This is the United States Bureau of Labor Statistics controlled by a Republican, so it is not any lies that we are just trying to stoke up propaganda here.

These States that are purple have lost between 15 and 20 percent. The green States have lost between 10 and 15 percent. The yellow States between 5 and 10 percent. We are getting decimated in our manufacturing base, and these are the jobs that pay well. These jobs are going to China. The high-tech jobs are going to India.

Now, another crisis, our overall U.S. trade deficit which led to the enormous job loss right here, overall trade deficit over $600 billion last year. We are buying $600 billion more worth of products than we are selling. And look at the growth. This is the startling thing. This is not just a kind of a temporary blip in the screen.

In 1991 we were a little over $50 billion, or not quite $50 billion; and look at this, the steady growth. And these have been the trade agreements that we have been signing, and especially when we cranked up trade with China, bang, right down at the bottom, bingo, in 2004 over $600 billion in trade deficit. Of that the main culprit in this whole deal has been with China, another crisis that we need to deal with.

I mean, how we can say Social Security is the main issue is beyond me. Again, trade deficits from 1991 to 2004. Again, a slow gradual, this is what we call in economic terms, and I am not an economist, this is what you call a trend. This is a trend that is going on in the country and has been for a good many years now, U.S. trade deficit with China over 160-some billion dollars a year. And we can see it just continue to decline. It will probably be worse next year. And when we see the job loss in Ohio, in the Midwest, all over the country except for Nevada and North Dakota, this is what is causing it.

Companies are moving from the United States, not making the investment here in the country, making it in China; and we are getting walloped.

Now, the most important issue as we are running these huge trade deficits and we are also running a national deficit, and let me just show one, before we show that one and then I will let the gentleman talk about the other, not only are we running huge trade deficits; we are also running a record national, domestic deficit on our own budget here.

This red line starts with President Johnson where we pretty much were balancing our budgets all the way along, and we pretty much stayed steady up and down throughout the 70s. And into the 80s we got into the pretty high deficit through the Reagan and Bush era. That is the red line coming down close to $300 billion in our national deficit. That means the budget money that we spend out of here, we were spending $300 billion more than we were taking in. And then the Clinton era, the balanced budget passed in 1993. Not one Republican vote, Democrat House, Senate, White House; Al Gore broke the tie in the Senate as Vice President. That led to booming surpluses in the United States. And then when the next administration came in here, we are again with record deficits.

Now, will a real fiscal conservative please stand up, because we do not have anymore here. And this is the kind of deficit that you are passing on to your kids and your grandkids and the scary thing that the gentleman will talk about right now.

Mr. MEEK of Florida. Mr. Speaker, before the gentleman moves that chart, the nonpartisan Congressional Budget Office where the gentleman got this information from, am I right?

Mr. RYAN of Ohio. Absolutely. The source is CBO, the Congressional Budget Office, nonpartisan. The most scary aspect of all of this is if we are spending 400-some billion dollars more than we are taking in, we are borrowing that from somewhere because we do not have it. Tax revenues bring us to this line here, and we are spending that much more, up to $400 billion more than we have in the kitty that we are taking in every year. So we have to go out and borrow it. This is the scary part. Who are we borrowing the money from?

Mr. MEEK of Florida. That is the question.

Mr. RYAN of Ohio. That is the ultimate question, and I know the gentleman wants to talk about it.

Mr. MEEK of Florida. No, I want the gentleman to talk about it because he is doing such a great job.

Mr. RYAN of Ohio. I will explain the chart, but I want the gentleman to lend his voice to it.

Mr. MEEK of Florida. Mr. Speaker, I want the gentleman to explain it because this issue is so very, very important. We both are on the Committee on Armed Services, and we know what it means as it relates to not only national security but financial security.

What is happening right now, and that is why it is important not only to the 30-somethings but to the 20-somethings and the teenagers and those that are yet unborn and also those seniors that understand what is going on, even the 50-somethings and the 60-somethings because this goes towards, I believe, our national security when we start looking at this issue.

Please explain.

□ 2130

Mr. RYAN of Ohio. Mr. Speaker, the gentleman is absolutely right because

you can have, and Mitt Romney was in front of the Committee on Education and the Workforce last week, the Republican governor from Massachusetts, and he said you cannot have a tier two economy and a tier one military. And, unfortunately, we are moving into a tier two economy.

We were talking about the trade deficits and then our national deficit and the debt. The deficit is what we accrue every year. We are $400 billion last year. The debt is the overall debt of the whole country, which is almost $8 trillion, but last year was over $400 billion.

Here is the portion of foreign-owned debt in our country that rose to 41 percent under this administration. So this is the bottom line here in the blue. Of all of our debt, that portion is held by domestic interests, from this here, the turquoise, a nice shade of turquoise, I must say.

The next level is the percentage of our marketable U.S. Treasury debt held by foreign interests, and this goes back to 2000. So over in California, 2000. Over here on the East Coast, it is 2004. Here we have domestic-held debt up to $2.5 trillion. The rest here in purple was foreign owned.

As we move in 2001 and 2002 and 2003, you can see that the purple gets bigger. It gets up into Maine from the Carolinas. This purple is foreign-held debt. Basically what this chart says, and it is continuing to increase as the years go on, as we run these deficits that we had in the last chart, that we have been running as we are borrowing that money; more and more of that money is coming from foreign interests. This is a dangerous situation that we are putting the country in.

As the gentleman from Florida (Mr. MEEK) stated, we are on the Committee on Armed Services. We see this in the committee hearings and with the poppy in Afghanistan. We see this dealing with the Chinese in their increase in military spending and the issue of Taiwan, and North Korea is beginning to test nuclear weapons.

The more power we cede to foreign interests dealing with our own personal monetary situation, the more dangerous a situation we are going to be in. It is a bad political move, it is a bad economic move, and it threatens our country as well.

Mr. MEEK of Florida. Mr. Speaker, as I look at the printed material that I have before me, I cannot help but say this maybe is at the crisis level. Maybe what the gentleman just pointed out, maybe the fact that we have the highest deficit in the history of the Republic, maybe because we have a number of Americans that are still cutting pills in half after we, the Congress, or the majority side, has said we have done all that we can do. Maybe that is the crisis.

Maybe it is important to let not only the majority side know, but also the American people know that it is about who is running this House and who is not raising an objection to what has happened already, let alone what is going to continue to happen. If left up to the mechanics of the majority right now, 41 percent will be the early years of foreign countries buying our debt.

Mr. Speaker, it may very well go to 55 percent if the American people do not hold us accountable for the decisions we are making, or the decisions we are not making. I think it is important, and we have to talk a little bit about extreme measures in the Congress.

We know there are a number of issues that have come before us, and the American people are saying, When are you going to do something about the problems that we talk about every day? However, we spend more time in this Congress, especially in this House, getting involved in personal matters of families, taking the rules like the other side has attempted to do, which I understand some sort of deal has been worked out now on the other side of this Capitol as it relates to the filibuster, the other body. It is unfortunate we have to go to these extreme measures to threaten our way of democracy before we start to try to bring the best out of many Members of Congress.

I am concerned when the majority side in the 108th Congress made it illegal, prohibited the Medicare powers-that-be within the Federal Government to negotiate with drug companies for lower costs. They could have not addressed it and left it as a gray area for the administrators to say, maybe we can do something. But so indebted to big pharmaceutical companies, they prohibited it from happening.

That means if the administration said, Yes, we can bring diabetes or heart medication down $15 if we were to use our buying power with the drug companies. If you do it, you are not only making a career decision; it has been prohibited in Federal law.

I am so glad that so many of us on this side of the aisle, I mean record numbers, voted against that prescription drug scheme, because it is not providing what the American people were told it would provide. AARP, along with others, understand that now and that is why they are fighting to bring those prices down.

Let me tell Members something. Being from Florida, prescription drug costs are a very important issue. Being a middle-aged American, 30-something, or heading to middle age, this is an important issue to my constituents.

Mr. Speaker, I have said this before: We were not elected to have better health care than our constituents. I did not run into anyone at the polling place at 7 a.m. who walked up to me and said, ''I am voting to make sure you and your family have better health care than I have. I cannot wait to go in there and vote for you so you can be better off than I am.''

Mr. Speaker, they elected us to come to this House and fight on their behalf to make sure that that individual voter and their families and future generations have better opportunities than what they have. We are not doing that now.

If we were in control, because I want to make sure that we really emphasize, if Democrats were in the majority, again I will say it, and I said it earlier in this hour, we would not be having a debate on privatization because privatization is bad. Individuals lose benefits under the privatization scheme that the President has put forth, if you are in the plan or not. That is the reason why the President has lower approval ratings as it relates to his Social Security privatization scheme. I would be worried out of my mind if it was the other way around, but people are getting it.

I can tell you another thing, we would not be having a discussion about why 46 million American families that are working do not have health care because this House would be moving in that direction to provide the health care that I talked about in our six-point plan, and also our partnership with America, which is a real plan that has accountability and has follow-through. It would not be a discussion, to point out the issue of the deficit and the fact that every American at birth, when we started this hour, at birth already owed the Federal Government $26,349.67 and it has gone up since we have been here on this floor. It would not be a debate because we would be doing something about it.

We understand if we are going to do something in this Congress, we are going to start a new program, we are going to point out how we are going to pay for it, and that is not what the majority side is doing now.

The last point, because I can go on about the issue of responsibility and accountability, there would not be a what-if discussion as it relates to how we conduct business in this House and the real issues that are facing American families, programs that are working. Cut out the devolution of taxation to local governments and also to our State governments. There would not be a crisis as it relates to Medicaid and States ever running deficits in the States due to the fact that they have to balance their budget. Unlike our Congress, they have to balance their budgets on the backs of cutting programs that are helping so many young people stay out of trouble.

It would not be a what-if discussion; it would actually be reality. And the good thing that I am excited about, because of the leadership we have, the Democratic Caucus, it would be bipartisan. That is something that every American wants. They want to take the politics out of doing business here in Washington, D.C.

That is the reason why our work is so important, making sure we come to this floor week after week, and letting it be known that we are doing all we can in the capacity that we are serving in to not only let the Members of Congress know about responsibilities and

what we can do versus what we cannot do, but also letting the American people know what is happening here as it relates to individuals taking leadership positions, wanting to take action, and those that do not want to take leadership positions and do not take action. That is the real issue here.

That is the reason why if there is a Republican, Independent, Democrat, Green Party, what have you, these issues get those individuals together because it is talking about real-life issues. The information that we are providing here, this is not something we were in the back of the room saying, Let us use that number, it looks good. It is bipartisan Congressional Budget Office information. This is information from outside sources that have a credible way of receiving their information, have credibility in the United States of America.

So I think it is important for us to not only challenge the majority side because competition is good. I believe in that. Challenge the majority side, but also let the American people know if we had the opportunity to lead this House what this Congress could be and what it needs to be.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Speaker, we have a plan. We know what could fix the problem. The American people understand what is going on right now. If we review poll results, this Chamber is not one of the most popular institutions in the country. I think there is a 33, 34 percent approval rating for the Congress. I think some of the issues that the gentleman touched on are why that kind of sense around America is what it is.

I want to share one final chart here that we have. The gentleman from Florida (Mr. MEEK) mentioned the $7.7 trillion debt and the $26,000 that everybody owes, and the general theme tonight is, what are the real crises in the country. We explained that Social Security is solvent for another 45 years, and then we got into our over $160 billion trade deficit with China, a $400 billion deficit here at home. We are spending more money, we are borrowing it from the Chinese. We are not participating in a sound fiscal policy.

One final thing that kind of sums everything up, if Members look at it, and this is in trillions of dollars here, how much tax cuts for primarily millionaires are taking away from funding priorities that we have in this country. If we make the tax cuts permanent over the next 10 years, it will cost $1.8 trillion. The tax cuts for the top 1 percent, people making 4, 5, 6, 7, 8, over a million dollars a year, well above half a million dollars a year, will be $800 billion we are going to spend or not take in because of tax cuts primarily for the top 1 percent.

□ 2145

Look at what we are spending on veterans. This is $800 billion, this is $3 billion, over the next 10 years. So we are basically saying in this country that our priority is the top 1 percent, not the veterans of the United States of America. The other side would say, well, we have increased spending for veterans over the past few years. The answer to that is, yes, but thousands and thousands of more veterans are beginning to enter the VA system now. They are losing their pensions; they are losing their health care in places like Ohio. When I was on the Committee on Veterans' Affairs last session, Secretary Principi was in front of us and I asked him, is the reason more people are going into the health care system in places like Ohio, West Virginia, Pennsylvania because of the massive job loss and companies are going bankrupt? And he said, yes.

We have people in Ohio that were veterans, that never accessed the VA system, who lost their jobs, lost their pensions, lost their health care, they had nothing, and they entered into the VA system because they were veterans. So, yes, you may be increasing the number of what we are spending on veterans; but when you have thousands of more veterans going in and nursing homes being closed down and nursing home beds being closed down, it is time to reevaluate what the policy is. We could go on and on and on with this on what we are going to spend on education, health care, which you so eloquently mentioned, all these great issues that we need to invest in.

I want to make a point. We are not saying that some of these programs do not need reform. We are not saying that at all. These programs do need reform. We need to move into more preventative health care than we are doing now. You talked about CVS and Rite Aid and the emergency room. Why would we want people to go if they were sick into an emergency room? Because we are paying for that, anyway. The hospitals get charity aid that comes out of Federal money. Why would we wait until someone got pneumonia and went to the emergency room when we could have a clinic that provided them with basic antibiotics that would allow them to address their issue when they had a cold? But we wait. So the system does need reform.

We need to put more emphasis on early childhood education. There is no question about it. We did a study in Ohio, and I mentioned it several times here before. The University of Akron did this study. For every dollar that the State of Ohio spent on higher education, the State received $2 back in tax money because you are educating someone and they are going to be worth more, they are going to create more value, and they are going to pay more in taxes over the long run.

These systems need reform to where we are making good investments and saving the taxpayer money in the long run. These tax cuts are not having the economic impact they thought they would have. We have given trillions of dollars in tax cuts and the whole reason was to stimulate the economy. We are still in a recession or just modest, very modest, economic growth, if that. Some signs are saying we are going to go back into a recession. This is not having the impact, because these people who make this money are not investing it in the United States. I will pull out the China graphs again if you want me to, but these people are taking their tax cuts and investing it in Asia. The economic impact again is not being felt in the United States. It is being felt abroad. The old theory that tax cuts will stimulate your national economy no longer work. It is an outdated method; it is voodoo economics as President Bush, I, said; and it is not working here today.

Mr. MEEK of Florida. Mr. Speaker, the gentleman from Ohio did make the point of what is actually happening here, and I think it is important that we highlight that. We are going to close out. I see my Republican colleagues that are here. We got a little excited in talking about some of these issues, but I want to make sure that when you mentioned the veterans, like I said before and I have said like three times during this Special Order, we do have some friends on the Republican side of the aisle that see it and get it. Okay? But this is what happens to them when they do the right thing and this is from Fox News.

Representative CHRIS SMITH, former chairman of the Committee on Veterans' Affairs, passed a Veterans Administration budget that put him on the opposite side of his leadership on the Republican side. Actually doing what he should do as a chairman for the veterans. What happened? Did he get a parade? Did he get a commendation from the Republican leadership in their caucus? No. He got fired. He was ripped of his chairmanship. And so when we start talking about what we want and what we actually get, that is a perfect example.

We had nothing to do with him being removed. NANCY PELOSI, Democratic leader, had nothing to do with him being removed. The Republican leadership removed him. It is very unfortunate that that took place. I would say this, it is important that we come to the floor with solutions and not just problems. I am glad that we shared with the American people and also Members of this House what we have in store for them. Before we close, does the gentleman want to give this e-mail out quickly?

Mr. RYAN of Ohio. Again, send us an e-mail, tell us what you believe the real crises are in the country, 30somethingdems@mail.house.gov, and possibly we will read your e-mail next week.

Mr. MEEK of Florida. Mr. Speaker, we appreciate the time here on floor. We would like to thank the Democratic leader for allowing us to have this time on the Democratic side.

METHAMPHETAMINE

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). Under the Speaker's announced policy of January 4, 2005, the gentleman from Nebraska (Mr. TERRY) is recognized for 60 minutes.

GENERAL LEAVE

Mr. TERRY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. TERRY. Mr. Speaker, the subject of my Special Order this hour is how meth is ravaging our communities in the United States. Yet in our budget, in our appropriations, it is called on to eliminate what are called Byrne grants and the HIDTA program reduced by 56 percent.

Let us talk a little bit about what meth does. I have a picture here from the Des Moines Register of a 13-year-old Iowa girl, a very pretty little girl. Unfortunately, she became hooked on meth. This is the before. This is within a year later. It is kind of a grainy picture, but you can see a stark difference. Unfortunately, even though her mother tried rescuing her from this life-style, this little girl committed suicide. Meth is just an incredibly difficult drug to try and break free from.

In my home State, Duaine Bullock, the captain of narcotics unit in Lincoln that the gentleman from Nebraska (Mr. FORTENBERRY) represents, gave a sobering assessment of the growing meth problem in Nebraska and just said pointblank, we have got a gigantic problem. He is right on the mark. According to Nebraska Attorney General John Bruning, 60 percent of the inmates in Nebraska jails have a problem with meth. The number of people in Nebraska jails for possessing, selling, or manufacturing meth has more than doubled since 1999.

When we talk about this fight against meth in our communities, the front line of this war, of our war on meth and drugs, the fastest growing drug in the Nation, meth has produced a wider and more extensive array of problems than any other narcotic we have ever faced before. It is no longer just a rural or Midwestern issue. The Byrne grants that I mentioned casually goes directly to our front line warriors, our local police and our sheriff. It is those folks that are going to know where the drugs are located, which houses perhaps in a certain community have meth labs or will see some of the characteristics within that family unit or that home that can lead them to the conclusion that perhaps a meth lab is in operation there.

And so it makes no sense to me, Mr. Speaker, that we have a proposal in front of Congress to completely eliminate the Byrne/JAG grants which are the dollars that go to local police departments to help them become prepared and enter into task forces all the way up to the Federal level. What we are seeing is a system of centralization of our war on drugs away from our front line warriors to the Nation's capital. While I certainly can maybe not respect, but at least understand, why a drug czar, a department, would want to consolidate its own power, I think is doing it against the best interests of this Nation.

Mr. Speaker, I would like to introduce another gentleman from Nebraska (Mr. OSBORNE). Frankly, he has been on the front lines bringing this issue to the attention of just about anyone that will listen over the last 3 years. It is my pleasure to introduce my friend and colleague from the Third District of Nebraska.

Mr. OSBORNE. I certainly thank the gentleman for yielding. Obviously, I have the worst affliction that a politician can have. I have laryngitis. I am playing hurt tonight. This is an all-Nebraska deal, it looks like. I really appreciate the gentleman from Nebraska (Mr. TERRY) organizing this. This is a very important issue. Probably half the States at the present time have a serious meth problem, but the ones that do not have it are going to have it. We think the whole country needs to be aware.

I would just like to provide a little background here. Methamphetamines first came into prominence during World War II. Quite often the Japanese kamikaze pilots were given meth. It gets you in such a euphoric state that you will take off in an airplane with not enough gas to return and think you are still going to make it somehow.

It obviously has a powerful pull. It is the most highly addictive drug that is known to man. In many cases, one exposure to methamphetamine renders the victim permanently addicted. Sometimes people take methamphetamine without even knowing what it is they are getting into. It provides a high that will last from 6 to 8 hours. It dumps a huge amount of dopamine which makes you feel good and, of course, eventually the next time it takes a little bit more and a little bit more and so on. It provides increased energy. Many working mothers, people working two jobs, will eventually get drawn into meth, truck drivers that want to stay out on the road for 48 to 72 hours. Some people on meth will stay awake for a week, sometimes even 2 weeks.

It does provide some energy. It also will provide the ability to lose weight, which is very attractive. On top of that, it is relatively cheap. In any place where you have a problem with cocaine or with heroin, meth will fix the problem, because it is cheaper, it is more powerful and almost without exception when meth comes in, the other things begin to decrease but the meth problem is so much worse that obviously the community is much worse off.

Whatever goes up must come down. I guess that is a law of physics, and so the accompanying emotions to meth abuse are anxiety, depression, hallucinations. Sometimes it is psychotic behavior. Violent behavior is often a side effect. Most meth addicts have what is known as crank bugs. They have the feeling that there is something crawling under their skin, and so they try to pick them out. We could have shown you some very graphic pictures tonight of people who have tremendous lesions on their skin. Maybe the gentleman from Nebraska (Mr. TERRY) has some of those.

Methamphetamine abuse always causes brain damage. Every time it destroys brain cells. A young person, maybe 18, 19 years old, who has been on meth for a year, will have a brain scan that will look almost identical to an 80-year-old Alzheimer's patient. You cannot distinguish the two. There are so many brain lesions, so much damage to the brain. It is very common, obviously, in rural areas because if you are going to manufacture methamphetamine, the odor is very distinct and so people seek out abandoned farmsteads. Sometimes they have mobile labs where they make it in the back of a van or something like that, but they usually like to stay out away from people.

□ 2200

The ingredients in methamphetamine are somewhat startling and a little bit bizarre. Pseudophedrine is, of course, the one ingredient that they have to have. In addition, oftentimes they use lithium batteries, drain cleaner, starter fluid, anhydrous ammonia, and iodine. So it is a tremendously toxic brew that is developed; and as a result, it costs about $5,000 or $6,000 to clean up a meth lab. It is very expensive. In some parts of the central United States, I believe Iowa had about 1,500 meth labs year; Missouri, around 2,000. So that is about $10 million just to clean up the meth labs alone. And, of course, most of those funds come from the Byrne grants and the HIDTA grants that we were talking about.

If we think about the cost of methamphetamine abuse, in our area most of the child abuse, most of the child neglect, most of the infant death, young people death, foster care are caused by methamphetamine today. So it is a very difficult situation and very costly.

The gentleman from Nebraska (Mr. TERRY) has already mentioned the Federal prison cells and the jail cells. So the last comment I will have today is simply this, that we are not saving money by cutting the Byrne grants. We are not saving money by cutting HIDTA because the average meth addict in Nebraska commits 60 crimes a year. So if we have 10 meth addicts in a community, that is 600 crimes.

The line of first defense is those law enforcement officers that the gentleman from Nebraska (Mr. TERRY)

showed. And these are the people who rely almost exclusively on the Byrne grants and on the HIDTA grants, the HIDTA grants are high-intensity drug traffic grants, and we have a huge amount of methamphetamine coming up from the southwest part of the United States and Mexico, going across Nebraska on Interstate 80. And the only way to intercept that and the only way to handle those drugs is with HIDTA. So we would urge Congress, other Members in this body, to support our efforts to restore those funds.

And I would again like to thank the gentleman from Nebraska (Mr. TERRY) and the gentleman from Nebraska (Mr. FORTENBERRY), who will speak shortly, for their efforts in this regard. We have approached the Speaker. We have talked to the appropriators, and we are making every effort that we can.

I thank the gentleman for yielding to me.

Mr. TERRY. Mr. Speaker, I do appreciate the gentleman's time in playing hurt. I am sure there have been times when he was coaching that he encouraged people with sore throats to get out and take one for the team; so I appreciate that.

The gentleman from Nebraska (Mr. OSBORNE) raised several good points that I will take some time on. He talked about some of the rather toxic ingredients. In fact, where I live in Valley, Nebraska, at least for the next day or two before we moved, the Saturday night before last there was a meth bust just about a half mile outside of town, and it was rather interesting in driving by and seeing the number of fire trucks and Hazmat units that are there. And what people do not understand, although the gentleman from Nebraska (Mr. OSBORNE) outlined the recipe in some of the ingredients, including bleach and anhydrous pneumonia and other ingredients, it is highly toxic but it is also highly flammable, which is why it is incredible to me that during some of these meth police busts they raid these homes and there are toddlers in these homes.

So it has an impact not only on our police departments but our fire departments who have to coordinate these drug busts where they find these labs. And as the gentleman from Nebraska (Mr. OSBORNE) also mentioned, we can find them just about anywhere. In fact, in a very affluent area of west Omaha just a few months ago, they made a drug bust of a mobile lab literally in the trunk of a car at a department store. So there are people that will build them in any place they can.

As I introduce the gentleman from Lincoln, Nebraska, I want to explain to anyone who is listening here tonight when we talk about the HIDTA grant, it is an acronym for high-intensity drug trafficking area. That is the grant that comes to local police departments to train them in how to handle a situation. Obviously, as we talked about the very volatile toxic explosive nature of a meth lab, since it is the local police departments that are on the front line that will be reading that particular house, that will be making the arrest, they want to make should that they understand the totality of the circumstances they are engaging in and how to protect themselves.

Also, as the gentleman from Nebraska (Mr. OSBORNE) pointed out, it is such an intense high under meth that these folks literally do not know or understand what they are doing, and they have a high propensity for violence. But yet sometimes they look completely normal for that particular instance that a policeman could be walking by. So they have to be trained in the subtleties of what to look for to see or determine if someone is under the influence of meth and in understanding that even though that person may appear calm for that particular instant in time that that person becoming violent is just inherent to the nature of the drug. So they have to train them how to handle that violent situation with a person under the influence.

Also, part of the HIDTA grant trains them how to work with other law enforcement agencies. In fact, HIDTA is set up into territories where they can literally have agencies across jurisdictions, whether it is Douglas County and Lancaster County official working together or our local police departments or even into Iowa, the gentleman from Iowa's (Mr. KING) district, who wanted to be with us here tonight but, like our colleague from the third district, is suffering from the same ailment. So it allows them to learn how to put the task forces together and share each other's talents and resources.

With that, so he can get on with his evening, let me introduce the gentleman from the First District of Nebraska in his first year here but nonetheless is jumping right into the issues that are affecting the people of Nebraska the most and the deepest. So I appreciate his instantly getting involved in the meth issue of Nebraska.

Therefore, I yield to the gentleman from the First District of Nebraska (Mr. FORTENBERRY).

Mr. FORTENBERRY. Mr. Speaker, I thank the honorable gentleman from the second district for bringing attention to the severity of this problem in our State and throughout many parts of America as well.

Mr. Speaker, let me tell the Members when I am at home with local law enforcement, I ask a simple question: What is going on, sheriff? And nearly every time the answer is the same, a single word, ''meth.'' And methamphetamine, commonly known as meth, as we have discussed, is a potent and highly addictive stimulant; and it is taking a terrible human toll across rural America. In fact, my hometown sheriff, Terry Wagner, recently recounted a story about a boy who had been addicted to meth for 9 years, and it is this prolonged exposure to these toxic chemicals that has caused such severe brain damage that it has given this young man an irreversibly wasted brain of an advanced Alzheimer's patient.

In Butler County, Sheriff Mark Heckler estimated that 90 percent of the prisoners he sees in jail have been involved with meth either as dealers or users or cookers.

Mr. TERRY. Mr. Speaker, reclaiming my time, I had read from our State Attorney General Jon Bruning, who is doing a fantastic job in that position, that it is 60 percent. But I did too have a local law enforcement officer that suggested it is higher than that, at least when we add the totality. He said, first of all, there are many of the folks in our State prison that are there because they are involved with meth; that they are dealing, cooking, distributing; or that they committed a crime while high on meth or, getting up to about that 90 percent figure, they are out burglarizing, robbing, plundering to get money to buy the drug. So many of our local officers feel that it is as high as 90 percent, whether it is directly related to the distribution or cooking of meth or just that they are so hooked that they are out robbing money to get it.

Mr. FORTENBERRY. Mr. Speaker, will the gentleman yield?

Mr. TERRY. I yield to the gentleman from Nebraska.

Mr. FORTENBERRY. Mr. Speaker, their ramifications are certainly widespread. Butler County, as I just mentioned, is a serene place, a farming community, a wonderful place to raise a family. And yet this shocking statistic of 90 percent is very real and disturbing. The sheriff also reported the same problem that the gentleman from Nebraska (Mr. OSBORNE) mentioned, that he finds small portable labs for production even in the back of cars. So meth is a particular threat to our rural communities, partly because it can be cooked in this way from small batches from readily available ingredients such as chemicals commonly used in fertilizer and cold medicines, as has been mentioned.

Something else to mention, though, is that concocting meth is itself a toxic activity, and it requires a combination of deadly chemicals at high temperatures. Hazardous fumes are produced, and poisonous fires and explosions are common, as the gentleman is aware. Toxic waste is invariably dumped, which spoils the environment and requires dangerous and costly clean-up, another adverse impact of this problem.

Let me tell the Members, as well, that in 2000 Nebraska law enforcement discovered 38 labs. In 2004 they dismantled over 300, and one search for a missing person in a wooded area actually turned up 15 meth labs in a 3-square mile area. And, of course, many go undiscovered.

I would like to add a few comments about what can potentially be done about the tide of meth sweeping the

country, and I think there are three approaches that do deserve our attention. First, State efforts to control the spread by controlling the access to its component chemicals, I believe, should be applauded, and smart controls on the sale of cold medicines are also a reasonable idea that may be considered at the Federal level. Second, and the gentleman has mentioned this additionally, the antidrug task force has maximized the effectiveness of law enforcement, particularly with overlapping jurisdictions. And I believe lawmakers, as he does, in Washington must listen to those who are on the front lines in the battle against meth and give them the tools they need to protect our communities this week, this month, this year.

Third, we must also recognize the national scope of the meth problem. It is estimated that 85 percent of the meth in Nebraska comes from large out-of-state labs in Arizona, California, and Mexico. These superlabs do not get their chemicals from the local drug store, but depend on multi-state and multi-national suppliers. This is why we also need a focused and multi-national, a coordinated national, strategy to stamp out meth. And I believe it is the job of the Federal Government to keep meth and its chemical precursors from crossing State borders. Existing regulations on the sale of meth chemicals should be enforced; and the development, again, of alternative compounds in cold medicines could also be determined and encouraged.

Mr. Speaker, finally, let me add that meth is clearly addictive and deadly; and I urge all to avoid it. There is no future in meth.

And again I want to thank the gentleman from the Second District of Nebraska for his willingness to spend this evening discussing this very difficult issue for our State, but a difficult issue as well for many other areas that are facing this widespread problem.

Mr. TERRY. Mr. Speaker, reclaiming my time, I thank the gentleman for his efforts in this.

I too have a police and sheriff task force like he has put together; and it is amazing, just 2 years ago when we met, asking what the most significant issue was facing them on a daily basis or what some of the trends are. They said, well, definitely meth. But we are not necessarily seeing it in the inner city of Omaha, the gangs there that are still running the traditional drugs of cocaine, crack, and marijuana.

□ 2215

Mostly what we are seeing is they were telling me 2 years ago is that the meth is more of a rural issue, but it is starting to come in through the suburbs and they are seeing a great deal of the problems as we had just mentioned, the crime that is associated with the addiction, whether it is crimes committed while high or crimes committed to get high.

When I met with them probably about 9 or 10 months ago again I asked the same question. They said the drugs the gangs are running are almost exclusively meth now. They are coming from two different directions. We still have the rural issue, where some of the ingredients are so readily available and you can go to your corner drugstore and get the pseudoephedrine out of Sudafed and other materials to make it, but the gentleman mentioned that that is incredibly important in our fight here.

Meth has become basically a war on two fronts. You have got the labs that are being operated by individuals, because they are so easy to put together, the ingredients are very accessible, although in Nebraska our State legislature, fortunately, is dealing with it, and probably by the end of this week we will have Sudafed behind the counter. It is too bad we have to do that to our local retailers. But that is one border.

Traditionally what we have tried to fight is the pop-up labs, particularly in rural areas, or mobile labs. But now you have the super labs in Mexico that are running the drugs up, and it is the same pattern we have seen with cocaine others. It comes from Central America into L.A. and Phoenix and the other gang headquarters and through their distribution schemes throughout the rest of the United States. That is where we are seeing it come into Nebraska now, and that is why it is becoming an inner-city drug as well. Now it has just infiltrated every part of our community in the last few years.

The gentleman mentioned something else, the brain damage that is caused from this. You begin that deterioration of the brain cells, as the gentleman from Nebraska (Mr. OSBORNE) mentioned, with the dopamine, the rush that gets you. It is such an intense rush of that chemical that it literally fries the synapses and cannot be restored. You are literally frying your brain. Those cannot be absorbed.

The first area that goes is your ability to make decisions. That is the first part of the brain that is affected by meth. That is why we see an incredible tolerance to the drug. You start craving it and craving it. The Catholic Charities in Nebraska, when I toured them about 3 years ago, it was all alcohol and some cocaine. Now it is almost exclusively, 90 to 95 percent, meth cases that come in there now. They told me when I toured a few months ago they cannot cure them. Even those that have only smoked or ingested or injected or however they used it a few times, it has done enough damage to the decision-making part of your brain that you cannot reason; you cannot say this is bad for me, so I am going to quit. You just lost that ability. So you have a drug that forces you, I should not say forces you, but you have lost that ability to say ''no'' to it anymore.

This is what happens. This poor little girl was 13-years-old. The gentleman has a daughter that is only a couple years younger than her and I have a son a couple years younger. I think of the gentleman's daughter and my son as just little kids, but yet they are being exposed to this.

Mr. Speaker, getting back to cutting the Byrne grants and HIDTA, this statistic shows how our local law enforcement officers working in task forces with the Federal agencies have been able every year from 1999 to 2003 to steadily discover and demolish a vast number of meth labs. But, as you see here, even though this is not full reporting, it is going to be pretty close, in 2004 a slight drop.

I think the slight drop can be accounted for in two ways: Number one, I would say that the Byrne funding was working and helping our local law enforcement find those labs, but also then as I mentioned with the gentleman from Nebraska (Mr. FORTENBERRY), we are seeing now this has become in drug trade like cocaine, where it is imported through Mexico into the major cities and then distributed through the gang distribution system.

Now, let me get to a couple of final points here. In the White House's fiscal 2006 budget that was delivered this year, it requested to eliminate the Byrne Justice Assistance Grants Program, which provided $634 million to law enforcement agencies nationwide, including almost $2.2 million for Nebraska.

The Nebraska State Patrol estimates that nine of eleven State antidrug task forces that were created with this Byrne grant funding would have to be dismantled. The White House's budget also recommends reducing the HIDTA program by 56 percent. Again, those are the multi-State and local drug trafficking meth training programs. For Nebraska, ours is located in the Kansas City region.

The Byrne and the HIDTA programs are the primary tools through which the Federal Government integrates State and local law enforcement into the national drug control strategy. Tom Constantine, a former head of the Drug Enforcement Agency, recently testified to Congress that he could not recall a single case during his tenure that did not begin as a referral from State and local law enforcement, including many through Byrne and HIDTA task forces. So when we talk about the centralization, pulling the power from the local enforcement agencies to the Federal Government, you are talking about really emasculating our drug enforcement policy. Tom Constantine said every one of their referrals started at the local level.

There is a clear link between drugs and violence that I think we have covered fully here tonight, and these Byrne grants are providing cities and counties with the resources that are necessary to share the information and dismantle regional drug distribution rings. And before Byrne and HIDTA, by the way, when our local police members were out on their own, they did

not have the power to work with the Federal agencies and task forces to take the meth and trace it back to their origination and be able to dismantle these incredible drug rings.

Mr. Speaker, I would like to conclude this tonight with a couple of somewhat lengthy, but I will read fast, the works of some of our local police officers.

I will start with Police Chief Melvin Griggs in Gering, Nebraska. He said: ''I am the police chief of a city of 8,000 people. We are bordered by a town of 13,000. In 1989, the increase in the cocaine drug traffic prompted us to start a drug task force. The wealth of the people dealing allowed them to purchase property, semi-trucks and farms. They were becoming very powerful. They were also starting to challenge each other for control of the drug trade.

''One family we put away caused a drop of all criminal activity by 33 percent. Within a year, people were already starting to fill the void. But before they could reach the power base, we were always able to stop them because of the task force.

''Meth replaced cocaine. I have lived in this area for 60 years. We did not have murders, and now we have several every year. Our drug task force also helps investigate violent crime. We have seven agents highly trained. They have been able to solve most of these crimes. If we had ever been able to increase the task force, they may have been able to stop some of them. Yet the task force has remained the same.

''It has taken years to develop this team, to develop the cooperation and expertise. Taking away the funding to keep it going will defeat the progress in a matter of months. The dealers will again gain strength, and by the time our leaders realize the mistake they have made by taking these funds, many communities will have developed catastrophic results. Then the leaders will return the funds. It will take years to develop the level of response we now have, and we may never get it, as the problem may have well become beyond our reach.

''I have talked to other police chiefs, and we are not the only community facing this problem. Maybe we have not been vocal enough. We have seen this every day, it is in all of our newspapers, it is on CNN. It is hard for us to believe that anyone cannot understand this problem. It is hard for us to believe that they really plan on a significant reduction in funding. It is hard for us to believe that whoever wrote this article on task forces being ineffective has any idea what a task force does. I hope reason prevails. Reducing this funding is a serious mistake.''

Another Nebraska police chief, Stephen Sunday of David City, heads up a 12 county, 28 agency multi-jurisdictional drug task force funded with Byrne dollars. He told me, again it is a rather lengthy quote, ''Those grant dollars are the only, and I mean only way the task force was able to form as a group. In South-Central Nebraska there are nothing but small, rural law enforcement agencies that cannot afford to deal with drug investigations to the degree that we are able to do with Federal grant funding.

''Our primary goal is to investigate the individuals who are dealing drugs in our communities. The drug of choice is meth, and I am here to tell you that meth is a killer, a killer of families, of lives and of health. Health costs for dealing with meth users is terrific. Families cannot afford it.

''The drug task forces are the only effective means of going after the drug dealers. On our own, we cannot handle it. The first problem is that most of the drug dealers in rural Nebraska know all of the law enforcement officers by name and know that we are spread thin. Working with undercover investigators, our task force is able to get next to the drug dealers, but it takes money to have your own separate, dedicated drug investigators.

''By banding together with the Federal Government through Federal dollar grants we can fight the drug dealers. The task forces share intelligence information, which did not happen prior to the creation of Nebraska's drug task forces.

''The intelligence information is so important to us that if the drug task forces are shut down due to lack of Federal funding, then we will be in serious trouble. If the drug dealers find out that the government is cutting off grant funding and as a result the task forces fold up and go away, they will be holding a big party to rejoice at this news. If Federal funding is taken away, the drug task forces in the State of Nebraska will fold up shop and disappear.

''We cannot fund the task forces by ourself. If Congress wants to hear an angry outcry from rural America, take away our task force funding. See what happens. Our Federal elected officials will be eaten alive by the voters. If Congress wants to be progressive and deal with illegal drugs, give us back our funding.

''The Federal Government needs to take care of issues at home more than anywhere else. Public safety needs need to be a high priority. If the drug task force is shut down from a lack of Federal funding, the illegal drug problem in rural America will get out of control and you will pay dearly in ruined lives. Don't take away Federal funding that was coming from the Byrne grant dollars.''

As the gentleman from Nebraska (Mr. OSBORNE) mentioned in his talk a few days ago myself, the gentleman from Nebraska (Mr. OSBORNE), the gentleman from California (Mr. CALVERT), the gentleman from Indiana (Mr. SOUDER) and the gentleman from North Carolina (Mr. COBLE) met with the Speaker to express our frustration with any proposed cuts to Byrne grants and HIDTA funding. The Speaker was completely knowledgeable and empathetic with this and promised to help us work with it. So I really appreciate that the leadership in the House of Representatives shares the concern that the speakers did tonight during this special order, as well as the gentleman from California (Mr. CALVERT), the gentleman from Indiana (Mr. SOUDER), the gentleman from North Carolina (Mr. COBLE) and the gentleman from Iowa (Mr. KING), who could not be here tonight.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Ms. PELOSI) for today.

Ms. MILLENDER-MCDONALD (at the request of Ms. PELOSI) for today and the balance of the week on account of continuing to recuperate from surgery.

Mr. BARRETT of South Carolina (at the request of Mr. DELAY) for today on account of family reasons.

Mr. LATOURETTE (at the request of Mr. DELAY) for today on account of a family emergency.

Mr. POE (at the request of Mr. DELAY) for today on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mrs. MCCARTHY, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. DEGETTE, for 5 minutes, today.

Mr. SNYDER, for 5 minutes, today.

Mr. INSLEE, for 5 minutes, today.

Mr. CLEAVER, for 5 minutes, today.

(The following Members (at the request of Mr. JONES of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, May 24, 25, 26, and 27.

Mr. POE, for 5 minutes, May 24.

Mr. HOSTETTLER, for 5 minutes, May 24.

Mr. RAMSTAD, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 35. Concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania, to the Committee on International Relations.

□ 2230

ADJOURNMENT

Mr. TERRY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 30 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, May 24, 2005, at 9 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2067. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule — Plant Variety Protection Office, Supplemental Fees [Docket Number ST-02-02] (RIN: 0581-AC31) received May 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2068. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule — Winter Pears Grown in Oregon and Washington; Order Amending Marketing Order No. 927 [Docket No. AO-F&V-927-A1; FV04-927-1 FR] received May 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2069. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule — Olives Grown in California; Increased Assessment Rate [Docket No. FV05-932-1 FR] received May 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2070. A letter from the Chief, EBT Branch, Department of Agriculture, transmitting the Department's final rule — Food Stamp Program, Regulatory Review: Standards for Approval and Operation of Food Stamp Electronic Benefit Transfer (EBT) (Amendment No. 394) (RIN: 0584-AC37) received April 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2071. A letter from the Acting Administrator, Rural Utilities Service, Department of Agriculture, transmitting the Department's final rule — Accounting Requirements for RUS Telecommunications Borrowers (RIN: 0572-AB77) received May 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2072. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Asian Longhorned Beetle; Addition to Quarantined Areas [Docket No. 04-130-2] received April 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2073. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Bovine Spongiform Encephalopathy; Minimal-Risk Regions and Importation of Commodities; Finding of No Significant Impact and Affirmation of Final Rule [Docket No. 03-080-7] (RIN: 0579-AB73) received April 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2074. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Introductions of Plants Genetically Engineered To Produce Industrial Compounds [Docket No. 03-038-2] (RIN: 0579-AB89) received May 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2075. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Karnal Bunt; Compensation for Custom Harvesters in Northern Texas [Docket No. 03-052-3] received May 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2076. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting the annual report on the impact of the improvements to compensation and benefits made by title VI of the National Defense Authorization Act for FY 2000 on the recruiting and retention programs of the Armed Forces, pursuant to 37 U.S.C. 1015 Public Law 106–65, section 673; to the Committee on Armed Services.

2077. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral Albert T. Church III, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

2078. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting an annual report entitled, ''Defense Acquisition Challenge Program: Fiscal Year 2004,'' pursuant to 10 U.S.C. 2359b(i); to the Committee on Armed Services.

2079. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting a copy of the ''Annual Report on the Department of Defense Mentor-Protege Program'' for FY 2004, pursuant to Public Law 101–510, section 831; to the Committee on Armed Services.

2080. A letter from the Assistant Secretary for Reserve Affairs, Department of Defense, transmitting the annual National Guard and Reserve Component Equipment Report for fiscal year (FY) 2006, pursuant to 10 U.S.C. 10541; to the Committee on Armed Services.

2081. A letter from the Deputy Secretary, Department of Defense, transmitting pursuant to the requirements in House Report 108-553 (Title III, Procurement) accompanying the Department of Defense Appropriations Act for FY 2005 (Pub. L. 108-287), a report outlining the near-term and long-term plans for repair, replacement, and recapitalization of ground force equipment used in Operation Iraqi Freedom and Operation Enduring Freedom; to the Committee on Armed Services.

2082. A letter from the Secretary, Department of Energy, transmitting a draft bill ''To amend the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 to include worldwide nuclear weapons removal, and for other purposes''; to the Committee on Armed Services.

2083. A letter from the Senior Procurement Executive, OCAO, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Technical Amendments [FAC 2005-03; Item III] received April 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2084. A letter from the Senior Procurement Executive, OCAO, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Section 508 Micropurchase Exemption [FAC 2005-03; FAR Case 2004-020; Item II] (RIN: 9000-AK05) received April 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2085. A letter from the Senior Procurement Executive, OCAO, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Purchases From Federal Prison Industries — Requirement for Market Research [FAC 2005-03; FAR Case 2003-023; Item I] (RIN: 9000-AJ91) received April 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2086. A letter from the Senior Procurement Executive, OCAO, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Circular 2005-03; Introduction — received April 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2087. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's FY 2004 Annual Report, pursuant to 16 U.S.C. 797(d); to the Committee on Energy and Commerce.

2088. A letter from the Fiscal Assistant Secretary, Department of the Treasury, transmitting the annual report to Congress on material violations or suspected material violations of regualtions relating to Treasury auctions and other offerings of securities by Treasury, pursuant to (107 Stat. 2344, 2358-2359); to the Committee on Energy and Commerce.

2089. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Waste Management System; Testing and Monitoring Activities; Final Rule: Mathods Innovation Rule and SW-846 Final Update IIIB [RCRA-2002-0025; FRL-7916-1] (RIN: 2050-AE41) received May 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2090. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Project XL Rulemaking Extension for New York State Public Utilities; Hazardous Waste Management Systems; Final Rule [FRL-7916-2] received May 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2091. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Maintenance Plans; Michigan; Southeast Michigan Ozone Maintenance Plan Update to the State Implementation Plan [R05-OAR-2004-MI-0004; FRL-7915-8] received May 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2092. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Underground Storage Tank Program: Approved State Program for Minnesota [FRL-7909-5] received May 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2093. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Daytona Beach Shores, Florida) [MB Docket No. 04-240; RM-10843] received May 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2094. A letter from the Assistant Bureau Chief for Management, International Bureau, Federal Communications Commission, transmitting the Commission's final rule — 2000 Biennial Regulatory Review — Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations [IB Docket No. 00-248] Amendment of Part 25 of the Commission's Rules and Regulations to Reduce Alien Carrier Interference Between Fixed-Satellite at Reduced Orbital Spacings and to Revise Application Procedures for Satellite Communication Services [CC Docket No. 86-496] Received May 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2095. A letter from the Secretary, Department of Commerce, transmitting a six-

month report prepared by the Department of Commerce's Bureau of Industry and Security on the national emergency declared by Executive Order 13222 of August 17, 2001, and continued on August 14, 2002, August 7, 2003, and August 6, 2004 to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979, pursuant to 50 U.S.C. 1641(c) 50 U.S.C. 1703(c); to the Committee on International Relations.

2096. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting an updated and corrected copy of the Department's ''Country Reports on Terrorism: 2004,'' pursuant to 22 U.S.C. 2656f; to the Committee on International Relations.

2097. A communication from the President of the United States, transmitting a report on the Open Skies Treaty that provides an analysis of the first year of implementation of the treaty; to the Committee on International Relations.

2098. A communication from the President of the United States, transmitting a supplemental consolidated report, consistent with the War Powers Resolution, to keep Congress informed about the deployments of U.S. combat-equipped armed forces in support of the global war on terrorism, Kosovo, and Bosnia and Herzegovina, pursuant to Public Law 93–148; (H. Doc. No. 109–30); to the Committee on International Relations and ordered to be printed.

2099. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on activities under the Tropical Forest Conservation Act of 1998, pursuant to Public Law 105—214, section 813; to the Committee on International Relations.

2100. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary's determination that five countries are not cooperating fully with U.S. antiterrorism efforts: Cuba, Iran, Libya, North Korea, and Syria, pursuant to 22 U.S.C. 2781; to the Committee on International Relations.

2101. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting the 2003 annual report on the activities and operations of the Public Integrity Section, Criminal Division, pursuant to 28 U.S.C. 529; to the Committee on the Judiciary.

2102. A letter from the Director, Administrative Office of the U.S. Courts, transmitting the annual report on applications for court orders made to federal and state courts to permit the interception of wire, oral, or electronic communications during calendar year 2004, pursuant to 18 U.S.C. 2519(3); to the Committee on the Judiciary.

2103. A letter from the Secretary, Department of Health and Human Services, transmitting notice that an additional class of Mallinckrodt has been added to the Special Exposure Cohort in reponse to a petition filed on behalf of a class of workers from the Mallinckrodt Destrehan Street facility in St. Louis, Missouri, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000; to the Committee on the Judiciary.

2104. A letter from the Secretary, Department of Labor, transmitting the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) Annual Report to Congress for Fiscal Year 2004, pursuant to 38 U.S.C. 4322; to the Committee on Veterans' Affairs.

2105. A letter from the Commissioner, Customs and Border Protection, Department of Homeland Security, transmitting a report entitled ''Import Trade Trends: FY 2004 Year End Report (October 2003 — September 2004)''; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Filed on May 20, 2005]

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 742. A bill to amend the Occupational Safety and Health Act of 1970 to provide for the award of attorneys' fees and costs to small employers when such employers prevail in litigation prompted by the issuance of a citation by the Occupational Safety and Health Administration (Rept. 109–61 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. HUNTER: Committee on Armed Services. H.R. 1815. A bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2006, and for other purposes; with amendments (Rept. 109–89). Referred to the Committee of the Whole House on the State of the Union.

[Filed on May 23, 2005]

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. House Resolution 243. Resolution recognizing the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts to promote National Safe Boating Week (Rept. 109–90). Referred to the House Calendar.

Mr. TOM DAVIS of Virginia: Committee on Government Reform. H.R. 2066. A bill to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes; with an amendment (Rept. 109–91). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHLERT: Committee on Science. H.R. 250. A bill to establish an interagency committee to coordinate Federal manufacturing research and development efforts in manufacturing, strengthen existing programs to assist manufacturing innovation and education, and expand outreach programs for small and medium-sized manufacturers, and for other purposes; with an amendment (Rept. 109–92). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 744. A bill to amend title 18, United States Code, to discourage spyware, and for other purposes (Rept. 109–93). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 291. Resolution providing for consideration of the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–94). Referred to the House Calendar.

Mr. WALSH: Committee on Appropriations. H.R. 2528. A bill making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–95). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. FILNER (for himself and Mr. FOLEY):

H.R. 2518. A bill to amend title XVIII of the Social Security Act to prohibit disclosure of social security numbers on Medicare-related mailings; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 2519. A bill to require the Secretary of Education to revise regulations for student loan deferments with respect to borrowers who are medical or dental residents; to the Committee on Education and the Workforce.

By Mr. SMITH of New Jersey (for himself, Mr. BARTON of Texas, Mr. DAVIS of Alabama, Mr. DELAY, Mr. DEAL of Georgia, Mr. BLUNT, Mr. TOWNS, Mr. DAVIS of Kentucky, Ms. FOXX, Mr. SHIMKUS, Mr. STUPAK, Mr. RENZI, Mr. CANTOR, Mr. PAYNE, Mr. GREEN of Wisconsin, Mr. MCINTYRE, Mr. FERGUSON, Mr. NORWOOD, Ms. MILLENDER-MCDONALD, Mr. EVERETT, Mr. KENNEDY of Minnesota, Mr. CONYERS, Mr. BOUSTANY, Mr. LIPINSKI, Mr. ADERHOLT, Mr. BURGESS, Mr. WELDON of Florida, Mr. PENCE, Mrs. MYRICK, Mr. RYUN of Kansas, Mr. PITTS, Mr. MCCAUL of Texas, Mr. WAMP, Mr. CHABOT, Mr. MURPHY, Mr. INGLIS of South Carolina, Mr. TERRY, Mr. FORTENBERRY, Mr. NEUGEBAUER, Mr. STEARNS, Mr. WALSH, Mr. MCCOTTER, Mr. FOSSELLA, Mrs. JO ANN DAVIS of Virginia, Mr. HASTINGS of Washington, Mrs. DRAKE, Ms. HART, Mr. BURTON of Indiana, Mr. KING of New York, Mr. HAYWORTH, Mr. SULLIVAN, Mr. FITZPATRICK of Pennsylvania, Mr. GUTKNECHT, Mr. SHADEGG, Mr. AKIN, Mr. SOUDER, Mr. HAYES, Mr. BOOZMAN, Mr. DOOLITTLE, Mr. PRICE of Georgia, Mr. MEEK of Florida, Mr. KLINE, Mr. FORD, Mr. HYDE, Mrs. MUSGRAVE, Mr. FORBES, Mr. SAM JOHNSON of Texas, Mr. TANCREDO, Mr. DANIEL E. LUNGREN of California, Mr. MARSHALL, Ms. ESHOO, Mr. SODREL, Mr. PUTNAM, Mr. CANNON, Mr. LINCOLN DIAZ-BALART of Florida, Mr. CLAY, Ms. ROS-LEHTINEN, Mr. MCHENRY, and Mr. FRANKS of Arizona):

H.R. 2520. A bill to provide for the collection and maintenance of human cord blood stem cells for the treatment of patients and research, and to amend the Public Health Service Act to authorize the C.W. Bill Young Cell Transplantation Program; to the Committee on Energy and Commerce.

By Mr. FERGUSON (for himself and Mr. TOWNS):

H.R. 2521. A bill to establish a program to transfer surplus computers of Federal agencies to schools and nonprofit community-based educational organizations, and for other purposes; to the Committee on Government Reform.

By Mr. FERGUSON:

H.R. 2522. A bill to extend the suspension of duty on filter blue green photo dye; to the Committee on Ways and Means.

By Mr. FERGUSON:

H.R. 2523. A bill to extend the suspension of duty on ammonium bifluoride; to the Committee on Ways and Means.

By Mr. FERGUSON:

H.R. 2524. A bill to extend the suspension of duty on Bis(4-fluorophenyl) methanone; to the Committee on Ways and Means.

By Mr. KENNEDY of Minnesota (for himself, Mr. POMEROY, Mr. MORAN of Kansas, and Mr. GILLMOR):

H.R. 2525. A bill to amend title XVIII of the Social Security Act to make improvements to payments to ambulance providers in rural areas, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. KELLY (for herself, Mr. HINCHEY, Mr. KILDEE, Mr. MCNULTY, Mr. BRADLEY of New Hampshire, Mr. WOLF, Mr. PAYNE, Mr. ENGLISH of Pennsylvania, Mr. SWEENEY, Mr. GILCHREST, Mr. HASTINGS of Florida, and Mr. FRANK of Massachusetts):

H.R. 2526. A bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ANDREWS:

H.R. 2527. A bill to expand the bases on which student loan borrowers may obtain deferments of their repayment obligations; to the Committee on Education and the Workforce.

By Mr. WALSH:

H.R. 2528. A bill making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

By Mr. ANDREWS:

H.R. 2529. A bill to amend the Employee Retirement Income Security Act of 1974 to exclude cooperative employing units from multiple employer welfare arrangements; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 2530. A bill to ensure that State and local law enforcement agencies execute warrants for the arrest of nonviolent offenders only when children are not present, unless overriding circumstances exist; to the Committee on the Judiciary.

By Mr. BACA:

H.R. 2531. A bill to amend titles 10 and 14, United States Code, to provide for the use of gold in the metal content of the Medal of Honor; to the Committee on Armed Services.

By Mr. CANTOR:

H.R. 2532. A bill to suspend temporarily the duty on urea, polymer with formaldehyde (Pergopak); to the Committee on Ways and Means.

By Mrs. CUBIN (for herself, Mr. GONZALEZ, Mr. KING of Iowa, Mr. RADANOVICH, Mr. WYNN, and Mr. BROWN of Ohio):

H.R. 2533. 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; to the Committee on Energy and Commerce.

By Mr. DEAL of Georgia:

H.R. 2534. A bill to amend the Internal Revenue Code of 1986 to encourage private philanthropy; to the Committee on Ways and Means.

By Mr. FRELINGHUYSEN:

H.R. 2535. A bill to extend the suspension of duty on polymethine photo-sensitizing dyes; to the Committee on Ways and Means.

By Mr. FRELINGHUYSEN:

H.R. 2536. A bill to extend the suspension of duty on 4-Hexylresorcinol; to the Committee on Ways and Means.

By Mr. FRELINGHUYSEN:

H.R. 2537. A bill to extend the suspension of duty on certain organic pigments and dyes; to the Committee on Ways and Means.

By Mr. HAYWORTH:

H.R. 2538. A bill to extend the temporary suspension of duty on a certain ultraviolet dye; to the Committee on Ways and Means.

By Mr. HAYWORTH:

H.R. 2539. A bill to extend the temporary suspension of duty on certain cathode-ray tubes; to the Committee on Ways and Means.

By Mr. HAYWORTH:

H.R. 2540. A bill to extend the temporary suspension of duty on certain cathode ray tubes; to the Committee on Ways and Means.

By Mr. KING of New York (for himself, Mr. SMITH of New Jersey, Mr. NORWOOD, Mr. ISRAEL, and Mr. BISHOP of New York):

H.R. 2541. A bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Institutes of Health regarding qualifying adult stem cell research, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KUHL of New York:

H.R. 2542. A bill to suspend temporarily the duty on low expansion laboratory glass; to the Committee on Ways and Means.

By Mr. KUHL of New York:

H.R. 2543. A bill to suspend temporarily the duty on stoppers, lids, and other closures; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2544. A bill to extend the temporary suspension of duty on benzoic acid, 2-amino-4-[[(2,5-dichlorophenyl)amino]carbonyl]-, methyl ester; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2545. A bill to suspend temporarily the duty on Acid Blue 80; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2546. A bill to extend the temporary suspension of duty on Pigment Red 185; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2547. A bill to extend the temporary suspension of duty on Solvent blue 124; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2548. A bill to suspend temporarily the duty on Pigment Brown 25; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2549. A bill to suspend temporarily the duty on Pigment Red 188; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2550. A bill to extend the temporary suspension of duty on Pigment Yellow 154; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2551. A bill to extend the temporary suspension of duty on Pigment Yellow 175; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2552. A bill to suspend temporarily the duty on Pigment Yellow 213; to the Committee on Ways and Means.

By Ms. LEE (for herself, Mr. ABERCROMBIE, Mr. BARRETT of South Carolina, Mr. BISHOP of Georgia, Ms. CORRINE BROWN of Florida, Mrs. CAPPS, Ms. CARSON, Mr. CROWLEY, Mr. DAVIS of Illinois, Mr. DEFAZIO, Mr. DOGGETT, Mr. FARR, Mr. GRIJALVA, Ms. HARMAN, Mr. HOLT, Mr. JACKSON of Illinois, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY of Rhode Island, Mr. KUCINICH, Mr. LANTOS, Ms. ZOE LOFGREN of California, Ms. MCCOLLUM of Minnesota, Mr. MCGOVERN, Mr. MICHAUD, Mr. GEORGE MILLER of California, Mr. NADLER, Mr. OLVER, Mr. PAYNE, Mr. RANGEL, Ms. ROYBAL-ALLARD, Mr. ACKERMAN, Ms. BALDWIN, Mr. BRADY of Pennsylvania, Mr. BROWN of Ohio, Mr. CARNAHAN, Mrs. CHRISTENSEN, Mr. CUMMINGS, Mrs. DAVIS of California, Mr. DICKS, Ms. ESHOO, Mr. FRANK of Massachusetts, Mr. GUTIERREZ, Mr. HINCHEY, Mr. INSLEE, Ms. JACKSON-LEE of Texas, Mrs. JONES of Ohio, Ms. KILPATRICK of Michigan, Mr. LANGEVIN, Mr. LEWIS of Georgia, Mrs. LOWEY, Mr. MCDERMOTT, Mr. MCNULTY, Ms. MILLENDER-MCDONALD, Mr. MORAN of Virginia, Ms. NORTON, Mr. OWENS, Mr. PRICE of North Carolina, Mr. ROTHMAN, Mr. RUSH, Ms. LINDA T. SÁNCHEZ of California, Mr. SANDERS, Mr. SCHIFF, Mr. SIMMONS, Mr. SMITH of Washington, Mr. STARK, Mr. THOMPSON of California, Mr. TOWNS, Ms. WATERS, Mr. WAXMAN, Mr. WEXLER, Ms. SCHWARTZ of Pennsylvania, Mr. WYNN, Ms. LORETTA SANCHEZ of California, Ms. SCHAKOWSKY, Mr. SHERMAN, Ms. SLAUGHTER, Ms. SOLIS, Mrs. TAUSCHER, Mr. TIERNEY, Mr. UDALL of Colorado, Ms. WATSON, Mr. WEINER, Ms. WOOLSEY, Mr. LARSON of Connecticut, and Mr. MEEK of Florida):

H.R. 2553. A bill to provide for the reduction of adolescent pregnancy, HIV rates, and other sexually transmitted diseases, and for other purposes; to the Committee on Energy and Commerce.

By Ms. MCKINNEY:

H.R. 2554. A bill to provide for the expeditious disclosure of records relevant to the life and assassination of Reverend Doctor Martin Luther King, Jr; to the Committee on Government Reform.

By Mrs. MUSGRAVE:

H.R. 2555. A bill to authorize the construction of the Arkansas Valley Conduit in the State of Colorado, and for other purposes; to the Committee on Resources.

By Mr. RYAN of Wisconsin:

H.R. 2556. A bill to suspend temporarily the duty on air freshener electric devices with warmer units; to the Committee on Ways and Means.

By Mr. RYAN of Wisconsin:

H.R. 2557. A bill to suspend temporarily the duty on air freshener electric devices; to the Committee on Ways and Means.

By Mr. SHAYS (for himself, Ms. DELAURO, and Mr. TOM DAVIS of Virginia):

H.R. 2558. A bill to amend title 4 of the United States Code to prohibit the double taxation of telecommuters and others who work at home; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 2559. A bill to provide for the recognition of certain Native communities and the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Resources.

By Mr. PALLONE:

H.J. Res. 51. A joint resolution proposing an amendment to the Constitution of the United States to allow debate to be closed on any measure, motion, or other matter pending before the Senate only by unanimous consent or the concurrence of three-fifths of the Senators; to the Committee on the Judiciary.

By Mr. GERLACH (for himself, Mr. FARR, Mr. HOYER, Mr. HYDE, Mr. OXLEY, Mr. PICKERING, Mr. SCHWARZ

of Michigan, Mr. SHUSTER, and Mr. SKELTON):

H. Con. Res. 163. Concurrent resolution honoring the Sigma Chi Fraternity on the occasion of its 150th Anniversary; to the Committee on Education and the Workforce.

By Mr. DELAHUNT (for himself, Mr. ALLEN, Ms. BORDALLO, Mr. BLUMENAUER, Mrs. CHRISTENSEN, Mrs. DAVIS of California, Mr. FARR, Mr. GRIJALVA, Mr. HINCHEY, Mr. KIND, Mr. GEORGE MILLER of California, Ms. NORTON, Mrs. MCCARTHY, Mr. PALLONE, Mr. OLVER, Mr. MARKEY, Mr. HOLDEN, Mr. RAHALL, Mr. SAXTON, Mr. SHAYS, Mrs. CAPPS, and Mr. FRANK of Massachusetts):

H. Con. Res. 164. Concurrent resolution expressing the sense of the Congress regarding the policy of the United States at the 57th Annual Meeting of the International Whaling Commission; to the Committee on International Relations.

By Mr. CROWLEY:

H. Res. 292. A resolution commending the State of Kuwait for granting women certain important political rights; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. DAVIS of Kentucky.

H.R. 22: Ms. KILPATRICK of Michigan, Mr. CARNAHAN, Mr. LYNCH, Mr. SCHWARZ of Michigan, Ms. SOLIS, and Mr. BACHUS.

H.R. 23: Mr. HIGGINS, Mr. WU, and Mr. SERRANO.

H.R. 47: Mrs. EMERSON, Mr. CALVERT, Mr. HAYWORTH, Mr. KUHL of New York, and Mr. PUTNAM.

H.R. 97: Mr. UPTON.

H.R. 98: Mr. MARCHANT.

H.R. 115: Mr. HINCHEY and Ms. ZOE LOFGREN of California.

H.R. 215: Mr. DAVIS of Florida.

H.R. 282: Mr. LINDER, Mr. THOMPSON of California, Mr. MEEHAN, Mr. HAYWORTH, Ms. FOXX, Mr. SMITH of Texas, Mr. TANNER, Ms. DELAURO, Mr. BERRY, Mrs. MUSGRAVE, Mr. WELDON of Pennsylvania, and Mr. ROSS.

H.R. 303: Mr. WYNN, Mr. MEEKS of New York, Mr. MENENDEZ, Mr. DOGGETT, Ms. MATSUI, Mr. HOYER, Mr. BONILLA, and Mr. LEVIN.

H.R. 371: Mr. CHANDLER.

H.R. 389: Mr. PASTOR.

H.R. 463: Mr. GUTIERREZ.

H.R. 480: Mr. SANDERS.

H.R. 503: Mr. ISRAEL and Mr. MARKEY.

H.R. 537: Mr. WHITFIELD and Mr. BARROW.

H.R. 551: Ms. BALDWIN, Ms. BERKLEY, Mr. MEEHAN, and Mr. PASCRELL.

H.R. 562: Mr. BROWN of Ohio and Mr. ROTHMAN.

H.R. 653: Mr. OLVER.

H.R. 691: Mr. VAN HOLLEN.

H.R. 698: Mr. BACHUS.

H.R. 745: Mrs. MYRICK.

H.R. 783: Mr. GONZALEZ.

H.R. 801: Ms. BORDALLO.

H.R. 829: Ms. SCHAKOWSKY.

H.R. 865: Mr. MARSHALL.

H.R. 867: Mr. DOGGETT and Mr. WAXMAN.

H.R. 896: Mrs. WILSON of New Mexico and Mr. LEVIN.

H.R. 917: Mr. GOODE.

H.R. 930: Mr. SOUDER, Mr. WELDON of Pennsylvania, and Mr. GINGREY.

H.R. 698: Ms. FOXX, Mr. JOHNSON of Illinois, Mr. LANGEVIN, Mrs. MALONEY, Mr. GONZALEZ, Mr. PUTNAM, Mr. WELLER, Mr. MARSHALL, Mr. FRANK of Massachusetts, Mr. STRICKLAND, and Mr. BONILLA.

H.R. 972: Mr. AKIN.

H.R. 998: Mr. RUSH and Mr. CARTER.

H.R. 1011: Ms. LEE.

H.R. 1042: Mr. CAMP.

H.R. 1130: Mr. JEFFERSON and Mr. VAN HOLLEN.

H.R. 1157: Mr. RYAN of Ohio.

H.R. 1202: Mr. MCCOTTER.

H.R. 1227: Mr. COSTELLO, Mr. HINCHEY, and Mr. JEFFERSON.

H.R. 1245: Mr. KIRK.

H.R. 1286: Mr. COX.

H.R. 1295: Mr. PETERSON of Minnesota and Mr. BOUSTANY.

H.R. 1298: Mr. PUTNAM.

H.R. 1299: Mr. NEUGEBAUER.

H.R. 1329: Ms. SCHAKOWSKY and Mr. FRANK of Massachusetts.

H.R. 1335: Mr. HALL.

H.R. 1338: Mr. BISHOP of Georgia.

H.R. 1360: Mr. CANTOR.

H.R. 1373: Mr. POMEROY, Mr. BURTON of Indiana, Mrs. NAPOLITANO, Ms. SOLIS, Mr. SALAZAR, Mr. GRIJALVA, Ms. ROYBAL-ALLARD, Mr. BECERRA, Mr. CUELLAR, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HINOJOSA, Mr. MENENDEZ, Mr. ORTIZ, Mr. PASTOR, Mr. REYES, Ms. LINDA T. SÁNCHEZ of California, Ms. LORRETTA SANCHEZ of California, Mr. SERRANO, Ms. VELÁZQUEZ, and Mr. BACA.

H.R. 1409: Ms. ZOE LOFGREN of California, Mr. GEORGE MILLER of California, and Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 1431: Mr. PAYNE, Ms. LEE, Mr. CASTLE, and Mr. MACK.

H.R. 1498: Mr. GEORGE MILLER of California, Mrs. MILLER of Michigan, Mr. PETRI, and Ms. Moore of Wisconsin.

H.R. 1505: Mrs. MYRICK.

H.R. 1506: Mr. PETERSON of Minnesota, Ms. MCCOLLUM of Minnesota, Mr. MCGOVERN, and Mr. INSLEE.

H.R. 1509: Mr. PUTNAM.

H.R. 1517: Mr. GINGREY and Mr. CANTOR.

H.R. 1548: Mr. COOPER, Mr. GORDON, Mr. CONAWAY, Mr. MCCRERY, Mr. HERGER, Ms. HOOLEY, Mr. REHBERG, Mr. MORAN of Virginia, and Mr. RYAN of Ohio.

H.R. 1554: Mr. SESSIONS.

H.R. 1558: Mr. BLUMENAUER.

H.R. 1578: Mr. LEWIS of Kentucky, Mr. MOORE of Kansas, Mr. COBLE, Mr. TANNER, Mr. DUNCAN, Mr. SAM JOHNSON of Texas, and Mr. COX.

H.R. 1589: Mr. FATTAH and Ms. MOORE of Wisconsin.

H.R. 1591: Mr. PUTNAM and Mr. SCHWARZ of Michigan.

H.R. 1608: Mr. BARTLETT of Maryland.

H.R. 1652: Mr. CARNAHAN and Mr. VAN HOLLEN.

H.R. 1668: Ms. HARMAN.

H.R. 1671: Mr. BERRY.

H.R. 1687: Ms. ZOE LOFGREN of California, Mr. LEWIS of Georgia, Mr. OLVER, Ms. CARSON, Mr. SMITH of Washington, Mr. CONYERS, Mrs. CAPPS, Mr. MCNULTY, and Mr. CARNAHAN.

H.R. 1705: Mr. BOUSTANY.

H.R. 1814: Mr. COSTELLO and Ms. DELAURO.

H.R. 1852: Mr. OLVER and Mr. ALLEN.

H.R. 1898: Mr. KOLBE, Mr. HYDE, Mr. LATHAM, and Mr. CONAWAY.

H.R. 1902: Mr. SANDERS.

H.R. 1956: Mr. SOUDER, Mr. RAMSTAD, and Mr. KING of Iowa.

H.R. 1983: Mr. GERLACH.

H.R. 2036: Mr. HASTINGS of Florida.

H.R. 2044: Mr. CONYERS, Mr. HINCHEY, Mr. FORD, Mr. MCNULTY, and Mr. PLATTS.

H.R. 2074: Ms. DELAURO.

H.R. 2112: Mrs. MYRICK, Ms. GINNY BROWN-WAITE of Florida, Mrs. KELLY, and Mr. KINGSTON.

H.R. 2121: Mr. JINDAL.

H.R. 2122: Ms. KAPTUR.

H.R. 2208: Mr. BURTON of Indiana, Mrs. BLACKBURN, Mr. MCCOTTER, and Mr. DAVIS of Illinois.

H.R. 2233: Mr. DICKS.

H.R. 2238: Mr. KENNEDY of Rhode Island, Mr. SHIMKUS, and Ms. WASSERMAN SCHULTZ.

H.R. 2290: Mr. TERRY, Mr. INGLIS of South Carolina, and Mr. MCCRERY.

H.R. 2317: Mr. RUPPERSBERGER, Mr. NEAL of Massachusetts, Ms. LEE, Ms. BALDWIN, and Mr. MCHUGH.

H.R. 2327: Mr. MCDERMOTT, Mr. WEXLER, Mr. DICKS, Ms. BALDWIN, Mr. BERMAN, Ms. SOLIS, Mr. CONYERS, Ms. MATSUI, Mr. CASE, Mr. GONZALEZ, Mr. BECERRA, Mr. MARKEY, and Mr. CLEAVER.

H.R. 2346: Mr. JEFFERSON.

H.R. 2349: Mrs. CHRISTENSEN, Ms. KILPATRICK of Michigan, and Mr. CONYERS.

H.R. 2350: Mr. KUHL of New York.

H.R. 2355: Mr. INGLIS of South Carolina.

H.R. 2423: Mr. PUTNAM, Mr. SULLIVAN, and Mr. JINDAL.

H.R. 2427: Ms. SLAUGHTER, Mr. EVANS, Mr. SIMMONS, Mr. CLAY, and Mr. DELAHUNT.

H.R. 2457: Mr. BACHUS, Mr. FRANK of Massachusetts, Mr. CASE, and Ms. SCHAKOWSKY.

H.R. 2458: Mrs. MYRICK.

H.R. 2484: Mr. BEAUPREZ, Mr. FORTENBERRY, Mr. DENT, Ms. ROS-LEHTINEN, Ms. GRANGER, and Mr. RENZI.

H.R. 2512: Mr. HOLT.

H.J. Res. 10: Mr. BOREN, Mr. SHERWOOD, Mrs. EMERSON, and Mr. SOUDER.

H.J. Res. 12: Mr. GONZALEZ, Ms. ZOE LOFGREN of California, and Ms. SCHAKOWSKY.

H.J. Res. 38: Mr. MCDERMOTT.

H. Con. Res. 71: Mr. MENENDEZ, Mr. AL GREEN of Texas, and Mr. PALLONE.

H. Con. Res. 90: Mr. BARROW, Mr. BACA, Mr. BECERRA, Mr. CARDOZA, Mr. COSTA, Mr. HINOJOSA, Mrs. NAPOLITANO, Mr. SALAZAR, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Ms. VELÁZQUEZ, Mr. CUELLAR, and Mr. FRANK of Massachusetts.

H. Con. Res. 154: Mr. BROWN of South Carolina, Mr. SESSIONS, Ms. BORDALLO, and Mr. SOUDER.

H. Con. Res. 160: Ms. LEE, Mr. FATTAH, Mr. CLEAVER, and Mr. CLAY.

H. Con. Res. 162: Mr. BLUNT and Mrs. JO ANN DAVIS of Virginia.

H. Res. 67: Mr. ANDREWS.

H. Res. 84: Mr. TERRY.

H. Res. 276: Mr. MCNULTY, Mr. PAYNE, and Mr. BURTON of Indiana.

H. Res. 279: Ms. SCHAKOWSKY and Mr. SMITH of Washington.

H. Res. 280: Ms. MILLENDER-MCDONALD, Mr. MANZULLO, Mr. BECERRA, Ms. SOLIS, Mr. BORDALLO, and Ms. WATSON.

H. Res. 286: Mr. MCGOVERN, Mr. LANTOS, and Mr. MCNULTY.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2419

OFFERED BY: MR. FILNER

AMENDMENT NO. 1: At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds made available in this Act may be used by the Secretary of Energy to issue, approve, or grant any permit or other authorization for the transmission of electric energy into the United States from a foreign country if all or any portion of such electric energy is generated at a power plant located within 25 miles of the United States that does not comply with all air quality requirements that would be applicable to such plant if it were located in the air quality region in the United States that is nearest to such power plant.

H.R. 2419

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 2: At the end of the bill, add the following:

SEC. ____. Total appropriations made in this Act (other than appropriations required to be made by a provision of law) are hereby reduced by $297,460,000.

H.R. 2419

OFFERED BY: MR. SPRATT

AMENDMENT NO. 3: At the end of the bill, add the following new section:

SEC. 503. None of the funds made available by this Act shall be obligated or expended in contravention of the Nuclear Waste Policy Act of 1982.

H.R. 2419

OFFERED BY: MR. STUPAK

AMENDMENT NO. 4: At the end of the bill, add the following new section:

SEC. 503. None of the funds made available by this Act shall be used to accept deliveries of petroleum products to the Strategic Petroleum Reserve.

H.R. 2419

OFFERED BY: MR. STUPAK

AMENDMENT NO. 5: At the end of the bill (before the Short Title), insert the following:

SEC. __. None of the funds made available in this Act may be used to implement a policy, proposed in the Annex V Navigation Programs by the Corps of Engineers, to use or consider the amount of tonnage of goods that pass through a harbor to determine if a harbor is high-use.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *109th* CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, MONDAY, MAY 23, 2005 *No. 69*

Senate

The Senate met at 11:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Our guest Chaplain is the Reverend Penelope Swithinbank of The Falls Church at Falls Church, VA.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

O God, You are the Lord of grace and courage, of wisdom and truth. You give these good gifts to those who call on Your name and You promised to give in abundance when we ask.

We ask that You will give these gifts to the Senators today, that they may be free to think and speak only that which is right and true, without embittering or embarrassing others, that they may be united in knowing Your will and may understand the issues which face them. Give them courage to uphold what is right in Your sight, and integrity in all their words and motives. May their service be for the peace and welfare of all.

We ask these things in the name of Him who is both servant and Lord of all, Jesus Christ. Amen.

PLEDGE OF ALLEGIANCE

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

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

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will resume executive session to consider Priscilla Owen to be a U.S. circuit judge for the Fifth Circuit. We have a lineup of speakers throughout the afternoon and likely into the evening. As I have stated previously, if Members want to debate the nomination, we will provide them with that opportunity for debate. We have spent about 26 hours over the course of 3 days on the Owen nomination. On Friday, we asked unanimous consent to have an additional 10 hours before the vote, but there was an objection. Because of that objection, we filed a cloture motion on the nomination, and that vote will occur tomorrow. I will be talking to the Democratic leader as to the exact timing of that cloture vote.

At 5:30 this evening, Senators should anticipate a vote on the motion to instruct the Sergeant at Arms to request the presence of Members. This procedural vote is to ensure that Senators are here for this important debate.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, through the Chair to the distinguished Republican leader, does the leader have an indication of when you may be in a position to indicate how late we would go tonight?

Mr. FRIST. Mr. President, through the Chair, I expect, because of the large amount of interest, that we will stay here until everybody does have that opportunity to speak. We will have the cloture vote, and you and I can discuss shortly the timing. But likely we will do the cloture vote possibly late tomorrow morning. We do want to give people an opportunity. We have spent 26 hours over the course of 3 days, but in all likelihood it will be a very late night tonight.

Mr. REID. And we would continue dividing the time?

Mr. FRIST. I think for planning purposes, that has worked out well for the last 26 hours. If over the course of the morning and afternoon we jointly agree, we can continue that as late as necessary tonight or into the hours of the morning. As I mentioned, debate has been very orderly and very constructive. We will continue with that constructive debate over the course of today and tonight.

EXECUTIVE SESSION

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT—RESUMED

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session for consideration of Calendar No. 71, which the clerk will report.

The legislative clerk read the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Mr. FRIST. Mr. President, over the last 3 days, for 26 hours, the Senate has debated a very simple, straightforward principle. Qualified judicial nominees, with the support of the majority of Senators, deserve a fair up-or-down vote on the Senate floor. A thorough debate is an important step in the judicial nominations process.

Debate should culminate with a decision, and a decision should be expressed through that up-or-down vote, confirm or reject, yes or no. The Constitution grants the Senate the power to confirm or reject the President's judicial nominees. In exercising this duty, the Senate traditionally has followed a careful and deliberative process with three key

components: first, we investigate; second, we debate; and third, we decide. We investigate by examining nominees in committee hearings and studying their backgrounds and qualifications. We debate by publicly discussing the nominees in committee and on the floor, and we decide through an up-or-down vote. Investigate, debate, decide—that is how the Senate and the judicial nominations process operated for 214 years.

But in 2003, the Senate stopped short of a decision. A minority of Senators began routinely blocking final votes on judicial nominations. As a result, the nominees have been left in limbo. Courthouses sit empty. Justice is delayed. Political rhetoric has escalated, and political civility has suffered. It is time once again to decide.

The moment draws closer when all 100 Senators must decide a basic question of principle—whether to restore the precedent of a fair up-or-down vote for judicial nominees on this floor or to enshrine a new tyranny of the minority into the Senate rules forever. I favor fairness and an up-or-down vote.

The individual nominee now before this body is Priscilla Owen. Justice Owen is a qualified, mainstream judicial nominee. She is a sitting member of the Texas Supreme Court who has received the highest possible rating by the American Bar Association. She has been reelected by 84 percent of the people in her home State. More than 4 years ago, the President nominated her to be a judge on the U.S. Court of Appeals for the Fifth Circuit. Since then the Senate has thoroughly and exhaustively investigated and debated her nomination. A brief look at the record tells the story.

The Judiciary Committee has held two hearings on her nomination lasting more than 9 hours. During the hearings, Justice Owen answered more than 400 questions from Senators on the committee. After the hearings, Justice Owen submitted 90 pages of responses to an additional 118 written questions. The Judiciary Committee has debated her an additional 5 hours before committee votes. Today marks the 20th day of Senate floor debate on Justice Owen's nomination. We have spent more floor time on Priscilla Owen than on all the sitting Supreme Court Justices combined.

Yes, Justice Owen has not received one single up-or-down vote on the Senate floor—not one. Four years of waiting, 9 hours of committee hearings, more than 500 questions answered, another 5 hours of committee debate, and 20 days of floor debate, but not 1 up-or-down vote to confirm or reject—not 1.

As majority leader, I have tried for 2 years to find a mutually agreeable solution that will resolve this issue without sacrificing the core principle of an up-or-down vote. I have offered to guarantee up to 100 hours of debate for every judicial nominee, far more than has ever been necessary for any nominee in the past. I have offered to guarantee that no nominee ever becomes unjustly stalled in the Judiciary Committee, as some colleagues have alleged has occurred in previous Congresses. Thus far these efforts have not been successful. I remain hopeful that the Senate will restore the tradition of fair up-or-down votes without the need for procedural or parliamentary tactics.

Tomorrow, Senators will have another opportunity to diffuse this controversy. A cloture motion is pending before the Senate. If cloture is invoked, it will bring debate to an orderly close. With cloture pending, 60 votes cast in the affirmative tomorrow would yield a fair up-or-down vote on Justice Owen. I look forward to the debate ahead. I look forward to hearing from my colleagues. And I look forward to a decision by all 100 Senators on the nomination of Justice Owen, a decision expressed through a vote, a vote to confirm or reject, a vote up or down.

The American people expect us to act and not just debate. They expect results and not just rhetoric. We may not—in fact, we will not—agree on every judicial nominee, but we can agree on the principle that qualified judicial nominees deserve an up-or-down vote. Tomorrow, we will vote, and all 100 Senators will decide—judicial obstruction or fair up-or-down votes.

I yield the floor.

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. REID. Mr. President, I wish to respond briefly to the distinguished Republican leader's comments. Priscilla Owen has had numerous votes. She has had three that I am aware of on the Senate floor. Those votes dealt with whether we should stop debating her. The votes three times have said no.

The Senate reception area is a beautiful part of the Capitol. I can remember coming here in 1974 and Hubert Humphrey coming off the Senate floor. He had to sit down. He couldn't stand to talk to me. I remember the first time I had a conversation in that beautiful hall. I worked here 10 years before that as a policeman. Of course, I recognized the beauty of the building and of that beautiful room.

We have put out there what we refer to as a Hall of Fame of Senators. It is a place where you have photographs of Senators who were extra special Senators, people who the rest of the Senate, after that Senator left the Senate, determined was somebody who deserved to be in the Hall of Fame. One such man is Arthur Vandenberg. I wish I could have known him. He was a wonderful Senator, a very progressive, thoughtful man.

My distinguished colleague, the Senator from Michigan, Mr. LEVIN, read into the RECORD last week, May 20:

> What the present Senate rules mean: and for the sake of law and order, shall they be protected in the meaning until changed by the Senate itself in the fashion required by the rules?

He summarized this issue that is before the Senate today and did it about 60 years ago on an occasion similar to this. How prescient are his comments to the situation in which we find ourselves today.

Senator Vandenberg:

> . . . [T]he rules of the Senate as they exist at any given time and as they are clinched by precedents should not be changed substantively by the interpretive action of the Senate's Presiding Officer, even with the transient sanction of an equally transient Senate majority. The rules can be safely changed only by the direct and conscious action of the Senate itself, acting in the fashion prescribed by the rules. Otherwise, no rule in the Senate is worth the paper it is written on, and this so-called ''greatest deliberative body in the world'' is at the mercy of every change in parliamentary authority, which means the Republicans are in power today and the Democrats may be tomorrow, and a simple majority can change anything.

Mr. President, this is the way it should be. You should not be able to come in here and change willy-nilly a rule of the Senate. A rule of the Senate, you change by the rules. This so-called nuclear option has now been stood on its head, and they are now using what I refer to as the Orwellian language, saying that it is the ''constitutional option,'' and that, by all legal scholars, is foolishness.

I served in the Senate with Malcolm Wallop of Wyoming and Jim McClure of Idaho, westerners who are extremely conservative politically. But here is what they said, and they wrote this in the Wall Street Journal:

> . . . [I]t is naive to think that what is done to the judicial filibuster will not later be done to its legislative counterpart. . . . [E]ven if a Senator were that naive, he or she should take a broader look at Senate procedure. The very reasons being given for allowing a 51-vote majority to shut off debate on judges apply equally well—in fact, they apply more aptly—to the rest of the Executive Calendar, of which judicial nominations are only one part. That includes all executive branch nominations, even military promotions. Treaties, too, go on the Executive Calendar, and the arguments in favor of a 51-vote cloture on judicial nominations apply to those diplomatic agreements as well. It is little comfort that treaty ratification requires a two-thirds vote. Without the possibility of a filibuster, a future majority leader could bring up objectionable international committments with only an hour or two for debate, hardly enough time for opponents to inform the public and rally the citizenry against ratification.

What they are attempting to do in this instance is really too bad. It will change this body forever. We will be an extension of the House of Representatives, where a simple majority there can determine everything. Those of us who went to law school—and the Presiding Officer is a Harvard graduate. I went to George Washington. We know the precedent in the law is important. A precedent of the Senate is even more important. There will be a precedent set that will be here forever if the vote we take tomorrow prevails.

I feel there are Republicans of good will who are willing to be profiles in courage and step to this well tomorrow afternoon or evening and say we cannot do that. We believe that conservative Senators such as Malcolm Wallop

and Jim McClure are right. They believe—Malcolm Wallop and Jim McClure—that especially small Western States need protection. The reason we had the Great Compromise of 1787 was to allow the State of Rhode Island to have equal power in the Senate with New York. What is being attempted will take that away, change the Senate forever.

So I am convinced and hopeful and confident that there will be six courageous Republican Senators who will step down here and go against their leader, go against their President, as was done by Thomas Jefferson's Senate when he had a significant majority and tried to play with the courts; and when Franklin Roosevelt, with a tremendous majority—and no President has ever been more popular than he was when elected in 1936—tried to pack the courts. His Democratic Senators said no. Even the Vice President who served under President Roosevelt, James Garner, said no deal. The President called the Democratic leadership to the White House and said this is what we are going to do. He never conferred with them. And they, wanting to go along with what was the most popular President, probably, in many years—when they walked out, they said no, we are not going to do that. Democratic Senators made the difference. We need Republican Senators here to make the difference, stand and be counted when we vote. We only need six courageous people to stop the Senate from becoming an extension of the House of Representatives.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mrs. DOLE. Mr. President, before I speak to the important principles at stake in this debate, I want to take this opportunity to thank the Majority Leader for doing everything in his power to avoid the impasse we face today.

We have arrived at this moment in the Senate's history not because of a failure of effort, but because of a failure of cooperation.

Over the past two years, Senator FRIST and other members of the Republican leadership have made compromise an important objective.

We have repeatedly offered to extend the period of debate on the President's judicial nominees. Fifty hours, 100 hours, have been offered—even 200 hours of debate on some of these nominees—all in an effort to ensure that our Democrat colleagues have sufficient time to raise and explain their concerns. Without exception, these offers to provide more time have been rejected out-of-hand.

In May of 2003, Senator FRIST and then-Senator Miller of Georgia introduced compromise legislation that would allow the filing of successive cloture motions on judicial nominees, with each motion requiring fewer votes for passage, and ultimately a simple majority. When it came time to consider this sensible legislation in the Rules Committee, my Democrat colleagues boycotted the mark-up.

In April of 2004, the current Chairman of the Senate Judiciary Committee, Senator SPECTER, introduced legislation to help remove politics from the judicial confirmation process and ensure that nominees would be given a hearing, that they would be reported out of committee, and would receive a vote on the Senate floor. The Democrats reacted to this proposal with silence.

Senator FRIST has been in regular communication with Senator REID, and on March 17 of this year, he formally wrote to Senator REID expressing his hope that a compromise could be fashioned, and indicating that the constitutional option would only be exercised if there were no reasonable alternatives.

And, on April 28, Majority Leader formally reached out again to Senator REID, proposing to grant 100 hours of floor debate on each of the filibustered nominees—that's more than twice the time spent by the Senate debating any of the nominations of the current Supreme Court Justices. Senator FRIST also proposed to develop a process to ensure that nominees are not bottled up in the Judiciary Committee, a complaint often made by my Democrat colleagues. Once again, this sincere effort at compromise was immediately rebuffed.

So let the record be clear: The Majority Leader has pursued compromise with vigor, and he should be commended for doing so.

But, of course, when compromise fails, action must take its place. We are here today because there are important principles at stake . . . principles that are worth defending.

Does the President have the right to expect that his nominees to the Federal bench will be fully considered by the United States Senate? Does the Senate have a constitutional obligation to offer ''advice and consent'' on these nominations? And are judicial nominees entitled to an up-or-down vote on the Senate floor?

The answer, of course, to each of these questions is a resounding ''yes.''

For more than 214 years, judicial nominees with clear majority support have received an up-or-down vote on the Senate floor, with a majority vote leading to confirmation. Until just two years ago, a 60-vote supermajority was never the standard for confirmation to the Federal bench. Those are the facts.

By blocking not one, but ten, of President Bush's judicial nominees through the inappropriate use of the filibuster, my Democrat colleagues are doing nothing less than setting Senate tradition on its head. They are rewriting the rules of the game while abandoning the custom of self-restraint that has enabled the Senate to function so effectively in the past. And three of these nominees have now withdrawn their names from consideration.

To justify their actions, my colleagues on the other side of the aisle would have us believe that filibustering judicial nominees is just business as usual. They specifically cite the nominations of Abe Fortas, Marsha Berzon, and Richard Paez as examples of Republican-led obstruction efforts.

Justice Fortas, of course, lacked majority support when, in 1968, President Johnson withdrew his nomination to be Chief Justice of the Supreme Court. Today's filibuster victims, on the other hand, all have bipartisan, majority support . . . and are being permanently blocked despite this fact. Fortas' nomination was opposed not just by members of one party, as is the case today, but by Democrats and Republicans alike. And let's not forget: Justice Fortas' nomination was debated for just several days before President Johnson took action. Many of President Bush's nominees have been pending before the Senate not for days, but for years.

I am not sure what citing the Berzon and Paez nominations proves, since both individuals were given the courtesy of an up-or-down vote, and both were ultimately confirmed. They are now sitting judges. In fact, the Majority Leader at the time—TRENT LOTT—worked to end debate on both nominations, believing then, as we do now, that judicial nominees deserve a vote on the Senate floor.

So, what we are witnessing today is something wholly different: it is a highly organized obstruction campaign that is partisan in origin, unfair in its application, harmful to this institution, and unprecedented in our Nation's history.

Now, let's take a moment to examine the record of the individual whose nomination is before the Senate today. Justice Priscilla Owen has been called everything from an ''extremist'' to a ''far-right partisan'' to someone who is ''out of the mainstream.''

But the simple fact is that Justice Owen's record is that of a distinguished jurist who enjoys broad support and who understands that her role is to apply the law fairly and impartially.

Twice elected to the Texas Supreme Court after a long career as a litigator in a prominent Texas law firm, Justice Owen earned the highest score on the December 1977 Texas bar exam and ranked near the top of her class at the Baylor University School of Law. She has been endorsed by a bipartisan group of 15 past presidents of the Texas State bar. An advocate for providing pro bono legal services to the poor, Owen also received a unanimous ''well-qualified'' rating from the American Bar Association, the highest rating given by that organization—I add, the ''gold standard'' for our Democrat friends. And in her last election to the

Texas supreme court, Justice Owen earned a stunning 84% of the vote and was endorsed by every major newspaper in the Lone Star State.

Justice Owen received her vote in Texas and she deserves her vote on the floor of the United States Senate.

Mr. President, there is another important issue that must be raised beyond that of the rules and procedures of the Senate: It is the impact this episode in the Senate's history will have on the willingness of men and women of talent to serve their country by serving on the Federal bench.

Millions of Americans have watched as the good reputation of Justice Owen has been unfairly tarnished. As have the reputations of Justice Janice Rogers Brown, and Judge Terrence Boyle, Miguel Estrada, and the other nominees. Their lives and careers have been reduced to partisan—and wholly inaccurate—television sound bites with words like right-wing, radical, extremist.

For those of either party contemplating future service on the Federal bench, this spectacle of unfairness must be chilling—chilling—a glowing ''proceed with caution'' signal, suggesting that other career options should be pursued instead.

For the sake of the Federal courts in our country, we must do better. We can start by restoring the traditional standard for the confirmation of judicial nominees. Guaranteeing every nominee the opportunity of an up-or-down vote on the Senate floor will dramatically reduce the role of outside interest groups who see the filibuster as a way to exert pressure and score political points. It will force us to debate these nominees on the merits, with real arguments, not with politically convenient slogans and labels. And hopefully, it will help make an appointment to the Federal bench an attractive option for those young people out there who may be thinking about a career in service to the public.

I yield the floor.

The PRESIDENT pro tempore. Under the previous agreement, the time is now divided 1 hour on each side with the first hour under the control of the majority leader or his designee.

Does the Senator from Kentucky seek recognition?

Mr. BUNNING. Mr. President, I do.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. BUNNING. Mr. President, what is the current business before the Senate?

The PRESIDENT pro tempore. The nomination of Priscilla Owen.

Mr. BUNNING. I thank the Chair.

Mr. President, it is important for Senators to understand what we are talking about here. We are talking about the nomination of Texas Supreme Court Justice Priscilla Owen to be a Federal circuit judge. We are talking about her qualifications and about fulfilling our constitutional responsibilities to give advice and consent. We are talking about whether each Senator will vote yes or no in an up-or-down vote on the nomination of Justice Owen. And soon we will be talking about the long-blocked nominations of California Supreme Court Justice Janice Rogers Brown, former Alabama Attorney General Bill Pryor, and others passed by the Judiciary Committee.

As the Presiding Officer said, the Senate's pending business is the nomination of Justice Priscilla Owen. Justice Owen has had a distinguished record as a judge who respects the rule of law. She understands that elected legislators write the law, not judges. As a judge, she has applied the law as it is written, not as she wished it were written.

The American Bar Association unanimously rated Justice Owen ''well qualified.'' Everyone here knows that the ABA is not exactly a conservative organization, so that rating speaks volumes. She has served on the Supreme Court of Texas for more than 10 years, where she has earned the respect and endorsements of Democratic justices and attorneys, and more impressively than that, in her most recent election, she received 84 percent of the vote. I cannot imagine getting 84 percent.

Just last week, I met with Justice Owen. I was impressed with her intelligence and honesty. I was impressed with her energy and determination to see this through. But most of all, I am satisfied that Justice Owen will interpret the law rather than try to write it, and I am convinced that she will stand up to any other judges on the Fifth Circuit Court of Appeals who try to rewrite the law from the bench.

Why has Justice Owen been denied an up-or-down vote? As best I can tell, it is because they crossed the radical left when she voted not to take away a mother's right to know that her teenage daughter wanted to have an abortion. Justice Owen did not write the Texas law requiring notification. The legislature did. She merely agreed with the two lower courts that the requirement of the exceptions in the law had not been met.

In the time when a teenage girl cannot get her ears pierced at the mall or take an aspirin at school without parental consent, it is not out of the mainstream to enforce a law requiring notice to a parent before that same teenager can get an abortion.

Another nominee we are discussing this week, California Supreme Court Justice Janice Rogers Brown, is also a nominee who will stand up to the activist judges on the Ninth Circuit Court. Justice Brown has been on the California Supreme Court for 9 years, and she received 76 percent of the vote in her last election, the most of any justice on that year's ballot.

Justice Brown has earned a reputation as a judge who respects the law and the California Legislature's decisions. She has consistently deferred to the legislature's judgment and not substituted her own political views. In other words, she knows the role of a judge is not to write the law but to apply the law.

Justice Brown has also earned the respect of her California colleagues. In recent years, she has been chosen by the court to write the majority opinions more times than any of her fellow justices. She has the endorsement of both the Republicans and Democratic judges, lawyers, and law professors in California.

Critics point to the statements that Justice Brown made about her policy views outside—outside, I say—of the courtroom. While some may not agree with her personal opinions on issues, outside the courtroom is the place where she should feel free to make her policy views known.

Some of her political views may conflict with the laws of the State of California, but Justice Brown has had no problem applying those laws to the cases before her. That is exactly what a judge is supposed to do—apply the law to the facts of the case regardless of whether the judge would have voted for that law if she or he had been in the legislature.

Mr. President, 5 years ago, a discussion like this about nominees would have been overlooked by most Members of this body. A few Senators would give a statement on the Senate floor in support of a nominee to a circuit court. A few more Senators would insert a statement into the RECORD. And then the Senate would confirm the nominee by a rollcall vote or even a voice vote. That was the ordinary course of business in this body for 214 years. But that is not the case anymore.

Ever since President Bush was elected, his nominees to the circuit court have been denied an up-or-down vote. During the 107th Congress, many of his nominees did not advance when the Senate was under Democratic control. During the 108th Congress, Democrats instituted the first partisan filibuster of judicial nominees, all of whom have majority support in this body.

We hear a lot from the other side about minority rights. No one on this side of the aisle wants to restrict the opposition's ability to speak their objections and vote against these nominees. I invite Senators who oppose these nominees to come to this floor and speak their objections. I encourage them to try to convince me why I should vote against these nominees.

Instead, this is about a minority of Senators trying to take for themselves a power that the Constitution gives only to the President of the United States. This is about a minority of Senators thwarting 214 years of Senate tradition. This is about the obligation and fairness of giving a nominee a vote. This is all about whether elections in this country mean anything.

We are currently engaged in a war against terrorism. We have helped the Iraqi people conduct peaceful democratic elections; also the people of Afghanistan. We have seen the power of the democratic process in the Ukraine,

and we have seen the strength of the voice of the people longing for freedom in Lebanon. Even Kuwait is taking steps to allow women to vote for the first time. How can we as a nation speak of the power of the people, the validity of the democratic process and the strength of the vote, if we let a minority in this body thwart the will of the democratically elected President and majority of this body?

Last fall, the American people spoke clearly. In the highest numbers in history, the American people went to the polls and voiced their opinion with their votes. The American people chose George W. Bush as their President, and the American people created a 55-vote majority for the Republicans in this Senate by electing 7 new Republican Senators. The message the American people sent is clear. They support President Bush and Republican policies and values more than what the other side of the aisle had to offer.

The Constitution gives the President, and only the President, the power to make nominations. It is up to him to pick a nominee. We in the Senate are only empowered to speak for or against and to vote for or against a nominee.

The nominees' records have been examined. Senators have come forth with their objections, and there is still time for objections to be spoken. We have offered to debate the nominations for as much time as the minority wants, to be followed by an up-or-down vote. But the time has come for us to set that vote. The President deserves to have that vote, the majority of the Senate deserves to have that vote, but particularly the nominees deserve to have that vote, and the American people deserve to have that vote. The American people deserve to see how their elected representatives vote on these nominations and to see what kind of judges their Senators support.

We have a crisis in the Federal judiciary. We have too many judges who act like they are in Congress, not on the bench. Those judges are imposing their values on the American people through their decisions. That is why we must confirm nominees like the ones before the Senate, to stand up to activist judges and uphold the law and the Constitution and not write new laws from the bench. Liberal special interests have taken over the Democratic Party and are fighting to stop these nominees, and therefore a minority of Senators is thwarting more than 200 years of Senate tradition to block votes on these nominees.

The other side has no other way to advance its ultraliberal agenda. They cannot pass their laws through this Congress or through State legislatures. They cannot even get elected by running on these issues. So they must turn to the courts, the last holdout of active liberal power to impose their agenda.

What is that agenda? It is unlimited abortion on demand, without even notice to the parents of a minor child or the father of that child. It is about allowing partial-birth abortions. That liberal agenda is about rewriting the definition of marriage. It is about stripping down the pledge of allegiance because it recognizes God. That agenda is about banishing the Ten Commandments from public buildings. That agenda is allowing pornographic photos and other things into our libraries and across the Internet.

That ultraliberal agenda does not sell in the heartland around the dinner table. It does not even sell here in the Congress. So the last great hope for the liberals is the judicial bench, and that is why they fight these judicial nominees who do not give in to their liberal, activist agenda. The only thing that can stop the rewriting of our Constitution and laws is judges who will stand up to that activism and fight for the rule of law. President Bush has nominated such individuals. Now the Senate must allow an up-or-down vote on those nominees.

There are other consequences to this debate as well. The confirmation process has become quite a burden on the nominees and their families. In the last Congress, one of the most qualified judicial nominees ever, Miguel Estrada, asked for his nomination to be withdrawn because of the strains on his personal life and family. Several more nominees asked not to be renominated in the 109th Congress because of those same burdens. There are also practical consequences for the American people who rely on a functioning court system.

Because of the vacant seats, our appeals courts are experiencing huge delays that are unfair to the parties and put added strain on sitting judges. Nowhere is that more pronounced than in the Sixth Circuit, which encompasses my State. One-quarter of the seats of that court sit empty because the nominees from one State, Michigan, are being denied an up-or-down vote. Those vacancies have a real effect on the lives of 30 million people who live in the Sixth Circuit. The people of Kentucky, Ohio, Tennessee, and Michigan, the people of the Sixth Circuit, are being denied justice in a timely manner.

This issue is far too important to leave unresolved any longer. We must move to a vote. The record is clear. The nominees before the Senate are qualified to serve on the Federal bench and deserve to be confirmed by the Senate. They have the proper understanding of the role of each branch of Government under our Constitution. They will stand up to those who wish to use the court as an unelected legislature. They deserve an up-or-down vote.

I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I am going to speak on the judge issue that is before the Senate. I was wondering what the time constraints are.

The PRESIDING OFFICER. The time until 1 o'clock is controlled by the majority.

Mr. GRASSLEY. That means I can speak until 1 o'clock; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRASSLEY. Mr. President, for several days now, the Senate has been debating two nominees for the Federal bench, Priscilla Owen and Janice Rogers Brown. I come to the floor to express my support for these two highly qualified women, and I also do it to urge my colleagues to support an up-or-down vote so that these folks know whether a majority of the Senate is consenting to their nomination by the President of the United States, in other words, confirm these two highly qualified judges.

One of the most important roles that we Senators have is the responsibility of advising and consenting to individuals that the President has nominated to fill positions on the three levels of the Federal judiciary. But this responsibility has been threatened by actions of Democratic leadership. Of course, that has brought us to this extended debate, over several days now, about the role of the Senate as expressed in the Constitution about the handling of Federal judges nominated by the President.

It seems to me the Constitution is very clear on the role of the Senate in this judicial confirmation process. Judicial nominees are chosen by the President with the advice and consent of this body. Until President Bush was elected, no one ever interpreted this requirement to mean anything but a simple majority vote of those present and voting in the Senate. For over 200 years, no judicial nomination, with a clear majority support in the Senate, had ever been denied an up-or-down vote on the Senate floor. This was the case regardless of whether a Republican or Democratic President was in office. This was the case, regardless of whether the Senate was controlled by Democrats or Republicans.

Recently, in the last Congress, the Democratic leadership decided it was going to change the ground rules. The Senate Democrats rejected a 200-year-old Senate tradition of giving judicial nominees an up-or-down vote. By doing this, the Democratic leadership has rejected the Constitution, rejected the traditions of the Senate, and it seems to me as a result of the last election, when approving judges was very much an issue to the American electorate, they are now rejecting the will of the American people.

The Democratic leadership targeted 16 of President Bush's 52 court of appeal nominees. They actually filibustered 10 and threatened to filibuster 6

more, a full 31 percent of President Bush's appellate court nominees being stymied. Because of this, President Bush has had the lowest percentage of his court nominees confirmed by any President in recent memory.

What is this debate all about? It is basically a debate about what the Constitution requires of the Senate. It is a debate about fairness to the individuals who do not have an opportunity to see whether a majority of the Senate supports them and approves their appointment.

And in the case of fairness to the individual nominees, they have been waiting for years to be confirmed. They have majority support in the Senate, but a minority of Senators is opposed to President Bush's appellate court nominees and, as a consequence, will not allow the Senate to give these individuals an up-or-down vote. The Democratic leadership will not allow the Senate to exercise its constitutional duty of advice and consent.

The Democratic leadership will not allow even this one Senator to exercise my constitutional responsibilities. In a sense, this Senator from Iowa and 99 others are being denied an opportunity to carry out their constitutional responsibility. That is simply not right. The Constitution demands an up-or-down vote. Fairness demands an up-or-down vote.

Some have claimed a rule change on this matter is a violation of Senators' free speech and minority rights. Let me make it very clear, we are not talking about changing rules in this process, we are talking about abiding by the practice of the Senate, until 2 years ago, over the 214-year history of the Senate. So no rule change, just doing what the Senate has always been doing, and no one has raised the issue before about a Senator's free speech and minority rights being violated. There is not anything out of the ordinary then about a majority wanting to exercise its right to keep Senate procedures the same as they have always been.

For example, we were faced with problems in 1977, 1979, 1980, and 1987, problems that were visualized by the Senate majority leader at that time as stopping the Senate from doing what is constitutionally necessary for the Senate to do. In those years, Senator BYRD led a Democratic Senate majority in setting precedents to restrict minority rights. The Republicans, who were the minority party, did not respond by threatening the shutdown of the Senate or the stalling of legislation.

On the other hand, the actions of the Senate Democrats now are an unprecedented obstruction, plain and simple. The Democratic leadership is not interested in additional debate on the nominees. This is not about minorities wanting to exercise speech and debate on the nomination as long as they might want. The Republican majority leader has offered the Democrats time and again as much time as they want for debate. Yet the Democratic leader indicated in so many words that the Democrats would not agree to any time agreement.

The Democratic leadership has taken the position that it will not even allow an up-or-down vote on these nominees. The minority leader has indicated there is no time long enough for Democrats to debate these nominations.

I clearly understand the importance of filibusters and would not want to see them done away with completely. However, it is also important to make a distinction between filibustering legislation and filibustering judicial nominations. The interests of the minority party are protected in the Senate. It is the only segment of our Government where minority points of view are protected. It has served a very good purpose over 200 years bringing about compromise. Filibusters are meant to allow insurance that the minority has a voice in crafting legislation.

When working on a bill, it is possible to make changes in compromises to legislative language until you get the 60 votes needed under Senate rules to bring debate to a close.

In the tradition of the filibuster on legislation, unlimited debate ensures that compromise can take place, protecting some of the desires of the minority. That minority might not be a partisan minority; that minority could be a bipartisan minority that wants to make sure certain changes are made in legislation.

Judicial nominees, however, are very different than legislation. An individual such as Judge Brown or Judge Owen cannot be compromised some way so the filibuster, the way it is used in legislation, can be used to bring about compromise of an individual because you cannot redraft a person like you can redraft legislation to get over a filibuster, to get to finality so a majority can rule. In a sense, the minority is saying it is possible to use the filibuster to cut off the left arm of one of these nominees and put on a new arm so they are compromised to get to finality. That is ridiculous. It just does not work.

But it also illustrates the rationale behind a filibuster applicable to legislation, not applicable to an individual.

For judicial nominations, it is the Senate's responsibility to determine whether nominees are qualified for a position they are nominated to, and to say so through an up-or-down vote. Let a majority of the Senate decide if they are qualified.

Throughout our Nation's history, it has only taken a majority of Senators to determine a nominee's qualification for the judge position they are appointed to. It seems to me after a 214-year history, that is history worth continuing.

The reality about the Democratic leadership's filibuster is that the minority wants to block filling appellate court judgeships by requiring 60 votes to proceed to the nomination. But no other President has been required to get 60 votes for his judicial nominees. No other judicial nominee needed to pass the 60-vote hurdle of a supermajority.

Many Federal judges on the bench today would have never made it, not with that sort of requirement. In fact, all Senators here got elected by a simple majority, 50 percent of the vote. If we had requirements for supermajority rule for Senators to be elected, a lot of Senators who are my colleagues might not be here today. Why are Senators now wanting to approve judges only if they get a 60-percent vote? The reality is no other Senate majority has been excluded from judicial confirmation process in 214 years. We need to restore tradition and the law of judicial process. We need to give these nominees the up-or-down vote the Constitution requires. We need to stop a systematic denial of our advice and consent responsibilities which have been shuttered by the use of the filibuster.

I have been a Member of the Senate since 1981. Before I got to the Senate I served in the other body since 1974. I love the Senate. I have worked hard to be a very productive Senator. I want to do what is best for the Senate, for my constituents, and for my country. That is not different than the other 99 Senators most of the time. That is what we were all elected to do. The Republican majority leader is also trying to do what he thinks is the best thing for this country by moving to reestablish the over 200-year Senate tradition by giving judicial nominees the up-or-down vote.

This is not going to destroy the Senate. It is in the tradition of the Senate and it is within the tradition of the Constitution. The 214-year history of this Senate speaks louder than just the last 2 years, but the last 2 years will trump the first 214 years if we do not take action to keep the advice and consent confirmation process within the tradition of the Senate.

It is just plain hogwash to say that moving to make sure the rule is to give judicial nominees an up-or-down vote will hurt our ability to reestablish fairness in the judicial nominating process. It is not going to hurt minority rights. It establishes what we call regular order as it has been for 214 years. It will be fair both to Republicans and Democrats alike. All the majority leader wants to do is to have a chance to vote these nominees up or down. If these individuals do not have 51 votes, they will be rejected and should be rejected. But if these individuals do have 51 votes, then they should be confirmed. That is according to the Constitution.

If a Senator disapproves of any one of these individuals, vote against the nomination. I have done that in the past. But do not deprive the people the right to support a nominee through their elected Senator.

Some claim many judicial nominees were filibustered by Republicans, particularly when President Clinton was in office. That isn't accurate and that is a nice way for me to say it. Very few people either inside or outside this Chamber have been as involved in the issue of judicial nominations and the use of the filibuster as I have. As a long-time chairman of the Judiciary Subcommittee on the Federal Courts, I have a unique perspective on the debate and the use of filibusters.

First, when the Democrats were in a majority in the Senate under President Reagan—and this goes back to my starting in the Senate in 1981—they blocked 30 of President Reagan's nominees and 58 of President Bush Senior's nominees. They did that in the Judiciary Committee.

Now, that is not equivalent to a filibuster. I do not want to mislead anybody. Then, in the last few years of President Clinton's administration, many Republicans became disillusioned with the number of nominees the administration had sent to the Senate, and we felt our own Republican leadership was allowing out-of-the-mainstream nominees to be confirmed. This all came to a head with the nominations of Ninth Circuit Judges Paez and Berzon. Now, understand these people are serving as judges now. They were nominated to that position by President Clinton.

Going back to this time of Judges Paez and Berzon, at that time we had a Democratic President and a Republican-controlled Senate. There was serious talk of filibustering these nominees. I have heard some Democrats and ill-informed pundits try to make the case that Paez and Berzon were filibustered. Well, they were not.

The reality is, the Republican leadership, including the chairman of the Judiciary Committee at the time, argued that there had never been a filibuster of an appellate court nominee. The Republican leadership argued Republicans should not cross that Rubicon and set the precedent because then it would be used against Republicans in the future when we had a Republican administration. So it was decided at that time there would not be a filibuster and we would not set that precedent. There would be a cloture vote, yes, but everyone knew that cloture vote would prevail and the nominee would be confirmed by a majority vote.

So the Members who wanted to filibuster decided to go along with the leadership's wise counsel even though these Members never trusted that the Democratic leadership would follow our example. I voted for cloture. I voted to get over 60 votes so we could move on with what we knew should have been done by the Senate. But I want you to know that I voted against these two nominees, Judges Paez and Berzon. And I was not alone. Other Republican Senators did the same thing. But in the end, unfortunately, those Members were right not to trust Democratic leadership because Democratic leadership has now crossed the filibuster Rubicon.

We are not only being denied the ability to perform our constitutional duty in the judicial selection process, the move to filibuster is upsetting the checks and balances and the separation of powers principle our Nation is founded upon. The Democrats are the ones who are upsetting the checks and balances. They want to grind the judicial process to a halt for appellate court nominees so they can fill the bench with individuals who have been rubberstamped by leftwing extreme groups.

Let me say something about the nominees, then, because these are the folks whom we are debating, these are the folks whose professional future, personal future is at stake by what we do here of allowing 51 votes when they will be approved or 60 votes when they will not be approved.

Priscilla Owen and Janice Rogers Brown are both highly qualified individuals, with exceptional legal abilities. They are talented women, respected women, true pioneers. But they have been drawn into the web of the far leftwing special interest groups. These women have been called outside the mainstream by their opponents. They have been called unworthy for the Federal bench.

They have been labeled, among other things, as ''activist,'' ''anticivil rights,'' and ''anticonsumer.'' These claims are not true. And the claims charged against other of President Bush's judicial nominees are just as false. All these outrageous claims have consequences.

The travesty is Priscilla Owen and Janice Rogers Brown have been waiting for years to be confirmed. The travesty is other worthy nominees such as Miguel Estrada got tired of putting up with the antics of the Senate, a Senate untraditional of its first 214-year history, and just said: I am not going to fight it anymore. So Miguel Estrada withdrew his nomination. The travesty is that a nominee like Judge Pickering is trashed. The travesty is that the good name of a nominee like William Pryor is dragged through the mud.

Ripping to shreds the reputation of these individuals with unfounded allegations is unacceptable. This tactic sends a clear message to good people who want to serve their country that they will have to endure outlandish and baseless attacks on their record and character if they ever want to be a Federal judge. The Democrats are doing this because they are using a far left litmus test to satisfy their leftwing—their leftwing that is out of the mainstream—special groups. So when the Democratic leadership says these nominees are outside the mainstream, they are basically saying these individuals have not been approved by their allies, the far left special interest groups.

But judicial nominees should not be subject to a litmus test. They should not be subject to an ideology litmus test. A nominee should not be opposed, as Priscilla Owen and Janice Rogers Brown are being opposed right now, because they will strictly follow the law, be constitutionalists, rather than legislating from the bench some leftwing agenda.

Moreover, history has proven the wisdom of having the President place judges with the support of the majority, not a supermajority, in the Senate. That process ensures balance on the courts between judges placed on the bench by Republican Presidents and those placed on the bench by Democratic Presidents.

The current obstruction led by Senate Democratic leaders threatens that balance. Priscilla Owen and Janice Rogers Brown deserve an up-or-down vote. It is high time to make sure all judges receive fair up-or-down votes on the Senate floor, up-or-down votes for judicial nominees of both Republican and Democratic Presidents alike in the tradition of the Senate for 214 years, until 2 years ago.

In my town meetings across Iowa, I hear from people all the time, Why aren't the judges being confirmed? If we do not take care of this issue this week, I am going to hear it in my 22 town meetings across northwest Iowa next week when we are not in session. I think most people understand the process is being politicized to the point that good men and women are being demonized and their records distorted at an unprecedented level.

I hear from Iowans all the time that they want to see these nominees treated in a fair manner, and they want to see an up-or-down vote. The Democratic leadership likes to say the Republicans are the ones who are changing the rules. But that is not true. The Democrats are the ones who have engaged in extreme behavior and tactics, pulling out all the stops to defeat well-qualified nominees who would have majority support in the Senate if they were given an up-or-down vote. They are the ones who have distorted the rules to the point that the Senate is being denied its ability to fulfill its constitutional responsibility. And if Senator FRIST has to do it, what he is doing is leaving the rules practiced exactly the way they were for 214 years.

Filibustering judicial nominees may be touted as standing firm on principle. On the contrary, what it boils down to is an obstruction of justice. Let's do the American people a favor. Let's stop the theatrics and get back to the people's business. All the rallies and political spin doctoring are not clearing any court dockets, and they are not impressing the American public either.

Let's debate the nominees and give our advice and consent. It is a simple ''yea'' or ''nay,'' when called to the altar to vote. Filibustering a nominee into oblivion is misguided warfare and the wrong way for a minority party to leverage influence in the Senate. Threatening to grind legislative activity to a standstill if they do not get

their way is like being a bully on the school yard playground. Let's do our jobs.

Nothing is nuclear about asking the full Senate to take an up-or-down vote on judicial nominees. It is the way the Senate has operated for 214 years. The reality here is the Democrats are the ones who are turning Senate tradition on its head by installing a filibuster against the President's judicial nominees.

The Senate has a choice. We can live up to our constitutional duties to advise and consent to President Bush's judicial nominees or we can surrender our constitutional duty to the leftwing special interest groups who apparently control the Democratic Party. This Senator chooses to follow the Constitution.

We need to return to a respectable and fair process. We need to return to the law and the Constitution. We need to return to the Senate's longstanding tradition. We need an up-or-down vote for these judicial nominees.

In case there are some people sincerely led to believe that somehow appointing certain people with a strict constitutionalism to the courts is something to worry about, I would simply ask them to look at how history works in bringing balance to our judiciary throughout the history of our country. Think in terms of 8 years of a Republican President appointing maybe people who are strict constitutionalists to the judgeships—and not all of them are; but just say that they might all be—then you have 8 years of a Democratic president with people of an opposite point of view being appointed to the judgeships. That brings balance.

But also think in terms of how it is difficult to predict down the road 25 years how judges are going to rule. Think of two of the foremost liberal people on the Supreme Court, Justice Souter and Justice Stevens. Who do you think appointed these most liberal members to the Supreme Court? Republican Presidents did. And then balance that with the two other most liberal members on the Supreme Court, Breyer and Ginsburg. Who appointed them? A Democratic President. You could make an argument that Republican Presidents have brought more balance to the Supreme Court than Democratic Presidents have.

Then the other thing is, look at somewhere you thought they were going to be predictable where they would end up, and you have Justice Kennedy and you have Justice O'Connor, who were supposed to be very strict constructionists when they were appointed to the Supreme Court, but they go back and forth between the conservative wing of the Court and the liberal wing of the Court.

So whatever worries the Democratic Senators of today, I wish they would take a look at history. Time answers a lot of these problems. Elections answer a lot of these problems. And we have a great constitutional system that has worked for so long over such a long period of time that in the final analysis everything is going to work out OK.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from California.

Mrs. FEINSTEIN. Mr. President, I come to the floor to make a plea to my colleagues and my friends on both sides of the aisle. I have spoken on this issue twice. But within 24 hours, the time will come when the Senate may well be changed. Right now is the time to let political pressures cool, to step back from the brink and to reflect on the long-term consequences rather than the short-term gain. The time has come to walk away from a decision that will turn our governmental system on its head.

The reason this is called the nuclear option is not necessarily what it would do to the body but what it does to our ability to control the rules of the body. Because for the first time in history, a rule will be changed or, as we on this side of the aisle say, broken, by a majority vote, 51 votes, a majority of the Senate, when in fact rule changes require a two-thirds majority vote. There is virtually no rule that I know of in this body that can be changed with 51 votes.

I understand that it is going to be done without consultation of the Parliamentarian. My understanding is that he would say it is not within the Senate rules or precedent to change this rule with only 51 votes. Nonetheless, it is going to be done.

When taken to its logical conclusion, a majority vote in favor of the nuclear option will fundamentally alter our democracy, not only by breaking the rules as I just described but by altering the fundamental balance between this body and the other House and, most particularly, the role that Senators have had representing their constituents for over 200 years.

I recognize we may not agree on the qualifications of the nominees before us. I recognize many of my friends on the other side of the aisle feel very strongly about confirming these candidates to the court. But in the end, regardless of who is right and who is wrong, changing the Senate's rules, throwing out precedent, will profoundly harm this body, the comity we enjoy, the moderation that has defined the Senate, the bipartisanship that is essential, and the balance of power that is needed to maintain any form of a democratic government, particularly this one.

This nuclear option changes the deliberative nature of this body because it, in effect, ipso facto changes the Senate into the House of Representatives so that the Senate will work its will by majority. That has never necessarily been the case before. We all know the Senate is like a huge bicycle wheel. When one of the 100 spokes is out of line, it stops the wheel. So everybody respects that and pulls back from the brink because of it because we know if we are the one that puts on the hold or stops the wheel from turning, that we also can feel that happen to us with our legislation and our bills.

Former Republican Senator Warren Rudman, whom I greatly respect—he represented New Hampshire from 1980 to 1993—was quoted in the press this weekend. Let me share with you what he said:

> I will lament this vote if it succeeds. People tend to look at the history of the Senate and how it functions, and my bottom line is that the Founding Fathers wanted a true balance of power and this would shift the balance of power to the White House. My sense is, thinking back on it, that I don't think you could have gotten 51 votes on this sort of thing in the past. . . I would have clearly voted against it.

That was Warren Rudman this past weekend.

I urge my colleagues on the other side of the aisle to stand up against the political tidal wave pushing this agenda and let the passions of the moment cool. The debate last week was overwhelmed with fiery rhetoric and political posturing. One Republican compared Democrats to Adolf Hitler. Another Senator insinuated that Democratic opposition is based on a nominee's religious faith. Others twisted the history of judicial nominations beyond recognition. And to be fair, some Senators on our side of the aisle also employed fiery language.

Just listening to this debate, we can see what will happen if the majority goes forward on this path. The Senate will most certainly face a loss of civility, a loss of respect for differences. Political message will overwhelm substantive policy, and political potshots will drive our debates rather than the best interests of the American people. Playing to the base rather than playing out the real-life consequences of our acts will rule the day. Regardless of each of our opinions on whether each nominee before the Senate should be appointed to the appellate courts, the aftermath of the nuclear option will not serve the American people well.

On two prior occasions, I have come to the floor to talk about the importance of checks and balances, the intentions of our Founding Fathers, the structure of the Constitution, and the inherent benefits of conflict and compromise. Our forefathers knew, as do our modern counterparts, that essential to a true democracy is the need for a balance of power because who is in the minority has, and will, constantly change. Democrats held the House majority for over 50 years, and now Republicans have been in the majority for over a decade. Democrats held the White House for 8 years. Now Republicans will have occupied the White House for 8 years. The swing back and forth between the majority and the minority applies not just to political parties but to populations and ideas as well. Populations change and the political pendulum swings, but what moderates those swings and the tidal wave

of power is the role and influence of the minority.

While it is true many of us on this side of the aisle were frustrated when Republicans used their rights and the Senate rules to block Clinton's judges and our legislative agenda, we aired our frustration. At that time, I urged my colleagues to allow a vote. However, I did not advocate breaking the rules with 51 votes and employing the nuclear option as a way to force Republicans to their knees. The role of moderation has worked and has been an important balance in our country.

As my colleague, Senator LIEBERMAN, said last week:

> In a Senate that is increasingly partisan and polarized and, therefore, unproductive, the institutional requirement for 60 votes is one of the last best hopes for bipartisanship and moderation.

For example, President Clinton understood the strong feelings of our Republican colleagues on judges, and he went to extensive efforts to consult Republicans on judges that would be nominated. In describing these efforts, Senator HATCH wrote in his book that he ''had several opportunities to talk privately with President Clinton about a variety of issues, especially judicial nominations.''

Senator HATCH described how when the first Supreme Court vacancy arose in 1993, ''it was not a surprise when the President called to talk about the appointment and what he was thinking of doing.'' He went on to describe that the President was thinking of nominating someone who would require a ''tough political battle.'' Senator HATCH recalled that he advised President Clinton to consider other candidates and suggested then-DC Circuit Judge Ruth Bader Ginsburg, as well as then-First Circuit Judge Stephen Breyer.

So there was a defined, informal consultation that showed the power and authority of the Republican chairman of the Judiciary Committee, who actually submitted to the President—at that time Bill Clinton—the names of Ruth Bader Ginsburg and Stephen Breyer for appointment to the Supreme Court. However, today there is not really active consultation by this administration in most cases. Instead, there appears to be a kind of disregard for the opinions of all Democratic Senators, even home State Senators. I know my colleagues from Michigan have been extremely frustrated in their efforts to find a solution to the stalemate over the Sixth Circuit.

I am also concerned that if the nuclear option moves forward, there will no longer really be a need for the Judiciary Committee. I ask my colleagues to think about this. If the President is to be given unlimited power to appoint whomever he chooses, there will be no need for hearings, there will be no need for an examination of a nominee's record. Any dissent or concerns will fall on deaf ears, so long as there are at least 50 Senators willing to confirm the President's choices for the Federal bench.

Checks and balances are not new. Our country's 200-year tradition of working through our differences is not new. The need for consultation is not new. The important role of the Judiciary Committee—and I have served as a member for 12 years now—in examining a nominee's qualifications, is not new. What is new is the majority party's decision that if you win an election, you should have absolute power.

Earlier this week, the Senator from Pennsylvania, Mr. SANTORUM, stated:

> I guess elections do not matter. I guess who people vote for for President is of no concern to the minority in the Senate. . . If someone happens to be reported out and a majority defeats, fine, majority rules.

It is this very sentiment that concerns me and many others because this logic ignores that the Democratic Senators won their elections, too, and that while President Bush did win the election, those who did not vote for him still maintain their rights to have their voices represented in Government. Our country is not an autocracy. It is a democracy, where the minority enjoys an active role, particularly in the Senate.

Protecting the minority and ensuring it is not overrun by a strong majority is central to the need for an independent judiciary. In fact, this is a basic lesson taught in elementary civics in schools across the country. One teacher's notes found on the Internet as a model for civic teachers states:

Purpose/Rationale/Goals of the day's lesson:

> Students should understand that majority rule does not take precedence over minority rights. The lesson should promote thought, understanding, and acceptance that unpopular ideas are protected under the United States Constitution. Students should also understand that it is the independent judiciary that protects these rights.

So it is a basic lesson we all learn in school from a very early age. Federal judges are meant to be independent. That is one of the reasons why the nuclear option is so dangerous—because it completely quells the arguments, the views, and the votes of the minority and, therefore, eases the way for absolute power to prevail with absolutely partisan appointments. There is nothing the minority can do to stop that.

I have quoted John Adams before on the specific need for an independent judiciary.

He stated in a pamphlet called ''Thoughts on Government,'' which was distributed in 1776, the following:

> The judicial power ought to be distinct from both the legislative and the executive, and independent upon both, so that it may be a check upon both, as both should be checked upon.

Today, I also want to quote from Alexander Hamilton, who, in the Federalist Papers, No. 78, published in 1788, wrote:

> As liberty can have nothing to fear from the judiciary alone, it has everything to fear from its union with either the [executive or legislative] departments.

These statements by Adams and Hamilton clearly set forth the intent of our forefathers that the judiciary should be and must be independent. The Senate was meant to play an active role in the selection process, and the judiciary was not solely to be determined by the executive branch.

As a matter of fact, I pointed out earlier on that in the early days of the Constitutional Convention, it was proposed that the Senate solely determine who would sit on the federal bench, and then that was changed to give the President a role in the nomination of judges confirmed by the President.

I have also spoken about the history of judicial nominations under the Clinton administration. As I have explained in great detail, during the previous administration, Republicans used the practice of blue slips, or an anonymous hold, to allow a single Senator, not 41, to prevent a nomination from receiving a hearing, a markup, a cloture vote, or an up-or-down vote. This demonstrates that Senate rules have been used throughout our history by both parties to implement a strong Senate role and minority rights, even the right of one Senator to block a nominee. As has been illustrated by my colleagues on the other side of the aisle, both parties have bemoaned the impact of procedural delays on confirming judges.

However, President Clinton's nominees were pocket filibustered by as little as one Senator in secret and, therefore, provided no information about why their nomination was being blocked, let alone an opportunity to address any concerns or criticisms about their record—no up-or-down vote, no cloture vote, no vote in the Judiciary Committee, nothing. There were 23 circuit court nominees handled this way—filibustered by as few as 1 person, 1 Senator—and 38 district court nominees were filibustered by as little as 1 Senator.

In addition, unlike what some have argued, this practice was implemented throughout the Clinton administration when Republicans controlled the Senate, not just in the last years or months.

The question I have posed to this body twice now—and I do it a third time—is whether the public interest is better served by 41 Senators taking an openly declared position, publicly debating an individual's past speeches, temperament, opinions, or a filibuster of 1 or 2 Senators in secret when one does not know why or who? I think the answer is pretty clear.

This weekend, I read the press coverage on the nuclear option with great interest. I was heartened to realize that Democrats are not the only ones who are concerned with the idea of drowning out minority views and turning the Senate into the House.

The New York Times editorialized:

> The Republican attack is deeply misguided. There is a centuries-old Senate tradition that a minority can use a filibuster to block legislation or nominees. The Congressional Research Service has declared that

the nuclear option would require that ''one or more of the Senate's precedents be overturned or interpreted otherwise than in the past.'' The American people strongly oppose the nuclear option, according to recent polls, because they see it for what it is: rewriting the rules to trample the minority.

That is the New York Times.

The Associated Press reported on a new poll that asked about judges and the Senate's role. The results found that 78 percent of those polled stated that the Senate should ''take an assertive role in examining each nominee.'' And a Time poll said 59 percent of Americans believe Republicans should not be able to eliminate the filibuster. Whereas, in sharp contrast, a poll released last Thursday by NBC News/Wall Street Journal found that only 33 percent of those surveyed approve of the job being done by the Congress. This is a monumental number. I submit that as partisanship and the polarization of this body increases, the poll numbers will continue to decrease because that is not what the American people want us to do.

In addition, there were more reports of former Republican Senators who are also concerned about the impact of a nuclear option. Former Senator Clifford Hansen, a Wyoming Republican who served from 1967 to 1978, was quoted as stating:

Being a Republican, we were the minority party, and I suspect there are some similarities between our situation then and those that the Democrats find themselves in today. I am sure that it would have concerned me if there were limits on the filibuster. When I was in the Senate, the Democrats were in control, and we made a lot of friends with the Democratic Party, and I realized then that if I were going to get anything done, I had to reach out and establish some real friendships with members on the other side.

That is what this Democrat has tried to do over the past few years as well.

The Los Angeles Times wrote:

If a showdown over President Bush's nominees goes forward as planned next week, it would mark one more significant step in the Senate's transformation from a clubby bastion of bipartisanship into a free-wheeling political arena as raucous as the House of Representatives.

And The Economist wrote:

Amid all this uncertainty, the filibuster debate has almost certainly harmed one institution: the Senate. It was deliberately designed by the Founding Fathers to be the deliberative branch of the American Government. Senators who sit for 6 years rather than the 2 years of the populist House, have long prided themselves on their independence. The politics of partisanship has now arrived in the upper Chamber with a vengeance. The Senate has long stood as a barrier to government activism on either side.

As all these accounts acknowledge, the nuclear option will turn the Senate into a body that could have its rules broken at any time—and this is significant—not by 60 votes but by a majority of Senators unhappy with any position taken by the minority. It begins with judicial nominations. Next will be executive appointments, and then it will be legislation. If this is allowed to happen, if the Republican leadership insists on forcing the nuclear option, the Senate becomes the House of Representatives, where the majority rules supreme and the party in power can dominate and control the agenda with absolute power.

This country is based on a balance between majority rule and minority rights. I believe it is important to reflect on what our country is facing while this debate is moving forward.

We had another sharply divided election, where the President was elected by a slight margin. The differences in American beliefs have been highlighted through heated debate over the budget, Social Security, the war in Iraq, increased tax cuts, funding for education, health care, and law enforcement. At times, the level of disagreement can seem overwhelming. Yet, with all this tension, the majority party is attempting to implement a strategy to completely silence the minority. It is no longer acceptable to have differences. The defining theme now seems to be ''my way or the highway.''

Last week, I said, when 1 party rules all 3 branches, that party rules supreme, but tomorrow, if the nuclear option proceeds, the Republican party will be saying that supreme rule is not enough; total domination is what is required. The nuclear option is the majority's strategy to completely eliminate the ability of the minority to have any voice, any influence, any input. When might makes right, someone is always trampled. Instead, I believe we should be ruled by the philosophy that right makes might.

Thomas Jefferson consistently advocated for our country based on the free flow of ideas and open debate. And maybe up to this point we have taken for granted that a government of the people must be based on reason, on choice, and on open debate. But before our Nation was founded, modern governments were based on authoritarian domination. The people, in general, were considered little more than cattle to be governed and controlled by those possessing wealth, property, education, and power. The Founding Fathers introduced the revolutionary idea that government could rest on the reasoned choice of the people themselves.

In a free society, with a government based on reason, it is inevitable that there will be strong disagreements about important issues. But a government of the people requires difference of opinion in order to discover truth.

As I said at the beginning of this statement, I am deeply troubled that legitimate disagreements over a nominee's qualifications to be elevated to a lifetime appointment have been turned into a strategy to unravel our constitutional checks and balances.

Unfortunately, while the Department of Defense authorization bill sat on the calendar for the past week, we have wasted time on a clear stalemate. There are many urgent problems the Senate needs to be focused on and Americans want us to focus on: the war in Iraq, protecting our homeland, addressing the high cost of prescription drugs, alleviating rising gas prices, ensuring our Social Security system is stable and working, and reducing the Federal deficit. I am fairly certain we will not all agree on the best means to address these issues.

I very much regret what we are in today. To give you just a small example—and I think the Presiding Officer knows this—I sit on three committees. These three committees, for markups of critical bills, are meeting simultaneously. They are Intelligence, marking up the Patriot Act; Judiciary, marking up the asbestos bill; and the Energy Committee, marking up the Energy bill at the same time. This is not the way to do the people's business—constrained by time limits artificially imposed because of this present situation.

I very much agree with the sentiment expressed by my colleague, Senator SPECTER, when he said:

If [during the cold war] the United States and the Soviet Union could avoid nuclear confrontation . . . so should the United States Senate.

I hope Republicans will choose to honor the tradition of our democracy and walk away from this confrontation. I know if the shoe were on the other foot, I would not advocate breaking Senate rules and precedent.

Thank you, Mr. President. I yield the floor.

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

Mr. AKAKA. Mr. President, I rise today in opposition to the nomination of Texas Supreme Court Justice Priscilla Owen to the U.S. Court of Appeals for the Fifth Circuit. After being rejected by the Senate Judiciary Committee in 2002, and after being renominated and successfully filibustered by the full Senate in the 108th Congress, Justice Owen has been nominated yet again to the U.S. Court of Appeals for the Fifth Circuit.

In my opinion, Justice Owen has not demonstrated an appropriate judicial temperament for a lifetime appointment to the Federal bench. More importantly, her own colleagues on the conservative Texas State Supreme Court have described her dissents as ''nothing more than inflammatory rhetoric.'' In another case, the majority stated that Justice Owen's dissenting opinion, ''. . . not only disregards the procedural limitations in the statute but takes a position even more extreme.'' However, I will not dwell too long on Justice Owen's record. It speaks for itself, and as I mentioned earlier, we have given much time and thought to this nomination. Much has already been said in opposition to her nomination. Instead, I will spend some time on the majority's plan in this Chamber to subvert the minority's right to extended debate.

I have spent the past few weeks listening to the debate over seven nominees who were not confirmed in the 108th Congress and have been renominated to the Federal bench by President Bush. We are nearing the end of a debate that may forever change the very nature of how this great institution operates: by a delicate balance of the majority's ability to set the agenda and the protection of the minority's rights. One thing is clear to me, this discussion about the minority's right to extended debate is not getting us any closer to enacting much-needed legislation to assist our constituents.

Outside of Washington, DC, on a day-to-day basis our constituents face many challenges: escalating health care costs, record high gas prices, and mounting debt that will be handed down to our children and grandchildren. Despite these day-to-day challenges, the majority party continues to put seven judicial nominations at the top of its agenda.

Let it be clear to those following this debate. This discussion is over the fact that the Senate has passed only 95 percent of President Bush's nominees, not 100 percent. I take my responsibilities as a Senator very seriously. I am to provide the President with my advice and consent regarding the individuals he nominates for a lifetime position to the Federal judiciary. Let me say that again: a lifetime position on the Federal judiciary. Many have asked why the Democrats are so vigorously defending the rights of the minority in this case? Why do we need to preserve the tradition of extended debate with regard to judicial nominations?

The reason why we are taking a stand against these nominees is because once they gain the Senate's advice and consent, nominees are free to decide thousands of key cases that affect millions of Americans on a day-to-day basis. If there are any objections we may have to a judicial nominee's lifetime appointment to the Federal judiciary, this is the time for each Senator to voice that opposition. Unlike legislation, which may be amended and refined over time, judges on the Federal bench sit for a lifetime appointment with little recourse for correction or change. The only chance we as Senators have to voice our positions on their appointments is now.

From civil rights to personal privacy, from environmental protections to a corporation's financial matters; these nominees will affect public policy for decades to come. In fact, I dare say that we would be remiss in our Constitutional duties if we did not object to those nominees with whom we find unfit for a lifetime appointment to the Federal bench. It troubles me that the Senate has focused so much in the past few weeks discussing the fact that we have not acted on 7 of 218 of the President's nominees to the Federal judiciary.

We are talking about seven individuals, seven individuals who have jobs, while 1.2 million people are without jobs since President Bush took office, seven individuals who most likely have health insurance, while 45 million Americans do not have health insurance. We should be talking about jobs and access to health care. We should be focusing on the need to increase funding to ensure that veterans, especially those returning from the global war on terror, have access to quality health care and benefits. We should be looking at energy legislation that will address the vital energy needs of our Nation. In short, we should be doing what the American people sent us to Washington to do; to govern, not engage in an effort to ensure that this President has a 100 percent success rate for his judicial nominations.

If we want to start talking about legislation that is important to us as individual Senators, we could be talking about Federal recognition for Hawaii's indigenous peoples, Native Hawaiians, an issue of extreme importance to my constituents in Hawaii. We could be talking about ending mutual fund abuses for investors or promoting financial and economic literacy for our youth and adults alike. We could be talking about how to fund the promises we extended when we passed the No Child Left Behind Act which has been severely underfunded since its enactment.

Instead, over these past few weeks out of 218 judicial nominations approved we focus on the seven that Democrats have opposed. Despite confirming 208 nominations for a lifetime appointment on the Federal bench, there are those in this body who seek to subvert the rights of the minority for the sole purpose of ensuring that instead of a 95-percent success rate, the President has a 100-percent success rate with respect to his judicial nominations. This action will serve to deny me my ability to truly provide my advice and consent on individuals nominated to serve in the judiciary that our predecessors have preserved. It is sad that we have come to this point. During my tenure in the Senate, we have been able to work in a bipartisan manner to achieve our goals.

Some of my colleagues from the other side of the aisle argue that this is the first time a filibuster has been used for a judicial nominee. Republicans have openly filibustered a number of nominees on the floor of the Senate, five of whom were circuit court nominees. As we have heard multiple times during this debate, during President Clinton's two terms, close to 60 of his nominees were held in the Senate Committee on the Judiciary and never brought to the Senate floor, never given the same up-or-down vote Republicans today say every Republican nominated judge deserves.

My colleagues on the other side of the aisle say they have never engaged in efforts to block a judicial nomination. I want to share with my colleagues a situation I encountered during the 104th and 105th Congresses. An individual from Hawaii was nominated to serve on the U.S. District Court, District of Hawaii. This was a nominee strongly supported by both Senators from Hawaii. This nominee had a hearing before the Senate Judiciary Committee and was reported favorably. However, this is where the process stopped for a period of 2½ years.

A colleague from another State placed a hold on this nominee for over 30 months before allowing us to confirm this nomination. In effect, a Senator from a State thousands of miles from Hawaii blocked a district court nominee that the senior Senator from Hawaii and I supported. This colleague is a former Attorney General of the United States and happens to be a good friend of mine. I found this situation to be so unusual, that a colleague from another State would place a hold on a district court nominee from my State when both Hawaii Senators strongly supported the nomination. I raise this issue to dispute the notion that this is the first time a nomination has been blocked, after the Senate Judiciary Committee favorably reported the nomination to the Senate for consideration.

I could also speak about the nomination of Justice James Duffy to the U.S. Court of Appeals for the Ninth Circuit. A fine nominee, described by his peers as the ''best of the best,'' he had strong support from Senator INOUYE and me to fill Hawaii's slot on the Ninth Circuit. Yet, Justice Duffy never received a hearing in the Senate, which had a Republican majority at the time. He went 791 days without a hearing, Mr. President. I should mention that Hawaii now benefits from James Duffy's service on the Hawaii State Supreme Court, who was appointed with bipartisan support.

Justice Duffy is one of the well-qualified and talented men and women nominated during the Clinton administration, individuals with bipartisan and home-State support, whose nominations were never acted on by the Senate. My colleagues on the other side of the aisle refused to hold hearings for nominees they did not agree with, effectively blocking the Senate's consideration of President Clinton's nominees. Let's look at the substance and not the rhetoric.

The last person I will mention is Richard Clifton, who is now serving on the U.S. Court of Appeals for the Ninth Circuit. Mr. Clifton was nominated after President Bush withdrew Justice Duffy's nomination. Richard Clifton served as the Hawaii State Republican Party Counsel. While I do not necessarily agree with all of his views, I supported his nomination, because I have confidence in his ability to appropriately apply the law. He was confirmed within a year of his nomination.

Since President Bush took office, we have been working in a bipartisan manner with our colleagues on the other side of the aisle to fill the vacancies on

the Federal judiciary, creating the lowest vacancy rate in 13 years. According to the Administrative Office of the United States Courts, there are 45 vacancies on the Federal bench. This is a decrease in total vacancies from 97 when this President first took office. Let's return to urgent legislation which will truly help our constituents—jobs, access to health care, education, the minimum wage, and helping the poor.

In a Senate where the divide between the majority and minority is held by a handful of votes, and that division reflects the viewpoint of the American body politic at-large, it is imperative that we work together to resolve the many issues that are important to our constituents. When it comes to judicial nominations, the confirmation of 208 judges clearly shows that we in the minority are doing what we can to work with the majority in upholding our constitutional obligation to provide advice and consent to the President on judicial nominations. I can only hope we achieve a success rate of 95 percent in enacting legislation addressing funding for education, access to health care, increases to the minimum wage, benefits and services for our veterans, business and economic development, and financial literacy to enable individuals and families to make sound decisions in their lives.

Mr. President, I ask unanimous consent that the remainder of my time be provided to the Senator from New York.

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

Mr. SCHUMER. Mr. President, how much time do I have until the time of the Senator from South Dakota begins?

The PRESIDING OFFICER. There has been no time allocated among Senators. There is a total time of 17 minutes 3 seconds and counting.

Mr. SCHUMER. I ask that I be yielded 2 minutes so that the remaining 15 minutes be provided to the Senator from South Dakota.

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

Mr. SCHUMER. Mr. President, I thank my colleague from Hawaii for his kind remarks and for his graciousness in yielding. I just want to make a point that we have not heard enough. It is these numbers: 2,703 to 1. This is the number of times Republican Senators have voted for court of appeals nominees either by direct vote or cloture versus the number of times they voted against them—2,703 yes, 1 no. The one ''no'' vote was TRENT LOTT who voted against Mr. Gregory to the Fourth Circuit who Jesse Helms would never allow to go on the bench. So when we are talking about up-or-down votes, we are really not. We do not have any diversity of opinion on the other side. Nominees who are way off the deep end, every member of the other side votes for them. So there is no great deliberation here. In fact, what 2,703 to 1 means is a rubberstamp.

The reason we are standing for what we believe in is very simple. There should be some input. But when it comes to the other side, the White House says, This is the nominee, and everyone votes for that nominee no matter how extreme.

If there were 40 or 50 or 60 negative votes compared to, say, 2,600, you might say up-or-down votes might mean something. But they do not because, unfortunately, for every single nominee on every single cloture vote, the Members on the other side just do whatever the President wants and vote for whoever the President sends us. That is not deliberation. In my judgment, that is not what the cries for an up-or-down vote call for. They call for honest deliberation. I will have more to say about that later.

I yield the floor.

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

The distinguished Senator from South Dakota is recognized.

Mr. JOHNSON. Mr. President, I thank my colleague from New York for his excellent point.

Mr. President, tomorrow we may be casting a historic vote in this Chamber. It has to do with a fundamental decision that we, as Senators, must make as to the very nature of government in our democracy, as to the fundamental values of this body, the Senate. We must choose between whether we will remain with the 200-year-old parliamentary rules of this body, which assure that at least there will be some modicum of bipartisanship on virtually all issues of import, or whether, in unprecedented fashion, we will wind up stripping away that fundamental rule, that 60-vote rule, the filibuster rule which for over 200 years has brought both parties together whether they liked it or not. We must choose whether we should discard that and, in effect, create an environment where it is very clear that the Senate, as has happened all too often to our colleagues in the House, will collapse into a spirit of partisan vituperation that will undo efforts at bringing the parties together, will undo our efforts to build bridges between Republicans and Democrats, and will push governance in this body to the far extremes, far outside the political centrism that is the genius of the American people.

In my State of South Dakota, we have a heavy party registration on the side of the Republican Party. I respect that. I am proud of the support over the years that a great many South Dakotans have cast for me. But whether they are Republicans or Democrats, I think the overwhelming view across my State is one of common sense. It recognizes that neither one of the political parties has all the answers, that both parties have their share of bad ideas, and that governance from the far left or the far right is equally unacceptable. Wisdom in America, more often than not, is found in the political center. That is what the filibuster rule, that is what the filibuster margin has forced upon the Senate and is what makes the Senate unique, different from the House of Representatives.

I served 10 years in the House. It was an honor to serve there. But I know the nature of the rules there and what happens. One party can run roughshod over the other. All too often, bipartisanship is viewed by the current leadership on the House side with contempt. The thought that there ought to be governance from the center, and bipartisanship, is viewed by some in the other party as ''girly-man'' politics, unworthy of their radical agenda. It is here in the Senate that the Founders, 200 years ago, understood that this body's orientation would be to take the longer view. This body was to be the more deliberative body. This body would not march lockstep to any ideological drummer.

More than any other factor in the Senate, what has enforced that different character on the Senate, a character which has served the American people so well, has been the 60-vote margin rule. Both parties know that in order to make much of anything happen here, they must reach across the aisle. Not a lot. It doesn't require a huge number of members of the opposing political party, but it requires some. That has had a wonderful beneficial consequence for the wisdom of legislation in America, and certainly for the selection of judges.

There is no judicial crisis. We all know. One doesn't have to be a cynic to understand that the judicial crisis, if you will, is a fabricated political vehicle. President Bush has had 208 of his judges approved by broad, bipartisan margins. Essentially each and every one of them was a conservative Republican judge. That is the President's prerogative. The Senate has not reacted negatively to that.

Put this in contrast with what we saw only a few years ago during the Clinton administration. President Bush has had all of his nominees receive hearings. All of his nominees, who were so chosen, received a vote up or down—a 60-vote margin vote but a vote nonetheless. Every Senator has been required to stand up and be counted and reflect back to his or her constituencies where they stood on that judge.

In the case of President Clinton, however, over 60 of his nominees received no hearing or no vote. Where was the clamor then? Where was the cry of unfairness then? I think, to Senator REID's great good credit, as well as Senator LEAHY, we have agreed that what was done to President Clinton should never be done to President Bush. That was unfair from either political angle. In fact, all of President Bush's nominees should get hearings. If their nomination stands, they should be voted on, publicly, on the record. That is exactly what has happened.

But now there are some who suggest that 208 to 10 is unsatisfactory and, for that reason, they are going to upend

these historic rules of the Senate. They are going to discard the Senate as the one body of the two that forces bipartisanship and political centrism.

Senator REID deserves great credit for his efforts to try to reach some compromise with the majority leader. Unfortunately, those effort have—to this point, in any event—been futile. One can only come to the conclusion that the majority leadership has reached such an impasse because of a certain amount of pandering to the radical right that now no compromise of any kind is acceptable. So here we stand with the very likely, very clear possibility that the fundamental checks and balances of American government—the requirement that there be moderation, the requirement that we govern from the center and not from the far left or far right—is about to be discarded.

Let no one believe that this has to do only with judges. The political tactic here once used is then available. The precedent is available for all issues, whether they have to do with education, environment, health care, the budget, war—all of these issues will henceforth be susceptible to a partisan party-line vote from one side of the political spectrum or the other. That is a tragic change after 200-some years of the Senate being the body of deliberation, being the body of political moderation.

We ought to be dealing, rather than with this issue, with the core issues that my constituents—and I think all Americans—care about. We have great undone business relative to the deficit, relative to job creation, relative to trying to make sure all Americans have access to affordable health care. We have changes that are needed in our educational system, both under No Child Left Behind as well as reauthorization of the Higher Education Act. We have a transportation bill. We have an energy bill before us. Yet here we are, arguing about a parliamentary step which—while many people will view as ''inside baseball,'' as something of no great consequence, this issue, this vote we will take soon—is of monumental consequence to the nature of the institution that will be deciding all these other matters in the years to come.

I wish there were no need for any of us to be rising on this occasion for such an extraordinary, such a potentially tragic step that this body may be taking. The Founders of our country understood, over 200 years ago, that the House of Representatives would be the hot house, the people's House. It would be immediately responsive to whatever wind is blowing through Washington. Their rules, which give virtually no rights to the minority, and their 2-year terms, assure the nature of that House.

But the Founders also understood that Senators representing entire States would be more moderate in their outlook, and the 6-year terms would give them a longer view of what is right or not in legislation pending before us. Within the rules of the Senate, the filibuster rule, the 60-vote margin rule, has served America well. It has pushed the political debate to a commonsense point—common sense being a value that my constituents would tell me is all too rare in Washington, DC, but which does occur as often as it does in no small measure because of the filibuster rule and its insistence, grabbing both political parties by the collars, pushing them together, and saying, You must work together or otherwise neither of you will have your way.

This is an effort to radicalize the Senate, to radicalize government in America in a way that many Americans will never understand. They will never recognize how this could have happened.

It is my hope as we come down to these final hours that my colleagues on both sides of the aisle will pause and take a long view of the role of this institution, of the importance of centrism, cooperation, of bipartisanship and all that means, if we truly are to reflect the values and priorities of the American people here in the Senate. If we allow this institution to veer off sharply to either ideological end of the spectrum, we will have done a horrible disservice to the American people, to future generations of Americans, and, frankly, to the world. This issue is that fundamental. It goes to the very nature of governance in America.

It is my hope all our colleagues will rise to stand as statesmen at a time when political pressures are great for what is right and will cast a loud vote to be counted by the American people on behalf of what is right rather than what is politically convenient at this particular time in our history. It is my hope that in these intervening hours we will have a significant number of people who will understand what is at stake and, in fact, uphold the values and priorities of the American people by retaining the parliamentary rules of this body that have prevailed for well over 200 years, will understand there is no judicial crisis, will understand when it comes to giving lifetime appointments to the bench it would be very easy for President Bush to have 100 percent of his judges approved simply by nominating judges who can be approved by 60 Members of this body. That is a modest request. That is the kind of consultative role the Founders envisioned under their constitutional provision of advice and consent.

The goal was not to create a lockstep ideological opportunity. The goal was for both parties to work together and in good faith evaluate the qualities of people who will serve our judiciary for lifetime appointments. It is my hope we will not abuse that opportunity and that we will cast that vote to preserve that orientation, preserve the very values of the Senate.

Mr. President, I yield my time.

The PRESIDING OFFICER (Mr. BURR). The majority controls the next 60 minutes.

The Senator from Kansas.

Mr. ROBERTS. Mr. President, our former Senate majority leader, Howard Baker, reportedly tells the story about his late father-in-law, Senator Everett Dirksen, who admonished him to occasionally allow himself the luxury of an unexpressed thought. After listening to the current debate on judicial nominations, there is a temptation to say, after all is said and done, pretty much all that can be said has been said.

I rise today because I do have something to say. What I want to talk about is of very crucial importance not only with regard to the judicial nominations but, perhaps more important, how we are meeting our obligations in the Senate—or better put, how we are not meeting them.

This weekend, an elderly gentleman spotted my Senator's car tag on my car in a parking lot. He wandered up to me and asked: Are you a Senator?

And I responded: Yes, sir, I am.

Well, he has some rather succinct advice for all of us who ask for and gain the public trust.

He said: You know, you fellows up there ought to get busy and quit talking past one another.

I think probably no matter the issue, most would agree he was right.

I am concerned, and so are a lot of other people—people who care, people who have given much to this country and whose advice we should be taking. One of those people is Dr. David Abshire who is president of the Center for the Study of the Presidency and whose credentials for public service are well-known and admired. Dr. Abshire recently authored a treatise, ''The Grace and Power of Civility'' and the necessity for renewed commitment and tolerance. He quoted John Witherspoon and Samuel Cooper during the days of our Founding Fathers and highlighted what they called ''the consonance of faith and reason,'' if we are to cross the bridge of united purpose.

We are not doing what our Founding Fathers did so well. As a matter of fact, we are in pretty sad shape with the shape we are in. Across the bridge? Well, today, the bridge is washed out. We can't swim. And the judges are simply on the other side.

I am going to paraphrase from Dr. Abshire. Today, as our Nation and the world confront new and great perils, there are paralyzing forces of incivility and intolerance that threaten our country. Divisions in Congress also reflect the divisions in the country. The so-called wedge issues seem and appear endless. These challenges, if allowed to divide the Nation, might well deny the next generation the prosperity and civic culture that we have inherited.

It was Benjamin Franklin who stated that Congress should be a mirror image of the American people. In the sense that there are divisions in the country, the sad fact is, as evidenced by this debate, we seemingly cannot transcend

these divisions. We keep talking past one another, saying the same things, but basically being in disagreement.

Dr. Abshire quoted the poet William Yeats, who said this, a dire prediction:

Things fall apart; the center cannot hold;
Mere anarchy is loosed upon the world,
The blood—dimmed tide is loosed, and
Everywhere the ceremony of innocence is drowned;
The best lack all convictions, while the worst are
full of passionate intensity.
Surely some revelation is at hand.

My colleagues, on this issue and so many others, we seem to be locked into an era of partisanship that echoes a mindset of absolutism that can close off dialogue and also mutual respect.

In that vein, let me take up the matter of judicial nominations, obviously, the issue at hand that currently has us tied up in partisan knots.

First, I understand the opposition on the part of my colleagues to many of the President's nominations. I understand some of my colleagues do not support certain nominees. Their opposition is well within their rights and their belief that they are reflecting the will of their constituents.

I have a very simple solution. If you believe that your constituency does not approve of certain nominees, then simply vote against them. I have done that, but I have never denied any Member of this body the right to an up-or-down vote, knowing full well that 214-year tradition of the Senate ensures that a majority vote would confirm or deny a confirmation. Contrary to the great majority of statements made by some of my friends across the aisle, the practice of filibustering judicial nominations is not steeped in Senate history or precedent.

This is a brandnew application, quite frankly, of an obstruction tool that the minority has suddenly seized, collapsed to their breast. We are seeing the reinterpretation of history and the claiming of precedent when there is none. Again, the minority is asking the American people to ignore the obvious tradition of a simple majority vote for judicial nominations that has been honored in the Senate for 214 years.

Serving in public office for over 25 years in both the House and Senate, I am familiar with the broader points of our Constitution. What I gather from all the lather from my friends across the aisle is that President Bush should just stop nominating these ''out of the mainstream judges,'' for approval.

In fact, the President should consult with the minority party to find a judicial nominee that is more appropriate and more mainstream or more in line with their thinking.

By this logic, the minority party—not the elected majority, the minority party—would have the determining role in choosing who is acceptable and who is not. Yet article II, Section 2 of the Constitution states that the President ''shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors and other Public Ministers and Counsels, Judges of the Supreme Court, and all other Officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law.''

Here's the rub: The power to choose nominations is not vested in the Senate's advice and consent role. The Senate's constitutional responsibility is to ratify or to reject.

Let's talk about this new higher standard that was put into place only 2 years ago and advocated so eloquently today by my friends across the aisle. Since 2003, two short years ago, 60 votes have been the new minority criteria forced upon the Senate in order to confirm judicial nominations. The Framers of the Constitution identified seven circumstances in which a supermajority vote is warranted by one or both chambers of commerce. Here are some examples: Impeachment—we have done that; overriding a Presidential veto—haven't done that for a while; amending the Constitution—and there are quite a few bills in the hopper that would do that.

However, Senate approval of judicial nominations is not among the seven instances identified by the Constitution. Here is the heart of the matter. We do not propose to change anything. We propose to return to the tradition that governed the Senate for 214 years and an up-or-down majority vote on pending nominations.

Then there is the charge that somehow restoring Senate precedent is reactionary. I have heard a lot of people compare the Senate to the House. I served in both bodies. Intuitively then, blocking judicial nominations is, therefore, a hallowed and sacred tradition of the Senate Chamber. But history does not support that assumption. In fact, for over 200 years, judicial nominations required a simple majority vote. And again, a simple fact that I seldom read or hear within the national media, paragraph after paragraph after paragraph about the majority trying to change the rules, we are just trying to go back to the rules that were in evidence prior to the last 2 years.

This new 2003 standard through the unprecedented use of the judicial filibuster is the result of the minority not making the case against the nominees as demanded by special issue interest group ideology. Why? They are not able to convince the majority of Senators that these nominees are radical and wrong. It has been pointed out that during this debate, for 58 percent of the last 50 Congresses—well over half, almost 60 percent—the same party did control the Senate, the House, and the White House. Now, in all that time, the minority, whether it was the Democrat or the Republican Party, never, ever resorted to this systematic filibustering of judicial nominations.

So if the contention is that returning to a simple majority standard for judicial nominations would abridge minority rights, my question is, then why in the last 100 years has that bridge never been built until 2003?

Our official Senate majority leader, Bob Dole, summed it up when he said:

When I was the leader in the Senate, a judicial filibuster was not part of my procedural playbook. Asking a Senator to filibuster a judicial nomination was considered an abrogation of some 200 years of Senate tradition.

And there is the related issue that has been talked about in the Senate. Unfortunately, the disease of obstruction infected other aspects of our work in the Senate last week. Obviously, the fever will not break until high noon tomorrow. Senate business and the committee hearings and the markup of legislation are in early morning slow-motion. In the afternoon, they come to a grinding halt.

For those not familiar with the Senate business, for business to be conducted off and on the Senate floor, it takes only one Senator, or in this case the minority leadership, to call a halt to the Senate conducting business off of the floor.

I am chairman of the Intelligence Committee. We get hotspot briefings every week, two or three times a week. We are marking up the PATRIOT Act. I asked why this practice was initiated so early; why last week, at a time when our Nation is fighting the global war on terror. I found that obstruction rather appalling. The answer was pretty simple: We wanted to send you a message. That message, as I interpreted it, was whoa, stop the Senate, let me get off until we get our way—something akin to a toddler throwing a temper tantrum in the middle of a grocery store with much of the same rhetoric and name calling.

What is the real problem? Let's fully understand where the real controversy lies. Too many in the Senate and too many pundits have been masking the real issue, in this Senator's opinion. It is not about preserving great Senate traditions such as minority rights. It is not about lengthy debate and cooling passions of the day. That is an oxymoron in regard to the Judiciary Committee. It is not about doing away with the filibuster. By the way, it is not about Jimmy Stewart and ''Mr. Smith Goes to Washington.'' That was a classic movie, but it is the wrong plot unless we are talking about other Jimmy Stewart movies. The movies ''Vertigo'' and the ''Supreme Court'' come to mind. Or perhaps the minority is hoping they can have the Glenn Miller Band play ''Pennsylvania 65000'' within Pennsylvania 1600 in 2008.

And it is not about unqualified or unacceptable judicial nominees. It is about a brandnew 2-year-old procedure that will deny—is denying—a majority of Senators their right and constitutional duty to vote on judicial nominees. In my view, we are riding into a box canyon here, where incivility and partisanship and absolutism and further division await. There is going to

be a lot of milling around. We do not have to go there. Let us restore the 214-year-old precedent of an up-or-down majority vote and see if we cannot reach accord and ride to a higher—a higher—common ground.

I yield back.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, we turn on the television these days and get bombarded with advertisements saying: ''Write your Senator.'' ''Call your Senator and preserve the filibuster.'' ''Get ahold of your Senator and make sure this tool that provides rights and protections of the minority gets preserved.''

I have been associated with the Senate now since I was a 19-year-old intern sitting in the family gallery in the 1950s, falling in love with the debate that was going on, on the Senate floor. I must say there were usually more Senators here in the 1950s than there are now, but I understand, with television, the Senators stay in their offices and watch, and I am happy to accept that. But I understand the traditions of this body have great roots in history that many times get ignored. That is, these roots get ignored by people writing columns and stories today.

I want to go on record very firmly as being on the same side as those people who are buying the ads saying: ''Preserve the filibuster.'' I have watched the filibuster be used to help shape legislation. I watched the filibuster be used as a tool of compromise. I think the filibuster is a very worthwhile thing to hang on to in order to preserve the rights of the minority.

Now, that position of saying ''let's save the filibuster'' has not always been popular. If you go back 10 years ago, when a proposal was made on the Senate floor to abolish the filibuster, the New York Times editorialized in favor of that position. The New York Times told us

. . . the filibuster has become the tool of the sore loser.

The Times was anxious to have the whole thing wiped away. There were only 19 Senators who voted to abolish the filibuster, 9 of whom are still serving today. The rest of us all voted to preserve the filibuster. So I am on record as saying: We must preserve the filibuster. I value it. I believe it has a place in the Senate. However, I also believe we have the right to shape the filibuster, to focus the filibuster, to reform the filibuster, so it can be used in a more effective way.

There are those now who, when they say ''save the filibuster,'' mean ''save the filibuster the way we like it,'' not ''save the filibuster in its historic form, because its historic form has changed over the years.

The first point, as far as history is concerned, is this: The filibuster did not come into existence with the Constitution. I had a phone call over the weekend from a very dear friend who said: This is a constitutional issue that goes back all the way to the Founding Fathers. However, the filibuster, Rule XXII, came into the Senate history in 1917. That is a long time after the Founding Fathers. And it has been changed several times since that time, some times by formal Senate rule. It was changed in 1949. It was changed again in 1959. And it was changed again in 1975. So for those who run the ads saying ''save the filibuster,'' maybe the first question is, which filibuster do you have in mind that you want us to save?

But there is another aspect of the filibuster. I turn again to the New York Times. It is amazing how much they have changed their minds in the intervening 10 years. After the New York Times said the filibuster was a tool of the sore loser, now in this debate they decide that

. . . the filibuster [is] a time-honored Senate procedure . . .

They editorialize: ''Keep it just the way it is.'' Well, I want to talk a little bit about time-honored Senate procedures, and particularly time-honored Senate procedures with respect to the filibuster. It is a time-honored Senate procedure that the filibuster can be changed by majority vote. There are a number of Senators who have served here and are still serving here who, at least at one time in their careers, agreed with that.

Senator KENNEDY had this to say in 1975, when there was a debate on what kind of filibuster we could have and what the time-honored Senate procedures would say about the filibuster. Senator KENNEDY said:

A majority may adopt the rules in the first place. It is preposterous to assert they may deny future majorities the right to change them.

Senator KENNEDY was enunciating a time-honored Senate procedure that said a majority had the right to change the rules. This was in 1975.

Senator Mondale served in 1975. Senator Mondale had this to say about what was done in 1975. For those who are talking about time-honored Senate procedures, this was the Senate procedure 30 years ago. And for 30 years it has stood the test of time. Senator Mondale said:

. . . the President of the Senate . . . and the membership of the Senate . . . have both clearly, unequivocally, and unmistakably accepted and upheld the proposition that the U.S. Senate may . . . establish its rules by majority vote, uninhibited by rules adopted by previous Congresses.

Somehow this happened. Senator Mondale said it happened ''clearly, unequivocally, and unmistakably,'' and the place did not blow up. There were no threats to shut everything down, to object to every unanimous consent request, to cause a ''nuclear bomb'' to go off in this Chamber if this policy were to happen. This is a time-honored Senate procedure and it happened with both the membership of the Senate and the President of the Senate in 1975, according to Senator Mondale.

I picked Senator Mondale because in 1976 he was elected Vice President, which meant he became the Presiding Officer of the Senate. And something happened while he was the Presiding Officer of the Senate in this same time-honored Senate procedure.

The majority leader at the time was Senator BYRD of West Virginia. And he has described what happened while Vice President Mondale was presiding over this body. Here is what Senator BYRD had to say in 1995, as a bit of historic information for the rest of us who may not have been present back in the time when Mr. Mondale was the Vice President.

Senator BYRD explained:

I have seen filibusters. I have helped to break them. There are few Senators in this body who were here when I broke the filibuster on the natural gas bill. . . . I asked Mr. Mondale, the Vice President, to go please sit in the chair; I wanted to make some points of order and create some new precedents that would break these filibusters.

Interesting choice of words, because that is what we are talking about here under the name ''nuclear option,'' making a point of order and setting a new precedent. Senator BYRD, the majority leader, asked Vice President Mondale to ''please sit in the chair,'' to be there when Senator BYRD made ''some points of order'' and created ''some new precedents'' to ''break these filibusters.'' He goes on to describe what happened:

And the filibuster was broken—back, neck, legs, and arms. It went away in 12 hours.

So I know something about filibusters. I helped to set a great many of the precedents that are in the books here.

A time-honored Senate procedure.

Senator BYRD did it again. Going ahead to 1980, Senator BYRD led 54 Senators, all but one of whom were Democrats, in overturning the Chair and eliminating all debate on motions to proceed to nominations. The point here is an important one. He did not abolish the filibuster. He did not say: Get rid of the filibuster. He did not abide by the advice of the New York Times that said it was a tool of sore losers. But he helped shape it. He helped focus it. He said the filibuster should not be quite as broad as it may have been in the past. And using the time-honored Senate procedure of making a point of order, and getting the Senate to vote, he helped shape it, and the Senate Democrats set this precedent before the Senate had even begun to debate the motion, so that the filibuster that used to apply to motions to proceed to nominations no longer does.

And how was the rule changed? It was changed by a time-honored Senate procedure.

Now, there is one other time-honored Senate procedure that Senator LEAHY has spoken of. This goes to a floor statement Senator LEAHY made in 1997, as he was talking about nominations for the Federal bench. Senator LEAHY,

who at the time was the ranking minority member of the Judiciary Committee—he went on later to become the chairman—said:

I cannot recall a judicial nomination being successfully filibustered.

I find that interesting because many of our Democratic friends are now saying: ''Oh, filibusters of judicial nominations are normal. They have happened before.'' Well, at least in 1997, Senator LEAHY said:

I cannot recall a judicial nomination being successfully filibustered. I do recall earlier this year when the Republican chairman of the Judiciary Committee and I noted how improper it would be to filibuster a judicial nomination.

I have the same recollection. I remember in our conference when the issue of filibustering some of President Clinton's judges came up, it was the Republican chairman of the Judiciary Committee, my senior colleague, Senator HATCH, who stood before the conference and said: ''Do not do it. It would be improper to filibuster a judicial nominee. Having judicial nominees get a vote is a time-honored Senate precedent.'' Senator LOTT was the majority leader. He took the floor, after Senator HATCH had spoken, and said: ''Senator HATCH is right.'' We should not cross the line and start to filibuster judicial nominations because the Senate tradition has said no.

So that is where we are now. The Senate tradition has been changed. The Members of the minority have exercised their right, which has always been on the books, to change the precedent which had held for so long that even Senator LEAHY could not recall an exception to it. What we are talking about doing now is using the time-honored Senate procedure of changing the rule by majority vote to see to it that the prior precedent remains—or, rather, returns because it was broken in the 108th Congress.

So I value the filibuster. I am in favor of the filibuster. But I think the filibuster has been and still can be shaped and changed so it is more focused than simply an across-the-board procedure.

I want to close by putting something of a human face on this whole issue because we are talking about this filibuster of judicial nominees almost as if the judicial nominees were not people, almost as if the judicial nominees were spectators in this activity. They are not spectators. They are seeing their reputations smeared. They are seeing their history attacked. It is time we spent a little time thinking about them.

I know the nomination on the floor is Priscilla Owen, but over the weekend I had called to my attention an article that appeared in the Sacramento Bee by one Ginger Rutland that I would like to close with. It is entitled: ''Worrying about the right things.'' Ginger Rutland identifies herself as ''a journalist of generally liberal leanings,'' and she talks about the nomination of Janice Rogers Brown.

Both Ms. Rutland and Ms. Brown live in California. Ms. Rutland says:

I've been trying to get a fix on Brown since President Bush nominated her for the influential U.S. Circuit Court of Appeals for the District of Columbia.

It talks about the experience. And then she makes this comment:

Championed by conservatives, Brown terrifies my liberal friends. They worry she will end up on the U.S. Supreme Court. I don't. I find myself rooting for Brown. I hope she survives the storm and eventually becomes the first black woman on the nation's highest court. I want her there because I believe she worries about the things that most worry me about our justice system: bigotry, unequal treatment and laws and police practices that discriminate against people who are black and brown and weak and poor.

She was born and raised poor, a sharecropper's daughter in segregated Alabama. She was a single mother for a time, raising a black child, a male child. I don't think you can raise a black man in this country without being sensitive to the issues of discrimination and police harassment.

She goes on in the article. I ask unanimous consent that the entire article be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BENNETT. She concludes with this comment:

I don't pretend to know how Brown will rule on other important issues likely to reach the Federal courts. I only know that I want judges on those courts who will defend the rights of the poor and the disenfranchised in our country.

She believes Janice Rogers Brown is one of those jurists.

I am not sure whether she is right or wrong. But I do know Janice Rogers Brown deserves the opportunity to have her nomination voted on. And if one use of the filibuster has been to prevent Priscilla Owen and Janice Rogers Brown and others like them from getting this vote, a time-honored procedure of the Senate can be used with equal justification to see to it that the filibuster gets tweaked a little bit to make sure we go back to the practice that existed here for decades.

For that reason, I will support the motion of the majority leader if it becomes necessary to make sure that we have an opportunity to a vote on Priscilla Owen. I hope as a result of this debate, our friends on the Democratic side of the aisle will step back a little from their position of saying no to a vote on Priscilla Owen and allow us to have a vote. If they do, they are acting in accordance with the history of the Senate for past decades, the history of the Senate going back so far that even PATRICK LEAHY cannot remember an exception to it. If they do and we have an up-or-down vote on Priscilla Owen, it may well be that all of this talk about changing the rules will go away.

The outcome lies in their hands. If they allow us to vote on Priscilla Owen, we will not have the lack of civility, the shutting down of the Senate, the collapse of Government, all of the other things that have been predicted. If, on the other hand, they say no, we will not allow this woman who has been unanimously rated as well qualified by the American Bar Association to even get a vote, then we will see the majority leader follow the practice, follow the precedent, follow the example set by Senator BYRD, the example endorsed by Senator KENNEDY, endorsed by Senator Mondale, and use the time-honored Senate procedure to change the rule by majority vote. If the majority leader so moves, I will support it.

EXHIBIT 1

[May 8, 2005]

GINGER RUTLAND: WORRYING ABOUT THE RIGHT THINGS

(By Ginger Rutland)

I know Janice Rogers Brown, and she knows me, but we're not friends. The associate justice of the California Supreme Court has never been to my house, and I've never been to hers. Ours is a wary relationship, one that befits a journalist of generally liberal leanings and a public official with a hard-right reputation fiercely targeted by the left.

I've been trying to get a fix on Brown since President Bush nominated her for the influential U.S. Circuit Court of Appeals for the District of Columbia. She won't talk to the press. Friends, associates, even a former teacher, say the same things about her: She's ''brilliant,'' ''hardworking,'' ''stoic'' and ''kind.''

Her opponents on the left tell me she's a fundamentalist Christian who will bring her religious values into the courtroom. But I've never been frightened by people of faith. Brown is Church of Christ. So is my mother-in-law, a good, gentle woman and lifelong Democrat who voted for John Kerry for president and opposed the war in Iraq because, as she told me when it started, ''I've never understood how killin' other folks' children ever solved anything.''

I'm almost embarrassed to admit it, but desperate for deeper insight, I visited Brown's church last Sunday, the Cordova Church of Christ. The judge wasn't there, but her mother, Doris Holland, was. She was polite but understandably guarded. She told me that as a young girl Brown liked to read and had an imaginary friend; that was about it.

The congregation is integrated and friendly. Church members know Brown and her husband, jazz musician Dewey Parker, and like them. The church itself is conservative, allowing no instrumental music in its services, no robes, no bishops or hierarchy of any kind. The religious right may have taken up Brown's cause in Congress, but the sermon at Cordova that day contained no political content.

Championed by conservatives, Brown terrifies my liberal friends. They worry she will end up on the U.S. Supreme Court. I don't.

I find myself rooting for Brown. I hope she survives the storm and eventually becomes the first black woman on the nation's highest court.

I want her there because I believe she worries about the things that most worry me about our justice system: bigotry, unequal treatment and laws and police practices that discriminate against people who are black and brown and weak and poor.

She was born and raised poor, a sharecropper's daughter in segregated Alabama. She was a single mother for a time, raising a black child, a male child. I don't think you can raise a black man in this country without being sensitive to the issues of discrimination and police harassment.

And yes I know. People said that Clarence Thomas would be sensitive to those issues, too, and he's been a disappointment.

But in Brown's case, I have something more concrete on which to base my hopes—her passionate dissent in People v. Conrad Richard McKay.

The case outlines a single, unremarkable instance of police harassment, the kind of petty tyranny that plays out on the streets of big cities and small towns across America every day.

In 1999 a Los Angeles sheriff's deputy stopped Conrad Richard McKay for riding his bicycle in the wrong direction on a residential street, a minor traffic infraction. The deputy asked McKay for a driver's license. McKay had none. Instead, he provided his name, address and date of birth.

The officer arrested him for failing to have a driver's license. Then he searched him, finding a baggie of what turned out to be methamphetamine in his left sock. McKay was charged with illegal drug possession, convicted and sentenced to 32 months in prison.

He appealed, arguing that the arrest and the search were unreasonable, a violation of his Fourth Amendment rights to be protected from unreasonable searches. The officer searched him, he said, because he didn't have a driver's license, a document he was not required to carry to ride a bicycle.

Six members of the California Supreme Court rejected that argument, ruling that McKay's arrest was within the officer's discretion and therefore constitutional.

Brown was the lone dissenter. What she wrote should give pause to all my friends who dismiss her as an arch conservative bent on rolling back constitutional rights. In the circumstances surrounding McKay's arrest, the only black judge on the state's high court saw an obvious and grave injustice that her fellow jurists did not.

''Mr. McKay was sentenced to a prison term for the trivial public offense of riding a bicycle the wrong way on a residential street,'' Brown wrote.

''Anecdotal evidence and empirical studies confirm that what most people suspect and what many people of color know from experience is a reality: There is an undeniable correlation between law enforcement stop-and-search practices and the racial characteristics of the driver. . . . The practice is so prevalent, it has a name: 'Driving while Black.' ''

After a scholarly discussion on the origin of the Fourth Amendment and an exhaustive review of the case law on unlawful searches, Brown used plain words to get to the heart of what really bothered her about what happened to Conrad McKay on that Los Angeles street. It's what bothers me, too.

''I do not know McKay's ethnic background. One thing I would bet on: He was not riding his bike a few doors down from his home in Bel Air, or Brentwood, or Rancho Palos Verdes—places where no resident would be arrested for riding the 'wrong way' on a bicycle whether he had his driver's license or not. Well . . . it would not get anyone arrested unless he looked like he did not belong in the neighborhood. That is the problem. And it matters. . . . If we are committed to a rule of law that applies equally to 'minorities as well as majorities, to the poor as well as the rich,' we cannot countenance standards that permit and encourage discriminatory enforcement.''

In her dissent, Brown even lashed out at the U.S. Supreme Court and—pay close attention, my liberal friends—criticized an opinion written by its most conservative member, Justice Antonin Scalia, for allowing police to use traffic stops to obliterate the expectation of privacy the Fourth Amendment bestows.

''Due to the widespread violation of minor traffic laws, an officer's discretion is still as wide as the driving population is large,'' she wrote. In her view, court decisions have freed police to search beyond reason not just drivers of cars but ''those who walk, bicycle, rollerblade, skateboard or propel a scooter.''

She reserved special scorn for judges who permit police to discriminate while advising the targets of discrimination to sue to challenge their oppressors. ''Such a suggestion overlooks the fact that most victims . . . will barely have enough money to pay the traffic citation, much less be able to afford an attorney. . . . To dismiss people who have suffered real constitutional harms with remedies that are illusory or nonexistent allows courts to be complacent about bigotry while claiming compassion for its victims,'' she wrote.

''Judges go along with questionable police conduct, proclaiming that their hands are tied. If our hands really are tied, it behooves us to gnaw through the ropes.''

With that last pronouncement, Brown confirms what many of her enemies have said—that she's an ''activist judge.'' Judges who ''gnaw through ropes'' to protect people being hassled by cops represent the kind of judicial activism I can support.

Liberals prefer to overlook Brown's strong dissent in McKay. Conservatives mention it only in passing, as if embarrassed that one of their own might have qualms about law enforcement bias or a creeping police state.

I don't pretend to know how Brown will rule on other important issues likely to reach the federal courts. I only know that I want judges on those Courts who will defend the rights of the poor and the disenfranchised in our country against the rich and the powerful when the rich and the powerful are wrong. I want someone who will defend people like Conrad McKay.

Mr. BENNETT. 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.

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

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

Mrs. HUTCHISON. Mr. President, I rise to talk about Priscilla Owen, a woman who serves on the Texas Supreme Court, a woman of the highest moral character, and a woman whose confirmation has been held up by the Senate for over 4 years—Justice Owen was first nominated on May 9, 2001, by President Bush. Her nomination has actually been voted on four times by the Senate: May 1, 2003, a cloture vote, she won 52 votes; May 8, 2003, she won 52 votes; July 29, 2003, she won 53 votes; November 14, 2003, she won 53 votes.

If one looks back on a 200-year Senate tradition, the Constitution's requirement for simple majority votes on judicial nominations—as well as the specific instances where the Constitution does, in fact, specify super-majority votes, one would presume that Priscilla Owen would be sitting on the Fifth Circuit Court of Appeals and the majority in the Senate would not have to be restoring precedent. My goodness, why isn't she sitting on the Fifth Circuit Court of Appeals bench?

Priscilla Owen is not sitting on the Fifth Circuit Court of Appeals, even though she received a majority of the votes in the Senate four times, because a new standard is now being required, a new standard of 60 votes. Did we have a constitutional amendment that would require 60 votes? No. Did we have a new rule that required 60 votes? No. We just have the use of a filibuster by the minority in the Senate in the last session of Congress—the first time in the history of our country when a majority of the Senate has been thwarted by the minority on Federal judicial appointments.

There have, from time to time, been filibusters when the person did not have 51 votes in the Senate; never when a majority of the Senate voted to support that nominee. Yet that is exactly what has happened to Priscilla Owen.

There has been a change in the balance of power that was envisioned in the Constitution without a constitutional amendment. Last Friday on the Senate floor, some Democratic Members of the Senate actually said: We should have a 60-vote requirement for Federal judges to be confirmed by the Senate. That is worthy of discussion. It is worthy for us to have that debate. But the debate should be in the context of a constitutional amendment—going through the process our Founding Fathers said would be required for a constitutional amendment. Let's put it to a test. Let's determine if that is the right thing and do it the right way. But that is not what is happening here today.

In fact, it is significant that we look at the historical comparison of the first term of a Presidency and the confirmation of appeals court nominees. President George W. Bush has the lowest percentage of confirmations of any President in the history of the United States. President Clinton had 77 percent of his appellate court nominees confirmed. President George H.W. Bush had 79 percent. President Reagan had 87 percent. President Carter had 93 percent. President Ford had 73 percent. President Nixon had 93 percent. President Johnson had 95 percent. President Kennedy had 81 percent. President Eisenhower had 88 percent. President Truman had 91 percent. But President Bush today has 69 percent, the lowest of any President in the history of our country. Almost 30 percent of his circuit court nominees were filibustered and let die by the Senate.

The balance of power is delicate—founded in a Constitution that is not easily changed. It is important that those who are sworn to uphold the Constitution, not tread on it without going through the proper procedures of a constitutional amendment. Thwarting the majority by requiring 60 votes on qualified judicial nominees, as the minority did last session, undermines the delicate balance of power.

I hope the Senate will come to its senses. There has been a lot written lately about the Senate, about the process in the Senate being broken. Last week, I talked to a well-known

journalist to discuss his views of what is happening in Washington. I asked him a number of questions, but the most difficult was the one that he posed to me: What in the world is the Senate thinking about in the confirmation process? Don't you realize that this is impeding the President's ability to recruit quality people for Government service?

Mr. President, my colleagues on the Democratic side of the aisle are correct. We are heading for a crisis, but it is not a crisis over minority rights. No one on our side of the aisle has even suggested that minority rights should be overrun. The filibuster will remain intact. What we are trying to do is get the constitutional process for confirmation of Federal judges back to what has been the tradition in the Senate and what the Constitution envisioned, and that is a 51-vote majority.

Never, until the last session of Congress, was the majority will thwarted in Federal judge nominees and circuit court most particularly. So the crisis is not over the Senate process; the crisis is how group influence is turning the Senate into a permanent political battleground. It is unseemly, it is wrong, and it is going to harm the quality of our judiciary because we are going to start seeing nominees who are not the best and the brightest, who don't have clear opinions, and who are not well-published and renown constitutional experts.

I think it was pretty well brought out in an article in the Washington Post yesterday, titled ''The Wreck of the U.S. Senate.'' It quoted John Breaux, our former Democratic colleague. He said:

> Today, unfortunately, outside groups, public relations firms, and the political consultants who are dedicated to one thing, a perpetual campaign to make one party a winner and the other a loser, has snatched the political process.

Some years ago, we started on a road downward toward a low common denominator, and I think we are continuing that descent. In the article, I think it mentioned that the point of embarkation for this descent was the nomination process of John Tower, a former Senator who had an incredible record on national defense, who was perhaps the most knowledgeable Senator in the Senate on that subject, who was turned down for his Secretary of Defense with innuendo, things that were totally untrue being said about him. Many of my colleagues who are in this body today say it was unconscionable what was done to Senator John Tower.

Mr. President, I am sorry to say I think it has happened again and again. I look at Priscilla Owen, who is one of the best and brightest, who is a judge with judicial temperament, who has shown her brilliance from the days she graduated from Baylor Law School cum laude, top of her class, Baylor Law Review, to making the highest score on the Texas bar exam the year she took it. The distortions of this fine judge's record have been incredible. She has been meticulous in following the law, in not trying to make law but interpret the law; and I am really concerned that if someone like Priscilla Owen, who is a judge who has the backing of 15 former State bar Presidents—probably most of the ones who are still alive—Republicans and Democrats, the support of 3 Democrats with whom she served on the Supreme Court, as well as every Republican, the support of the Attorney General of the United States, with whom she served, who actually sought her out for appointment because he was so impressed with her judicial standards. If someone like that has to take ''brick baths'' for 4 years, how are we going to recruit the very top legal minds in our country, people who have shown themselves time and time again to be excellent at what they do? How are we going to recruit them to submit themselves to this kind of process?

The National Abortion Rights Action League was reported by columnist Bob Novak to have hired an opposition research team not just for Priscilla Owen—and they have certainly been active against her—but to look at the records of 30 sitting judges, including Judge Edith Jones from Houston, and why would they be doing that? Why would the National Abortion Rights Action League start looking at sitting judges in our country today to try to find some way to harm them or distort their records? Why would they do that? Interestingly, it looks as if the people chosen to be investigated are people who might be potential appointees to the United States Supreme Court.

Mr. President, we are in a downward spiral in this country. Prior to holding federally-elected office, I remember watching the Senate debate over Clarence Thomas. I thought the Senate did an excellent job of debating Clarence Thomas, bringing out the major points. But the hearings on Justice Thomas' nomination were brutal. They were brutal. They were personal. It was something which I am sure was very difficult for him to overcome. I don't think we have to be personal to make points. I don't think we have to distort records. I don't think we should employ innuendo in looking at nominees for our Federal bench.

I think the Senate needs to take a very hard look at the processes we are using, at the outside influences and the motivations of these groups. When I turn on my television in Washington, I see ads for and against Priscilla Owen. Priscilla has been silent for four years, unwilling to lash out at her opponents and too respectful of Senate procedure to defend herself against empty criticisms. But I am glad she has been defended. I visited with her last week when she was here, and there is a personal toll on the people in this process. She will be a fine judge, but was she prepared for the four years of ''brick baths'' to which she could not respond? You know, she had several very nice opportunities to do something else in these four years, but she is such a fine person, with such a strong backbone, that she did not want to withdraw her name from consideration so it could be used in the Presidential election. She didn't want to leave President Bush vulnerable to an attack that her nomination was a mistake and that there was something hidden in her record. She is proud of her record, and she knows President Bush is proud of his appointment of her. She has nothing—nothing—upon which she can base any kind of decision to leave this nomination process. She is sticking with President Bush because he made a good decision, and he is sticking with her.

But these judges are not people who have put themselves in the arena in the same way that partisan politicians do. I don't think she was prepared to be attacked on a weekly or monthly basis and have her record distorted when she submitted herself for this important nomination. She was rated unanimously by the American Bar Association committee that gives its recommendations on judges to the Judiciary Committee as ''well qualified,'' the highest rating that can be given by the ABA. It was unanimous. Yet, this fine person has been raked over the coals, has had misrepresentations and distortions made about her. I recently spoke about Priscilla Owen, the person—I shared what kind of person she is. I talked about her service as a Sunday school teacher and that she lost her father when she was 10 months old. I talked about what a lovely person she is.

One of my colleagues came to the floor and said, yes, she is a lovely person, but that is not enough; we should not be talking about whether she is lovely or not. Well, I wanted people to see that in addition to a stellar record, an even-handed disposition, a great legal mind, and impeccable integrity, Priscilla Owen is also a lovely person. An honest person who has even gone against the prevailing view of the Republican Party in Texas by suggesting we not elect Supreme Court justices in Texas. She has actually written on that subject, saying we should not taint the judiciary with partisan politics. So, I want the record to reflect that she is a lovely person—but also a person of principle, of strength, and of profound wisdom. She is as excellent a nominee, with as excellent a record as we have ever seen come before the United States Senate.

Mr. President, I think the Senate, as a body, should think about how we treat the people who come to submit themselves for public service. Many of them do so because they believe this is their calling and they do so with every good intention, including taking large salary cuts. Priscilla Owen chose to take a huge salary cut to run for the Supreme Court of Texas instead of continuing as a partner in a major law firm in Texas.

She has shown in every way that she is qualified for this position, and I hope we will give her what she deserves after four years of waiting, and that is an up-or-down vote. When we do, she will be confirmed and she will be one of the finest judges sitting on the Federal circuit court of appeals today.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired. The next hour will be controlled by the minority.

The senior Senator from West Virginia.

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

The PRESIDING OFFICER. The minority controls the next 60 minutes.

Mr. BYRD. Mr. President, I rise today to speak sadly. I have been a Member of Congress—now I am in my 53rd year. Two other members have served longer than I. Only 11,752 men and women have served in the Congress of the United States since the Republic began in 1789. That is 217 years. Those two Members were the late Senator Carl Hayden of Arizona, who was chairman of the Appropriations Committee when I came to this body, and Representative Jamie Whitten of Mississippi, who was a member of the House Appropriations Committee, a man with whom I served. So only two others have served longer in the Congress, meaning the House of Representatives or the Senate or both—only two.

I say to Senators and you, Mr. President, can you imagine my feelings as I stand now to speak in this Senate, which tomorrow—24 to 36 to 48 hours from now—may be changed from what it was when it began, when it first met in April of 1789 and from what it was when I came here to the Senate now going on 47 years ago.

I can see Everett Dirksen as he stood at that desk. He was the then-minority leader. Lyndon B. Johnson of Texas was the majority leader. Yes, I can see Norris Cotton. I can see George Aiken. I can see Jack Javits. I can see Margaret Chase Smith of Maine, the only woman in the Senate at that time, as she sat on the front row of the Republican side of the aisle. I can see others, yes.

How would they have voted? How would they have voted on this question which will confront us tomorrow? How would they have voted? I have no doubt as to how they would have voted. I have no doubt as to how they would vote were they here tomorrow. And so my heart is sad that we would even come to a moment such as this. Sad, sad, sad, sad it is.

I rise today to make a request of my fellow Senators. In so doing, I reach out to all Senators on both sides of the aisle, respectful of the institution of the Senate and of the opinions of all Senators, respectful of the institution of the Presidency as well. I ask each Senator to pause for a moment and reflect seriously on the role of the Senate as it has existed now for 217 years, and on the role that it will play in the future if the so-called nuclear option or the so-called constitutional option—one in the same—is invoked.

I implore Senators to step back—step back, step back, step back—from the precipice. Step back away from the cameras and the commentators and contemplate the circumstances in which we find ourselves. Things are not right, and the American people know that things are not right. The political discourse in our country has become so distorted, so unpleasant, so strident, so unbelievable, it is no wonder, then, that people are turning to a place of serenity, a place that they trust to seek the truth. They are turning to their religious faith in a time of ever-quickening contradictory messages transmitted by e-mail, by BlackBerrys, by Palm Pilots, answering machines, Tivo, voice mail, satellite TV, cell phones, Fox News, and so many other media outlets. America is suffering sensory overload.

We hear a lot of talk, but we do not know what to make of it. So some are turning to a place of quiet, a secure place, a place where they can find peace. They are turning to their faith, their religious faith.

Our Nation seems to be at a crossroads. People are seeking answers to legitimate questions about the future of our country, the future of our judiciary, and what role religions play in public lives. But it is difficult to find the quiet time to contemplate or to build a consensus in response to these profound questions when the venues for serious discussion of these issues often amount to little more than ''shoutfests,'' ''hardball,'' and ''Crossfire.''

Mr. President, what is next, ''Slash and Burn'' ''Your faith or mine?'' Perhaps because so few traditional channels of communication even now in the Senate provide a venue for thoughtful discussion, Americans are seeking answers to political and legal questions not in Congress or in the courts but through a higher power, through their religious faith.

In fact, it is the reaction of some to recent court decisions that has fueled the drive by a sincere minority, perhaps, in this country, the drive, where it might be a majority in this country, the drive toward the pillars of faith.

Many American citizens since the early religious people are angered and alienated by a belief that their views are not respected in the political process. They are deeply frustrated, and I am in sympathy with such feelings. I do not agree with many of the decisions that have come from the courts concerning prayer in school or concerning prohibitions on the display of religious items in public places.

For example, concerning freedom of religion, the establishment clause of the first amendment to the Constitution states:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .

In my humble opinion, too many have not given equal weight to both of these clauses but have focused only on the first clause which prohibits the establishment of religion, with too little attention and at the expense of the second clause, which protects the right of Americans to worship as they please. I have always believed that this country was founded by men and women of strong faith whose intent was never to suppress religion but to ensure that our Government favors no single religion over another. This is reflected in Thomas Jefferson's insistence on religious liberty in the founding of our Republic. In his Virginia Act for Establishing Religion Freedom, Jefferson wrote that no man shall be compelled to frequent or support any religious worship or shall otherwise suffer on account of his religious opinion or belief, but all men shall be free to profess and by argument to maintain their opinions in matters of religion, and that shall in no wise diminish, enlarge, or affect their civil capacities.

In 1962, the U.S. Supreme Court decided a case called Engel v. Vitale. In that case, a group of politically appointed State officials drafted a prayer to be recited every day in the New York public schools, but the Supreme Court struck down the law, holding that the practice violated the establishment clause of the U.S. Constitution. While I strongly support voluntary prayer in schools, I can understand how the Supreme Court refused to require schoolchildren to recite a prayer that was drafted by government bureaucrats to be force-fed to every child. That decision rested on a principle that makes a lot of sense to me—namely, that government itself may not seek either to discourage or to promote religion.

In response to a question about the role of religion in society, President Bush recently stated that he believes religion is a personal matter—and it is a personal matter. It is a personal matter, something that must be revered but not imposed by the Government. The Federal Government must not prevent us from praying, but it should not tell us how to pray, either. That is a personal matter. That is a personal decision.

On May 5, our National Day of Prayer, the President reminded us that this special day was an annual event established in 1952 by an act of Congress. Yet, as said, it is part of a broader tradition that reaches back to the beginnings of America. So the President reminded us that from the landing of the Pilgrims at Plymouth Rock to the launch of the American Revolution, the men and women who founded this Nation in freedom relied on prayer to protect and to preserve it. And, of course, the President was right.

Thus, we can all understand the outrage of many good people of faith who decry the nature of our popular culture with its overt emphasis on sex, violence, profanity, and materialism.

They have every reason to seek some sort of remedy, but these frustrations, great as they are, must not be allowed to destroy crucial institutional mechanisms in the Senate that have protected minority rights for over 200 years and, when necessary, must be available to curtail the power of a power-hungry Executive. Yet this is the outcome sought by those who propose to attack the filibuster.

At such times as these, the character of the leaders of this country is sorely tested. Our best leaders search for ways to avert such crises, not ways to accelerate the plunge toward the brink. Overheated partisan rhetoric is always available, of course, but the majority of Americans want a healthy two-party system built on mutual respect, and they want leaders who know how to work together. In fact, Americans admire most leaders who seek to do right, even when doing so does not prove politically advantageous in the short term.

The so-called nuclear option has been around for a long time. It didn't require a genius to figure that one out. Any cabbagehead who fell off of a turnip truck could have done that. That is easy to figure out. It has been around since the cloture rule was adopted in 1917—yes. I call it the turnip truck option, not the nuclear option, not the constitutional option. I call it the turnip truck option. It could have been talked about and suggested by someone who fell off a turnip truck and got up and dusted himself off and got back on the truck and fell off the turnip truck again—so turnip truck No. 2. Let it be that.

The nuclear option, as I say, has been around for a long time, but previous leaders of the Senate and previous Presidents, previous White Houses, did not seek to foist this turnip truck option upon the Senate and upon the right of the American people to have freedom of speech on the part of their representatives in the Senate.

So the nuclear option—yes, it has been around for a long time. Nobody wanted to resort to such a suicidal weapon. But until today, wisdom and cooler heads prevailed. In 1841, for example, a Democratic minority tried to block a bank bill supported by Henry Clay. Clay threatened to change the Senate's rules to allow the majority—have you heard that before?—to allow the majority to stop debate, just like our current majority leader. I say this respectfully. But Thomas Hart Benton angrily rebuked his colleague, Henry Clay, accusing Clay of trying to stifle the Senate's right to unlimited debate.

There is no need to tamper with the Senate's right of extended debate. It has been around for a long time. In 1806, the Senate left it out of the Senate's rules. In the 1806 version of the Senate's rules, ''the previous question,'' as it now is still being used in the House, ''the previous question'' was left out, left behind. It had only been used a few times prior to 1806. It was in the 1789 rules of the Senate, yes. It was in the rules of the Continental Congress, ''the previous question.'' It is in the rules of the British Parliament, yes. But the Senate, in 1806, decided, on the basis and upon the advisement of the Vice President of the United States, Aaron Burr, to discard it.

The text of the actual cloture rule, rule XXII, was not adopted by the Senate until 1917, the year in which I was born. Today, rule XXII allows the Senate to end a debate with 60 votes, what we call invoking cloture. I offered that resolution, to provide for a supermajority of 60 votes to invoke cloture. I believe it was 1975. That was a resolution which I introduced. So that is what we have today. But from 1919 to 1962, the Senate voted on cloture petitions only 27 times and invoked cloture only 5 times.

Political invective and efforts to divide America along religious lines may distract the electorate for the moment, but if, heaven forbid, there should be a true crisis or calamity in our country, the American people will stand shoulder to shoulder to support our country. Why can't we, then, their Senators, their leaders, find the courage to come together and solve this problem?

Nearly 4 years ago, our Nation was attacked by al-Qaida. In a Herculean effort, we came together to help the good people of New York and the patriotic citizens who worked at the Pentagon. Why can't we find some of that spirit today in the Senate? The time-honored role of the Senate as protector of minority views is at risk, and those who are in the majority today may be in the minority tomorrow. Don't forget that—the worm turns.

Our country has serious problems. Baby boomers are facing retirement with sorely diminished savings, savings hard to accrue in the face of exploding prices for gasoline, prescription drugs, housing, fuel, medicine and shelter—not frivolous purchases, all essential to survival. Alarmingly, all are becoming less affordable, even for affluent Americans. But beyond them, what is happening to America's poor today? Has anybody noticed? Has anybody noticed?

The point is that the current uproar over the filibuster serves only to underscore the mounting number of real problems—real problems—not being addressed by this Government of ours. Over 45 million persons in our country, some 15 percent of our population, cannot afford health insurance. Is your father included? Is your mother included in that number? Is your grandfather included? Is your grandmother included in that number?

Our veterans lack adequate medical care after they have risked life and limb for all of us. Our education system produces 8th graders ranked 19 out of 38 countries in the world in mathematics and 12th graders ranked 19 out of 21 countries in both math and science. Poverty in these United States is rising, with 34 million people or 12.4 percent of the population living below the poverty level. Think of it. Our infant mortality rate is the second highest of the major industrialized countries of the world.

Yet we debate and we seek solutions to none—none—none of these critical problems. Instead, what do we focus on? We focus all energy—we sweat, we perspire, we weaken ourselves, we focus all energy on the frenzy over whether to confirm seven previously considered nominees who were not confirmed by the Senate in the 108th Congress. Doesn't that seem kind of odd? Isn't that kind of odd? That seems a bit irrational, doesn't it, I say. Hear me. Maybe it sounds crazy. If I wanted to go crazy, I would do it in Washington because nobody would take notice, at least, so said Irvin S. Cobb. Would anyone apply such thinking to their own lives? My colleagues, would you insist on resubmitting the same lottery ticket if you knew it was not a winner?

Unfortunately, many Americans seek as an anecdote to their frustrations with our current system a confrontation—yes, we have to have it—a confrontation over these seven nominees and the preposterous solution of permanently crippling freedom of speech and debate and the right of a minority to dissent in the Senate.

I ask the Senate, please, I ask the Senate majority leader, please, I ask the Senator minority leader, please, I ask the White House.

I noticed the other day, I believe last Thursday, in the Washington Post—I will bring it with me tomorrow—I noticed that the White House did not want to compromise on this matter. The White House did not want to compromise. Here we have the executive branch talking to the legislative branch, two of the three branches, two of the three equal coordinate branches of Government, talking through the newspapers that it does not want to compromise.

I ask the Senate to take a moment today to reflect on the potentially disastrous consequences that could flow from invoking the so-called nuclear option. Anger will erupt. It may not be the next day or immediately. One may not see these things come about immediately, but in time they will come. They will come, they will come, they will come. Anger will erupt in the Chamber and it will be difficult to address real problems.

I implore, I beseech, I importune, I beg the Senate to consider how posterity will review such a significant occurrence, destroying 217 years of checks and balances established so carefully by the Founding Fathers 219 years ago. Will the light of posterity shine favorably on the shattering of Senate precedent solely to confirm these seven nominees, nominees whose names have been before the Senate for consideration in the previous administration? Won't this maneuver be viewed for what it really is, a misguided attempt to strong-arm the Senate for a political purpose driven by

anger and raw ambition and lust for power? Will that be remembered as a profile in courage?

What has happened to the quality of leadership in this country that will allow us even to consider provoking a constitutional crisis of such magnitude?

I tell you, I am deeply, deeply troubled. I am almost sick about it, the frustration that I have had over thinking about this, this awful thing that is about to happen, unless we draw back.

Have we lost our ability to look toward the larger good? Even a child is known by his doings, whether his work be pure and whether it be right. That is according to Proverbs, 20th chapter, 11th verse.

I ask the Senate to come together and to work toward a compromise. Yes, the Washington Post last Thursday said the White House doesn't want a compromise. But I beg the Senate, I beg those on the other side of the aisle and those on my side of the aisle to reach a compromise, work toward a compromise.

What the current majority seeks to employ against the minority today can be turned against the majority tomorrow.

John Adams once said:

> Even mankind will, in time, discover that unbridled majorities are as tyrannical and cruel as unlimited despots.

Does not history prove as much? I ask the Senate to seek a compromise. Where is the gentle art of compromise? Edmund Burke once stated:

> All government, indeed every human benefit and enjoyment, every virtue and every prudent act, is founded on compromise and barter.

Let the Senate step away from this abyss and see the wisdom of coming together to preserve the checks and balances. May we stop and draw back and remember that we are all Americans before we permanently damage this institution, the Senate of the United States, and in doing so, permanently damage the Constitution as we permanently damage this institution, the Senate of the United States, and the country we love.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, how much time remains on the minority?

The PRESIDING OFFICER. The minority controls 23 additional minutes.

Mr. BIDEN. Mr. President, my friends and colleagues, I have not been here as long as Senator BYRD, and no one fully understands the Senate as well as Senator BYRD, but I have been here for over three decades. This is the single most significant vote any one of us will cast in my 32 years in the Senate. I suspect the Senator would agree with that.

We should make no mistake. This nuclear option is ultimately an example of the arrogance of power. It is a fundamental power grab by the majority party, propelled by its extreme right and designed to change the reading of the Constitution, particularly as it relates to individual rights and property rights. It is nothing more or nothing less. Let me take a few moments to explain that.

Folks who want to see this change want to eliminate one of the procedural mechanisms designed for the express purpose of guaranteeing individual rights, and they also have a consequence, and would undermine the protections of a minority point of view in the heat of majority excess. We have been through these periods before in American history but never, to the best of my knowledge, has any party been so bold as to fundamentally attempt to change the structure of this body.

Why else would the majority party attempt one of the most fundamental changes in the 216-year history of this Senate on the grounds that they are being denied ten of 218 Federal judges, three of whom have stepped down? What shortsightedness, and what a price history will exact on those who support this radical move.

It is important we state frankly, if for no other reason than the historical record, why this is being done. The extreme right of the Republican Party is attempting to hijack the Federal courts by emasculating the courts' independence and changing one of the unique foundations of the Senate; that is, the requirement for the protection of the right of individual Senators to guarantee the independence of the Federal Judiciary.

This is being done in the name of fairness? Quite frankly, it is the ultimate act of unfairness to alter the unique responsibility of the Senate and to do so by breaking the very rules of the Senate.

Mark my words, what is at stake here is not the politics of 2005, but the Federal Judiciary in the country in the year 2025. This is the single most significant vote, as I said earlier, that I will have cast in my 32 years in the Senate. The extreme Republican right has made Federal appellate Judge Douglas Ginsburg's ''Constitution in Exile'' framework their top priority.

It is their purpose to reshape the Federal courts so as to guarantee a reading of the Constitution consistent with Judge Ginsburg's radical views of the fifth amendment's taking clause, the nondelegation doctrine, the 11th amendment, and the 10th amendment. I suspect some listening to me and some of the press will think I am exaggerating. I respectfully suggest they read Judge Ginsburg's ideas about the ''Constitution in Exile.'' Read it and understand what is at work here.

If anyone doubts what I am saying, I suggest you ask yourself the rhetorical question, Why, for the first time since 1789, is the Republican-controlled Senate attempting to change the rule of unlimited debate, eliminate it, as it relates to Federal judges for the circuit court or the Supreme Court?

If you doubt what I said, please read what Judge Ginsburg has written and listen to what Michael Greve of the American Enterprise Institute has said:

> I think what is really needed here is a fundamental intellectual assault on the entire New Deal edifice. We want to withdraw judicial support for the entire modern welfare state.

Read: Social Security, workmen's comp. Read: National Labor Relations Board. Read: FDA. Read: What all the byproduct of that shift in constitutional philosophy that took place in the 1930s meant.

We are going to hear more about what I characterize as radical view—maybe it is unfair to say radical—a fundamental view and what, at the least, must be characterized as a stark departure from current constitutional jurisprudence. Click on to American Enterprise Institute Web site www.aei.org. Read what they say. Read what the purpose is. It is not about seeking a conservative court or placing conservative Justices on the bench. The courts are already conservative.

Seven of the nine Supreme Court Justices appointed by Republican Presidents Nixon, Ford, Reagan, and Bush 1—seven of nine. Ten of 13 Federal circuit courts of appeal dominated by Republican appointees, appointed by Presidents Nixon, Ford, Reagan, Bush 1, and Bush 2; 58 percent of the circuit court judges appointed by Presidents Nixon, Ford, Reagan, Bush 1, or Bush 2. No, my friends and colleagues, this is not about building a conservative court. We already have a conservative court. This is about guaranteeing a Supreme Court made up of men and women such as those who sat on the Court in 1910 and 1920. Those who believe, as Justice Janice Rogers Brown of California does, that the Constitution has been in exile since the New Deal.

My friends and colleagues, the nuclear option is not an isolated instance. It is part of a broader plan to pack the court with fundamentalist judges and to cower existing conservative judges to toe the extreme party line.

You all heard what TOM DELAY said after the Federal courts refused to bend to the whip of the radical right in the Schiavo case. Mr. DELAY declared: ''The time will come for men responsible for this to answer for their behavior.''

Even current conservative Supreme Court Justices are looking over their shoulder, with one extremist recalling the despicable slogan of Joseph Stalin—and I am not making this up—in reference to a Reagan Republican appointee, Justice Kennedy, when he said: ''No man, no problem''—absent his presence, we have no problem.

Let me remind you, as I said, Justice Kennedy was appointed by President Reagan.

Have they never heard of the independence of the judiciary—as fundamental a part of our constitutional

system of checks and balances as there is today; which is literally the envy of the entire world, and the fear of the extremist part of the world? An independent judiciary is their greatest fear.

Why are radicals focusing on the court? Well, first of all, it is their time to be in absolute political control. It is like, why did Willy Sutton rob banks? He said: Because that is where the money is. Why try it now—for the first time in history—to eliminate extended debate? Well, because they control every lever of the Federal Government. That is the very reason why we have the filibuster rule. So when one party, when one interest controls all levers of Government, one man or one woman can stand on the floor of the Senate and resist, if need be, the passions of the moment.

But there is a second reason why they are focusing on the courts. That is because they have been unable to get their agenda passed through the legislative bodies. Think about it. With all the talk about how they represent the majority of the American people, none of their agenda has passed as it relates to the fifth amendment, as it relates to zoning laws, as it relates to the ability of Federal agencies, such as the Food and Drug Administration, the Environmental Protection Agency, to do their jobs.

Read what they write when they write about the nondelegation doctrine. That simply means, we in the Congress, as they read the Constitution, cannot delegate to the Environmental Protection Agency the authority to set limits on how much of a percentage of carcinogens can be admitted into the air or admitted into the water. They insist that we, the Senate, have to vote on every one of those rules, that we, the Senate and the House, with the ability of the President to veto, would have to vote on any and all drugs that are approved or not approved.

If you think I am exaggerating, look at these Web sites. These are not a bunch of wackos. These are a bunch of very bright, very smart, very well-educated intellectuals who see these Federal restraints as a restraint upon competition, a restraint upon growth, a restraint upon the powerful.

The American people see what is going on. They are too smart, and they are too practical. They might not know the meaning of the nondelegation doctrine, they might not know the clause of the fifth amendment relating to property, they may not know the meaning of the tenth and eleventh amendments as interpreted by Judge Ginsburg and others, but they know that the strength of our country lies in common sense and our common pragmatism, which is antithetical to the poisons of the extremes on either side.

The American people will soon learn that Justice Janice Rogers Brown—one of the nominees who we are not allowing to be confirmed, one of the ostensible reasons for this nuclear option being employed—has decried the Supreme Court's ''socialist revolution of 1937.'' Read Social Security. Read what they write and listen to what they say. The very year that a 5-to-4 Court upheld the constitutionality of Social Security against a strong challenge—1937—Social Security almost failed by one vote.

It was challenged in the Supreme Court as being confiscatory. People argued then that a Government has no right to demand that everyone pay into the system, no right to demand that every employer pay into the system. Some of you may agree with that. It is a legitimate argument, but one rejected by the Supreme Court in 1937, that Justice Brown refers to as the ''socialist revolution of 1937.''

If it had not been for some of the things they had already done, nobody would believe what I am saying here. These guys mean what they say. The American people are going to soon learn that one of the leaders of the constitutional exile school, the group that wants to reinstate the Constitution as it existed in 1920, said of another filibustered judge, William Pryor that ''Pryor is the key to this puzzle. There's nobody like him. I think he's sensational. He gets almost all of it.''

That is the reason why I oppose him. He gets all of it. And you are about to get all of it if they prevail. We will not have to debate about Social Security on this floor.

So the radical right makes its power play now when they control all political centers of power, however temporary. The radical push through the nuclear option and then pack the courts with unimpeded judges who, by current estimations, will serve an average of 25 years. The right is focused on packing the courts because their agenda is so radical that they are unwilling to come directly to you, the American people, and tell you what they intend.

Without the filibuster, President Bush will send over more and more judges of this nature, with perhaps three or four Supreme Court nominations. And there will be nothing—nothing—that any moderate Republican friends and I will be able to do about it.

Judges who will influence the rights of average Americans: The ability to sue your HMO that denies you your rights; the ability to keep strip clubs out of your neighborhood—because they make zoning laws unconstitutional—without you paying to keep the person from building; the ability to protect the land your kids play on, the water they drink, the air they breathe, and the privacy of your family in your own home.

Remember, many of my colleagues say there is no such thing as a right to privacy in any iteration under the Constitution of the United States of America. Fortunately, we have had a majority of judges who disagreed with that over the past 70 years. But hang on, folks. The fight over judges, at bottom, is not about abortion and not about God, it is about giving greater power to the already powerful. The fight is about maintaining our civil rights protections, about workplace safety and worker protections, about effective oversight of financial markets, and protecting against insider trading. It is about Social Security. What is really at stake in this debate is, point blank, the shape of our constitutional system for the next generation.

The nuclear option is a twofer. It excises, friends, our courts and, at the same time, emasculates the Senate. Put simply, the nuclear option would transform the Senate from the so-called cooling saucer our Founding Fathers talked about to cool the passions of the day to a pure majoritarian body like a Parliament. We have heard a lot in recent weeks about the rights of the majority and obstructionism. But the Senate is not meant to be a place of pure majoritarianism.

Is majority rule what you really want? Do my Republican colleagues really want majority rule in this Senate? Let me remind you, 44 of us Democrats represent 161 million people. One hundred sixty-one million Americans voted for these 44 Democrats. Do you know how many Americans voted for the 55 of you? One hundred thirty-one million. If this were about pure majorities, my party represents more people in America than the Republican Party does. But that is not what it is about. Wyoming, the home State of the Vice President, the President of this body, gets one Senator for every 246,000 citizens; California, gets one Senator for 17 million Americans. More Americans voted for Vice President Gore than they did Governor Bush. By majoritarian logic, Vice President Gore won the election.

Republicans control the Senate, and they have decided they are going to change the rule. At its core, the filibuster is not about stopping a nominee or a bill, it is about compromise and moderation. That is why the Founders put unlimited debate in. When you have to—and I have never conducted a filibuster—but if I did, the purpose would be that you have to deal with me as one Senator. It does not mean I get my way. It means you may have to compromise. You may have to see my side of the argument. That is what it is about, engendering compromise and moderation.

Ladies and gentlemen, the nuclear option extinguishes the power of Independents and moderates in this Senate. That is it. They are done. Moderates are important only if you need to get 60 votes to satisfy cloture. They are much less important if you need only 50 votes. I understand the frustration of our Republican colleagues. I have been here 32 years, most of the time in the majority. Whenever you are in the majority, it is frustrating to see the other side block a bill or a nominee you support. I have walked in your shoes, and I get it.

I get it so much that what brought me to the Senate was the fight for civil

rights. My State, to its great shame, was segregated by law, was a slave State. I came here to fight it. But even I understood, with all the passion I felt as a 29-year-old kid running for the Senate, the purpose—the purpose—of extended debate. Getting rid of the filibuster has long-term consequences. If there is one thing I have learned in my years here, once you change the rules and surrender the Senate's institutional power, you never get it back. And we are about to break the rules to change the rules.

I do not want to hear about ''fair play'' from my friends. Under our rules, you are required to get 2/3 of the votes to change the rules. Watch what happens when the majority leader stands up and says to the Vice President—if we go forward with this—he calls the question. One of us, I expect our leader, on the Democratic side will stand up and say: Parliamentary inquiry, Mr. President. Is this parliamentarily appropriate? In every other case since I have been here, for 32 years, the Presiding Officer leans down to the Parliamentarian and says: What is the rule, Mr. Parliamentarian? The Parliamentarian turns and tells them.

Hold your breath, Parliamentarian. He is not going to look to you because he knows what you would say. He would say: This is not parliamentarily appropriate. You cannot change the Senate rules by a pure majority vote.

So if any of you think I am exaggerating, watch on television, watch when this happens, and watch the Vice President ignore—he is not required to look to an unelected officer, but that has been the practice for 218 years. He will not look down and say: What is the ruling? He will make the ruling, which is a lie, a lie about the rule.

Isn't what is really going on here that the majority does not want to hear what others have to say, even if it is the truth? Senator Moynihan, my good friend who I served with for years, said: You are entitled to your own opinion but not your own facts.

The nuclear option abandons America's sense of fair play. It is the one thing this country stands for: Not tilting the playing field on the side of those who control and own the field.

I say to my friends on the Republican side: You may own the field right now, but you won't own it forever. I pray God when the Democrats take back control, we don't make the kind of naked power grab you are doing. But I am afraid you will teach my new colleagues the wrong lessons.

We are the only Senate in the Senate as temporary custodians of the Senate. The Senate will go on. Mark my words, history will judge this Republican majority harshly, if it makes this catastrophic move.

Mr. President, I ask unanimous consent that the full text of my statement as written be printed in the RECORD.

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

THE FIGHT FOR OUR FUTURE: THE COURTS, THE UNITED STATES SENATE, AND THE AMERICAN PEOPLE

INTRODUCTION

Make no mistake, my friends and colleagues, the ''nuclear option'' is the ultimate example of the arrogance of power. It is a fundamental power grab by the Republican Party propelled by its extreme right and designed to change the reading of the Constitution, particularly as it relates to individual rights and property rights

Nothing more, nothing less.

It is the elimination of one of the procedural mechanisms designed for the express purpose of guaranteeing individual rights and the protections of a minority point of view in the heat of majority excess.

Why else would the majority party attempt such a fundamental change in the 216 year history of this Senate on the grounds that they are being denied seven of 218 federal judges?

What shortsightedness and what a price history will exact on those who support this radical move.

Mr. President, we should state frankly, if for no other reason than an historical record, why this is being done. The extreme right of the Republican Party is attempting to hijack the federal courts by emasculating the courts' independence and changing one of the unique foundations of the United States Senate—the requirement for the protection of the right of individual Senators to guarantee the independence of the federal judiciary.

This is being done in the name of fairness. But it is the ultimate act of unfairness to alter the unique responsibility of the United States Senate and to do so by breaking the very rules of the United States Senate.

Mark my words. What is at stake here is not the politics of 2005, but the federal judiciary and the United States Senate of 2025.

This is the single most significant vote that will be cast in my 32-year tenure in the United States Senate.

THE FUTURE OF OUR COURTS

The extreme Republican Right has made Judge Douglas Ginsberg's ''Constitution in Exile'' framework their top priority. It is their extreme purpose to reshape the federal courts so as to guarantee a reading of the Constitution consistent with Judge Ginsberg's radical views of the 5th Amendment Takings Clause, the non-delegation doctrine, the 11th Amendment, and the 10th Amendment.

If you doubt what I say then ask yourself the following rhetorical question: Why for the first time since 1789 is the Republican controlled United States Senate attempting to do this?

If you doubt what I say, please read what Judge Ginsberg has written. And listen to what Michael Greve, of the American Enterprise Institute has said: ''what is really needed here is a fundamental intellectual assault on the entire New Deal edifice. We want to withdraw judicial support for the entire modern welfare state.''

If you want to hear more about what I am characterizing as the radical view and what must certainly be characterized as a stark departure from current constitutional law, click on the American Enterprise Institute's website www.aei.org.

This is not about seeking a conservative court and placing conservative judges on the bench.

The courts are already conservative: 7 of 9 current Supreme Court Justices, appointed by Republican Presidents Nixon, Ford, Reagan, Bush I; 10 of 13 federal circuit courts dominated by Republican appointees, appointed by Presidents Nixon, Ford, Reagan, Bush I, and Bush II; and 58 percent of all circuit court judges, appointed by Presidents Nixon, Ford, Reagan, Bush I and Bush II.

No, friends and colleagues, this is not about building conservative courts. We already have them. This is about a Supreme Court made up of men and women like those who sat on the Court in 1910, 1920.

My friends and colleagues, the nuclear option is not an isolated instance. It's part of a broader plan to pack the courts with fundamentalist judges and to cower existing conservative judges to toe the party line.

You all heard what Tom DeLay said after the federal courts refused to bend to the whip of the Radical Right in the Schiavo Case. DeLay declared:

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

Even current conservative Supreme Court Justices are looking over their shoulders. One extremist has referred to Justice Kennedy by recalling a despicable slogan attributed to Joseph Stalin. When Stalin encountered a problem with an individual, he would simply say ''no man, no problem.'' The extreme right is adapting Stalin's adage in their efforts to remove sitting judges: ''no judge, no problem.''

And let me remind you, Kennedy was appointed by President Reagan.

Have these people never heard of the independence of the judiciary—as fundamental a part our constitutional system of checks and balances as there is; the envy of the world; the system that emerging democracies are clamoring to copy?

You must ask yourself why the fundamentalist Republican right is focusing so clearly on the federal courts? I'll tell you why.

Because they are unable to seek their agenda through the political branches of our government.

That's why they are trying to move their agenda by fundamentally changing the courts.

I believe that the American people already intuitively know what's going on; they're too smart; they're too practical. The strength of our country lies in our common sense and our pragmatism, which is antithetical to the ideological purity of the fundamentalist Republican Right.

The American people will soon learn that Janice Rogers Brown has decried the Supreme Court's ''socialist revolution of 1937,'' the very year that a 5–4 Court upheld the constitutionality of Social Security against strong challenges.

The American people will soon learn that one of the leaders of the ''Constitution in Exile'' school—the group that wants to reinstate the Constitution as it existed in the 1920s—said that another of the filibustered judges—William Pryor—was ''key to this puzzle; there's nobody like him. I think he's sensational. He gets almost all of it.''

These are judges who will serve on the federal circuit courts of appeal for a quarter of a century. And no general election of Congress and the President will be able to change it.

And you may ask yourself why the focus on the circuit courts? I'll tell you why.

Today, it is more than four times as difficult to get an opportunity to argue your appeal before the Supreme Court as it was 20 years ago. Today, the Supreme Court reviews less than two tenths of one percent of the caseload of the appeals courts.

Without the filibuster, President Bush will be able to put on the bench judges who would reinstitute the ''Constitution in Exile.'' I suggest that it is these judges who are the ones who should be exiled.

And if the actuarial tables comply there is the possibility that President Bush will possibly nominate as many as 3–4 Supreme Court Justices—and there will be little that

my moderate Republican friends and I will be able to do about it.

The consequences for average Americans will be significant. They will include the ability to sue when HMOs deny you your rights; the ability to keep strip clubs out of your family's neighborhood; the ability to protect from environmental degradation the land your kids play on, the purity of the water they drink, the cleanliness of the air they breathe; and the ability to preserve the privacy that you and your family expect the Constitution to provide.

The fight over judges, at bottom, is not about abortion and about God; it is about giving greater power to the already powerful.

THE FUTURE OF THE SENATE

The exercise of the nuclear option also has another fundamental impact on the government—it will transform the Congress from a bifurcated legislature where political parties were never intended to rule supreme into a quasi-parliamentary system where a single party will dominate.

There would have been no Constitution were it not for the Connecticut Compromise—that is the compromise that guaranteed states two U.S. Senators regardless of the state's population.

The Connecticut Compromise was also done expressly to guarantee the right of the small states, as well as less powerful interests, as well as individuals, to be protected from temporary passion and excesses of the moment—whether borne out of a demagogic appeal or the overwhelming supremacy of a political party.

The guarantee of unlimited debate in the United States Senate assured not that the minority would be able to get its way but that the minority would be able to generate a compromise that would keep them from being emasculated. And this included ensuring the independence of the federal judiciary.

We have heard a lot in recent weeks about the rights of the majority. But the Senate was not meant to be a place of pure majoritarianism. Is majority rule what this is about? Do my Republican colleagues really want majority rule?

We 44 Democrats represent 161 million people in the Senate; the 55 Republicans only 131 million. By majoritarian logic, the Democrats would be in the majority in the Senate.

Wyoming, the home state of the President of this Body, gets 1 Senator for every 246,891 citizens. By that measure, California is entitled to 137 U.S. Senators.

More Americans voted for Vice President Gore in 2000 than for George W. Bush. By majoritarian logic, Gore won that election.

But Republicans control the Senate, California only gets 2 Senators, and Vice President Gore lost the 2000 election for the same reason—under our constitutional system, a majority doesn't always get what it wants; that's the system the Founders created.

At its core, the filibuster is not about stopping a nominee or a bill, it's about compromise and moderation.

The nuclear option extinguishes the power of independents and moderates in the Senate. That's it, they're done. Moderates are important if you need to get to 60 votes to satisfy cloture; they are much less so if you only need 50 votes.

Let's set the historical record straight. Never has the Senate provided for a certainty that 51 votes could put someone on the bench or pass legislation.

The facts are these. There was no ability to limit debate until 1917. And then the explicit decision was made to limit debate on legislation if 2/3 of the Senators present and accounted for supported cloture. Even then, the Senate rejected a similar limitation on executive nominations, including nominees to the federal bench. It wasn't until 1949 that the new cloture rule also applied to nominations.

The question at present is, will the Senate actually aid and abet in the erosion of its Article I power by conceding to another branch greater influence over who ends up on our courts? As Senator Stennis once said to me in the face of a particularly audacious claim by President Nixon: ''Are we the President's men or the Senate's?''

My friends on the other side of the aisle like to focus on the text of the Constitution. Tell me: Where does it state that it is necessary for each bill or each nominee that comes before us to receive a simple majority vote? Where does it state that the President should always get his first choice to fill a vacancy?

FUNDAMENTAL FAIRNESS—PLAYING BY THE RULES

The nuclear option makes a mockery of the Senate rules. You'll notice that when the nuclear option is triggered, the Presiding Officer will refuse to seek the advice of the Parliamentarian, his own expert. He won't ask because he doesn't want to hear the answer.

Isn't that what's really going on here? The majority doesn't want to hear what others have to say, even if it's the truth. Well, as Senator Moynihan used to say, ''You're entitled to your own opinions, but not your own facts.''

The nuclear option abandons our American sense of fair play. If there is one thing this country stands for it's fair play—not tilting the playing field in favor of one side or the other, not changing the rules unilaterally.

We play by the rules, and win or lose by the rules. That is a quintessentially American trait, and it is eviscerated by the ''nuclear option.''

CONCLUSION

The Senate stands at the precipice of a truly historic mistake. We are about to act on a matter that will influence our country's history for the foreseeable future.

We are only the Senate's temporary custodians—our careers in the Senate will one day end—but the Senate will go on. Over the course of the next hours and days, we must be Senators first, and Republicans and Democrats second.

We must think of the rights and liberties of the American people, not just for today but for the rest of our lives.

Again, ask yourself why is this extreme change being put forward over 7 out of 218 federal judges?

As I said earlier, history will judge this Republican Majority harshly if it succeeds in changing the way the Founders intended the Senate to behave, emasculating it into a parliament governed by a single party's ideology and unable to be thrown out be a vote of no-confidence.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. 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. HATCH. Mr. President, over the last several days we have debated some of the most important issues that most of the Members will ever face. Should the same powerful tool, such as the filibuster, that we have long used in the legislative process be part of the confirmation process to defeat a President's judicial nominees? That is a big question. Can the Senate's role of advice and consent regarding judicial nominations be exercised equally by either the majority or minority of Senators? The answer to each of these questions is no.

America's Founders designed the Senate without the ability to filibuster anything at all. The filibuster became available later but was restricted to the legislative process which we control. It was not part of the appointment process which the President controls. Allowing a minority of Senators to capture this body's role of advice and consent will allow that minority to hijack the President's power to appoint judges. I admit that we have control of the Executive Calendar, but the President has rights in that calendar, too. We cannot hijack the President's power to appoint judges. Doing so distorts the balance the Constitution establishes and mandates. That situation should not stand.

I urge my friends, Senators from the minority, to abandon their destructive course and return to the tradition we followed for more than two centuries. The Senate, acting through a majority, checks the President's power to appoint by voting on whether to consent to those appointments. You will notice it is the Senate—not the minority—who does that check. Any Senator may vote against any nominee for any reason, but we must vote. We followed that tradition for more than 200 years, and we should recommit ourselves to it now.

If the minority insists on distorting the Constitution's balance and rejecting Senate tradition, then I believe the Senate must firmly reestablish that tradition by exercising our constitutional authority to determine our own rules and procedures. If the minority will not exercise the same self-restraint this body exercised for the last two centuries, then I believe the Senate must vote to return formally to our tradition. It is surely not a sign of our political culture that we have to enforce by majority vote what we once offered by principle and self-restraint. But the Constitution's balance is too important to allow a minority to erode our principles and past practices.

The problem and the solution each have their own frame of reference drawn from the Constitution. The frame of reference for evaluating these judicial filibusters is the separation of powers into three branches. The frame of reference for the solution to this judicial filibuster crisis is the Constitution's grant of authority for us, the Senate, to determine how we want to conduct Senate business.

Let me first address the judicial filibuster crisis through the lens, the frame of reference, of the separation of powers. In Federalist No. 47, James Madison wrote of the separation of powers that ''no political truth is certainly of greater intrinsic value or

stamped with the authority of more enlightened patrons of liberty.'' Two points are particularly important here. First, the separation of powers is exclusive. The powers assigned to one branch are denied to the others.

Like our Federal charter, each State constitution also divides the legislative, executive, and judicial branches into separate branches. More than two-thirds of them, however, go even further and make the exclusive nature of separation explicit. They affirmatively prohibit each branch from exercising the powers assigned to the others. The separation of powers is that important.

While each branch may not exercise the powers given to the others, we can check the powers given to the others. A check on another branch's power is a safeguard. It is not a separate coequal power. It is neither separate from nor as significant as the power being checked. Nomination and appointment of judges is described in article II which outlines the President's power. Not a word is found in article I which describes our powers.

The second point about the separation of powers is equally important. Just as the powers belong to the branches, checks and balances are exercised by the branches. The President, to whom the Constitution gives executive power, can check Congress's legislative power through the veto that he has a right to exercise. He cannot delegate it to someone else in the executive branch. Similarly, the Constitution assigns the role of advice and consent to the Senate, not just to the minority, to the Senate.

The question raised by the current filibuster campaign, however, is this: What is the Senate, the minority or the majority? I do not want to get too technical, but these are basic civics principles that apply to legislative bodies everywhere that you can find in most high school textbooks. We must have what we call a quorum, a minimum number of Senators present to be open for business. Senate rule VI defines a quorum as a ''majority of Senators duly chosen and sworn.'' Today that means 51 Senators. Unless the Constitution that created this body says otherwise, when a majority of those Senators acts, it is the Senate itself that acts.

This is no different from the Supreme Court. When a majority of its members votes the same way, we say it is the Court that has decided the case.

Only the Senate itself can exercise its constitutional role of advice and consent on the President's judicial nominations. That is, only a majority of Senators can exercise that role. I make this point so strongly because the minority is claiming the right to exercise this body's role of advice and consent strictly by the minority.

Last Thursday, the Senator from Massachusetts, Mr. KERRY, on the Senate floor, charged that ''the Republican leadership is determined to deny the minority the right to hold the executive responsible for lifetime appointments to the judiciary.''

He was not the first to make this argument. We have heard for a long time now from many Senators who support these filibusters that the Senate rejects a nomination not when the majority has voted it down but when the minority has prevented a final confirmation vote, even though there is a bipartisan majority for the nominee. I should say in this case nominees.

The minority does not check the President's power. The Senate itself does. And that means a majority of Senators checks the President's power. When the minority has prevented a confirmation vote, the minority has prevented the Senate from exercising its role of advice and consent altogether. I do not speak primarily of the majority or minority party. I speak of the numerical majority that is required in order for the Senate to act at all. The vast majority of judicial nominations are confirmed either by unanimous consent or by overwhelming margins on rollcall votes. The number of truly controversial, hotly contested judicial nominations is small. Still at least 18 Members of this body have voted against a judicial nomination of their own party.

If the case against some of these nominees is so strong—and we have heard a great hue and cry about how some of them are out of some sort of mainstream—then Senators may do so again. But the prospect of being on the losing side of a small number of confirmation votes does not justify turning these fundamental principles of separation of powers inside out. It does not justify the minority hijacking the Senate's role of advice and consent so it can hijack the President's power to appoint judges.

Yet that is indeed what these filibusters are attempting to do. Defeating a vote to end debate can serve a laudable, temporary purpose of ensuring full and vigorous debate. That full and vigorous debate can help the Senate make a more informed confirmation decision. But these recent unprecedented, leader-led filibusters defeat all votes to end debate for the purpose of preventing confirmation of these nominations altogether. Doing so turns the separation of powers on its head.

Mr. President, the frame of reference, the organizing principle for evaluating these judicial filibusters, is the separation of powers. I think the case is compelling that the judicial filibuster campaign underway today, by which the minority tries to commandeer the Senate's role of advice and consent so they can wrongly attempt to trump the President's constitutional authority to appoint judges, violates that principle and cannot be allowed to continue.

If the minority will not relent and return to the tradition by which the Senate, through a majority, exercises its role of advice and consent, then I believe the majority must act to restore that tradition. The frame of reference for solving this judicial filibuster crisis is the Senate's constitutional authority to determine our own rules and procedures.

Just as the Constitution establishes a system of self-government for the Nation, it establishes a system of self-government for the Senate. Subject always to the Constitution itself, we choose for ourselves how we want to do business. It may not always be nice, neat, and orderly, but it is up to us to decide. One of the cliches that the judicial filibuster proponents dreamed up is the cry that any solution to this crisis would require ''breaking the rules to change the rules.'' Presumably, that catchy little phrase refers to the fact that invoking cloture on an amendment to the text of our written rules requires not just 60 votes but two-thirds of the Senators present and voting. This argument is, I suppose, intended to make people think our written rules are the only guide for how the Senate operates.

Most of our citizens may not know one way or the other. Nobody can fault them for not being schooled in the peculiar art of Senate procedure. But my fellow Senators certainly know the answer.

Every Senator in this body knows that the Standing Rules of the Senate are only one of several things that guide how we do business. The solution to the judicial filibuster crisis which the majority leader, Dr. FRIST, will pursue will neither break the rules nor change the rules. The Standing Rules of the Senate will read the same next week as they did last week. Instead, the solution we will utilize is a parliamentary ruling by the Presiding Officer, something that is at least as important as our written rules for the way we conduct our day-to-day business.

When a Senator asks the question of procedure or raises a point of order, the Presiding Officer's answer to that question, or his ruling on that point of order, becomes a precedent for the Senate. These parliamentary precedents guide what we do as much as our written rules. Let me stress something very important at this point. The Constitution gives the role of advice and consent to a majority, not to a minority.

Similarly, the Constitution gives the authority to decide how the Senate does business to the Senate, not to the Presiding Officer.

There are no monarchs or dictators in America, or in the United States Senate. Should the Presiding Officer rule that the Senate may proceed to vote on judicial nominations after sufficient debate, that will become a parliamentary precedent guiding this body only after a majority of Senators votes to make it so.

As I have discussed before in the Senate, this mechanism might better be called the Byrd option because, when he was majority leader, the distinguished Senator from West Virginia, Mr. BYRD, repeatedly used it to change how the Senate does business.

The Senator from West Virginia knows that I have the greatest respect for him. I heard him on the Senate floor again this afternoon. But as I will

describe in the next few minutes, I believe my friend from West Virginia doth protest too much.

In 1977, for example, then-Majority Leader BYRD used this mechanism to eliminate what was called the postcloture filibuster. If the Senate voted to invoke cloture on a bill, rule XXII imposed a 1-hour debate limit on each Senator. Senators could get around that limit, however, by introducing and debating amendments. Rule XXII allowed this practice, but the majority leader opposed it—BYRD. He made a point of order against it, the Presiding Officer ruled in his favor, and a simple majority of Senators voted to back up the ruling.

Nearly two decades later, the Senator from West Virginia reflected on how he used the Byrd option in 1977. Let me refer to the chart. He described it this way:

I have seen filibusters. I have helped to break them. There are few Senators in this body who were here in 1977 when I broke the filibuster on the natural gas bill.

I was here, by the way. To continue:

I asked Mr. Mondale, the Vice President, to go please sit in the chair; I wanted to make some points of order and create some new precedents that would break these filibusters And the filibuster was broken—back, neck, legs, and arms. . . . So I know something about filibusters. I helped to set a great many of the precedents that are in the books here.

So don't say we are trying to change the rules. We are following the Byrd rule that was set four times as he was majority leader. He changed Senate procedures without changing Senate rules.

The Senator from West Virginia did it again in 1979. Rule XVI explicitly states that the Senate itself must decide whether amendments to appropriations bills are germane. Then-Majority Leader BYRD made a point of order that the Presiding Officer may decide that question instead. The Presiding Officer ruled in his favor and a majority of Senators voted to affirm the ruling. Once again, a parliamentary ruling changed Senate procedures without changing Senate rules.

It happened again in 1980. As we have discussed, rule XXII requires 60 votes to invoke cloture, or end debate, on any matter pending before the Senate. This includes bills or nominations, but it also includes motions to proceed to those bills or nominations.

Then-Majority Leader BYRD wanted the Senate to confirm an individual nomination. He made a single motion to go into executive session to consider a nomination, a step that is not debatable under our rules, and to proceed to an individual nomination, a step that was debatable.

This time, the point of order came from a Republican Senator, arguing that this procedural two-step was improper. The Presiding Officer agreed, ruling against what Majority Leader BYRD was trying to do. He still prevailed when a majority of Senators voted to overturn the Presiding Officer's ruling. Doing so eliminated the filibuster on a motion to proceed to a specific nomination.

Mr. President, this chart shows that seven Democratic Senators serving in this body today voted to eliminate those nomination-related filibusters. They proved not only that the Byrd option is legitimate, but also that it can be used to limit debate. I leave it to these Senators to explain how they could vote to eliminate nomination-related filibusters in 1980 but support nomination filibusters today.

This 1980 example is particularly relevant because it utilized a parliamentary ruling to eliminate a nomination-related filibuster—not a filibuster of the nomination itself but a filibuster on the motion to proceed to the nomination. That is, of course, a distinction without a difference. Either one keeps a nomination from final approval.

Mr. President, still other examples exist, but I will not go into more detail. Suffice it to say that using parliamentary rulings to change Senate procedures without changing Senate rules is a well-established method for the Senate to govern itself. Should the majority leader, Senator FRIST, utilize it, he will be on solid ground. He will simply be relying upon the precedent that his predecessor, Senator BYRD, helped put on the books.

If the majority leader does utilize the Byrd option, nobody will be able to suggest, let alone charge, he is doing so precipitously. He has been patient, methodical, and even cautious when it comes to this important matter. Far from the image of trigger-happy warriors being used in some interest ads out there, the majority leader will utilize the Byrd option only after trying every conceivable alternative first, and he has done so.

The minority has had every opportunity to do what it says it wants to do; namely, debate these nominations. The nominees being filibustered, for example, include Texas Supreme Court Justice Priscilla Owen, nominated 1,474 days ago to a judicial position that has been vacant for more than 8 years—more than 8 years and considered a judicial emergency.

Justice Owen received a unanimous ''well-qualified'' rating from the American Bar Association, the highest rating they give, which our Democratic colleagues once called the gold standard for evaluating nominees. Let me repeat that. She was rated unanimously as ''well-qualified'' by the American Bar Association, which is not a conservative organization, and some are calling her ''out of the mainstream.'' Give me a break.

Justice Owen was at the top of her law school class. She had the highest score on the Texas bar exam in 1977. She is supported by 15 past presidents of the Texas Bar Association, both Democrats and Republicans, and was endorsed for reelection by virtually every major newspaper in the State of Texas. Out of the mainstream? My gosh, she defines the mainstream.

I mention Justice Owen as an example, though her opponents use the same tactics against nominee after nominee. They claim that Justice Owen is what they call an extremist, or outside of the mainstream, most often by tallying up winners and losers in her judicial decisions. They say she rules too often on this side in criminal cases, too often on that side in civil cases, not enough for this or that political interest.

Whether Justice Owen is controversial, whether anybody considers her inside or outside of some kind of mainstream, these may be reasons to vote against her confirmation, not to refuse to vote at all. By the way, we have Senators on the Judiciary Committee—Democratic Senators—who believe that any business ought to be automatically found against, even if they are right under the law, that anybody who may be an unfortunate person ought to be found for even though they are wrong in the law.

That is not the way the law works. They criticize Justice Owen because, even though she has upheld the weak and the oppressed in many decisions in the Texas Supreme Court, she has upheld the law sometimes to the lament of those who think the weak and oppressed should win no matter what the law says. That is all you can ask of a judge.

The Judiciary Committee has more than once approved her nomination, and she deserves a vote in the Senate. But rather than give her a fair vote, those fearing they will lose are blocking it with a filibuster.

On April 8, 2003, Senator BENNETT, my colleague from Utah, asked the then-assistant minority leader, Senator REID, how much time the Democrats would require to debate the nomination fully. This is what he said:

There is not a number of hours in the universe that would be sufficient [to debate this nominee].

They did not want to debate Justice Owen, they wanted to defeat her. Debate was not a means to the end of exercising advice and consent. It was an end in itself to prevent exercising advice and consent. The majority leader has made offer after offer after offer of more and more time, hoping that the tradition of full debate with an up-or-down vote would prevail. That hope is fading, as Democrats have rejected every single offer.

Finally, last month, the minority leader admitted that ''this has never been about the length of the debate.'' That is what the minority leader said. It has never been about the length of the debate. That was said April 28, 2005.

Unanimous consent is the most common way we structure how we consider bills and nominations. Because the Democrats rejected that course, Majority Leader FRIST was forced to turn in March 2003 from seeking unanimous consent to the more formal procedure of motions to invoke cloture. During the 108th Congress, we took 20 cloture votes on 10 different appeals court

nominations. More than 50, but fewer than 60, Senators supported every one of these motions.

In other words, there was bipartisan support for a vote up or down for each of those nominees. That was enough to confirm but not enough to end debate under the filibuster rules, misapplied here. The circle was complete, and the minority's strategy of using the filibuster to prevent confirmation of majority-supported judicial nominations was in full swing. Still the majority leader held off, resisting the growing calls to implement a deliberate solution to this unprecedented, unfair, and, frankly, outrageous filibuster blockade.

The election returns provided more evidence that the American people oppose using the filibuster to prevent fair up-or-down votes on judicial nominations. But hope that the voice of those we serve would change how we serve them was soon shattered. The minority made it clear that they would continue their filibuster campaign.

The minority can say this is a narrow effort focused on a few appeals court nominees. It is not. This is about the entire judicial confirmation process. It is about rigging that process so the minority can do what only the majority may legitimately do in our system of Government: determine how the Senate exercises its role of advice and consent.

It is the Constitution, not the party line or interest group pressure, not focus groups or interest group ad campaigns, that should guide us here. I have been told, for example, and I hope it is not true, that my friend from Nevada, the minority leader, may appear in a television ad created and paid for by the Alliance for Justice, one of the rabid leftwing groups involved in this obstruction campaign. I hope he will not do that. I think that would be regrettable. They are part of the problem here. They have virtually been against anybody for the circuit courts of appeal and many of the former nominees for the Supreme Court of the United States of America.

The Constitution assigns the nomination and appointment of judges to the President, not to the Senate. The Senate checks that power by deciding whether to consent to appointment of the President's nominees. We exercise this role by voting on confirmation. As such, filibusters designed to prevent confirmation of majority-supported judicial nominations undermine the separation of powers.

The Constitution helps us both evaluate the problem and highlight the solution. The Constitution gives the Senate authority to determine how we will do our business. That includes not only our written rules but also parliamentary precedents that change procedures without changing those rules.

Our Democratic colleagues have had literally dozens of opportunities to return to our confirmation tradition of up-or-down votes for judicial nominations reaching the Senate floor. They have chosen the path of confrontation rather than that of cooperation. They exercised the true nuclear option by blowing up two centuries of tradition. If the majority leader utilizes the Byrd option, it will truly be as a last resort, and it will be a constitutional means of solving an unconstitutional problem.

I go back in time because I was here when Senator BYRD was the minority leader. He had a tremendous majority of Democrats on the floor. When Ronald Reagan was President, he never once used the filibuster to stop Ronald Reagan's nominees, even though some of those nominations gave him and other Democrats tremendous angst. He utilized the power to vote against them. Whether he is right or wrong is almost irrelevant here. The fact is that he did what 214 years of Senate tradition required: he allowed those nominees to go ahead and have a vote. And, after all, that is what we need to do here.

What is wrong with giving these circuit courts of appeal nominees who have bipartisan support and the support of the American Bar Association simple up-or-down votes? If you do not agree with them, you have the right and power to vote against them, and that is the proper way to handle it. Let's not throw 214 years of tradition down the drain and, of course, let's not blow up the Senate if we do not get our way.

Mr. President, I notice the distinguished Senator from Montana is here. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank my good friend from Utah. He laid out in pretty logical form what is at stake.

I have come to the Senate floor today to talk on an issue about which I seldom speak on this floor. I come to lend my voice maybe to break this impasse in which we find ourselves.

The Senate has dwelt and droned for endless hours with at times very inflammatory language of which some of us and folks in America, the viewing public, have no doubt become very weary.

I just got off an airplane from Montana. When I walked off that plane, I said it is time to act so we can move on to the business of addressing the issues that are pressing the times. We have run out of time and options, and now we must decide, and the hour is now.

I cannot remember a time when I read more history of the Senate than on this occasion or in this situation. Some have made statements that this has never happened before in our history. That is wrong because there have been some contentious times facing each and every Congress since our beginning, and Draconian actions were taken to deal with the issues of the dangerous times, times of great peril. We survived them, and we will survive this one also. That is the greatness of this country and the Senate because I think at times we underestimate our own abilities.

It just seems to me that in the Senate, we cannot allow a small minority to radically alter longstanding traditions just because it does not like a President or maybe his or her judicial nominees.

During the 108th Congress, the other side used the filibuster to block up-or-down votes on 10 nominations to the Federal appeals courts. All of these judicial nominees had bipartisan majority support. The Senate would have confirmed them had they been permitted a vote. And never in the history of this country has a judicial nominee with clear majority support been denied confirmation due to a filibuster.

Further, nearly one-third of President Bush's nominations to the courts of appeal were denied up-or-down votes. The Democrats used or threatened to use the filibuster. In that respect, President Bush now has the lowest appeals court confirmation rate for the first 4 years of any modern Presidency.

Has each judicial nomination been blocked due to improper qualifications? Everybody on this floor has talked about that, and the answer is no. Rather, each nomination has been blocked by a partisan few who are willing to change Senate tradition and custom of advice and consent imposing a 60-vote requirement on each nomination.

Every one of the judicial nominees being blocked by filibuster is of the highest academic and intellectual quality, and each represents a broad cross-section of American society.

More importantly, all these nominees have demonstrated that they respect the rule of law. They are committed to interpreting and applying the law as it relates to the Constitution of the United States of America. Those folks who want to say this is a constitutional amendment, go to article II, section 2, and read what it says.

The American people should know that for more than 200 years, the rule for confirming judges has been fair on an up-or-down vote. In the heart of every American I know, there is a common sense of fairness. These good people being nominated by President Bush are, at the very least, entitled to receive a vote. Whether you disagree or agree with the particular person being nominated for a judgeship, it is incumbent on this legislative body to provide full and fair open debate on the nomination and to then allow proper democratic procedures to take place.

We have heard words such as ''rubberstamp.'' I do not think you could say that. Were minority leaders such as Howard Baker and Everett Dirksen and majority leaders such as ROBERT C. BYRD and Bob Dole rubberstamp Senators? I do not think so. I have heard the talk of the radical right. I wonder if there is a radical left also that grabs the ears of some folks.

Let there be no doubt about this issue—it is as clear as a Montana

morning. It is obstructionism that has caused this crisis that looms over us today.

During the 108th Congress, 10 judicial nominations were either filibustered or threatened the use of filibuster, and 6 other nominations along with it. All of these nominations were supported by Senators of both parties and opposed only by a partisan minority. In fact, Judge Owen has received four votes in the Senate, and she carried the vote each time. Yet she is not on the Fifth Circuit Court of Appeals.

Look at William Myers. The President nominated the former Solicitor of the Interior Department for the Ninth Circuit. Mr. Myers, a distinguished attorney, is a nationally recognized expert in the area of natural resources and land use law. However, despite his long service as National Park Service volunteer and a lifetime of respect and enjoyment of the outdoors, the other side held his previous clients' positions against him and accused him of being hostile to the environment, therefore blocking his nomination and taking away the Senate's responsibility to give him a vote.

We have all heard about Priscilla Owen of Texas. She has already been voted on four times in this body and carried the vote every time. Janice Rogers Brown, a California Supreme Court justice, was nominated to the DC Circuit. The first African American to serve on the California high court, Justice Brown received public support of 76 percent of California voters.

I think I heard my good friend from Delaware say they have 2 Senators from California, and they each represent over 17 million people. She represented the whole State and got 76 percent. Yet she was denied a vote on this floor.

William Pryor, Judge Pryor, has been serving with distinction on the Eleventh Circuit since the President gave him a recess appointment in February of 2004. Previously, he served 6 years as an Alabama attorney general. Although he repeatedly demonstrated his ability to follow the law, he has been blocked by the Democrats' filibuster because he has ''deeply held'' beliefs, taking away the Senate's responsibility to vote for him.

One of the country's rising stars in the judicial world, Miguel Estrada, could be described as the finest, the best, and the brightest among his peers. This Honduran immigrant who went to Harvard Law School and clerked for the Supreme Court was debated on this Senate floor for more hours than any other judicial nomination in Senate history. After cloture votes repeatedly failed, he asked the President to withdraw his name from consideration, thereby allowing the other side to prevent the DC Circuit from having a very talented jurist to interpret and apply the law, again taking away our responsibility to vote for him.

What are we doing here? Are we dumbing down the judiciary when the best and the brightest have offered themselves to serve after they were nominated by this President?

Now we are faced with finding a solution to this so-called crisis. They have already admitted that the filibuster is not about the qualification of the judges. They just do not want these judges. They just do not want judges appointed to the court by President Bush. So if we allow this to continue, it will be acquiescing to the partisan minority's unilateral change in the Senate practices for the last 200 years, a 60-vote requirement to confirm judges when only a simple majority up-or-down vote has been the standard of practice in this Senate for a long time, and is also alluded to in the Constitution of the United States.

I would say the Constitution trumps any rule that we may make, that we put in place here for our rules of procedures and conduct. I think the Constitution trumps them. Now we find ourselves in this crisis. No more time. Now is the time to vote.

The Senate has demonstrated in the past that it need not stand by and allow a minority to redefine the traditions, rules, practices and procedures of the Senate.

The Constitution gives the Senate the power to set its own rules, procedures, and practices, and the Supreme Court has affirmed the continuous power of a majority of members to do so.

The exercise of a Senate majority's constitutional power to define Senate practices and procedures has come to be known as the ''constitutional option.''

The constitutional option can be exercised in several different ways, such as by creating precedents to effectuate the amendment of Senate Standing Rules or by creating precedents that address abuses of Senate customs by a minority of Senators. Regardless of the variant, the purpose of the constitutional option is the same—to reform Senate practices in the face of unforeseen abuses.

An exercise of the constitutional option under the current circumstances would return the Senate to the historic and constitutional confirmation standard of a simple majority for all judicial nominations.

Employing the constitutional option here would have no effect on the legislative filibuster because virtually every Senator would oppose such an elimination. Instead, the constitutional option's sole purpose would be the restoration of longstanding constitutional standards for advice and consent.

For more than 200 years, the rule for confirming judges has been a fair, up-or-down vote.

For over 200 years, the Senate has honored both the minority's right to debate and the full Senate's right to vote on judicial nominees. No other minority leader in American history has claimed that the right to debate equals the right to prevent the full Senate from exercising its constitutional duty to advise and consent.

For over 200 years, Senators did not filibuster judicial nominees. Was the Senate just a rubber stamp for its first 200 years? Did every Senate before the 108th Congress fail to carry out its constitutional duty to advise and consent? The answer is a resounding ''no.''

Further, for 70 percent of the twentieth century, the same party controlled both the White House and the Senate, yet Minority Leaders on both sides of the aisle did not filibuster the President's judicial nominees.

The choice is not between being a rubber stamp or filibustering a judicial nominee. For over 200 years, Senators agreed that the proper way to oppose a judicial nominee is to vote ''no.'' They went to the floor and explained why they opposed the nominee. They tried to persuade their colleagues. They tried to persuade the American people. Then, they voted no. They did not filibuster or threaten to shut down the U.S. Senate.

Until now, every judicial nominee with support from a majority of Senators was confirmed. The majority-vote standard was used consistently throughout the 18th, 19th and 20th centuries—for every administration until President George W. Bush's judicial nominations were subjected to a 60-vote standard.

These good people, being nominated by President Bush, are at the very least entitled to receive a vote.

Whether you agree or disagree with the particular person being nominated for a judgeship, it is incumbent on this great legislative body to provide full, fair and open debate on the nomination and to then allow the proper democratic procedures to take place.

The Senate has demonstrated in the past that it need not stand by and allow a minority to redefine the traditions, rules, practices and procedures of the Senate.

The Constitution gives the Senate the power to set its own rules, procedures, and practices, and the Supreme Court has affirmed the continuous power of a majority of members to do so.

Because of this partisan minority, because of this obstructionism and because of the partisan minority's continued actions to take away the Senate's duty and responsibility to vote on the nominations before this great body, we face a crisis that has only 2 remedies:

Either the partisan minority allow the Senate to fulfill its duty and responsibility to vote on President Bush's judicial nominations by not continuously invoking the filibuster.

Or, the Senate must invoke the necessary and requisite constitutional option to prevent the tyranny of the minority and the radically altering of longstanding traditions of the United States Senate.

Accordingly, I rise today to strongly urge my colleagues to stop the obstructionism and to allow President Bush's

judicial nominations receive a fair, up-or-down vote and, therefore, to allow this great legislative body to carry out its constitutional duty of advice and consent—a responsibility that we, as Senators, have been duly elected to uphold by the American people.

There is a little housekeeping we might do before my good friend, the Senator from Wisconsin, chooses to speak. I thank the Senator for that.

I ask unanimous consent I be permitted to speak as in morning business.

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

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928b, as amended, appoints the following Senator as Acting Vice Chairman to the NATO Parliamentary Assembly for the spring meeting in Ljubjana, Slovenia, May 2005: the Honorable PATRICK LEAHY of Vermont.

WELCOMING HIS EXCELLENCY HAMID KARZAI, THE PRESIDENT OF AFGHANISTAN

Mr. BURNS. I ask unanimous consent the Senate now proceed to consideration of S. Res. 152, which was submitted earlier today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 152) welcoming His Excellency Hamid Karzai, the President of Afghanistan, and expressing support for a strong enduring strategic partnership between the United States and Afghanistan.

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

Mr. BURNS. I ask unanimous consent 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. 152) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follow:

S. RES. 152

Whereas Afghanistan has suffered the ravages of war, foreign occupation, and oppression;

Whereas following the terrorist attacks of September 11, 2001, the United States launched Operation Enduring Freedom, which helped to establish an environment in which the people of Afghanistan are building the foundations for a democratic government;

Whereas, on January 4, 2004, the Constitutional Loya Jirga of Afghanistan adopted a constitution that provides for equal rights for full participation of women, mandates full compliance with international norms for human and civil rights, establishes procedures for free and fair elections, creates a system of checks and balances between the executive, legislative, and judicial branches, encourages a free market economy and private enterprise, and obligates the state to prevent terrorist activity and the production and trafficking of narcotics;

Whereas, on October 9, 2004, approximately 8,400,000 Afghans, including nearly 3,500,000 women, voted in Afghanistan's first direct Presidential election at the national level, demonstrating commitment to democracy, courage in the face of threats of violence, and a deep sense of civic responsibility;

Whereas, on December 7, 2004, Hamid Karzai took the oath of office as the first democratically elected President in the history of Afghanistan;

Whereas nationwide parliamentary elections are planned in Afghanistan for September 2005, further demonstrating the Afghan people's will to live in a democratic state, and the commitment of the Government of Afghanistan to democratic norms;

Whereas the Government of Afghanistan is committed to halting the cultivation and trafficking of narcotics and has pursued, in cooperation with the United States and its allies, a wide range of counter-narcotics initiatives;

Whereas the United States and the international community are working to assist Afghanistan's counter-narcotics campaign by supporting programs to provide alternative livelihoods for farmers, sustainable economic development, and capable Afghan security forces; and

Whereas, on March 17, 2005, Secretary of State Condoleezza Rice said of Afghanistan ''this country was once a source of terrorism; it is now a steadfast fighter against terrorism. There could be no better story than the story of Afghanistan in the last several years and there can be no better story than the story of American and Afghan friendship. It is a story of cooperation and friendship that will continue. We have a long-term commitment to this country'': Now, therefore, be it

Resolved, That the Senate—

(1) welcomes, as an honored guest and valued friend of the United States, President Hamid Karzai on the occasion of his visit to the United States as the first democratically elected President of Afghanistan scheduled for May 21 through 25, 2005;

(2) supports a democratic, stable, and prosperous Afghanistan as essential to the security of the United States; and

(3) supports a strong and enduring strategic partnership between the United States and Afghanistan as a primary objective of both countries to advance their shared vision of peace, freedom, security and broad-based economic development in Afghanistan, the broader South Asia region, and throughout the world.

STATE CRIMINAL ALIEN ASSISTANCE PROGRAM REAUTHORIZATION ACT OF 2005

Mr. President, I ask unanimous consent the Senate now proceed to immediate consideration of Calendar No. 56, S. 188.

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

The assistant legislative clerk read as follows:

A bill (S. 188) to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011 to carry out the State Criminal Alien Assistance Program.

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

Mr. BURNS. I ask unanimous consent the Feinstein amendment at the desk be agreed to, the bill as amended be read a third time and passed, and the motion to reconsider be laid upon the table.

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

The amendment (No. 763) was agreed to, as follows:

(Purpose: To require that certain funds are used for correctional purposes)

At the end add the following new section:

SEC. 3. LIMITATION ON USE OF FUNDS.

Section 241(i)(6) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(6)) is amended to read as follows:

''(6) Amounts appropriated pursuant to the authorization of appropriations in paragraph (5) that are distributed to a State or political subdivision of a State, including a municipality, may be used only for correctional purposes.''.

The bill (S. 188), as amended, was read the third time and passed, as follows:

S. 188

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 Criminal Alien Assistance Program Reauthorization Act of 2005''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2005 THROUGH 2011.

Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended by striking ''appropriated'' and all that follows through the period and inserting the following: ''appropriated to carry out this subsection—

''(A) such sums as may be necessary for fiscal year 2005;

''(B) $750,000,000 for fiscal year 2006;

''(C) $850,000,000 for fiscal year 2007; and

''(D) $950,000,000 for each of the fiscal years 2008 through 2011.''.

SEC. 3. LIMITATION ON USE OF FUNDS.

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ORDER OF PROCEDURE

Mr. BURNS. I ask unanimous consent that the majority leader be recognized at 5:30 p.m. today; provided further that from 6 to 7 this evening be under the control of the majority leader or his designee, that from 7 to 8 p.m. be under the Democratic control, with time continuing to rotate in that fashion until 9 a.m.

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

Mr. BURNS. I yield the floor.

The PRESIDING OFFICER. The Chair will note the minority now controls 41 minutes.

The Senator from Wisconsin.

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT—Continued

Mr. KOHL. Mr. President, as passions rise higher and higher here in the Senate, I come to the floor today to urge that cooler heads prevail; to urge that the majority not take the fateful step they are contemplating; to urge that we step back from the cliff we are approaching, before it is too late.

We have all heard the arguments for and against a rule change that has been dubbed ''the nuclear option.'' I will not reiterate those arguments here. But as someone who came to the Senate to get things done for real people, I have some experience trying to reach compromise on difficult issues. The heart of compromise is well known: one side cannot have all that they want. Yet the essence of the so called ''nuclear option'' is just that—one side wins, one party wins, one majority wins full power over who will sit on the Federal bench. The other side—the other party, the minority—is left powerless, silenced by a new rule that strips the minority of all power over judges. We all know that such an outcome is the opposite of moderation, the opposite of compromise, the opposite of bipartisanship. In short, the opposite of how to get things done in a way that encourages participation on both sides of the aisle.

There is no need to go down this troubled partisan path on judicial nominations and my own State of Wisconsin has shown us a smoother road for more than a quarter century. In all those years, Wisconsin has used a bipartisan nominating commission to force all sides to act in bipartisan cooperation when selecting judges. During the administrations of Democrats and Republicans, and during the tenure of Republican as well as Democratic Senators, we have used the Commission and succeeded in selecting well-qualified nominees who have been easily confirmed by the Senate in every case. Using this process, both political parties have been represented—the minority does not get to choose the nominee, but they can affect the choice and have their views count.

If we move forward with the proposed rule change—a change designed to bring about one-party rule whenever the Senate considers judges—we will silence a minority of the Senate and a majority of Americans. You see, the Democratic Senators in this body were elected by a majority of Americans. How will a majority of Americans speak up about judges who will sit in their districts, on the Seventh Circuit, on the Supreme Court, making decisions about their lives for generations to come if this rule change is made?

People all across our country—whether in the majority or the minority—deserve better. They deserve to have some say over who will sit in judgment over them. And they deserve more than that, they deserve a Senate that is working to solve the challenges they face every day, challenges like the skyrocketing cost of health care which leaves too many without coverage and even more struggling to pay for the coverage they have, challenges like factories closing and jobs that pay too little to support a family, challenges like the need to save for retirement in an age of disappearing pensions and job insecurity. These are among the problems we should be dealing with today.

So for the sake of those who need healthcare, for the sake of those working for too little, for the sake of those nearing retirement with fear and worry, I urge my colleagues to stop. Stop and listen. I hope you will hear what I hear, Americans asking for what they have always asked of the Senate—that it be a place where debate continues, passions cool, and compromise prevails for the good of all.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator will note the business at hand is the Priscilla Owen nomination, and the minority controls the time until 5:30.

Mr. LEAHY. I thank the distinguished Presiding Officer. I will take some of my time.

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

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

Mr. LEAHY. Mr. President, the Senate is on a path toward a divisive and actually unnecessary showdown. I have been here long enough to know that if the vote on the Republican leader's nuclear option were by a secret ballot it would fail overwhelmingly. There are too many Senators who will tell you privately that on a secret ballot they would never vote for it. We know this because, as these Senators know, it is harmful to this institution and it is wrong for this country—wrong in terms of protecting the rights of the American people, wrong in terms of undercutting our fundamental system of checks and balances, wrong in terms of defending the independence of and public support for an independent Federal judiciary. But especially it is wrong in unilaterally destroying minority protections in the Senate in order to promote one-party rule, something this Senate has never known and has never wanted.

I have served in the Senate for almost 31 years. During that time, several times the Democrats were in charge of the Senate—in the majority. Several times the Republicans were. The hallmark of every leader, Republican or Democratic, was that the special minority protections of the Senate would remain. No matter who was in the majority, they believed they had as their obligation protecting the rights of the minority because that is what the Senate is all about. Every Senate majority leader took as his trust to make sure that when he left, the Senate had at least the strengths it had when he took over.

Today, Democratic Senators alone will not be able to rescue the Senate and our system of checks and balances from the breaking of the Senate rules the Republican leadership seem so insistent on demanding. It will take at least six Republicans standing up for fairness and for checks and balances. I know a number of Senators on the other side of the aisle know in their hearts that this nuclear option is the wrong way to go.

Senators on both sides of the aisle have called for the vote on the nuclear option to be one of principle rather than one of party loyalty, and for this to be a vote of conscience. I agree. To ensure that it is, I urge both the Republican leader from Tennessee and the Democratic leader from Nevada—both of whom are my friends—to announce publicly, today, in advance of the momentous vote that awaits us at the end of this debate, that every Senator should search his or her heart, his or her conscience, and vote accordingly.

I call on both the Democratic and Republican leaders to announce that there will be no retribution or punishment visited upon any Senator for his or her vote.

I remember in the aftermath of another vote, one I called at that time a profile in courage, when our friend, the senior Senator from Oregon, Mark Hatfield, cast the deciding vote against a proposed constitutional amendment. Ten years ago some of the newer Republican Senators at the time reportedly wanted to strip him of the chairmanship of the Appropriations Committee. The press at the time provided counsel to those newer Senators, some having recently arrived from the other Chamber, and who were accustomed to the way the Republican Party in that body operates, where everything is all or nothing.

At the time, some of those Members urged that Senator Hatfield be penalized for his vote of conscience, a vote they did not like. They thought conscience should be set aside, he should have toed the party line. I remember the unfair pressures brought to bear on Senator Hatfield. I do not want to see that befall other Senators, Republican or Democrat, whichever way they choose to vote on the nuclear option.

The Senate has its own carefully calibrated role in our system of Government. The Senate was not intended to function like the House. The Great Compromise of the Constitutional Convention more than 200 years ago was to create in the Senate a different legislative body from the House of Representatives. Those fundamental differences

include equal representation for each State in accordance with article I, section 3. Thus, Vermont has equal numbers of Senators to New York or Idaho or California. The Founders intended this as a vital check. Representation in the Senate is not a function of population or based on the size of a State or its wealth.

Another key difference is the right to debate in the Senate. The filibuster is quintessentially a Senate practice. James Madison wrote in Federalist No. 63 that the Senate was intended to provide ''interference of some temperate and respectable body of citizens'' against ''illicit advantage'' and the ''artful misrepresentations of interested men.'' It was designed and intended as a check, a balancing device, as a mechanism to promote consensus and to forge compromise.

The House of Representatives has a different and equally crucial function in our system. I respect the House and its traditions just as I respect and honor the Senate tradition. It is the Senate and only the Senate that has a special role in our legislative system to protect the rights of a minority from the divisive or intemperate acts of a headstrong majority.

As the Republican leader agreed in debate with Senator BYRD last week, there is no language in the Constitution that creates a right to a vote or a nomination or a bill. If there were such a right, if there were a right in the Constitution to require a vote, then Republicans violated that more than 60 times by 60 times refusing to have a vote on President Clinton's judicial nominees, by 60 pocket filibusters of Clinton judicial nominations and about 200 other executive nominations.

According to the Congressional Research Service, more than 500 judicial nominations for circuit and district court did not receive final Senate votes between 1945 and 2004. That is more than 500. It amounts to 18 percent of all overall nominations. By contrast, this President has seen more than 95 percent of his judicial nominations confirmed, 208 to date.

What the Republican leadership is seeking to do is to change the Senate rules in accordance with them but by breaking them. It is wrong that the Senators who refused to have votes on more than 60 of President Clinton's judicial nominees, and hundreds of his executive branch nominees, have only one Republican agenda now—to contend the votes and nominations are constitutionally required.

The Constitution hasn't changed from the time of the Clinton Presidency to Bush's Presidency, nor have the Senate rules been changed. That is why I like to keep the Senate autonomous and secure in a ''nuclear free'' zone.

The partisan power play now underway by Republicans will undermine the checks and balances established by the Founders of the Constitution. It is a giant leap toward one-party rule with an unfettered executive controlling all three branches of the Federal Government. It not only would demean the Senate and destroy the comity on which it depends, but it would undermine the strong, independent Federal judiciary protecting rights of liberties of all Americans against the overreaching of political branches.

It is saying, no matter whether you are Republican or Democrat or Independent in this country, only Republicans need apply because they will control the executive branch, the House of Representatives, the Senate, and now the independent Federal judiciary. That is what it comes down to. There will be no checks and balances on who goes on a Federal bench for a lifetime job, lifetime position. There will be no checks and balance. It will be, if you are a Republican, you can be on the Federal bench and help shape it; otherwise, forget about it.

This is not a country of one-party rule. I hope this country is never one of one-party rule. No democracy law exists if it is there by one-party rule.

Our Senate Parliamentarian, who is nonpartisan, our Congressional Research Service, which is there to serve both Republicans and Democrats, have said the so-called nuclear option would go against Senate precedent. In other words, to change the rule, you would have to break the rule. In other words, to say we are going to talk about how judges should judge, we will break our own laws to do it. What an example to a great and good country like ours. What an example to say we are somehow above the law.

What it is saying to the American people, you 280 million Americans, you follow the law, but 100 Senators are better than that. We don't have to follow the law. We stand above the law. In fact, if we don't like the law, we will break the law and make a new one.

Do our friends on the other side of the aisle want to so blatantly break the rules for short-term political gain? Do they desire to turn the Senate into a place where the parliamentary equivalent of brute force is whatever can be rammed through by partisan ramrodding and arm twisting?

We are not playing king of the hill. We are protecting the Constitution. We are protecting the best checks and balance of our Nation, the Senate, and we are doing it so we can remove the checks and balance of the Federal judiciary. What enormous stakes.

That is why I say if this were a secret ballot, the nuclear option would never pass. There are too many Senators who state privately in the cloakrooms, the dining room, and the Senate gym, they know this is wrong but they have to follow party discipline.

We did not come to this crossroad overnight. No Democratic Senator wanted to filibuster. Not one of us came to those votes easily. We hope we are never forced by an overaggressive executive and compliant majority into another filibuster over a judicial nomination. Filibusters, like the confrontation the Senate is being forced into over the last several days, are the direct result of a deliberate attack by the current administration and its supporters in the Senate against not only the traditions of the Senate but the rules: We are willing to break the rules that serve our purpose for the moment.

The nuclear option is the grand culmination of their efforts. It is intended to clear the way for this President to appoint a more extreme and more divisive choice—not only in the circuit courts of appeals but should a vacancy arise on the Supreme Court. That is not how the Senate has worked or should work.

I have been here with six Presidents. It has been the threat of a filibuster that has encouraged a President to moderate his choice and work with Senators on both sides of the aisle, both Republican and Democratic Senators. Of the six Presidents I have served with, five of them actually looked at the advice and consent clause and worked with Senators from both parties for both advice and consent of the judges. But this has been politicized and the Senate Republicans have systematically eliminated every other traditional protection for the minority. Now their target is a Senate filibuster, the only route that is left to allow a significant Senate minority to be heard.

Under pressure from the White House over the last 2 years prior to this year, the former Republican chairman of the Judiciary Committee led Senate Republicans in breaking the longstanding precedent and Senate tradition with respect to handling lifetime appointments to the Federal bench. Senate Republicans have had one set of practices to delay and defeat 61 of a Democratic President's moderate, qualified judge nominations. But then they suddenly switch gears and switch the rules to rubberstamp a Republican President's choices to lifetime judicial positions, including many who were very controversial.

The list of broken rules and precedents is long, including in the way the home State Senators were treated, the way hearings were scheduled, in the way the committee questionnaire was unilaterally altered, to the way the Judiciary Committee historic protection of the minority by committee rule IV was repeatedly violated. In the last Congress they destroyed virtually every custom and courtesy used throughout history to enforce cooperation and civility in the confirmation process.

For years, Democratic Senators have been warning that the deterioration of Senate rules and practices, if done away with, would also do away with the protection of minority rights.

So that is where we are. I have been proud to serve here both in the majority and the minority. I remember all the times when I was here as a member of the majority party, it was constantly drummed into us at our party

caucuses, at party meetings, we have to maintain the Senate rules to protect the rights of the then minority, the Republicans.

It is amazing to me the Senate, the place that is supposed to be the conscience of our Nation, would allow a President, any President, to convince them to turn their back on precedent, on history, but also on their own rules.

We have always been a check and balance on Presidents. Now we have Senators who will tell you, quietly outside the Chamber, they are frustrated by taking orders from the White House and yet will not stand up and say no, we don't work for the White House. We are not appointed by the White House. We are elected by the people of our State. We swear on the oath to protect the Constitution. We are not protecting it when we break our own rules. We are not protecting the people of this country when we throw away the ability to have checks and balances. This is a serious mistake, and we will rue this day.

So at this ninth hour, I say to Senators: Vote your conscience. As I said earlier, if this was a secret ballot, the nuclear option would never pass. But vote your conscience. And again, I would urge both the Republican leader and the Democratic leader to announce on the floor of the Senate that nobody will be punished if they vote their conscience because, after all, why would anybody want to serve, why would anybody want to be 1 of 100 to represent 280 million Americans? Why would you want to serve in the Senate if you felt you could not vote your conscience? I will vote mine on this issue. I will vote to protect the rights of the minority—all minorities throughout this country. I will vote to uphold the law. I will vote to uphold the rules of the Senate. And I will vote to uphold that which causes us to have a check and balance where instead of rushing off the cliff following one person on either the right or the left, we seek the compromises that are best for this country.

I see the distinguished Senator from New York on the floor. I am perfectly willing to yield the remainder of my time to her.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I thank my friend from Vermont who has been a stalwart defender of the Constitution his entire public life. And as a member of the Judiciary Committee, as chair and ranking member, and all of his activities on behalf of this issue, he has demonstrated the highest level of leadership.

Mr. President, I started my day today in Newburg, NY, at the military headquarters of GEN George Washington. Many of the most important battles of the Revolutionary War were fought in New York, up and down the Hudson River Valley, the Champlain Valley, the Mohawk Valley, down into New York City, out on Long Island. Today, we were announcing legislation that I had sponsored here in the Senate with my friend and colleague, the senior Senator from Virginia, Mr. WARNER, to commemorate the Revolutionary War.

We were reminded at this event today of something called the Newburg Conspiracy. What was that? That was an effort by a small group of people to persuade George Washington to begin to assume the mantle of absolute power, to, in effect, become more like a king than what had been envisioned for this new Republic, a President and a system of government with checks and balances.

In one of his greatest speeches, then General Washington repudiated the Newburg Conspiracy and memorably said that we should all stand against any effort to consolidate power. We must stand for our Republic. And that Republic, which is unique in human history, has this unusual system of checks and balances that pit different parts of the Government against one another that, from the very beginning, recognized the importance of minority rights because, after all, that is what the Senate is, a guarantor of minority rights.

I represent 19 million people. Yet my vote is no more important than the Presiding Officer's or any of my other colleagues who may represent States with far fewer citizens because we have always understood that majority rule too easily can become abusive, that those in the majority and particularly those who lead that majority always believe that what they want is right by definition. It is what they fight for. It is what they care about. But we have understood, thanks to the genius of our Founders—great leaders such as George Washington—that human nature being what it is, we have to restrain ourselves, not only in the conduct of our day-to-day relations with one another but in the conduct of our government.

So we have created this rather cumbersome process of government. Sometimes people in a parliamentary system look at it and say: What is this about? You have a House of Representatives where you have majority rule, and then you have this Senate over here where people can slow things down, where they can debate, where they have something called the filibuster. It seems as if it is a little less than efficient.

Well, that is right. It is, and deliberately designed to be so, with the acute psychological understanding that every single one of us needs to be checked in the exercise of power, that despite what we may believe about our intentions and our views, not one of us has access to the absolute truth about any issue confronting us. So one of the ways we have protected the special quality of the Senate over all of these years is through unlimited debate, through the creation of rules that would make it possible for a minority to be heard, and more than that, create a supermajority for certain actions that the Constitution entrusts to the Senate, and, in particularly, the appointment of judges for lifetime tenure.

Now, why would you have a supermajority for judges? Again, I think it shows the genius of our Founders in their understanding of human nature. This is a position of such great importance, such overwhelming power and authority, that anyone who comes before this body should be able to obtain the support of 60 of our fellow Senators. It has worked well.

There have been people going back in American history, and not just back to the beginning but back just a few years into the Clinton administration, who I believe should have been confirmed as judges. The Senate decided not to. The President has sent us his nominees, and we have confirmed more than 95 percent of them. I voted against a number of them, but the vast majority were acceptable to more than 60 Members of this body.

What is happening now with this assault on the idea of the Senate, on the creation of this unique deliberative body that serves as a check and a balance to Presidential power, to the passions of the House, which has exercised the opportunity to create consensus with respect to judicial nominees, is that we have a President who is not satisfied with the way every other President has executed his authority when it comes to judicial nominees.

Many Presidents have not liked what the Senate has done to their judicial nominees. We can go back to Thomas Jefferson. Thomas Jefferson, one of our greatest Presidents, was really upset because John Adams appointed people Thomas Jefferson did not think should be on the Federal bench. He did not agree with their philosophy. He had personal problems with some of them and the relationships between them. So he tried to undue what his predecessor had done. And the Senate, recognizing what General Washington had understood back during the Revolutionary War, what the writers of the Constitution had understood in Philadelphia, said: No. Wait a minute, Mr. President. We are not substituting one king for another. We are trying something entirely different. You may get a little frustrated, but Presidential authority is not absolute, so we are going to expect you to abide by the rules.

Every President has faced these frustrations. Franklin Roosevelt, at the height of his power, with an overwhelmingly Democratic Congress, faced all kinds of setbacks from the judiciary, and he wanted to change them. He wanted to pack the courts, and the Democrats in the Senate, who put the Senate first, who put the Constitution first, said: No. Wait a minute. We admire you. You are saving our country. You are doing great things. But, no, we cannot let you go this far.

Well, today, we are here because another President is frustrated. He has gotten 95 percent of his judges. He

wants 100 percent. I can understand that. That is the way a lot of people get when they have power. They want it all. If you are against him, then he thinks you are against everything he stands for as opposed to having legitimate disagreements.

So this President has come to the majority in the Senate and basically said: Change the rules. Do it the way I want it done. And I guess there were not very many voices on the other side of the aisle that acted the way previous generations of Senators have acted and said: Mr. President, we are with you. We support you. But that is a bridge too far. We cannot go there. You have to restrain yourself, Mr. President. We have confirmed 95 percent of your nominees. And if you cannot get 60 votes for a nominee, maybe you should think about who you are sending to us to be confirmed because for a lifetime appointment, 60 votes, bringing together a consensus of Senators from all regions of the country, who look at the same record and draw the same conclusion, means that perhaps that nominee should not be on the Federal bench.

But, no, apparently that is not the advice that has been given to the President. Instead, it looks as though we are about to have a showdown where the Senate is being asked to turn itself inside out, to ignore the precedent, to ignore the way our system has worked—the delicate balance we have obtained that has kept this constitutional system going—for immediate gratification of the present President.

When I was standing on the banks of the Hudson River this morning, looking at General Washington's headquarters, thinking about the sacrifice that he and so many others made, many giving the ultimate sacrifice of their life, for this Republic—if we can keep it, as Benjamin Franklin said—I felt as though I was in a parallel universe because I knew I was going to be getting on an airplane and coming back to Washington. And I knew the Republican majority was intent upon this showdown. I knew the President had chimed in today and said he wants up-or-down votes on his nominees. And I just had to hope that maybe between now and the time we have this vote there would be enough Senators who will say: Mr. President, no. We are sorry, we cannot go there. We are going to remember our Founders. We are going to remember what made this country great. We are going to maintain the integrity of the U.S. Senate.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand we have 1 minute left.

The PRESIDING OFFICER. The Senator has 1 minute 40 seconds, to be exact.

Mr. LEAHY. I thank the distinguished Presiding Officer, and I thank the Senator from New York for her comments.

Mr. President, I would simply reiterate what I said before. If the vote on the nuclear option was cast in secret, from everything I have been told by my fellow Senators, it would go down to crashing defeat. As Senators know, we have to break the rules to change the rules.

Again, I would just urge that both leaders, both the Republican and Democratic leaders, make it clear to their Members that nobody is going to be punished for a vote on conscience. I hope Senators will stand up and be a profile in courage, vote their conscience, and vote the right way.

Mr. President, the hour of 5:30 has arrived, so I yield the floor.

QUORUM CALL

Mr. President, I see the Republican leader is not on the floor yet, so I will suggest the absence of a quorum to accommodate him. 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 and the following Senators entered the Chamber and answered to their names:

[Quorum No. 3 Ex.]

Baucus	Frist	Nelson, Nebraska
Bingaman	Gregg	Pryor
Burr	Inouye	Reid
Cantwell	Kennedy	Salazar
Cochran	Leahy	Schumer
Cornyn	Lincoln	Stabenow
Dayton	Lott	
Durbin	Murkowski	

The PRESIDING OFFICER. A quorum is not present.

Mr. FRIST. Mr. President, I move to instruct the Sergeant at Arms to request the presence of absent Senators, and I ask 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 of the Senator from Tennessee. The yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mr. CORNYN), the Senator from Mississippi (Mr. LOTT), and the Senator from Alaska (Ms. MURKOWSKI).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted: ''yea.''

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Arkansas (Mrs. LINCOLN), are necessarily absent.

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

The result was announced—yeas 90, nays 1, as follows:

[Rollcall Vote No. 126 Ex.]

YEAS—90

Akaka	Dole	McConnell
Alexander	Domenici	Mikulski
Allard	Dorgan	Murray
Baucus	Durbin	Nelson (FL)
Bayh	Ensign	Nelson (NE)
Bennett	Enzi	Obama
Biden	Feingold	Pryor
Bingaman	Feinstein	Reed
Bond	Frist	Reid
Boxer	Graham	Roberts
Brownback	Grassley	Rockefeller
Bunning	Hagel	Salazar
Burns	Harkin	Santorum
Burr	Hatch	Sarbanes
Byrd	Hutchison	Schumer
Cantwell	Inhofe	Sessions
Carper	Isakson	Shelby
Chafee	Jeffords	Smith
Chambliss	Johnson	Snowe
Clinton	Kerry	Specter
Coburn	Kohl	Stabenow
Coleman	Kyl	Stevens
Collins	Landrieu	Sununu
Conrad	Lautenberg	Talent
Corzine	Leahy	Thomas
Craig	Levin	Thune
Crapo	Lieberman	Vitter
DeMint	Lugar	Voinovich
DeWine	Martinez	Warner
Dodd	McCain	Wyden

NAYS—1

Allen

NOT VOTING—9

Cochran	Gregg	Lincoln
Cornyn	Inouye	Lott
Dayton	Kennedy	Murkowski

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader.

Mr. FRIST. Mr. President, for the information of our colleagues, we will be voting around noon tomorrow on the cloture motion with respect to Priscilla Owen. We will be in session through the night, and time is roughly equally divided.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 6:04 p.m., recessed subject to the call of the Chair and reassembled at 6:13 p.m., when called to order by the Presiding Officer (Mr. THUNE).

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT—Continued

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the previous order, with respect to the division of time, be modified to extend until 10 a.m.

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

Mr. MCCONNELL. I ask the Chair, what is the pending business?

The PRESIDING OFFICER. The pending business is the nomination of Judge Priscilla Owen to be U.S. circuit court judge.

Mr. MCCONNELL. Mr. President, our colleagues complained that by affording any President's nominees a simple up-or-down vote, we are trying to stifle the right to debate, while I think it is worth noting that we have devoted 20 days—20 days—to the Owen nomination. So this is not about curtailing debating rights. This is about using the filibuster to kill nominations with which the minority disagrees so 41 Senators can dictate to the President whom he can nominate to the courts of appeal and to the Supreme Court.

If there is any doubt about this, I remind our colleagues that last year the distinguished minority leader said:

There is not enough time in the universe—

''Not enough time in the universe'' for the Senate to allow an up-or-down vote on the Owen nomination. So we should stop pretending this debate is simply about preserving debating prerogatives. It is clearly about killing nominations.

Our debate is about restoring the practice honored for 214 years in the Senate of having up-or-down votes on judicial nominees. Never before has a minority of Senators obstructed a judicial nominee who enjoyed clear majority support.

Our friends on the other side of the aisle recite a list of nominees on whom there were cloture votes, but the problem with their assertion that these nominees were filibustered is that the name of each of these nominees is now preceded by the title ''judge,'' meaning, of course, they were confirmed.

So what my Democratic colleagues did last Congress is, indeed, unprecedented. Even with controversial nominees, the leaders of both parties historically have worked together to afford them the courtesy of an up-or-down vote.

When he was minority leader, Senator BYRD worked with majority leader Howard Baker to afford nominees an up-or-down vote, even when they did not have a supermajority, nominees such as J. Harvey Wilkinson, Alex Kozinski, Sidney Fitzwater, and Daniel Manion.

As Senator BYRD knows, it is not easy being the majority or minority leader. He, Senator BYRD, could have filibustered every one of those nominations but he did not. Instead, he chose to exercise principled and restrained leadership of the Democratic caucus when he was minority leader. I would like to compliment Senator BYRD for that decision.

Affording controversial judicial nominees the dignity of an up-or-down vote did not stop, however, with Senator BYRD. It was true as recently as 2000, when Senator LOTT worked to stop Senators on our side of the aisle, the Republican side, who sought to filibuster the Paez and Berzon nominations. But, in 2001, as the New York Times has reported, our Democratic colleagues decided to change the Senate's ground rules, a media report they have yet to deny.

Just 2 years later, after they had lost control of the Senate, our Democratic colleagues began to filibuster qualified judicial nominees who enjoyed clear majority support here in the Senate. They did so on a repeated partisan and systematic basis. After 214 years of precedent, in a span of a mere 16 months, they filibustered 10 circuit court nominees—totally without precedence. Many of these nominees would fill vacancies that the administrative offices of the courts have designated as judicial emergencies, including several to the long-suffering Sixth Circuit Court of Appeals, in which my State is located. As a result, President Bush has the lowest percentage of circuit court nominees confirmed in modern history, a paltry 69 percent.

The Senate, as we all know, works not just through the application of its written rules but through the shared observance of well-settled traditions and practices. There are a lot of things one can do to gum up the works here in the Senate, a lot of things you could do. But what typically happens is we exercise self-restraint, and we do not engage in that kind of behavior because invoking certain obstructionist tactics would upset the Senate's unwritten rules. Filibustering judicial nominees with majority support falls in that category. Let me repeat, it could have always been done. For 214 years, we could have done it, but we did not. We could have, but we did not.

By filibustering 10 qualified judicial nominees in only 16 months, our Democratic colleagues have broken this unwritten rule. This is not the first time a minority of Senators has upset a Senate tradition or practice, and the current Senate majority intends to do what the majority in the Senate has often done—use its constitutional authority under article I, section 5, to reform Senate procedure by a simple majority vote.

Despite the incredulous protestations of our Democratic colleagues, the Senate has repeatedly adjusted its rules as circumstances dictate. The first Senate adopted its rules by majority vote, rules, I might add, which specifically provided a means to end debate instantly by simple majority vote. That was the first Senate way back at the beginning of our country. That was Senate rule VIII, the ability to move the previous question and end debate.

Two decades later, early in the 1800s, the possibility of a filibuster arose through inadvertence—the Senate's failure to renew Senate rule VIII in 1806 on the grounds that the Senate had hardly ever needed to use it in the first place.

In 1917, the Senate adopted its first restraint on filibuster, its first cloture rule—that is, a means for stopping debate—after Senator Thomas Walsh, a Democrat from Montana, forced the Senate to consider invoking its authority on article I, section 5, to simply change Senate procedure. Specifically, in response to concerns that Germany was to begin unrestricted submarine warfare against American shipping, President Wilson sought to arm merchant ships so they could defend themselves. The legislation became known as the armed ship bill.

However, 11 Senators who wanted to avoid American involvement in the First World War filibustered the bill. Think about this. In 1917, there was no cloture rule at all. The Senate functioned entirely by unanimous consent. So how did the Senate overcome the determined opposition of 11 isolationist Senators who refused to give consent to President Wilson to arm ships? How did they do it?

Senator Walsh made clear the Senate would exercise its constitutional authority under article I, section 5, to reform its practices by simple majority vote. A past Senate could not, he concluded, take away the right of a future Senate to govern itself by passing rules that tied the hands of a new Senate. He said:

A majority may adopt the rules in the first place. It is preposterous to assert that they may deny future majorities the right to change them.

What he said makes elementary good sense. Because Walsh made clear he was prepared to end debate by majority vote, both political parties arranged to have an up-or-down vote on a formal cloture rule. Senator Clinton Anderson, a Democrat from New Mexico, noted years later that ''Walsh won without firing a shot.'' And Senator Paul Douglas, a Democrat from Illinois, observed also years later that consent was given in 1917 because a minority of obstructing Senators had Senator Walsh's proposal ''hanging over their heads.''

I know that the Senate's 1970 cloture rule did not pertain to a President's nominations, nor did any Senators, during the debate on the adoption of the 1917 cloture rule, discuss its possible application to nominations. This was not because Senators wanted to preserve the right to filibuster nominees. Rather, Senators did not discuss applying the cloture rule to nominations because the notion of filibustering nominations was alien to them. It never occurred to anybody that that would be done.

In the middle of the 20th century, Senators of both parties, on a nearly biennial basis, invoked article I, section 5 constitutional rulemaking authority. Their efforts were born out of frustration of the repeated filibustering of civil rights legislation to protect black Americans. A minority of Senators had filibustered legislation to protect black voters at the end of the 19th century. They had filibustered antilynching bills in 1922, 1935, and 1938; antipoll tax bills in 1942, 1944 and 1946; and antirace discrimination bills.

In 1959, Majority Leader Lyndon Johnson agreed to reduce the number required for cloture to two-thirds of Senators who were present and voting because he was faced with a possibility

that a majority would exercise its constitutional authority to reform Senate procedure. He knew the constitutional option was possible.

Additionally, the Senate had voted four times for the proposition that the majority has the authority to change Senate procedures. For example, in 1969, Senators were again trying to reduce the standard for cloture—that is, the rule to cut off debate—from 67 down to 60. To shut off debate on this proposed rule change, Democratic Senator Frank Church from Idaho secured a ruling from the Presiding Officer, Democratic Vice President and former Senator Hubert Humphrey, that a majority could shut off debate, irrespective of the much higher cloture requirement under the standing rules. A majority of Senators then voted to invoke cloture by a vote of 51 to 47 in accord with the ruling of Vice President Humphrey. This was the first time the Senate voted in favor of a simple majority procedure to end debate.

The Senate reversed Vice President Humphrey's ruling on appeal. But as Senator KENNEDY later noted:

This subsequent vote only cemented the principle that a simple majority could determine the Senate's rules.

Senator KENNEDY said:

Although [Vice President Humphrey's] ruling may have been reversed, the reversal was accomplished by a majority of the Senate. In other words, majority rule prevailed on the issue of the Senate's power to change its rules.

Senator KENNEDY made this observation in 1975, when reformers were still trying to reduce the level for cloture from 67 down to 60. Reformers had been thwarted in their effort to lower this standard for several years.

In 1975, once again, Senate Democrats asserted the constitutional authority of the majority to determine Senate procedure in order to ensure an up-or-down vote. The Senate eventually adopted a three-fifths cloture rule—that is, 60 votes to cut off debate—but only after the Senate had voted on three separate occasions in favor of the principle that a simple majority could end debate. They had voted on three separate occasions that a simple majority could end debate, after which it was a compromise establishing the level at 60.

The chief proponent of this principle was former Democratic Senator Walter Mondale and four current Democratic Senators voted in favor of it: Senator BIDEN, Senator LEAHY, Senator KENNEDY, and Senator INOUYE. Indeed, Senator KENNEDY was an especially forceful adherent to the constitutional authority of the Senate majority to govern—a mere majority. He asked:

By what logic can the Senate of 1917 or 1949 bind the Senate of 1975?

That was Senator KENNEDY. He then echoed Senator Walsh's observation from almost 60 years earlier:

A majority may adopt the Rules in the first place. It is preposterous to assert that they may deny to later majorities the right to change them.

Finally, referring to unanimous consent constraints that faced the Senate in 1917, Senator KENNEDY made an astute observation as to why a majority of the Senate had to have rulemaking authority. Senator KENNEDY said:

Surely no one would claim that a rule adopted by one Senate, prohibiting changes in the rules except by unanimous consent, could be binding on future Senates. If not, then why should one Senate be able to bind future Senates to a rule that such change can be made only by a two-thirds vote?

Recently, the authority to which I have been referring has been called the ''constitutional option,'' or the pejorative term, ''nuclear option.'' But while the authority of the majority to determine Senate procedures has long been recognized, most often in Senate history by our colleagues on the other side of the aisle—incidentally, it was the senior Senator from West Virginia who employed this constitutional authority most recently, most effectively, and most frequently.

Senator BYRD employed the constitutional option four times in the late 1970s and 1980s. The context varied but three common elements were present each time: First, there was a change in Senate procedure through a point of order rather than through a textual change to Senate rules; second, the change was achieved through a simple majority vote; third, the change in procedure curtailed the options of Senators, including their ability to mount different types of filibusters or otherwise pursue minority rights.

The first time Senator BYRD employed the constitutional option was in 1977 to eliminate postcloture filibuster by amendment. Senate rule XXII provides once cloture is invoked, each Member is limited to 1 hour of debate, and it prohibits dilatory and nongermane amendments. But because Democratic Senators Howard Metzenbaum of Ohio and James Abourezk of South Dakota opposed deregulating natural gas prices, they used existing Senate procedures to delay passage of a bill that would have done so after cloture had been invoked. They stalled debate by repeatedly offering amendments without debating them, thereabout delaying the postcloture clock.

If points of order were made against the amendments, they simply appealed the ruling of the Chair which was debatable, and if there were a motion to table the appeal then there would have to be rollcall votes. Neither of these options would consume any postcloture time.

After 13 days of filibustering by amendment, the Senate had suffered through 121 rollcall votes and endured 34 live quorums with no end in sight.

Under then existing precedent, the Presiding Officer had to wait for a Senator to make a point of order before ruling an amendment out of order. By creating a precedent, Senator BYRD changed that procedure. He enlisted the aid of Vice President Walter Mondale as Presiding Officer and made a point of order that the Presiding Officer now had to take the initiative to rule amendments out of order that the Chair deemed dilatory. Vice President Mondale sustained Senator BYRD's new point of order. Senator Abourezk appealed, but his appeal was tabled by majority vote. The use of this constitutional option set a new precedent. It allowed the Presiding Officer to rule amendments out of order to crush postcloture filibusters.

With this new precedent in hand, Senator BYRD began calling up amendments, and Vice President Mondale began ruling them out of order. With Vice President Mondale's help, Senator BYRD disposed of 33 amendments, making short work of the Metzenbaum-Abourezk filibuster.

Years later, Senator BYRD discussed how he created new precedent to break this filibuster. This is what Senator BYRD said years later about what he did.

I have seen filibusters. I have helped to break them.

There are a few Senators in this body who were here when I broke the filibuster on the natural gas bill. . . .I asked Mr. Mondale, the Vice President, to go please sit in the chair; I wanted to make some points of order and create some new precedents that would break these filibusters.

And the filibuster was broken—back, neck, legs, and arms. It went away in 12 hours.

So I know something about filibusters. I helped to set a great many of the precedents that are in the books here.

That is Senator BYRD on his effort—one of his efforts—involving the use of the constitutional option.

Although Senator BYRD acted within his rights, his actions were certainly controversial. His Democrat colleague, Senator Abourezk, complained that Senator BYRD had changed the entire rules of the Senate during the heat of the debate on a majority vote. And according to Senator BYRD's own history of the Senate, the book that he wrote that we all admire so greatly, he and Vice President Mondale were severely criticized for the extraordinary actions taken to break the postcloture filibusters.

Some might argue that in 1977 Senator BYRD was not subscribing to the constitutional option. However, the procedure he employed, making a point of order, securing a ruling from the Chair, and tabling the appeal by a simple majority vote, is the same procedure the current Senate majority may use. Moreover, 15 months later, Senator BYRD expressly embraced the Senate majority's rulemaking authority.

Back in January of 1979, Majority Leader Byrd proposed a Senate rule to greatly reform debate procedure. His proposed rules change might have been filibustered, so he reserved the right to use the constitutional option. Here is what he said.

I base this resolution on Article I, Section 5 of the Constitution. There is no higher law, insofar as our government is concerned, than the Constitution.

The Senate rules are subordinate to the Constitution of the United States. The Constitution in Article I, section 5, says that each House shall determine the rules of its proceedings. . . . This Congress is not obliged to be bound by the dead hand of the past. . . .

Senator BYRD did not come to his conclusion lightly. In fact, in 1975 he had argued against the constitutional option but faced with a filibuster in 1979 he said he had simply changed his mind. This is what he had to say:

I have not always taken that position but I take it today in light of recent bitter experience. . . . So, I say to Senators again that the time has come to change the rules. I want to change them in an orderly fashion. I want a time agreement.

But, barring that, if I have to be forced into a corner to try for majority vote I will do it because I am going to do my duty as I see my duty, whether I win or lose. . . . If we can only change an abominable rule by majority vote, that is in the interests of the Senate and in the interests of the Nation that the majority must work its will. And it will work its will.

Senator BYRD did not have to use the constitutional option in early 1979 because the Senate relented under the looming threat and agreed to consider his proposed rule change through regular order.

As another example, in 1980, Senator BYRD created a new precedent that is the most applicable to the current dispute in the Senate. This use of the constitutional option eliminated the possibility that one could filibuster a motion to proceed to a nomination. We are on a nomination now on the Executive Calendar. The reason it was not possible to filibuster a motion to proceed to that nomination, we can thank Senator BYRD in 1980 when he exercised the constitutional option to simply get rid of the ability to filibuster a motion to proceed to an item on the Executive Calendar.

Before March of 1980, reaching a nomination required two separate motions, a nondebatable motion to proceed to executive session, which could not be filibustered and which would put the Senate on its first treaty on the calendar; and a second debatable motion to proceed to a particular nominee which could be filibustered.

Senator BYRD changed this precedent by conflating these two motions, one of which was debatable, into one nondebatable motion. Specifically, he made a motion to go directly into executive session to consider the first nominee on the calendar. Senator Jesse Helms made a point of order that this was improper under Senate precedent; a Senator could not use a nondebatable motion to specify the business he wanted to conduct on the Executive Calendar. The Presiding Officer sustained Senator Helms's point of order under Senate rules and precedence.

In a party-line vote, Senator BYRD overturned the ruling on appeal. And because of this change in precedent, it effectively is no longer possible to filibuster the motion to proceed to a nominee.

So where are we? There are other examples where our distinguished colleague used the Senate's authority to reform its procedures by a simple majority vote. We on this side of the aisle may have to employ the same procedure in order to restore the practice of affording judicial nominees an up-or-down vote. We did not cavalierly decide to use the constitutional option. Like Senator BYRD in 1979, we arrived at this point after ''recent bitter experience,'' to quote Senator BYRD, and only after numerous attempts to resolve this problem through other means had failed.

Here is all we have done in recent times to restore up-or-down vote for judges: We have offered generous unanimous consent requests. We have had weeks of debate. In fact, we spent 20 days on the current nominee. The majority leader offered the Frist-Miller rule compromise. All of these were rejected. The Specter protocols, which would guarantee that nominations were not bottled up in committee, was offered by the majority leader. That was rejected; Negotiations with the new leader, Senator REID, hoping to change the practice from the previous leadership in the previous Congress, that was rejected; the Frist Fairness Rule compromise, all of these were rejected.

Now, unfortunately, none of these efforts have, at least as of this moment, borne any fruit.

Our Democrat colleagues seem intent on changing the ground rules, as the New York Times laid it out in 2002. They want to change the ground rules as they did in the previous Congress in how we treat judicial nominations.

We are intent on going back to the way the Senate operated quite comfortably for 214 years. There were occasional filibusters but cloture was filed and on every occasion where the nominee enjoyed majority support in the Senate cloture was invoked. We will have an opportunity to do that in the morning with cloture on Priscilla Owen. Colleagues on both sides of the aisle who want to diffuse this controversy have a way to do it in the morning, and that is to do what we did for 214 years. If there was a controversial nominee, cloture was filed, cloture was invoked, and that controversial nominee got an up-or-down vote.

Mr. GRASSLEY. Mr. President, will the Senator yield for a question?

Mr. MCCONNELL. I am happy to yield.

Mr. GRASSLEY. One of the things that the public at large can get confused about is that we are going to eliminate the use of the filibuster entirely. I have seen some of the ''527'' commercials advising constituents to get hold of their Congressman because minority rights are going to be trampled.

I, obviously, find that ludicrous. I know this debate is not about changing anything dealing with legislation. It is just maintaining the system we have had in the Senate on judges for 214 years. I wonder if the Senator would clear up that we are talking just about judicial nominees, and not even all judicial nominees, and nothing to change the filibuster on legislation.

Mr. MCCONNELL. I say to my friend from Iowa, if the majority leader does have to exercise the constitutional option and ask us to support it, it will be narrowly crafted to effect only circuit court appointments and the Supreme Court, which are, after all, the only areas where there has been a problem.

I further say to my friend from Iowa, in the years I have been in the Senate, the only time anyone has tried to get rid of the entire filibuster was back in 1995 when such a measure was offered by the other side of the aisle.

Interestingly enough, the principal beneficiaries of getting rid of the filibuster in January of 1995 would have been our party because we had just come back to power in the Senate, yet not a single Republican, not one, voted to get rid of the filibuster. Nineteen Democrats did, two of whom, Senator KENNEDY and Senator KERRY, are still in the Senate and now arguing, I guess, the exact opposite of their vote a mere 10 years ago.

Mr. GRASSLEY. So when we just came back into the majority, after the 1994 election, there was an effort by Democrats to eliminate the filibuster?

Mr. MCCONNELL. Entirely.

Mr. GRASSLEY. For everything, including legislation.

Mr. MCCONNELL. Right.

Mr. GRASSLEY. We were the new majority.

Mr. MCCONNELL. Right.

Mr. GRASSLEY. And we would have benefited very much from that. It would have given us an opportunity to get anything done that we could get 51 votes for doing, with no impediment, and we voted against that?

Mr. MCCONNELL. Unanimously. And interestingly enough, it was the first vote cast by our now-Senate majority leader, Senator FRIST, here in the Senate. The very first vote he cast, along with the rest of us on this side of the aisle, was to keep the filibuster.

Mr. GRASSLEY. So I think that ought to make it clear we are just talking about the unprecedented use of the filibuster within the last 2 years. We are not talking about changing anything in regard to filibusters on legislation because we understand that is where you can work compromises. You cannot really work compromises when it comes to an individual—is it either up or down. But you can change words, you can change paragraphs, you can rewrite an entire bill to get to 60, to get to finality, on any piece of legislation.

Mr. MCCONNELL. My friend from Iowa is entirely correct. The filibuster would be preserved for all legislative items, preserved for executive branch nominations, not for the judiciary. It would be preserved even for district court judges, where Senators have historically played a special role in either

selecting or blocking district judges. All of that would be preserved. If we have to exercise the constitutional option tomorrow, it will be narrowly crafted to deal only with future Supreme Court appointments and circuit court appointments, which is where we believe the aberrational behavior has been occurring in the past and may occur in the future.

Mr. GRASSLEY. And maintain the practice of the Senate as it has been for 214 years prior to 2 years ago.

Mr. MCCONNELL. That is precisely the point. My friend from Iowa is entirely correct.

Mr. GRASSLEY. I thank the Senator.

Mr. HATCH. Will the assistant majority leader yield for a question?

Mr. MCCONNELL. Yes.

Mr. HATCH. Just to make it clear, there are two calendars in the Senate. One is the legislative calendar and the other is the Executive Calendar; is that correct?

Mr. MCCONNELL. That is correct.

Mr. HATCH. The legislative calendar is the main calendar for the Senate, and it is solely the Senate's; is that correct?

Mr. MCCONNELL. That is correct.

Mr. HATCH. But the Executive Calendar involves nominations through the nomination power granted by the Constitution to the President of the United States, and the Senate has the power to advise and consent on that nomination power, is that right, to exercise that power?

Mr. MCCONNELL. That is entirely correct.

Mr. HATCH. What we are talking about here is strictly the Executive Calendar, ending the inappropriate filibusters on the Executive Calendar and certainly not ending them on the legislative calendar?

Mr. MCCONNELL. My friend from Utah is entirely correct.

Mr. HATCH. Well, our Democratic friends argue—just to change the subject a little bit here—they argue we have to institute the judicial filibuster to maintain the principle of checks and balances as provided in the Constitution. But unless my recollection of events is different, this contention does not fit with the historical record.

Isn't it the case that the same party has often been in the White House and in the majority in the Senate, such as today, but in the past, while the same party has controlled the White House and been a majority in the Senate, neither party, Democrats or Republicans, over the years, has filibustered judicial nominations until this President's term?

Mr. MCCONNELL. My friend is entirely correct. The temptation may have been there. I would say to my friend from Utah, the temptation may have been there.

Mr. HATCH. Right.

Mr. MCCONNELL. During the 20th century, the same party controlled the executive branch and the Senate 70 percent of the time. Seventy percent of the time, in the 20th century, the same party had the White House and a majority in the Senate. So I am sure—by the way, that aggrieved minority in the Senate, for most of the time, was our party, the Republican Party.

Mr. HATCH. You got that right.

Mr. MCCONNELL. We are hoping for a better century in the 21st century. But it was mostly our party. So there had to have been temptation, from time to time, and frustration, on the part of the minority. Seventy percent of the time, in the 20th century, they could have employed this tactic that was used in the last Congress but did not.

Senator BYRD led the minority during a good portion of the Reagan administration. Actually, during all of the Reagan administration, 6 years in the minority, 2 years in the majority, Senator BYRD could have done that at any point. He did not do it, to his credit. To his credit, he did not yield to the temptation.

As I often say, there are plenty of things we could do around here, but we do not do it because it is not good to do it, even though it is arguably permissible. So when our friends on the other side of the aisle say the filibuster has been around since 1806, they are right. It is just that we did not exercise the option because we thought it was irresponsible.

Mr. HATCH. Not quite right because the filibuster rule did not come into effect until 1917.

Mr. MCCONNELL. No. The ability to stop the filibuster did not come about until 1917. The ability to filibuster came about in 1806.

Mr. HATCH. Well, Senators had the right to speak, and they could speak.

Mr. MCCONNELL. Absolutely.

Mr. HATCH. So in a sense it was not even known as a filibuster at that time. Nevertheless, they had the right to speak.

To follow up on what you just said, we heard repeatedly from liberal interest groups that we must maintain the filibuster to maintain ''checks and balances.'' My understanding of the Constitution's checks and balances is that they were designed to enable one branch of Government to restrain another branch of Government. Are there really any constitutional checks that empower a minority within one of those branches to prevent the other branch from functioning properly?

Mr. MCCONNELL. Well, my friend from Utah is again entirely correct. The term ''checks and balances'' has actually nothing to do with what happened to circuit court appointments during the previous Congress. The term ''checks and balances'' means institutional checks against each other, the Congress versus the President, the judiciary versus both—the balance of power among the branches of Government. It has nothing whatsoever to do with the process to which the Senate has been subjected in the last few years. It is simply a term that is inapplicable to the dilemma in which we find ourselves now.

Mr. HATCH. One last point. The 13 illustrations that the Democrats on the other side have given that they have said are filibusters, if I recall it correctly, 12 of those 13 are now sitting on the Federal bench, as you have said; is that correct?

Mr. MCCONNELL. I say to my friend from Utah, as far as I can determine, for every judge who enjoyed majority support, upon which there was subsequently a filibuster, cloture was invoked, and all of those individuals now enjoy the title ''judge.''

Mr. HATCH. In other words, they are sitting on benches today?

Mr. MCCONNELL. Because they ultimately got an up-or-down vote. I would say to my friend from Utah, we will have an opportunity tomorrow, in the late morning, to handle the Priscilla Owen nomination the way our party, at your suggestion and Senator LOTT's suggestion, toward the end of the Clinton years, handled the Berzon and Paez nominations. They had controversy about them, just as this nomination has controversy about it.

How did we deal with controversy? We invoked cloture. And I remember you and Senator LOTT saying, to substantial grief from some, that these judge candidates had gotten out of committee, and they were entitled to an up-or-down vote on the floor. Senator LOTT joined Senator Daschle and filed cloture on both of those nominations, not for the purpose of defeating them but for the purpose of advancing them. They both got an up-or-down vote. They both are now called judge.

Mr. HATCH. So the cloture votes in those instances were floor management devices to get to a vote so we could vote those nominations to the bench?

Mr. MCCONNELL. For the purpose of advancing the nominations, not defeating them.

Mr. HATCH. So they were hardly filibusters in that sense?

Mr. MCCONNELL. They were not. They were situations which do occur, from time to time, where a nominee has some objection. And around here, if anybody objects, it could conceivably end up in a cloture vote.

Mr. HATCH. And spend a lot of time on the Senate floor.

Mr. MCCONNELL. Yes. It does not mean the nomination is on the way to nowhere. It could mean the nomination is on the way to somewhere because you invoke cloture and then you get an up-or-down vote. And I remember you, as chairman of the Judiciary Committee, advocating that step, even though we all ended up, many of us, voting against those nominations once we got to the up-or-down vote.

Mr. HATCH. Advocating the step that we should invoke cloture and give these people a vote up or down?

Mr. MCCONNELL. Precisely.

Mr. HATCH. One last thing. As to the 13, 12 of them are sitting on the bench.

The 13th that they mentioned was the Fortas nomination. In that case, there was the question of whether there was or was not a filibuster. But let's give them the benefit of the doubt and say there was a filibuster, since there are those who do say there was, although the leader of the fight, Senator Griffin, at the time said they were not filibustering, that they wanted 2 more days of debate, and they were capable and they had the votes to win up or down—

Mr. MCCONNELL. He withdrew, didn't he?

Mr. HATCH. He did. But what happened was there was one cloture vote, and it was not invoked. But even if you consider it a filibuster, the fact is, it was not a leader-led filibuster. It was a nomination that was filibustered—if it was a filibuster—almost equally by Democrats and Republicans.

Mr. MCCONNELL. And isn't it also true, I ask my friend from Utah, that it was apparent that Justice Fortas did not enjoy majority support in the Senate and would have been defeated?

Mr. HATCH. That is right.

Mr. MCCONNELL. Had he not withdrawn his nomination.

Mr. HATCH. The important thing here is it was a bipartisan filibuster against a nominee by both parties, and in these particular cases, these are leader-led partisan filibusters led by the other party.

Mr. MCCONNELL. I thank my colleague.

Mr. SESSIONS. Mr. President, will the Senator yield?

Mr. MCCONNELL. I am happy to yield.

Mr. SESSIONS. I hope Senator HATCH will remain because he has been, much of the first years of my career in the Senate, chairman of the Senate Judiciary Committee. I think it is important to drive home what you have been discussing. I think it is so important.

First, I will say to the distinguished assistant majority leader how much I appreciate his comprehensive history of debate in the Senate. I think it is invaluable for everyone here. But I remember the Berzon and Paez nominations. Both of those were nominees to the Ninth Circuit. Judge Paez, a magistrate judge, declared that he was an activist himself, as I recall, and even said that if legislation does not act, judges have a right to act. And the Supreme Court had reversed the Ninth Circuit 28 out of 29 times one year and consistently reversed them more than any other circuit in America. And here we had an ACLU counsel, in Marsha Berzon, and Paez being nominated.

There was a lot of controversy over that. We had a big fuss over that. We had an objection. I voted for 95 percent of President Clinton's nominees, but I did not vote for these two. I remember we had a conference.

I will ask the assistant majority leader—we were having House Members saying: Why don't you guys filibuster? People out in the streets were saying: Don't let them put these activist judges on the bench. We had our colleagues saying it. I did not know what to do. I was new to the Senate. Do you remember that conference when we had the majority in the Senate, and President Clinton was of the other party and we were not in minority like the Democrats are today—we had the majority—and Senator HATCH explained to us the history of filibusters, why we never used them against judges, and urged us not to filibuster those Clinton nominees?

Mr. MCCONNELL. I remember it well. I would say, our colleague from Utah got a little grief for that from a number of members on our side of the aisle who were desperately looking for some way to sink those nominations. And he said: Don't do it. Don't do it. You will live to regret it. And thanks to his good advice, we never took the Senate to the level—never descended to the level that the Senate has been in the previous Congress.

Mr. SESSIONS. Let me ask this, with the presence of the distinguished former chairman of the Judiciary Committee in the Chamber. At that very moment when it was to the Republican interests to initiate a filibuster, if we chose to do so, at that moment, when he was, on principle, opposing it, the very Members of the opposite party, leading Senators on that side—Senator LEAHY and Senator KENNEDY and Senator FEINSTEIN and Senator BOXER—were making speeches saying how bad the filibuster was and how it should not be done.

Mr. MCCONNELL. I would say to my friend that is why we have been quoting them so much in all of our speeches on this side of the aisle. You could just change the names, and they could have been giving our speeches as recently as 1998, 1999, and even 2000.

Mr. SESSIONS. I could not agree more. A half-dozen years ago, the people who are leading the filibuster were the very ones objecting to it. But Senator HATCH and the Republicans, isn't it fair to say, have been consistent?

Mr. MCCONNELL. Absolutely. Let's just be fair here. I would say to both of my colleagues, without getting into the details of any particular nomination, that I think the Democrats have arguably a legitimate complaint—it has a patina of legitimacy—when they argue that we simply did in committee what they are doing on the floor.

The PRESIDING OFFICER. The time controlled by the majority has now expired.

Mr. MCCONNELL. Mr. President, I ask unanimous consent for an additional 5 minutes.

Mr. LAUTENBERG. I didn't hear that.

Mr. MCCONNELL. I ask unanimous consent for 5 more minutes.

Mr. LAUTENBERG. No objection.

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

Mr. MCCONNELL. They argue that we simply did in committee what they are doing on the floor, and that there is not a dime's worth of difference between holding up a nominee in committee and holding up a nominee on the floor. I think there are some distinctions to be made.

It is not entirely the same thing, but granting that that might have some legitimacy, the majority leader offered these Specter protocols with which the former chairman of the Judiciary Committee is intimately familiar, which would have guaranteed some kind of procedure to extricate those nominations from committee and bring them out to the floor and give them an up-or-down vote. We are in the majority, and we volunteered to give up the ability to routinely kill nominations in committee. Yet they turned that down, too.

Mr. HATCH. Will the Senator yield on that point?

Mr. MCCONNELL. I yield for a question.

Mr. HATCH. The fact is, there have always been holdovers at the end of every administration. There were 54 holdovers at the end of the Bush 1 administration, and he was only there 4 years. We didn't cry and moan and groan and threaten to blow up the Senate over that. We recognized it was part of the process.

I have to say with regard to the holdovers that were there at the end of the Clinton administration, there were some which they could have gotten through, but there were like 18 that were withdrawn. Ten withdrew their names. Some were not put up again between the two administrations. There is no question that I tried to do the very best I could to give President Clinton every possible edge.

But this has always been the case. It isn't just this time. It happened with Democrats in control of the Senate and Republicans in control of the White House. I think that point needs to be made. I have heard a lot of moaning and groaning. I know my colleagues know I did everything in my power to accommodate them and help them.

Mr. MCCONNELL. I believe that is entirely correct. The only point I was seeking to make was if that criticism had any validity whatsoever—and the former chairman has pointed out that it has very little legitimacy—the distinguished majority leader offered to make that essentially impossible, and yet that was rejected as well.

Mr. SESSIONS. Will the Senator yield for one more question?

Mr. MCCONNELL. Yes.

Mr. SESSIONS. Isn't it true that Trent Lott, the Republican majority leader, sought cloture to give Berzon and Paez an up-or-down vote, and those of us who opposed Berzon and Paez, as the Senator from Kentucky did, voted for cloture to give them an up-or-down vote and then voted against them when they came up for the up-or-down vote?

Mr. MCCONNELL. The Senator is entirely correct. That is the way I voted. I believe that is the way he voted. That is the way the Senate ought to operate.

That is a good model for how we ought to behave tomorrow. We will have a cloture vote on Justice Priscilla Owen. If the Senate wants to operate the way it used to, we will invoke cloture on Justice Owen and then give her the up-or-down vote which she richly deserves.

I yield the floor.

Mr. FRIST. Mr. President, more than 2 years ago, this Senate first took a cloture vote to end a filibuster on the nomination of Miguel Estrada for a seat on the DC Circuit Court of Appeals. Mr. Estrada epitomizes the American dream. An immigrant from Honduras, who arrived in America speaking no English, he graduated from Harvard Law School and became one of America's most distinguished lawyers. Mr. Estrada worked for Solicitors General under both President Bill Clinton and President George W. Bush. He argued 15 cases before the Supreme Court. The American Bar Association gave him its highest recommendation, and Miguel Estrada's confirmation by a bipartisan majority of the full Senate was assured.

But the confirmation vote never came. Instead, Mr. Estrada's nomination was filibustered. Each time we sought a consent agreement to limit debate, the Democratic leadership objected. We asked over and over for a simple up or down vote. If you oppose the nominee, we stressed, then vote against him, but give him a vote. But the partisan minority refused. In open session, they remarked that no amount of debate time would be sufficient and that they would not permit the Senate to vote.

After 13 days of debate, with no end in sight, I filed a cloture motion. Every Republican and a handful of Democrats voted for cloture, bringing us to 55 affirmative votes, 5 short of the 60 we needed. Shortly thereafter, we tried again. We got the same 55 votes. And then we tried five more times, never budging a single vote. It was crystal clear that the object of the filibuster was not to illuminate Mr. Estrada's record but to deny him an up or down vote. Debate was not the objective. Obstruction was the objective. Finally, to the shame of the Senate and the harm of the American people, Mr. Estrada asked President Bush to withdraw his nomination.

Before the last Congress, the record number of cloture votes on a judicial nomination was two, and no nomination with clear majority support ever died by filibuster. The Estrada case rewrote that tradition, and for the worse. On Miguel Estrada, seven cloture votes were taken, to no avail. He was a nominee who plainly could have been confirmed, but he was denied an up or down vote. Miguel Estrada's nomination died by filibuster.

And Mr. Estrada's case was just the beginning. After him, came the nomination of Priscilla Owen, a Justice on the Texas Supreme Court. Four cloture votes did not bring an end to the debate and we again were told on the record that no amount of debate would be enough and a confirmation vote simply would not be allowed. Thereafter, eight additional nominees were filibustered and Democrats threatened filibusters on six more. Something had radically changed in the way the Senate deals with nominations. Two hundred years of Senate custom lay shattered, with grave implications for our constitutional system of checks and balances.

As the filibusters began to mushroom, Democratic Senator Zell Miller and I introduced a cloture reform resolution. Our proposal would have permitted an end to nominations filibusters after reasonable and substantial debate. The Rules Committee held a hearing on our resolution and reported it with an affirmative recommendation. But the proposal languished on the Senate Calendar, facing a certain filibuster from Senators opposed to cloture reform. Quite simply, those who undertook to filibuster these nominees wanted no impediments put in their way.

When Congress convened this January, I was urged to move immediately for a change in Senate procedure so that these unprecedented filibusters could not be repeated. But I decided on a more measured and less confrontational course. Rather than move immediately to change procedure, I promoted dialogue at the leadership and committee level to seek a solution to this problem. Rather than act on the record of the last Congress, I hoped that the passage of a clearly won election and presence of new Democratic leadership would result in a sense of fairness being restored.

Sadly, these hopes were not fulfilled. More filibusters have been promised, not only against seven nominees President Bush has resubmitted but also against other nominees not yet sent up. A renewal of filibusters against persons denied an up or down vote in the last Congress is a grave problem and would be reason enough for reform. Threatening filibusters against new nominees compounds the wrong and is further reason for reform.

For many decades, two great Senate traditions existed side by side. These were a general respect for the filibuster and a consensus that nominations brought to the floor would receive an up-or-down vote. Filibusters have been periodically conducted on legislation, sometimes successfully and sometimes ended by cloture. However, filibusters have not impeded the Senate's advice and consent role on nominations. In the exceedingly rare cases they were attempted, cloture was always invoked with bipartisan support and the filibusters ceased.

But in the last Congress, judicial filibusters became instruments of partisan politics. Organized and promoted by the Democratic leadership, these filibusters proved resilient to cloture. And that was the difference between these filibusters and the handful of judicial filibusters conducted in the past. For example, to close debate on President Clinton's nominees, Marsha Berzon and Richard Paez, the Republican leader, Senator LOTT, took the initiative to file for cloture. Because he acted to conclude the debate, both Berzon and Paez sit on the bench today.

Due to the current filibusters, two great Senate traditions that used to coexist now collide. If matters are left in this posture, either the power of advice and consent will yield to the filibuster or the filibuster will yield to advice and consent.

Until these judicial filibusters were launched, the Senate observed the principle that filibusters would not impede the exercise of constitutional confirmation powers and that a majority of Senators could vote to confirm or reject a nominee brought to the floor. The unparalleled filibusters undermine that tradition, denying nominees the courtesy of an up or down vote. They represent an effort by a Senate minority to obstruct the duty of the full Senate to advise and consent. The current minority claims it has no choice but to filibuster, because Republicans control the White House and Senate. But the minority's conclusion defies history.

For 70 of the 100 years of the last century, the same party controlled the Presidency and the Senate, but the minority party leadership exercised restraint and refused to filibuster judicial nominees. The past half century amply illustrates this point. During the Kennedy and Johnson administrations, Democrats controlled the Senate, but the Republican Minority Leaders Everett Dirksen did not filibuster judicial nominees. While President Carter was in office, Democrats controlled the Senate, but Republican Leader Howard Baker did not filibuster judicial nominees. For President Reagan's first 6 years, Republicans controlled the Senate, but Democratic Leader ROBERT BYRD did not filibuster judicial nominees. In President Clinton's first 2 years, Democrats had the Senate but Republican Leader Bob Dole did not filibuster judicial nominees. During all those years, all those Congresses, and all those Presidencies, nominees brought to the floor got an up-or-down vote.

Each of those Senate minorities could have done what this minority has done, using the same rationale. But none of them did. To the great detriment of the Senate and to the constitutional principle of checks and balances, such self-restraint has vanished.

Democrats argue that by curbing judicial filibusters, we would turn the Senate into a rubberstamp. But for more than two centuries, those filibusters did not exist. Shall we conclude that for 200 years the Senate was a rubberstamp and only now has awakened to its responsibilities? What of those minority leaders who did not filibuster? Were they also rubberstamps? Was Dirksen? Was Baker? Was BYRD? Was Dole? Can the minority be right

that only through the filibuster may the Senate's advice and consent check be vindicated? This is a novel conclusion and it stains the reputation of the great Senators that have preceded us.

To make their case against curbs on judicial filibusters, Democrats try to reach into history. In so doing, they cite the 1968 nomination of Abe Fortas to be Chief Justice of the U.S. Supreme Court, and Franklin Roosevelt's court-packing plan of 1937. But use of these examples is an overreach and draws false comparisons.

In 1968, Abe Fortas was serving on the Supreme Court as an Associate Justice. Three years earlier, he had been confirmed by the Senate by voice vote, following a unanimous affirmative recommendation from the Judiciary Committee. Then Chief Justice Earl Warren announced his retirement, effective on the appointment of his successor. President Lyndon Johnson proposed to elevate Fortas to succeed Warren.

The noncontroversial nominee of 1965 became the highly controversial nominee of 1968. Justice Fortas was caught in a political perfect storm. Some Senators raised questions of ethics. Others complained about cronyism. Yet others were concerned about Warren Court decisions. And still others thought that with the election looming weeks away, a new President should fill the Warren vacancy. But this political perfect storm was thoroughly bipartisan in nature, and reflected concerns from certain Republicans as well as numerous southern and northern Democrats.

Senator Mike Mansfield brought the Fortas nomination to the Senate floor late on September 24, 1968. After only 2 full days of debate, Mansfield filed a cloture motion. Almost a third of the 26 Senators who signed the cloture motion were Republicans, including the Republican whip. The vote on cloture was 45 yeas and 43 nays, well short of the two-thirds then needed to close debate. Nearly a third of Republicans supported cloture, including the Republican whip. Nearly a third of Democrats opposed it, including the Democratic whip. Of the 43 negative votes on cloture, 24 were Republican and 19 were Democratic.

Opponents of cloture claimed that debate had been too short in order to develop the full case against the Fortas nomination. In contrast to the Miguel Estrada and Priscilla Owen filibusters, no one claimed that debate would go on endlessly and that no amount of time would be sufficient. Indeed, those who opposed cloture denied there was a filibuster at all.

So, Mr. President, the Fortas case is not analogous to the judicial filibusters we now confront. Support for and opposition to Fortas was broadly bipartisan, a fact that stands in stark contrast to the partisan filibusters that began in the last Congress as an instrument of party policy. At most, it was opposition to one man, and was not an effort to leverage judicial appointments through the threat of a filibuster-veto. The Fortas opposition came together in one aberrational moment. Nothing like it happened in the previous 180 years and nothing like it happened for the next 35 years. Absolutely, it did not represent a sustained effort by a minority party to shatter Senate confirmation traditions and exercise a filibuster-veto destructive of checks and balances. No comparison can be made between that single aberrational moment and the pattern of judicial filibusters we now confront.

Democrats also contend that if we move against the judicial filibusters, we will follow in the footsteps of Franklin Roosevelt's attempt to pack the Supreme Court. But this is a scare tactic and it, too, is a comparison without basis.

Frustrated by the Supreme Court's ruling unconstitutional several New Deal measures, President Roosevelt sought legislation to pack the court by appointing a new Justice for every sitting Justice over the age of 70. In a fireside chat, he compared the three branches of government to a three horse team pulling a plow. Unless all three horses pulled in the same direction, the plow could not move. To synchronize all the horses, Roosevelt proposed to pack the court.

Roosevelt's effort was a direct assault on the independence of the judiciary and plainly undermined the principles of separation of powers and checks and balances. He failed in a Senate with 76 Members of his own party. But no good analogy can be drawn between what he attempted and our effort to end judicial filibusters.

Unlike Roosevelt, Republicans are not trying to undermine the separation of powers. And unlike Roosevelt, Republicans are not trying to destabilize checks and balances, but to restore them.

Mr. President, that the judicial filibusters undermine a longstanding Senate tradition is evident. But traditions are not laudable merely because they are old. This tradition is important because it underpins a vital constitutional principle that the President shall nominate, subject to the advice and consent of the Senate. When filibusters are used to block a vote, the advice and consent of the Senate is not possible.

A cloture vote to end a filibuster is not advice and consent within the Constitution's meaning. Notwithstanding the minority's claim, nominees denied a confirmation vote due to filibuster have not been ''rejected.'' Instead, what has been rejected is the constitutional right of all Senators to vote up or down on the nominees.

To require a cloture threshold of 60 votes for confirmation disturbs checks and balances between the Executive and the Senate and creates a strong potential for tyranny by the minority. A minority may hold hostage the nomination process, threatening to undermine judicial independence by filibustering any appointment that does not meet particular ideological or litmus tests.

This is not a theoretical problem. Look what has happened already. Asserting claims that nominees from the last Congress were ''rejected,'' Democrats have urged President Bush to withdraw the nominations he has submitted anew. If he does not, they will ensure the nominees are denied a confirmation vote. It is but a tiny step from there to claim that any nominee must first secure minority clearance, or else be filibustered. And at that point, the nominating power effectively passes to the Senate minority. If Senate traditions are not restored, this audacious and unprecedented assertion of minority power is coming next, and Presidents will be subject to it from now on.

The Constitution provides that a duly elected Executive shall nominate, subject to advice and consent by a majority of the Senate. Implicit in that structure is that the President and the Senate shall be politically accountable to the American people, and that accountability will be a sufficient check on the decisions made by each of them. That was the system by which we Americans addressed nominations for more than two centuries, until the last Congress. If we allow recent precedents to harden and give the minority a filibuster-veto in the confirmation process, that system and the checks and balances it serves, will be permanently destroyed.

Trying to legitimize their judicial filibusters, Democrats have taken to the floor to extol the virtue of filibusters generally. And as to legislative filibusters, I agree with them. But judicial filibusters are not cut from the same cloth as legislative filibusters and must not receive similar treatment. So, I concur with the sentiments Senator Mansfield expressed during the Fortas debate:

> In the past, the Senate has discussed, debated and sometimes agonized, but it has always voted on the merits. No Senator or group of Senators has ever usurped that constitutional prerogative. That unbroken tradition, in my opinion, merely reflects on the part of the Senate the distinction heretofore recognized between its constitutional responsibility to confirm or reject a nominee and its role in the enactment of new and far-reaching legislative proposals.

Mr. President, history demonstrates that filibusters have almost exclusively been applied against the Senate's own constitutional prerogative to initiate legislation, and not against nominations. The Frist-Miller cloture reform proposal from the last Congress dealt with nominations only, not legislation and not treaties. We addressed solely what was broken. Over many decades, numerous cloture reforms have been proposed. But ours was the only one to apply strictly to nominations. We left legislative filibusters alone.

Contrary to what Democrats would have you believe, no Republican seeks

to end legislative filibusters. The Democrats are creating a myth. These are the facts: my first Senate vote was to defeat a 1995 rules change proposal to curtail filibusters of every kind. Introduced by Democrats, it received 19 votes, all from Democrats. In 1995, we had a new Republican majority. We would have been the prime beneficiaries of the rules change, but we supported minority rights to filibuster on legislation. Some of the Senators who most vigorously promote judicial filibusters and condemn us for trying to restore Senate traditions, were among those voting for the 1995 change. And here is the irony: had the 1995 change been adopted, the judicial filibusters would be impossible.

Some who oppose filibuster reform do so because they fear that curbing judicial filibusters will necessarily lead to ending the right to filibuster legislation. But history strongly suggests this slippery slope argument is groundless. In 1980, under the leadership of Senator BYRD and on a partisan vote, Senate Democrats engineered creation of a precedent to bar debate on a motion to proceed to a nomination. Before then, the potential existed for extended debate on the motion to proceed to a nomination and again on the nomination itself. Indeed, debate on the Fortas nomination occurred on the motion to proceed. The 1980 precedent rendered such debate impossible.

Simple logic would dictate that a parallel precedent would be established next, to bar debate on motions to proceed to legislation. But that logic was not followed. The Byrd precedent of 1980 has stood for 25 years and no move has ever been made to extend it to legislation. Why not? I suggest there are two reasons. First, the Senate has recognized substantial distinctions between procedures applicable to Executive matters—nominations and treaties—and those applicable to legislation. Second, within the Senate there is no discernible political sentiment to curtail the right to debate a motion to proceed to legislation.

Given those substantial procedural distinctions and the absence of such political sentiment, the spillover from the 1980 Byrd precedent has been nil.

There is a further reason why I do not believe curbing judicial filibusters implicates legislation. For 22 years, between 1953 and 1975, floor fights over the cloture rule were a biennial ritual. Finally, in 1975, the rule was amended to require 60 votes before cloture could be invoked. A bipartisan consensus gathered around the new cloture threshold and, at least as to legislation, this consensus has held fast. That is the principal cause why the 1995 effort by certain Democrats to liberalize the cloture rule got only 19 votes. Indeed, both the Republican and Democratic leadership opposed it.

The 30-year bipartisan consensus on cloture has unraveled on judges, where filibusters are new, but it remains intact on legislation, where filibusters are traditional. While no one can be sure what procedural changes a future majority may propose, this consensus is so broad and longstanding that predictions of a move against the legislative filibuster lack basis.

Finally, Mr. President, I will repeat what I have said in a series of public statements both on this floor and to the press: the Republican majority will oppose any effort to restrict filibusters on legislation.

All this, Mr. President, brings us to the question of how to address the problem of judicial filibusters. What might reform look like and how might the Senate adopt it?

A good place to start is with first principles. In the case of judicial nominations, I believe the foundational principle is that if a majority of Senators wishes to exercise its right to advise and consent to a nomination, it must be able to do so.

To that end, I have offered a Fairness Rule, which takes account of complaints set forth by both parties. My proposal addresses the question of holding nominations in committee, so that nominations can move to the floor for a conformation vote. By this step, the Senate would respond specifically to concerns Democrats have voiced about the treatment of Clinton nominees. So, if a majority of Senators wishes to advise and consent, committee inaction would not block it. Thereafter, a majority can bring a nomination to the floor. After 100 hours of debate, equally divided, the Senate can vote up or down on the nominee. This step responds specifically to concerns Republicans have had about filibusters of Bush nominees.

The Fairness Rule is the product of listening to the often rancorous arguments expressed by Democrats and Republicans. It would reform the confirmation process fairly and completely, and well serve this and future Senates and this and future Presidents.

The cycle of blame and finger-pointing must halt. We must stop nursing grievances and start addressing problems. Thus far, the Fairness Rule has received an unwelcoming response. I urge the minority to reconsider. I urge them to join hands with us in dissipating bitter partisanship by considering this proposal.

For some time, the issue of judicial filibusters has captured considerable attention in the Senate. Both parties have had substantial opportunities to think about reform, so we can initiate consideration of it through the committee process and should be able to move ahead with alacrity.

But to act on reform by this method, we must have a unanimous consent agreement that allows time for debate, a chance for amendment, and the certainty of a final vote. An agreement can provide for robust, principled, and lengthy discussion. Without an agreement, any reform we bring to the floor is subject to being filibustered itself.

So, I ask the minority for an agreement to move matters forward. It represents an opportunity, much desired by Senators on both sides of the aisle, to avoid a confrontation on judges. But if the answer is obstruction, then we are faced with having to initiate exercise of the Senate's constitutional option—best understood as reliance on the power the Constitution gives the Senate to govern its own proceedings.

The Senate is an evolving institution. Its rules and processes are not a straitjacket. Over time, adjustments have occurred in Senate procedure to reflect changes in Senate behavior. Tactics no longer limited by self-restraint became constrained by rules and precedents. This Senate, equal to the first Senate, has the constitutional right to determine how it wishes to conduct its business.

Self-governance involves writing rules or establishing precedents, and the Constitution fully grants to the Senate the power to do either.

Democrats contend that if the constitutional option is used to restore checks and balances, Republicans would be veering into unchartered waters. But history is rich with examples of how Senate rules and precedents have changed in response to changing conditions. And quite often, it was the credible threat or actual use of the constitutional option that caused these changes to be made.

The cloture rule itself was created in 1917, under pressure from Montana Democrat Thomas Walsh. Fed up with obstruction and with the prospect that any effort to amend Senate rules would be filibustered, Walsh proposed exercising the constitutional option. Old Senate rules would not operate while the Senate considered new rules, including a cloture procedure. Meanwhile, general parliamentary law would govern—affording the Senate a way to break the rules change filibuster. Faced with that pressure, and with an appropriate parliamentary tool at hand, the Senate adopted its first cloture rule.

As the issue of civil rights gripped the Senate in the 1950s, a bipartisan group of Senate liberals, led by New Mexico Democrat Clinton Anderson, proposed using the constitutional option to liberalize a cloture process, because filibusters had either doomed or weakened civil rights legislation. Anderson's support grew throughout the decade. By 1959, it was apparent he might command a majority, which forced Senator Lyndon Johnson into a compromise by which the cloture threshold was relaxed. But for the credible threat the constitutional option would be exercised, the rules change would not have happened.

In 1975, Minnesota Democrat Walter Mondale and Kansas Republican Jim Pearson pressed for cloture reform through the constitutional option. Majority Leader Mike Mansfield, who earlier in his career had supported this tactic, offered three separate points of order against it. Three times, those points of order were tabled. With a majority of Senators squarely on record

supporting the constitutional option, the Majority Whip, Senator BYRD, offered a successful leadership compromise to lower the cloture threshold. But for the constitutional option, the change would not have happened.

In 1979, Majority Leader BYRD sought to make a variety of rules reforms, principally with regard to cloture. Introducing a rules change resolution, he beseeched Republicans for a time agreement to consider it. But he also expressly warned that, if an agreement were not forthcoming, he would use the constitutional option to change the rules. Minority Republicans did not threaten to shut the Senate down. Instead, they gave him an agreement, from which followed a lengthy and spirited debate. In the end, the cloture rule was amended—a change that happened under pressure from the constitutional option.

From this history, one must conclude that the threat or use of the constitutional option was a critical factor in the creation and development of the Senate cloture rule.

The constitutional option is also exercised every time the Senate creates a precedent. Four examples will illustrate the point. I have spoken already of Senator BYRD's 1980 precedent to bar debate on motions to proceed to nominations. In 1977, 1979, and 1987 he led a Senate majority to establish precedents that restricted minority rights and tactics in use at the time. We do not have to pass judgment on the purposes or value of any of these moves to note the following: three of these cases were decided on a party-line or near party-line vote. Moreover, every time Senator BYRD commanded a majority to make these precedents, minority rights were limited.

We have been publicly threatened that if we act to end judicial filibusters, Democrats will fundamentally shut the Senate down. To follow their logic, if we expect to get the public's business done, we must tolerate upending Senate traditions and constitutional checks and balances.

I would strongly prefer that matters not come to that. It would be far better for the Senate to have a vigorous and elevated debate about reforming the entire confirmation process, followed by a vote. I am ready for that debate and willing to schedule the floor time necessary to make it happen.

Mr. President, I introduced the Frist-Miller cloture reform proposal nearly 2 years ago, on May 9, 2003. The problem of judicial filibusters had just taken root. At the time, I said that I was acting with regret but determination. Regret, because no one who loves the Senate can but regret the need to alter its procedures, even if to restore old traditions. Determination, because I was determined that the changes judicial filibusters had wrought in the Senate could not become standard operating procedure in this Chamber.

Since then, the Senate majority has exercised self-restraint, hoping for a bipartisan understanding that would make procedural changes unnecessary. But if an extended hand is rebuffed, we cannot take rejection for an answer.

Much is at stake in resolving the issue of judicial filibusters. Senator Mansfield spoke to this issue during the Fortas debate in 1968. His words are instructive now:

> I reiterate we have a constitutional obligation to consent or not to consent to this nomination. We may evade that obligation but we cannot deny it. As for any post, the question which must be faced is simply: Is the man qualified for the appointed position? That is the only question. It cannot be hedged, hemmed or hawed. There is one question: shall we consent to this Presidential appointment? A Senator or group of Senators may frustrate the Senate indefinitely in the exercise of its constitutional obligation with respect to this question. In so doing, they presume great personal privilege at the expense of the responsibilities of the Senate as a whole, and at the expense of the constitutional structure of the Federal government.

Mr. President, exercising the constitutional option to restore Senate traditions would be an act of last resort. It would be undertaken only if every reasonable step to otherwise resolve this impasse is exhausted. At stake are the twin principles of separation of powers as well as checks and balances bedrock foundations for the Constitution itself. And at stake is our duty as Senators of advice and consent, to confirm a President's nominee or reject her, but at long last to give her a vote.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, the debate bounces back and forth, and we hear the complaints about the change in the system, one that has been in existence for some 200 years. It was formally adopted in the early part of the 20th century.

I see the fact that the traditions and rules of the Senate are, frankly, in deep jeopardy. The current majority leader is threatening to annihilate over 200 years of tradition in this Senate by getting rid of our right to extended debate. The Senate that will be here as a result of this nuclear option will be a dreary, bitter, far more partisan landscape, even though it obviously prevents us from operating with any kind of consensus. It will only serve to make politics in Washington much more difficult.

One has to wonder, what happened to the claims that were made so frequently, particularly in the election year 2000, when then-candidate Bush, now President, talked about being a uniter, not a divider? It has been constantly referenced. ''I want to unite the American people, not divide them.''

With this abuse of power, the majority is about to further divide our Nation with the precision of a sledgehammer.

I want the American people to understand what is going to happen on the floor of the Senate if things go as planned. Vice President CHENEY, whom we rarely see in this Chamber, is going to come here for the specific purpose of breaking existing rules for the operation of the Senate. He is going to sit in the Presiding Officer's chair and do something that, frankly, I don't remember in my more than 20 years in the Senate. He could intentionally misstate, if what we hear is what we are going to get, the rules of the Senate.

Think about the irony. Vice President CHENEY gets to help nominate Federal judges. Then when the Senate objects to the administration's choices, he is going to come over here and break our rules to let his judges through. Talk about abuse of power. The Founding Fathers would shudder at the thought of this scenario. It runs counter to the entire philosophy of our Constitution. Our Constitution created a system that they thought would make it impossible for a President to abuse his powers.

Tomorrow, we are going to see what amounts to a coup d'etat, a takeover right here in the Senate. The Senate, just like society at large, has rules. We make laws here and we brag about the fact that this is a country of laws. We make laws here and expect Americans to follow them. But now the majority leader wants the Senate to make it easier for the Republican Senators to change the rules when you don't like the way the game is going. What kind of an example does that set for the country? Some may ask if we don't follow our own rules, why should the average American follow the rules that we make here?

If the majority leader wants to change the rules, there is a legal way to do it. A controversial Senate rule change is supposed to go through the Rules Committee. Once it reaches the full Senate for consideration, it needs 67 votes to go into effect. But rather than follow the rules, Vice President CHENEY will break the rules from his position as the Presiding Officer and change the rules by fiat. In other words, we will see an attempt to overthrow the Senate as we know it.

Hopefully, some courageous Senators will step forward, vote their conscience, and put a stop to this once and for all. There are several people who disagree with their leader on the Republican side, and they have expressed their unwillingness to go through with this muscular takeover of the Senate.

It is unbefitting the body. President Bush and the majority leader want to get rid of the filibuster because it is the only thing standing between them and absolute control of our Government and our Nation. They think the Senate should be a rubberstamp for the President. That is not what our Founders intended. It is an abuse of power, and it is wrong, whether a Republican or a Democrat lives in the White House.

I say to the American people: Please, get past the process debate here. Let's not forget how important our Federal judges are. They make decisions about

what rights we have under our Constitution. They make decisions about whether our education and environmental laws will be enforced. They make decisions about whether we continue to have health care as we know it. And sometimes, let us not forget, they may even step in to decide a Presidential election.

The Constitution says the Senate must advise and consent before a President's judicial nominations are allowed to take the bench. It doesn't say advise and relent. It doesn't say consent first and then advise. As Democratic leader HARRY REID recently said: George Bush was elected President, not king.

The Founding Fathers, Washington, Jefferson, and Madison, did not want a king. And that is why the Constitution created the Senate as a check on the President's power. With terrible ideas like Social Security privatization coming from the President these days, the American people are thankful that we are here to stop it.

President Bush once famously said:

If this were a dictatorship, it'd be a heck of a lot easier, just so long as I'm the dictator.

I am hopeful that President Bush was kidding when he said that. But the President's allies don't seem to be. They want the Senate to simply approve every Bush nominee regardless of the record.

We have confirmed 208 of President Bush's nominees. But there are several we objected to because we believed they were too extreme. They voiced their opinions. This was not based on hearsay. It was based on things they said. They are too extreme to sit on the Federal bench.

The Republican side of the aisle calls this the tyranny of the minority. But in the Senate, who is the minority and who is the majority? When you do the math on the current Senate, you will find that the majority is actually in the minority. The minority is the majority. Here is what I mean: Majority or minority. Current Senate: Republican caucus, 55 Senators, they represent 144,765,000 Americans. The Democratic caucus has less Senators, 45 as opposed to 55, and they represent some 148,336,000 Americans. So where is the minority here?

In this chart each Senator is allotted one-half of his or her State's population, just to explain how we get there. What you find is that the minority in this body, the Democratic caucus, represents 3.5 million more people than does the majority. That is exactly why the Founding Fathers wanted to protect minority rights in the Senate because a minority of Senators may actually represent a majority of the people.

How do you discard that and say: Well, we are the majority? You don't own the place. It is supposed to be a consensus government, particularly in the Senate.

I make one last appeal to the majority leader: Don't take this destructive action.

I want the American people to understand one thing: The big fight here is because the people who will get these positions have lifetime tenure. That means they could be here 20, 30, or 40 years.

I have faith in the courage of my colleagues across the aisle. I hope they are going to put loyalty to their country ahead of loyalty to a political party.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I compliment my colleague from New Jersey for his eloquence and for his insight on the important role the filibuster has always played in building consensus in our society.

It is unfortunate that we are here. It is unfortunate for this institution. It is unfortunate for the Members of this body. It is unfortunate for our country and for the political process that governs us all.

Mr. President, let there be no illusions. There will be no winners here. All will lose. The victors, in their momentary triumph, will find that victory is ephemeral. The losers will nurture their resentments until the tables one day turn, as they inevitably will, and the recrimination cycle will begin anew.

This sorry episode proves how divorced from the reality of most America Washington and the elites that too often govern here have become. At a time when Americans need action on health care, the economy, deficit, national security, and at a time when challenges form around us that threaten to shape the future, we are obsessing about the rules of the Senate and a small handful of judges. At times like this, I feel more like an ambassador to a foreign nation than a representative of my home.

This episode feeds the cynicism and apathy that have plagued the American people for too long. It brings this institution and the process that has brought us here into disrepute and low esteem. No wonder so few of our citizens take the time to exercise even the most elementary act of citizenship—the act of going to the polls to vote.

Very briefly, let me say what this is all about, but let me begin by saying what it is most definitely not about. This is not about the precedents and history of this body. It has been interesting to sit silently and observe colleagues on both sides of the aisle make appeals to precedent and history, and both do so with equal passion. History will not provide an answer to this situation that confronts us. It is not about whether nominees get an up-or-down vote. In fact, it is about the threshold for confirmation that nominees should be held to, a simple majority or something more. It is not about whether the chief executive will have his way the vast majority of the time. This President has seen 96 percent, or more, of his nominees confirmed by this Senate, which is a high percentage by any reckoning. This debate is not about whether or not there are ideological or partisan tests being applied to nominees. I would assume that the 200-some nominees sent to us by this President are, for the most part, members of his party, that most share his ideology, and yet more than 200 have been confirmed. There are no litmus tests here.

Mr. President, this is really about the value we, as a people, place upon consensus in a diverse society. It is about the reason that the separation of powers and the balance of powers were created by the Founders of this Republic in the first place. And it is ultimately about whether we recall our own history and the understanding of human nature itself, the occasional passions and excesses and deals of the moment that lead us to places that threaten consensus and the very social fabric of this Republic. It is about the value we place upon restraint in such moments.

Is it unreasonable to ask more than a simple majority be required for confirmation to lifetime appointments to the courts of appeal or the Supreme Court of the United States, who will render justice and interpret the most fundamental, basic framing documents of this Nation? Should something more than a bare majority be required for lifetime appointments to positions of this importance and magnitude? I believe it should.

Should we be concerned about a lack of consensus on such appointees who will be called upon to rule upon some of the most profound decisions which inevitably touch upon the political process itself? I think my colleague, Senator LAUTENBERG, mentioned the decision in Gore v. Bush. And if a sizable minority of the American people come to conclude that individuals who are rendering these verdicts are unduly ideological or perhaps unduly partisan themselves, will this not undermine the respect for law and the political process itself and ultimately undermine our system of governance that brought us here? I fear it might. Essentially, aren't these concerns—respect for the rule of law, respect for the independence of the judiciary, the importance of building consensus, and the need in times of crisis to lay aside the passions of the moment and understand the importance of restraint on the part of the majority—aren't these concerns more fundamentally important to the welfare of this Republic than four or five individuals and the identities of those who will fill these vacancies? The answer to that must be, unequivocally, yes.

There are deeper concerns than even these, Mr. President. The real concerns that I have with regard to this debate have to do with the coarsening of America's politics. In the 6½ years I have been honored to serve in this body, there have been just two moments of true unity, when partisanship and rancor and acrimony were placed

aside. First was in the immediate aftermath of the first impeachment of a President since 1868 and the feeling that perhaps we had gone too far. The second was in the immediate aftermath of 9/11, when our country had literally been attacked and there was a palpable understanding that we were first not Republicans or Democrats, but first and foremost Americans. It is time for us to recapture that spirit once again.

Today, all too often, we live in a time of constant campaigns and politicking, an atmosphere of win at any cost, an aura of ideological extremism, which makes principled compromise a vice, not a virtue. Today, all too often, it is the political equivalent of social Darwinism, the survival of the fittest, a world in which the strong do as they will and the weak suffer what they must. America deserves better than that.

I would like to say to you, Mr. President, and to all my colleagues, that you, too, have suffered at our hands. Occasionally, we have gone too far. Occasionally, we have behaved in ways that are injudicious. I think particularly about the President's own brother, who was brought to the brink of personal bankruptcy because he was pursued in an investigation by the Congress, not because he had plundered his savings and loan, but because he happened to be the President's brother. Each of us is to blame, Mr. President. More importantly, each of us has a responsibility for taking us to the better place that the American people have a right to deserve.

There is a need for unity in this land once again. We need to remember the words of a great civil rights leader who once said: We may have come to these shores on different ships, but we are all in the same boat now.

We need to remember the truth that too many in public life don't want us to understand; that, in fact, we have more in common than we do that divides us. We are children of the same God, citizens of the same Nation, one country indivisible, with a common heritage forged in a common bond and a common destiny. It is about time we started behaving that way. We need to remember the words of Robert Kennedy, who was in my home State the day Martin Luther King was assassinated. Indianapolis was the only major city that escaped the violence of that day, most attributed by Kennedy's presence in our city. He went into Indianapolis in front of an audience that was mostly minority citizens. He went up on a truck bed and said: I am afraid I have some bad news. Martin Luther King was killed today. A gasp went up from the audience. He said: For those of you who are tempted to lash out in anger and violence, I can only say that I too had a relative who was killed. He too was killed by a white man. Kennedy went on to say that what America needs today in these desperate times is not more hatred, or more anger, or more divisiveness; what America needs today is more unity, more compassion, and more love for one another.

That was true in 1968; it is true today. The time has come for the sons and daughters of Lincoln and the heirs of Jefferson and Jackson to no longer wage war upon each other, but instead to take up again our struggles against the ancient enemies of man—ignorance, poverty, and disease. That is what has brought us here. That is why we serve.

Mr. President, we need to rediscover the deeper sense of patriotism that has always made this Nation such a great place, not as Democrats or Independents, not as residents of the South, or the East, or the West, not as liberals or conservatives, or those who have no ideological compass, but as one Nation, understanding the threats that face us, determined to lead our country forward to better times.

So I will cast my vote against changing the rules of this Senate for all of the reasons I have mentioned in my brief remarks and those that have been mentioned by speakers before me. But more than that, I will cast my vote in the profound belief that this is a rare opportunity to put the acrimony aside, put us on a better path toward more reconciliation, more understanding and cooperation for the greater good. And if in so doing, I and those of similar mind can drain even a single drop of blood or venom from the blood that has coarsed through the body of this politic for too long, we will have done our duty to this Senate and to the Republic that sent us here, and that is reward enough for me.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, first, I commend my colleague for his wise words. I thank Senator BAYH. This morning I had the occasion to meet with members of the press and the public at the Old State House in Providence, RI, the seat of Rhode Island Government for many years in the early days of this country. In fact, in 1790, George Washington and Thomas Jefferson enjoyed a banquet in that building to celebrate the Constitution of the United States—that careful balancing of majority power and minority rights.

Unfortunately, these days in Washington, we are on the verge of upsetting that balance, of using majority power to undermine minority rights. In doing so, we are stilling the voices of millions of Americans—the millions of Americans that we represent—and not just geographically represent—the poor, the disabled, those who fight vigorously for environmental quality—all of those individuals will see their voices diminished and perhaps extinguished if we choose this nuclear option.

The Senate was created to protect the minority. It was also clearly envisioned to serve as a check on Presidential power, particularly on the power to appoint judges. Indeed, it was in the very last days of the Constitutional Convention in 1787 that the Founding Fathers decided to move the power to appoint Federal judges from the control exclusively of the Senate to that of a process of a Presidential nominee with the advice and consent of the Senate.

Indeed, in those last days, there was a shift of power, but not a surrender of power. This Senate still has an extraordinary responsibility to review, to carefully scrutinize the records of those individuals who would serve for a lifetime on our Federal courts.

It is very important that the American people, when they come before the bar of Federal justice, stand before a judge of the United States, feel and know that that individual has passed a very high test, that that individual is not a Republican judge or a Democratic judge, not an ideologue of the right or left, but they received broad-based support in the Senate, and they stand not for party, but for law and the United States of America.

We are in danger of upsetting that balance, of putting on the court people who are committed to an ideological plan. We are seeing people who are being presented to us who will, I think, undermine that sense of confidence that the American people must have in the judges they face in the courts of this land.

Indeed, it is also ironic that today as we discuss this issue of eviscerating minority rights in the United States Senate, we hear our leaders talk about the necessity—the absolute necessity—of protecting the minority in Iraq. If you listen to the President, Secretary of State Rice, and others, they talk about how essential it is to ensure that there are real procedural protections for the Sunni minority in Iraq. In fact, what they are trying to do in Iraq they are trying to undo in America by stripping away those procedural protections that give the minority a real voice in our Government.

In a recent National Review article by John Cullinan, a former senior policy adviser to the U.S. Catholic Bishops, he said it very well. He posed a question in this way:

> Will Iraq's overwhelming Shiite majority accept structural restraints in the form of guaranteed protections for others? Or does the majority see its demographic predominance as a mandate to exercise a monopoly of political power?

This, in a very telling phrase, sums it up:

> Does a 60-percent majority translate into 100 percent of the political pie?

The question we will answer today, tomorrow, and this week: Does the 55-vote majority in the Senate translate to 100 percent of the political pie when it comes to naming Federal judges? Just as it is wrong in Iraq, I believe it is wrong here because without minority protections, without the ability of the minority to exercise their rights, to raise their voice, this process is

doomed to a very difficult and, I think, disastrous end.

We have today measures before us that threaten the filibuster, and I believe this is not the end of the story if this nuclear option prevails because I think the pressure by the interest groups that are pushing this issue—the far right who are demanding that this nuclear option be exercised—will not be satisfied by simply naming judges because that is just part of what we do. They will see in the days ahead, if this nuclear option succeeds, opportunities to strike out our ability to stop legislative proposals, to stop other Executive nominees. They will be unsatisfied and unhappy that in the course of debate and deliberation here, we are not willing to accept their most extreme views about social policy, about economic policy, about the world at large. The pressure that is building today will be brought to bear on other matters.

So this is a very decisive moment and a very decisive step. I hope we can avoid stepping over it into the abyss. I hope we can maintain the protections that have persisted in this Chamber in one form or another for 214 years. The rules give Senators many opportunities to express themselves. It is not just the cloture vote. There are procedures to call committee hearings, to call up nominees that have been appointed, that also give Senators an opportunity to express themselves.

I need not remind many people here that at least 60 of President Clinton's judicial nominees never received an up-or-down vote, and it is ironic, to say the least, that many who participated in that process now claim a constitutional right for an up-or-down vote on a Federal nominee to the bench.

In fact, according to the Congressional Research Service, since 1945, approximately 18 percent of judicial nominees have not received a final vote. By that measure, President Bush has done remarkably well by his nominees—218 nominees, 208 confirmations, a remarkable record, which shows not obstruction but cooperation; which shows that this Senate, acting together, with at least 60 votes, but still exercising its responsibility to carefully screen judges has made decisions that by a vast majority favor the President's nominees. That is not a record of obstruction, that is a record of responsibility.

Again, at the heart of this is not simply the interplay of Senators and politics. At the end of the day, we have to be able to demonstrate to the American public that if they stand before a Federal judge, they will be judged on the law; they will be judged by men and women with judicial temperament, who understand not only the law and precedent, but understand they have been given a responsibility to do justice, to demonstrate fairness.

If we adopt this new procedure and are able to ram through politically, ideologically motivated judges, that confidence in the fairness of federal judges might be fatally shaken and that would do damage to this country of immense magnitude.

The procedure that is being proposed is not a straightforward attempt to change the rules of the Senate because that also requires a supermajority. No, this is a parliamentary ploy, an end run around the rules of the Senate, a circumvention, and a circumvention that will do violence to the process here and, again, I think create a terrible example for the American public.

We have difficult choices before us. There are those who suggest that it is somehow unconstitutional not to provide an up-or-down vote. Where were they when the 60 judges nominated by President Clinton were denied an up-or-down vote? No, the rules of the Senate prevailed at that time, as they should prevail at this time because the Constitution clearly states that each House may determine the rules of its proceedings. And we have done that in a myriad of ways and will continue to do that. The right to unlimited debate in this Senate is one of the rights that has been protected by rules that have been in force for many years.

We are involved in a debate that has huge consequences for the country and for the Senate. I believe this institution must remain a place where even an individual Senator can stand up and speak in such a way and at such length that he not only arouses the conscience of the country, but, indeed, he or she may be able to deflect the country away from a dangerous path.

In the 1930s, President Roosevelt also had problems with the court system, he thought. He decided he would pack the courts. He would propose the expansion of the U.S. Supreme Court. Even though it was supported by the majority leader at that time, it was brought to this floor, and a small band of Senators stood up and spoke and convinced the public of the wrongness of that path and saved this country and saved President Roosevelt from a grave mistake.

Today, once again, we are debating the future of our judicial system, and I believe without the filibuster, we will make grave mistakes about who goes on our courts and what will be the makeup of those courts.

It might be that I have a particular fondness for the ability to represent those who are not numerous. I come from the smallest State, geographically, in the country, Rhode Island. We have two Senators, and we have two Members of the U.S. House of Representatives. But myself and my colleague, Senator CHAFEE, can stand up and speak and have the force of any of the larger States in this country. That is an essential part of our Federal system, an essential part of the Constitution that provided this wise balance between majority power and minority rights.

We are in danger of seeing that power—I believe arrogantly displayed—potentially undercutting the rights of one Senator or two Senators or eight Senators to stand up, to speak truth to power, to challenge the views, to awaken the conscience of the country, to prevent the accumulation of so much power that we slowly and perhaps imperceptibly slide to a position where there is no effective challenge, and that would do great harm to this constitutional balance.

Mr. President, this is a serious debate—a very serious debate. It is one in which I hope cooler heads prevail. It is one in which I hope we all step back and recognize that what we do will affect this institution and this country for a long time. I hope that we will refrain from invoking this nuclear option, that we recognize the traditions of the Senate not out of nostalgia but because they have served us well, and will continue to serve us well. They will ensure that we can speak not just as an exercise in rhetoric, but to have real effect in this body, the greatest deliberative assembly the world has ever known.

Mr. President, with that, I yield the floor to my colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, President Harry Truman once said that the only thing new in the world is the history that you do not know. And so it is today with those who think this effort to amend the rules by breaking them, the nuclear option, is something new under the Sun.

This is not the first time that it has been tried. Sadly, there have been a few other efforts to amend the rules by fiat, but, and this is the crucial point, the Senate has never done it.

Whenever an effort was made to change the rule by fiat, it has been rejected by this body. There are procedures for amending the Senate's rules, and the Senate has always insisted that they be followed. In previous cases, the majority of Senators has stood up for that principle, often over the wishes of their own party's leader. It is my hope there will be a majority of such Senators tomorrow.

I entered some of that history in the CONGRESSIONAL RECORD last week, and I will not repeat it all now. One incident stands out and bears repeating, and after doing so, I will add a second chapter to that incident.

In 1949, Vice President Alben Barkley ruled that cloture applied to a motion to proceed to consideration of a bill. In other words, that rule XXII, which allows for the cutoff of debate, applied to a motion to proceed to consideration of a bill. The ruling was contrary to Senate precedent and against the advice of the Senate Parliamentarian and was made despite the fact that rule XXII, as it then existed, clearly provided only that the pending matter was subject to cloture.

The Senate rejected Vice President Barkley's ruling by a vote of 46 to 41. Significantly, 23 Democratic Senators, nearly half of the Democrats voting,

opposed the ruling by the Vice President of their own party. Later, the Senate, using the process provided by Senate rules, by a vote of 63 to 23, adopted a change in rule XXII to include a motion to proceed.

After that rule change, changed according to the procedures for amending rules, a supermajority could end a debate on the motion to proceed to a bill, for instance, as well as ending debate on the bill itself.

Last week, I quoted the words of one of the giants of Senate history, Senator Arthur Vandenberg of Michigan about that debate. This is what Senator Vandenberg said:

I continue to believe that the rules of the Senate are as important to equity and order in the Senate as is the Constitution to the life of the Republic, and that those rules should never be changed except by the Senate itself, in the direct fashion prescribed by the rules themselves.

Senator Vandenberg continued:

One of the immutable truths in Washington's Farewell Address, which cannot be altered even by changing events in a changing world, is the following sentence: ''The Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all.''

[T]he father of his country said to us, by analogy, ''the rules of the Senate which at any time exist until changed by an explicit and authentic act of the whole Senate are sacredly obligatory upon all.''

Senator Vandenberg continued:

When a substantive change is made in the rules by sustaining a ruling by the Presiding Officer of the Senate—and that is what I contend is being undertaken here—it does not mean that the rules are permanently changed. It simply means, that regardless of precedent or traditional practice, the rules, hereafter, mean whatever the Presiding Officer of the Senate, plus a simple majority of Senators voting at the time, want the rules to mean. We fit the rules to the occasion, instead of fitting the occasion to the rules. Therefore, in the final analysis, under such circumstances, there are no rules except the transient, unregulated wishes of a majority of whatever quorum is temporarily in control of the Senate.

And Senator Vandenberg added:

That, Mr. President, is not my idea of the greatest deliberative body in the world. . . . No matter how important [the pending issue's] immediate incidence may seem today, the integrity of the Senate's rules is our paramount concern, today, tomorrow, and so long as this great institution lives.

Senator Vandenberg continued:

This is a solemn decision—reaching far beyond the immediate consequence—and it involves just one consideration. What do the present Senate rules mean; and for the sake of law and order, shall they be protected in that meaning until changed by the Senate itself in the fashion required by the rules?

Senator Vandenberg eloquently summarized what is at the root of the nuclear option:

. . . [T]he rules of the Senate as they exist at any given time and as they are clinched by precedents should not be changed substantively by the interpretive action of the Senate's Presiding Officer, even with the transient sanction of an equally transient Senate majority. The rules can be safely changed only by the direct and conscious action of the Senate itself, acting in the fashion prescribed by the rules. Otherwise, no rule in the Senate is worth the paper that it is written on, and this so-called ''greatest deliberative body in the world'' is at the mercy of every change in parliamentary authority.

Mr. President, tonight, I do more than underscore the foresightful words of Senator Vandenberg, which are all the more significant because, as he made clear, he agreed that the Senate's cloture rule needed to be changed in the fashion proposed but not by using the illegitimate process proposed of amending our rules by fiat of a Presiding Officer.

There was even more to it—and it is again directly relevant to the proceeding that is pending. The year was 1948, 1 year before the Barkley ruling which I just described. Senator Vandenberg was President pro tempore of the Senate and was presented with a motion to end debate on a motion to proceed to consideration of an antipoll tax bill.

Senator Vandenberg ruled, as Presiding Officer, that the then-language of rule XXII, providing a procedure for terminating debate for ''measures before the Senate'' did not apply to cutting off debate on the motion to proceed to a measure, even though he thought that it should on the merits. So he ruled against what he believed in on the merits because of his deep belief in the integrity of the rules of the Senate. And in making that ruling, again while serving as the Presiding Officer, this is what Senator Vandenberg said.

The President pro tempore [that's him] finds it necessary . . . before announcing his decision, to state again that he is not passing on the merits of the poll-tax issue nor is he passing on the desirability of a much stronger cloture rule in determining this point of order. The President pro tempore is not entitled to consult his own predilections or his own convictions in the use of this authority. He must act in his capacity as an officer of the Senate, under oath to enforce its rules as he finds them to exist, whether he likes them or not. Of all the precedents necessary to preserve, this is the most important of them all. Otherwise, the preservation of any minority rights for any minority at any time would become impossible.

Senator Vandenberg continued:

The President pro tempore is a sworn agent of the law as he finds the law to be. Only the Senate has the right to change the law. The President pro tempore feels that he is entitled particularly to underscore this axiom in the present instance because the present circumstances themselves bring it to such bold and sharp relief.

He further stated, again referring to himself:

In his capacity as a Senator, the President pro tempore favors the passage of this antipoll-tax measure. He has similarly voted on numerous previous occasions. In his capacity as President pro tempore believes that the rules of the Senate should permit cloture upon the pending motion to take up the antipoll-tax measure, but in his capacity as President pro tempore, the senior Senator from Michigan is bound to recognize what he believes to be the clear mandate of the Senate rules and the Senate precedents; namely that no such authority presently exists.

So, again, Senator Vandenberg says that he believes the rules of the Senate should be changed to permit cloture on the pending motion to take up the antipoll-tax measure, but he is bound to recognize those rules. He cannot rule against what the rules clearly provide.

Senator Vandenberg then went on to say:

If the Senate wishes to cure this impotence it has the authority, the power, and the means to do so. The President pro tempore of the Senate does not have the authority, the power, or the means to do so except as he arbitrarily takes the law into his own hands. This he declines to do in violation of his oath. If he did so, he would feel that the what might be deemed temporary advantage by some could become a precedent which ultimately, in subsequent practice, would rightly be condemned by all.

I want to emphasize Senator Vandenberg's point for our colleagues. In the view of that great Senator, it would have been a violation of his oath of office to change the Senate rules by fiat; to rule, as Presiding Officer, contrary to the words of the Senate rules, even though he personally agreed with the proposition that the rule needed to be changed. Senator Vandenberg's ruling was a doubly difficult one because it left the Senate with no means of cutting off debate on the motion to proceed to a measure. The Senate then voted to change the rule a year or so later, with Senator Vandenberg's support, to allow for cutting off debate on the motion to proceed.

Senator Vandenberg's words and his example are highly relevant to us today. The majority leader's tactic to have the Presiding Officer by decree, by fiat amend our rules by exercising the so-called nuclear option is wrong. It has always been wrong. And the Senate has rejected it in the past.

I want to simply read that one last line of Senator Vandenberg one more time:

In his capacity as a Senator, the President pro tempore [Senator Vandenberg] favors the passage of the anti-poll-tax measure [before him].

He has voted for it on similar occasions, he said.

In his capacity as President pro tempore [he] believes the rules of the Senate should permit cloture on the pending motion to take up the . . . measure. But . . .

and this is the ''but'' which everybody in this Chamber should think about—

in his capacity as President pro tempore the senior Senator from Michigan is bound to recognize what he believes to be the clear mandate of the Senate rules and the Senate precedents; namely that no such authority presently exists.

For him to rule as President pro tempore against the clear meaning of rule XXII and our rules would be to take the law, the rules, into his own hands. Senator Vandenberg was not about to do that.

Rule XXII is clear. It takes 60 votes to end debate on any measure, motion, or other matter pending before the Senate. It does not make an exception for nomination of judges. The nuclear option is not an interpretation of rule XXII. It runs head long into the words of rule XXII and our rules. We in this body are the custodians of a great legacy. The unique Senate legacy can be lost if we start down the road of amending our rules by fiat of a Presiding Officer. We are going to be judged by future generations for what we do here this week. Arthur Vandenberg has been judged by history as well. If you want to know what the verdict of history is relative to Arthur Vandenberg, look up when we leave this Chamber at Arthur Vandenberg's portrait in the Senate reception room alongside of just six other giants for more than 215 years of Senate history.

As the present-day custodians of the great Senate tradition, we should uphold that tradition by rejecting an attempt to change the rules by arbitrary decree of the Presiding Officer instead of by the process in our rules for changing our rules. We must reject that attempt to rule by fiat instead of by duly adopted rules of the Senate. In that way, we will pass on to those who follow us a Senate that is enhanced, not diminished, by what we do here this week.

Mr. ALEXANDER. Mr. President, I would like to take a moment to remind my colleagues across the aisle just what the Constitution has to say about the confirmation of judges.

In a recent speech on the filibuster of President Bush's judicial nominees, I cited the actions of Senator BYRD when he was majority leader in 1979 as justification for the proposed constitutional option. However, the historical precedent for the actions the Minority is forcing the majority to take goes much further back than even the tenure of the Senator from West Virginia.

The Senate has the power to confirm or deny the President's judicial nominees because the Constitution explicitly grants us that power. Article II, section 2 reads:

> He [the president] shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, which shall be established by law.

The President gets to nominate a judge, but only with the consent of the Senate is that judge actually appointed to serve.

The Constitution is not totally clear on the surface as to what should constitute ''advice and consent'' by the Senate. But, fortunately, our Founding Fathers provided us with not just a Constitution but with a whole raft of writings that help us understand just what they were thinking when they drafted it. Those records confirm, I believe, that they were not concerned with a clash between political parties when they wrote the Constitution, but with the balance of power between the executive, legislative, and judicial branches.

The history of the ''advice and consent'' clause suggests that the Founders were uncomfortable with either branch completely controlling the nomination of judges. As a result, they found a compromise that sought to prevent either the executive or the legislative branch from dominating the nomination process.

In the Constitutional Convention of 1787, there was lengthy discussion about who should appoint judges to the bench—the executive or the legislative branch.

After extensive debate, the delegates to the Constitutional Convention rejected the possibility that the power to elect judges would reside exclusively with one body or another. On June 5, 1787, the Records of the Federal Convention record James Madison's thoughts on the issue:

> Mr. Madison disliked the election of the Judges by the Legislature or any numerous body. Besides the danger of intrigue and partiality, many of the members were not judges of the requisite qualifications. . . . On the other hand he was not satisfied with referring the appointment to the Executive.

Madison and others were concerned that vesting the sole power of appointment in the executive would lead to bias and favoritism.

In the end, the Framers of the Constitution arrived at the language I just read. Should there be any doubt as to what was intended, Alexander Hamilton and others provided us with the Federalist papers. In Federalist 76, Hamilton discusses the nominations clause:

> . . . his [referring to the president] nomination may be overruled: this it certainly may, yet it can only be to make a place for another nomination by himself. The person ultimately selected must be the object of his preference. . . .

Let me emphasize that—Hamilton says the person elected is ultimately the object of the president's preference. That suggests to me that it is not up to the Senate to demand that nominees be withdrawn and that others be nominated in accordance with the leadership in the Senate or the home State senators of the nominee. It sounds to me like the Framers intended for the president to choose and then the Senate to either reject or accept the nominee.

However, I would argue that we don't even need to look to Hamilton to decide that the eventual appointee should be the object of the president's preference. Look where the power to nominate and appoint is placed in the Constitution—in article II, which sets out the powers of the President—not Congress.

In Federalist 76, Hamilton goes on to describe the role of the Senate:

> To what purpose then require the cooperation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity.

Nowhere in that description of the Senate's role does it suggest that the Senate is supposed to reject nominations based on judges' views of the issues. It suggests that we are here to prevent the president from appointing only nominees from Texas, from appointing only friends or campaign contributors, or from otherwise abusing this power. It does not suggest that we should go through a lengthy process of trying to anticipate how a particular judge would rule on all future cases that may come before him or her.

In fact, given that it was the intent of the Founders to create an appointments process that would allow for the appointment of judges who could serve as a check on the other two branches, I think they would be appalled to think that the Senate might be prepared to block any judges that will not rule on abortion or gay marriage or the reinsertion of a feeding tube in the way the Senate happens to favor at any one time. That sounds to me like anything but an independent judiciary branch. What's next? Will senators ask judges how they will rule on pending bills and support only those judges who will uphold the laws passed by this body?

The role of the Senate having been established, I also want to address the mechanism by which we confirm these judges.

The issue before us centers around whether the Constitution requires a simple majority or a supermajority to confirm judicial nominations. Once again, an analysis of the history suggests that it was the intention of the Framers to provide for only a simple majority of the Senate to confirm nominees.

Look at the language of all of article II, section 2. In the clause immediately before the nominations clause, the Constitution specifically calls for two-thirds of the Senate to concur. In the nominations clause, there is no such provision.

I don't believe that this is an inadvertent omission. During the drafting of the Constitution, Roger Sherman of Connecticut argued at great length for the insertion of a comma instead of a semicolon at one point to make a section on Congressional powers crystal clear. I find it hard to believe that in the meantime the Framers deliberately left this section vague.

In fact, the debate around this section of the bill suggests that there was a specific discussion about how many Senate votes would be required to confirm judges. On July 18, 1787, James Madison proposed a plan that would allow judges to be confirmed with only one-third of the Senate. The record of the debate states that Madison felt that such a requirement would ''unite the advantage of responsibility in the

Executive with the security afforded in the second branch against any incautious or corrupt nomination by the Executive.''

So that sounds to me like the Framers viewed the role of the Senate in such a way as to consider the possibility that even less than a majority could be required to confirm a judge—because the Senate was there as backstop to prevent the appointment of political cronies and unfit characters. That is a far cry from the role my colleagues across the aisle would like for us to play today—that of co-equal to the president in the process and capable of demanding nominees that would rule in favor of their positions.

Madison's language was not adopted, but the language that was adopted certainly cannot be read to require a supermajority. You don't have to just accept my interpretation of this language. Shortly after the Constitutional Convention, Justice Joseph Story—appointed to the Supreme Court by President James Madison—wrote his Commentaries on the Constitution and stated explicitly:

> The president is to nominate, and thereby has the sole power to select for office; but his nomination cannot confer office, unless approved by a majority of the Senate.

Judges are to be confirmed by a majority vote. That is the bottom line. That decision was made long before the first Senate was gaveled into session and before any thought was given to rules of procedure and filibusters.

You will hear during this debate ominous warnings from my colleagues across the aisle about ''the tyranny of the majority.'' You will hear that the Founders intended for the Senate to protect the rights of the minority. You will hear that our Founders created the Senate as a check on the popular whim of the day, as a place to slow down legislation and ensure that only the very best laws are passed. This is true. George Washington is said to have said of the Senate that ''we pour legislation into the senatorial saucer to cool it.''

But the Founders did not create the Senate to give a minority of Senators the power to stop the President from appointing judges. Quite the opposite. As I have outlined, James Madison and Alexander Hamilton, two of the greatest minds that helped design our Constitution, put it down in writing for us that judges are to be confirmed by a majority vote.

So it is not a new idea for the majority in the Senate to believe they should have the power to confirm the president's nominees. It is a very old idea that dates back to the founding of our country.

It is a new idea, however, that a minority should have the power to deny the President's choice. The minority used the filibuster rule in the Senate 10 times in the last Congress to create this new idea that 40 percent should be able to thwart the will of both the President and the majority. It is time for us to restore the Senate to the operation envisioned by the Founding Fathers more than 200 years ago that the President's judicial nominees should be able to be confirmed by majority vote.

Mr. President, 2 years ago, my first speech as a Member of the Senate was on the topic of judges. I have spoken many times since then on this same subject. I would like to not talk about it again—other than to discuss the merits of a particular judge before having an up-or-down vote on confirmation.

That is the way we have functioned in the past, it is the way the Founders meant for us to operate, and it is the way the American people should demand their elected representatives work together.

Mr. LEAHY. Mr. President, I have made no secret how I regard the Republican Leader's bid for one-party rule through his insistence to trigger the ''nuclear option.'' I view it as a misguided effort that would undercut the checks and balances that the Senate provides in our system of government, undermine the rights of the American people, weaken the independence and fairness of the Federal courts, and destroy minority rights here in the Senate. In that regard, I thank the Senators who joined in the debate on Friday for their contributions, including in particular Senator DODD, Senator LEVIN, Senator JEFFORDS, Senator DAYTON, Senator LINCOLN, Senator LIEBERMAN and Senator DORGAN. Theirs were outstanding statements.

The Senate is not the House. It was not intended to function like the House. The ''Great Compromise'' of the Constitutional Convention more than 200 years ago was to create in the Senate a different legislative body from the House of Representatives. Those fundamental differences include equal representation for each State in accordance with article I, section 3. Thus, Vermont has equal numbers of Senators to New York and Idaho, as compared to California. The Founders intended this as a vital check. Representation in the Senate is not a function of population or based on the size of a State or its mineral wealth.

Another key difference is the right to debate in the Senate. The filibuster is quintessentially a Senate practice. James Madison wrote in Federalist No. 63 that the Senate was intended to provide ''interference of some temperate and respectable body of citizens'' against ''illicit advantage'' and the ''artful misrepresentations of interested men.'' It was designed and intended as a check and to provide balance. In no way do I intend to disrespect the House of Representatives by these remarks. I respect the House. I respect its traditions. But it is the Senate that protects the minority and thereby serves a special role in our national government.

Others have alluded to some valuable history lessons during the course of this debate. One of those lessons comes from 1937, the last time a President sought to pack the courts. President Franklin Roosevelt was coming off a landslide victory over Alf Landon. He attempted to pack the Supreme Court. Democrats—Senators from President Roosevelt's own party—stood up to him. In May 1937 the Senate Judiciary Committee criticized the Roosevelt court-packing plan as an effort by the executive branch to dominate the Judicial Branch with the acquiescence of the legislative branch. The Senate stood up for checks and balances and protected the independence of the judiciary. It is time again for the Senate to stand up, and I hope that there are Senators of this President's party who have the courage to do so, today.

The Constitution nowhere says that judicial confirmations require 51 votes. Indeed, when Vermont became the 14th State in 1791, there were then only 28 Members of the U.S. Senate. More recently, Supreme Court Justices Sherman Minton, Louis Brandeis, and James McReynolds were confirmed with 48 votes, 47 votes and 44 votes, respectively.

As the Republican leader admitted in debate with Senator BYRD last week, there is also no language in the Constitution that creates a right to a vote for a nomination or a bill. If there were such a right, it was violated more than 60 times when Republicans refused to consider President Clinton's judicial nominees. According to the Congressional Research Service more than 500 judicial nominations for circuit and district courts have not received a final Senate vote between 1945 and 2004—over 500—that is 18 percent of those nominations. By contrast, this President has seen more than 95 percent of his judicial nominations confirmed, 208 to date.

The Constitution provides for the Senate to establish its own rules in accordance with article I, section 5. The Senate rules have for some time expressly provided for nominations not acted upon by the Senate—''neither confirmed nor rejected during the session at which they are made''—being ''returned by the Secretary to the President.'' That is what happened to those 500 nominations over the last 60 years.

What the Republican leadership is seeking to do is to change the Senate rules not in accordance with them but by breaking them. It is ironic that Republican Senators, who prevented votes on more than 60 of President Clinton's judicial nominees and hundreds of his executive branch nominees because one anonymous Republican Senator objected, now contend that the votes on nominations are constitutionally required.

No President in our history, from George Washington on, has ever gotten all his judicial nominees confirmed by the Senate. President Washington's nomination of John Rutledge to be Chief Justice of the U.S. Supreme Court was not confirmed by the Senate. Senate Republicans now deny the

filibusters they attempted against President Clinton's judicial nominees and they ignore the filibusters they succeeded in using against his executive branch nominees. They seek not only to rewrite the Senate's rules by breaking them but to rewrite history. I ask that a copy of the recent article by Professor John J. Flynn be included in the RECORD.

Helping to fuel this rush toward the nuclear option is new vitriol that is being heaped both upon those who oppose a handful of controversial nominees and oppose the nuclear option, as well as on the judiciary itself. We have seen threats from House Majority Leader TOM DELAY and others about mass impeachments of judges with whom they disagree. We have seen Federal judges compared to the KKK, called ''the focus of evil,'' and we have heard those supporting this effort quote Joseph Stalin's violent answer to anyone who opposed his totalitarianism by urging the formula of ''No man, No problem.'' Stalin killed those with whom he disagreed. That is what the Stalinist solution is to independence. Regrettably, we have heard a Senator trying to relate the recent rash of courtroom violence and the killings of judges and judges' family members with philosophical differences about the way some courts have ruled.

This debate in the Senate last week started with rhetoric from the other side accusing disagreeing Senators of seeking to ''kill'' and ''assassinate.'' Later in the week another member of the Republican leadership likened Democratic opponents of the nuclear option to Adolph Hitler. Still another Republican Senator accused Senators who oppose judicial nominees of discriminating against people of faith. This is in direct violation of the Republican leader's own statement at the outset of this debate that the rhetoric in this debate should ''follow the rules, and best traditions of the Senate.'' This has sunk too low and it has got to stop.

It is one thing for those outside the Senate to engage in incendiary rhetoric. In fact, I would have expected Senators and other leaders to call for a toning down of such rhetoric rather than participating and lending support to events that unfairly smear Senators as against people of faith. Within the last several days, the Rev. Pat Robertson called Federal judges, quote, ''a more serious threat to America then Al Qaeda and the Sept. 11 terrorists'' and ''more serious than a few bearded terrorists who fly into buildings.'' He went on to proclaim the Federal judiciary ''the worst threat American has faced in 400 years worse than Nazi Germany, Japan and the Civil War.'' This is the sort of incendiary rhetoric that Republican Senators should be disavowing. Instead, they are adopting it and exploiting it in favor of their nuclear option.

It is base and it is wrong, and just the sort of overheated rhetoric that we should all repudiate. Not repeating such slander is not good enough. We should reject it and do so on a bipartisan basis. Republicans as well as Democrats should affirmatively reject such harsh rhetoric. It does not inspire; it risks inciting.

Last week as we began this debate, the Judiciary Committee heard the testimony of Judge Joan Lefkow of Chicago. She is the Federal judge whose mother and husband were murdered in their home. She counsels: ''In this age of mass communication, harsh rhetoric is truly dangerous. [F]ostering disrespect for judges can only encourage those that are on the edge, or on the fringe, to exact revenge on a judge who ruled against them.'' She urged us as public leaders to condemn such rhetoric. I agree with her. She is right and she has paid dearly for the right to say so.

Those driving the nuclear option engage in a dangerous and corrosive game of religious McCarthyism, in which anyone daring to oppose one of this President's judicial nominees is branded as being anti-Christian, or anti-Catholic, or ''against people of faith.'' It continued over the last several weekends, it continued last week on the Senate floor. It is wrong; it is reprehensible. These charges, this virulent religious McCarthyism, are fraudulent on their face and destructive.

Injecting religion into politics to claim a monopoly on piety and political truth by demonizing those you disagree with is not the American way. Injecting politics into judicial nominations, as this administration has done, is wrong, as well.

I would like to keep the Senate safe and secure and in a ''nuclear free'' zone. The partisan power play now underway by Republicans will undermine the checks and balances established by the Founders in the Constitution. It is a giant leap toward one-party rule with an unfettered Executive controlling all three branches of the Federal Government. It not only will demean the Senate and destroy the comity on which it depends; it also will undermine the strong, independent Federal judiciary that has protected the rights and liberties of all Americans against the overreaching of the political branches.

Our Senate Parliamentarian and our Congressional Research Service have said that the so-called nuclear option would go against Senate precedent. Do Republicans really want to blatantly break the rules for short-term political gain? Do they really desire to turn the Senate into a place where the parliamentary equivalent of brute force is what prevails?

Just as the Constitution provides in article V for a method of amendment, so, too, the Senate rules provide for their own amendment. Sadly, the current crop of partisans who are seeking to limit debate and minority rights in the Senate have little respect for the Senate, its role in our government as a check on the executive, or its rules. Republicans are in the majority in the Senate and chair all of its committees, including the Rules Committee. If Republicans have a serious proposal to change the Senate rules, they should introduce it. The Rules Committee should hold meaningful hearings on it and consider it and create a full and fair record so that the Senate itself would be in position to consider it. That is what we used to call ''regular order.'' That is how the Senate is intended to operate, through deliberative processes and with all points of view being protected and being heard.

That is not how the ''nuclear option'' will work. It is intended to work outside established precedents and procedures. Use of the ''nuclear option'' in the Senate is akin to amending the Constitution not by following the procedures required by article V but by proclaiming that 50 Republican Senators and the Vice President have determined that every copy of the Constitution shall contain a new section—or not contain some of those troublesome amendments that Americans like to call the Bill or Rights. That is wrong. It is a kind of lawlessness that each of us should oppose. It is rule by the parliamentary equivalent of brute force.

Never in our history has the Senate changed its governing rules except in accordance with those rules. I was a young Senator in 1975 when Senate rule XXII was last amended. It was amended after cloture on proceeding to the resolution to change the rule was invoked in accordance with rule XXII itself and after cloture on the resolution was invoked in accordance with the requirement then and still in our rules that ending debate on a rule change requires the concurrence of two-thirds of the Senate. That was achieved in 1975 due in large part to the extraordinary statesmanship and leadership of Senator BYRD. And then the Senate adopted the resolution, which I supported. The resolution we adopted reduced the number of votes needed to end debate in the Senate from two-thirds to three-fifths of those Senators duly chosen and sworn. The Senate has operated under these rules to terminate debate on legislative matters and nominations for the last 30 years. Before that the Senate's requirement to bring debate to a close was even more exacting and required more Senators to vote to end a filibuster. I say, again, that the change in the Senate rules was accomplished in accordance with the Senate rules and the way in which they provide for their own amendment.

There has been a good deal of chest pounding on the other side of the aisle recently about the supposed sanctity of 51 votes to prevail, to end debate, to amend the Senate rules. Senators know that, in truth, there are a number of instances in which 60 votes are needed to prevail. These are not theoretical matters, but matters constantly used by Republican leaders to thwart ''majority'' votes on matters they do not like.

The most common 60-vote threshold is what is required to prevail on a motion to waive a series of points of orders arising from the Budget Act and budget resolutions. In fact, just this year in the deficit-creating budget passed by the Senate with Republican votes, they created new points of order that will require 60 votes in order to be overcome.

There are dozens of recent examples, but a few should make this concrete. In March 2001, a majority of Senators voted to establish a Social Security and Medicare ''lockbox.'' That was a good idea. Had we been able to prevail then, maybe some of the problems being faced by the Social Security trust fund and Medicare might have been averted or mitigated. But even though 53 Senators voted to waive the point of order and create the lockbox, it was not adopted by the Senate.

There is another example from soon after the 9/11 attacks. A number of us were seeking to provide financial assistance, training and health care coverage for aviation industry employees who lost their jobs as a result of the terrorist attacks. We had a bipartisan coalition of more than 50 Senators; it was, as I recall, 56. But the votes of 56 Senators were not sufficient to end the debate and enact that assistance.

I also remember an instance in October 2001, when I chaired the Foreign Operations Subcommittee of the Senate Appropriations Committee. I very much wanted to have the Senate do our job and complete our consideration of the funding measure necessary to meet the commitments made by President Bush to foreign governments and to provide life-saving assistance around the world. We voted on whether the Senate would be allowed to proceed to consider the bill—not to pass it, mind you, just to proceed to debate it. Republicans objected to considering the bill both times. We were required to make a formal motion to proceed to the bill. Then minority Senators, Republican Senators, filibustered proceeding to consideration of the bill. We were required to petition for cloture to ask the Senate to agree to end the debate on whether to proceed to consider the bill and begin that consideration. Fifty Senators voted to end the debate. Only 47 Senators voted to continue the filibuster. Still, the majority, with 50 votes to 47 votes did not prevail. Although we had a majority, we failed and the Senate did not make progress.

It happened again, in the summer of 2002, a bipartisan majority here in the Senate wanted to make progress on hate crimes legislation. The Senate got bogged down when the bill was filibustered. The effort to end the debate and vote up or down on the bill got 54 votes, 54 to 43. Fifty Senators voted to end the debate. Only 43 Senators voted to continue the filibuster. Did the majority prevail? No. The bill was not passed.

More recently, in 2004, 59 Senators supported a 6-month extension of a program providing unemployment benefits to individuals who had exhausted their State benefits. Those 59 Senators were not enough of a majority to overcome a point of order and provide the much-needed benefits for people suffering from extensive and longstanding unemployment. The vote was 59 to 40, but that was not a prevailing majority.

Around the same time in 2004 we tried to provide the Federal assistance needed to fund compliance with the Individuals with Disabilities Education Act. Although 56 Senates voted in support and only 41 in opposition, that was not enough to overcome a point of order. The vote was 56 to 41, but that was not a sufficient majority.

Just last month, too recently to have been forgotten, there was an effort to amend the emergency supplemental appropriations bill to include the bipartisan Agricultural Jobs bill that Senator CRAIG has championed. That amendment was filibustered and the Senate voted whether to end debate on the matter. The vote was 53 in favor of terminating further debate and proceeding to consider this much needed and long overdue measure. Were those 53 Senators, Republicans and Democrats, enough of a majority to have the Senate proceed to consider an up or down vote on the AgJobs bill to help our local industries? No, here, again, the Republican leadership prevailed and prevented consideration of the bipartisan measure with only 45 votes.

Every Senator knows, and others who have studied the Senate and its practices to protect minority rights, know that the Senate rules retained a provision that requires a two-thirds vote to end debate on a proposed change to the Senate rules. Thus, rule XXII provides that ending debate on ''a measure or motion to amend the Senate rules'' takes ''two-thirds of the Senators present and voting.'' If all 100 Senators vote, that means that 67 votes are required to end debate on a proposal to amend the Senate rules. In 1975, for example, the vote to end debate on the resolution I have spoken about to change the Senate rules was 73 to 21.

Every Senator knows that for the last 30 years, since we lowered the cloture requirement in 1975, it takes ''three-fifths of the Senators duly chosen and sworn,'' or 60 votes to end debate on other measures and matters brought before the Senate. Just recently there was a filibuster on President Bush's nomination to head the Environmental Protection Agency, Douglas Johnson. Sixty-one Senators voted to end that filibuster, to bring that debate to a close, and Mr. Johnson was confirmed. I voted for cloture and for Mr. Johnson. Despite Republican filibusters of Dr. Henry Foster to be the Surgeon General, Sam Brown to be an ambassador and others during the Clinton years, I considered the matter on its merits, as I always try to do, and voted to provide the supermajority needed for Senate action.

So when Republican talking points trumpet the sanctity of 51 votes, Senators know that the Republican majority insists upon 60-vote thresholds all the time, or rather all the time that it is in their short-term interests.

Finally, Mr. President, for purposes of the record, I need to set the record straight, again. I have done so periodically, including most recently on May 9, 2005, and toward the end of the last session of Congress on November 23, 2004.

Unlike the frog in the water who fails to notice the heat slowly rising until he finds himself boiling, Democrats have been warning for years that the Republican destruction of Senate rules and traditions was leading us to this situation. The administration and its facilitators in the Senate have left Democrats in a position where the only way we could effectively express our opposition to a judicial nominee was through the use of the filibuster.

We did not come to this crossroads overnight. No Democratic Senator wanted to filibuster, not a one of us came to those votes easily. We hope we are never forced by an aggressive Executive and compliance majority into another filibuster for a judicial nominee, again. The filibusters, like the confrontation that the Senate is being forced into over the last several days, are the direct result of a deliberate attack by the current administration and its supporters here in the Senate against the rules and traditions of the Senate. Breaking the rules to use the Republican majority to gut Senate rule XXII and prohibit filibusters that Republicans do not like is the culmination of their efforts. That is intended to clear the way for this President to appoint a more extreme and more divisive choice should a vacancy arise on the Supreme Court.

This is not how the Senate has worked or should work. It is the threat of a filibuster that should encourage the President to moderate his choices and work with Senators on both sides of the aisle. Instead, this President has politicized the process and Senate Republicans have systematically eliminated every other traditional protection for the minority. Now their target is the Senate filibuster, the only tool that was left for a significant Senate minority to be heard.

Under pressure from the White House, over the last 2 years, the former Republican chairman of the Judiciary Committee led Senate Republicans in breaking with longstanding precedent and Senate tradition with respect to handling lifetime appointments to the Federal bench. With the Senate and the White House under control of the same political party we have witnessed one committee rule after another broken or misinterpreted away. The Framer's of the Constitution warned against the dangers of such factionalism, undermining the structural separation of powers. Republicans in the Senate have utterly failed to defend this institution's role as a check on the President in the area of nominations. It surely

weakens our constitutional design of checks and balances.

As I have detailed over the last several years, Senate Republicans have had one set of practices to delay and defeat a Democratic President's moderate and qualified judicial nominations and a different playbook to rubberstamp a Republican President's extreme choices to lifetime judicial positions. The list of broken rules and precedents is long—from the way that home State Senators were treated, to the way hearings were scheduled, to the way the committee questionnaire was unilaterally altered, to the way the Judiciary Committee's historic protection of the minority by committee rule IV was repeatedly violated. In the last Congress, the Republican majority of the Judiciary Committee destroyed virtually every custom and courtesy that had been used throughout Senate history to help create and enforce cooperation and civility in the confirmation process.

We suffered through 3 years during which Republican staff stole Democratic files off the Judiciary computers reflecting a ''by any means necessary'' approach. It is as if those currently in power believe that that they are above our constitutional checks and balances and that they can reinterpret any treaty, law, rule, custom or practice they do not like or they find inconvenient.

The Constitution mandates that the President seek the Senate's advice on lifetime appointments to the Federal bench. Up until 4 years ago, Presidents engaged in consultation with home State Senators about judicial nominations, both trial court and appellate nominations. This consultation made sense: Although the judgeships are Federal positions, home State officials were best able to ensure that the nominees would be respected. The structure laid out by the framers for involving the Senate contemplated local involvement in the appointments, and for almost 200 years, with relatively few exceptions, the system worked. This administration, by contrast, rejects our advice but demands our consent.

The sort of consultation and accommodation that went on in the Clinton years is an excellent example. The Clinton White House went to great lengths to work with Republican Senators and seek their advice on appointments to both circuit and district court vacancies. There were many times when the White House made nominations at the direct suggestion of Republican Senators, and there are judges sitting today on the Ninth Circuit and the Fourth Circuit, in the district courts in Arizona, Utah, Mississippi, and many other places because President Clinton listened to the advice of Senators in the opposite party. Some nominations, like that of William Traxler to the Fourth Circuit from South Carolina; Barbara Durham and Richard Tallman to the Ninth Circuit from Washington; Stanley Marcus to the Eleventh Circuit from Florida; Ted Stewart to the District Court in Utah; James Teilborg to the District Court in Arizona; Allen Pepper to the District Court in Mississippi; Barclay Surrick to the District Court in Pennsylvania, and many others were made on the recommendation of Republican Senators. Others, such as President Clinton's two nominations to the Supreme Court, were made with extensive input from Republican Senators. For evidence of this, just look at ORRIN HATCH's book ''Square Peg,'' where he tells the story of suggesting to President Clinton that he nominate Ruth Bader Ginsburg and Stephen Breyer to the Supreme Court and of warning him off of other nominees whose confirmations would be more controversial or politically divisive.

In contrast, since the beginning of its time in the White House, this Bush administration has sought to overturn traditions of bipartisan nominating commissions and to run roughshod over the advice of Democratic Senators. They changed the systems in Wisconsin, Washington, and Florida that had worked so well for so many years. Senators GRAHAM and NELSON were compelled to write in protest of the White House counsel's flaunting of the time-honored procedures for choosing qualified candidates for the bench. They ignored the protests of Senators like BARBARA BOXER and John Edwards who not only objected to the unsuitable nominee proposed by the White House, but who, in attempts to reach a true compromise, also suggested Republican alternatives. Those overtures were flatly rejected.

Indeed, the problems we face today in Michigan are a result of a lack of consultation with that State's Senators. The failure of the nomination of Claude Allen of Virginia to a Maryland seat on the Fourth Circuit shows how aggressive this White House has been. Now, the White House counsel's office will say it informs Democratic Senators' offices of nominations about to be made. Do not be fooled. Consultation involves a give and take, a back and forth, an actual conversation with the other party and an acknowledgement of the other's position. That does not happen.

The lack of consultation by this President and his nominations team resulted in a predictable outcome—a number of instances where home State Senators withheld their consent to nominations. The next action, however, was unpredictable and unprecedented. The former Republican chairman of the Judiciary Committee went ahead, ignored his own perfect record of honoring Republican home State Senators' objections to President Clinton's nominees and scheduled hearings nonetheless. In defense of those hearings we have heard how other chairmen, Senators KENNEDY and BIDEN, modified the committee's policies to allow for more fairness in the consideration of a more diverse Federal bench. That is not what the former Republican chairman was doing, however. His was a case of double standards—one set of rules and practices for honoring Republican objections to President Clinton's nominees and another for overriding Democratic objections to President Bush's.

While it is true that various chairmen of the Judiciary Committee have used the blue-slip in different ways, some to maintain unfairness, and others to attempt to remedy it, it is also true that each of those chairmen was consistent in his application of his own policy—that is, until 2 years ago. When a hearing was held for Carolyn Kuhl, a nominee to the Ninth Circuit from California who lacked consent from both of her home State Senators, that was the first time that the former chairman had ever convened a hearing for a judicial nominee who did not have two positive blue slips returned to the committee. The first time, ever. It was unprecedented and directly contrary to the former Republican chairman's practices during the Clinton years.

Consider the two different blue slips utilized by the former Republican Chairman: one used while President Clinton was in office, and one used after George W. Bush became the President. These pieces of blue paper are what then-Chairman HATCH used to solicit the opinions of home-state Senators about the President's nominees. When President Clinton was in office, the blue slip sent to Senators, asked their consent. On the face of the form was written the following: ''Please return this form as soon as possible to the nominations office. No further proceedings on this nominee will be scheduled until both blue slips have been returned by the nominee's home state senators.''

Now consider the blue slip when President Bush began his first term. That form sent out to Senators was unilaterally changed. The new Republican blue slip said simply: ''Please complete the attached blue slip form and return it as soon as possible to the committee office.'' That change in the blue slip form marked the about-face in the direction of the policy and practice used by the former Republican chairman once the person doing the nominating was a Republican.

I understand why Republican Senators want to have amnesia when it comes to what happened to so many of President Clinton's nominees. The current Republican chairman calculates that 70 of President Clinton's judicial nominees were not acted upon. One of the many techniques used by the former Republican chairman was to enforce strictly his blue slip policy so that no nominee to any court received a hearing unless both home State Senators agreed to it. Any objection acted as an absolute bar to the consideration of any nominee to any court. No time limit was set for returning the blue slip. No reason had to be articulated. In fact, the former Republican chairman cloaked the matter in secrecy

from the public. I was the first Judiciary chairman to make blue slips public. During the Clinton years home State Senators' blue slips were allowed to function as anonymous holds on otherwise qualified nominees. In the 106th Congress, in 1999–2000, more than half of President Clinton's circuit court nominees were denied confirmation through such secret partisan obstruction, with only 15 of 34 confirmed in the end. Outstanding and qualified nominees were never allowed a hearing, an up or down vote in committee vote or on the Senate floor. These nominees included the current dean of the Harvard Law School, a former attorney general from Iowa, a former law clerk to Chief Justice Rehnquist and many others—women, men, Hispanics, African Americans and other minorities, an extensive collection of qualified nominees.

Another longstanding tradition that was broken in the last two years was a consistent and reasonable pace of hearings. Perhaps it is not entirely accurate to say the tradition had been respected during the Clinton administration, since during Republican control months could go by without a single hearing being scheduled. But as soon as the occupant of the White House changed and a Republican majority controlled the committee that all changed. In January, 2003, one hearing was held for three controversial circuit court nominees, scheduled to take place in the course of a very busy day in the Senate. There was no precedent for this in the years that Republicans served in the majority and a Democrat was in the White House. In 6 years during the Clinton administration, never once were three circuit court nominees, let alone three very controversial ones, before this body in a single hearing. But it was the very first hearing that was scheduled by the former Republican chairman when he resumed his chairmanship. That first year of the 107th Congress, with a Republican in the White House, and a Republican chairman of the Judiciary Committee, the Republican majority went from idling—the restrained pace it had said was required for Clinton nominees—to overdrive for the most controversial of President Bush's nominees.

When there was a Democratic President in the White House, circuit nominees were delayed and deferred, and vacancies on the courts of appeals more than doubled under Republican leadership, from 16 in January 1995, to 33 when the Democratic majority took over midway through 2001.

Under Democratic leadership we held hearings on 20 circuit court nominees in 17 months. Indeed, while Republicans averaged seven confirmations to the circuit courts every 12 months for President Clinton, the Senate under Democratic leadership confirmed 17 circuit judges in its 17 months in the majority—and we did so with a White House that was historically uncooperative.

Under Republican control, the Judiciary Committee played fast and loose with other practices. One of those was the committee practice of placing nominees on markup agendas only if they had answered all of their written questions within a reasonable amount of time before the meeting. Last Congress that changed, and nominees were listed when the former chairman wanted them listed, whether they were ready or not. Of course, any nominee can be held over one time by any member for any reason, according to longstanding committee rules. By listing the nominees before they were ready, the former chairman ''burned the hold'' in advance, circumvented the committee rule, and forced the committee to consider them before they were ready. Another element of unfairness was thereby introduced into the process.

Yet another example of the kind of petty changes that occurred during the last Congress were the bipartisan changes to the committee questionnaire that were unilaterally rescinded by the former Republican chairman. In April of 2003 it became clear that the President's nominees had stopped filling out the revised Judiciary Committee questionnaire we had approved a year and a half earlier with the agreement of the administration and Senate Republicans. It was a shame, because my staff and Senator HATCH's staff worked hard to revise the old questionnaire, which had not been changed in many years, and was in need of updating for a number of reasons. There were obsolete references, vague and redundant requests for information, and instructions sorely in need of clarification. There were also important pieces of information not asked for in the old questionnaire, including congressional testimony a nominee might have given, writings a nominee might have published on the Internet, and a nominee's briefs or other filings in the Supreme Court of the United States. We worked hard to include the concerns of all members of the committee, and we included the suggestions from many people who had been involved in the judicial nominations process over a number of years.

Indeed, after the work was finished, Senator HATCH himself spoke positively about the revisions we had made. At a Committee business meeting he praised my staff for, ''working with us in updating the questionnaires.'' He noted: ''Two weeks ago, we resolved all remaining differences in a bipartisan manner. We got an updated questionnaire that I think is satisfactory to everybody on the committee, and the White House as well.'' I accepted his words that day.

As soon as he resumed his chairmanship, he rejected the improvements we made in a bipartisan way, however. The former Republican chairman notified the Department of Justice that he would no longer be using the updated questionnaire he praised not so long before but, instead, decided that the old questionnaire be filled out. He did not notify any member of the minority party on the committee. Unlike the bipartisan consultation my office engaged in during the fall of 2001, and the bipartisan agreement we reached, the former Republican chairman acted by unilateral fiat without consultation.

The protection of the rights of the minority in the committee was eliminated with the negation of the committee's rule IV, a rule parallel to the Senate filibuster rule. In violation of the rules that have governed that committee's proceedings since 1979, the former Republican chairman chose in 2003 to ignore our longstanding committee rules and he short-circuited committee consideration of the circuit court nominations of John Roberts and Deborah Cook.

Since 1979 the Judiciary Committee has had this committee rule to bring debate on a matter to a close while protecting the rights of the minority. It may have been my first meeting as a Senator on the Judiciary Committee in 1979 that Chairman KENNEDY, Senator Thurmond, Senator HATCH, Senator COCHRAN and others discussed adding this rule to those of the Judiciary Committee. Senator Thurmond, Senator HATCH and the Republican minority at that time took a position against adding the rule and argued in favor of any individual Senator having a right to unlimited debate—so that even one Senator could filibuster a matter. Senator HATCH said that he would be ''personally upset'' if unlimited debate were not allowed. He explained:

> There are not a lot of rights that each individual Senator has, but at least two of them are that he can present any amendments which he wants and receive a vote on it and number two, he can talk as long as he wants to as long as he can stand, as long as he feels strongly about an issue.

It was Senator Bob Dole who drew upon his Finance Committee experience to suggest in 1979 that the committee rule be that ''at least you could require the vote of one minority member to terminate debate.'' Senator COCHRAN likewise supported having a ''requirement that there be an extraordinary majority to shut off debate in our committee.''

The Judiciary Committee proceeded to refine its consideration of what became rule IV, which was adopted the following week and had been maintained ever since. It struck the balance that Republicans had suggested of at least having one member of the minority before allowing the chairman to cut off debate. That protection for the minority had been maintained by the Judiciary Committee for 24 years under five different chairmen—Chairman KENNEDY, Chairman Thurmond, Chairman BIDEN, under Chairman HATCH previously and during my tenure as chairman.

Rule IV of the Judiciary Committee rules provided the minority with a

right not to have debate terminated and not to be forced to a vote without at least one member of the minority agreeing to terminate the debate. That rule and practice had until two years ago always been observed by the committee, even as we dealt with the most contentious social issues and nominations that come before the Senate. Until that time, Democratic and Republican chairmen had always acted to protect the rights of the Senate minority.

Although it was rarely utilized, rule IV set the ground rules and the backdrop against which rank partisanship was required to give way, in the best tradition of the Senate, to a measure of bipartisanship in order to make progress. That is the important function of the rule. Just as we have been arguing lately about the Senate's cloture rule, the committee rule protected minority rights, and enforced a certain level of cooperation between the majority and minority in order to get anything accomplished. That was lost last Congress as the level of partisanship on the Judiciary Committee and within the Senate sunk to a new low when Republicans chose to override our governing rules of conduct and proceed as if the Senate Judiciary Committee were a minor committee of the House of Representatives.

That this was a premeditated act was apparent from the debate in the committee. The former Republican chairman indicated that he had checked with the Parliamentarians in advance, and he apparently concluded that since he had the raw power to ignore our committee rule so long as all Republicans on the committee stuck with him, he would do so. It was a precursor of what is happening now in the Senate.

I understand that the Parliamentarians advised the former chairman that there is no enforcement mechanism for a violation of committee rules and that the Parliamentarians view Senate committees as autonomous. I do not believe that they advised him that he should violate our committee rules or that they interpreted our committee rules. I cannot remember a time when Senator KENNEDY or Senator Thurmond or Senator BIDEN were chairing the committee when any of them would have even considered violating their responsibility to the Senate and to the committee and to our rules or that we needed an enforcement mechanism or penalty for violation of a fundamental committee rule.

In fact, the only occasion I recall that the former Republican chairman was previously faced with implementing committee rule IV, he himself did so. In 1997, Democrats on the committee were seeking a Senate floor vote on President Clinton's nomination of Bill Lann Lee to be the assistant attorney general for civil rights at the Department of Justice. Republicans were intent on killing the nomination in committee. The committee rule came into play when in response to an alternative proposal by the Republican Chairman, I outlined the tradition of our Committee and said:

> This committee has rules, which we have followed assiduously in the past and I do not think we should change them now. The rules also say that 10 Senators, provided one of those 10 is from the minority, can vote to cut off debate. We are also required to have a quorum for a vote.
>
> I intend to insist that the rules be followed. A vote that is done contrary to the rules is not a valid one.

Immediately after my comment, the same former Republican Chairman abandoned his earlier plan and said:

> I think that is a fair statement. Rule IV of the Judiciary Committee rules effectively establishes a committee filibuster right, as the distinguished Senator said.

With respect to that nomination in 1997, he acknowledged:

> Absent the consent of a minority member of the Committee, a matter may not be brought to a vote. However, Rule IV also permits the Chairman of the Committee to entertain a non-debatable motion to bring any matter to a vote. The rule also provides as follows: 'The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote. If there is objection to bring the matter to a vote without further debate, a rollcall vote of the Committee shall be taken, and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with ten votes in the affirmative, one of which must be cast by the Minority.'

Thereafter, he made the nondebatable motion to proceed to a vote and under the rules of the committee there was objection and a rollcall vote was taken on whether to end the debate. In that case, the former Republican chairman followed the rules of the committee.

At the beginning of the last Congress, we reaffirmed our tradition and clarified that at the time the Senate was divided 50–50 and the committee was divided 50–50, the rules would be interpreted so that the minority was the party other than that of the chairman.

But when the nominations of John Roberts, Deborah Cook and Jeff Sutton were being considered simultaneously, Democrats sought to continue debate on some of them and focus first on Sutton. We were overridden and the bipartisan tradition and respect for the rights of the minority ended when the former Republican Chairman decided to override our rights and the rule rather than follow it. He did so expressly and intentionally, declaring: ''[Y]ou have no right to continue a filibuster in this committee.'' He decided, unilaterally, to declare the debate over even though all members of the minority were prepared to continue the debate and it was, in fact, terminated prematurely. I had yet to speak to any of the circuit nominees and other Democratic Senators had more to say. He completely reversed his own position from the Bill Lann Lee nomination and took a step unprecedented in the history of the committee.

I know the frustrations that accompany chairing the Judiciary Committee. I know the record we achieved during my 17 months of chairing that committee, when we proceeded with hearings on more than 100 of President Bush's judicial nominees and scores of his executive nominees, including extremely controversial nominations, when we proceeded fairly and in accordance with our rules and committee traditions and practices to achieve almost twice as many confirmation for President Bush as the Republicans had allowed for President Clinton, and know how that record was mischaracterized by partisans. I know that sometimes a chairman must make difficult decisions about what to include on an agenda and what not to include, what hearings to hold and when. In my time as chairman I tried to maintain the integrity of the committee process and to be bipartisan. I noticed hearings at the request of Republican Senators and allowed Republican Senators to chair hearings. I made sure the committee moved forward fairly on the President's nominees in spite of the administration's unwillingness to work with us to fill judicial vacancies with consensus nominees and thereby fill those vacancies more quickly. But I cannot remember a time when Chairman KENNEDY, Chairman THURMOND, Chairman BIDEN, or I, ever overrode by fiat the right of the minority to debate a matter in accordance without longstanding committee rules and practices.

By bending, breaking and changing so many committee rules, Republicans crossed a threshold of partisan overreaching that should never have been crossed. As they passed each awful milestone, I urged the Republican leadership to reconsider, to turn back and to reinstate comity.

That is the backdrop for this debate now before the Senate. An overly aggressive executive, added by a majority of the same political party in the Senate, acted last Congress to eliminate any meaningful role of the minority at the committee level and to eliminate our traditions, rules and practices that had protected the minority. This abuse of power and drive toward one-party rule by the Republican leadership has been building for years and is culminating this week through their unprecedented attack on the Senate's rules, role and history. For years now, Democratic Senators have been warning that the deterioration of Senate rules and practices that have protected minority rights was leaving us, the Senate, and the American people in a dire situation.

This systematic and corrosive erosion of checks and balances has brought the Senate to this precipice. The filibuster in the Senate is the last remaining check on the abuses of one-party rule and the undermining of the fairness and independence of the federal judiciary. If the Senate is to serve its constitutional role as a check on

the executive, its protection must be preserved. That is the decision the Senate will be facing tomorrow.

[From the Salt Lake Tribune]

HATCH IS WRONG ABOUT HISTORY OF JUDICIAL APPOINTMENTS

(By John J. Flynn)

The Constitution provides the president ''shall nominate, and by and with the Advice and Consent of the Senate,'' appoint judges and all other officers of the United States.

Throughout most of the Constitutional Convention, the power to appoint ambassadors, judges and other officers of the United States was vested solely in the Senate. It was decided late in the convention that the Senate should share the appointment power with the president. Clearly, the framers expected the Senate would have an equal say in appointments.

Several nominations for positions in the executive branch have been rejected over the past two centuries. Even more nominations for life-time appointments to the judiciary have been rejected because such nominations are for life and they are nominations to an independent branch of government.

For many years rejections were often carried out by the informal process of senators withholding ''blue slips'' for nominees from their home states. When a senator did not return a blue slip approving the nominee, the nomination was killed without a vote by the full Senate. It was a method for insuring the president sought the ''advice'' of the Senate and senators before nominating a person for the judiciary. The result was that only qualified moderates were usually appointed to the bench.

Utah's Sen. Orrin Hatch ended the ''blue slip'' practice. Sen. Hatch also began the practice of ''filibustering by committee chairperson'' nominees proposed by President Clinton. He simply refused to hold hearings on nominations even where senators from the nominee's home state approved of the nomination.

More than 60 Clinton judicial nominees were not even accorded the courtesy of a hearing during the Hatch chairmanship of the Senate Judiciary Committee. They were never given the chance for an ''up or down vote'' by the full Senate. For Sen. Hatch to now object to the use of a filibuster to halt nominations is less than disingenuous.

Contrary to Sen. Hatch's representations in his Tribune op-ed piece last Sunday, Republicans led a filibuster of the nomination of Justice Abe Fortas to the position of chief justice in 1968. I watched the filibuster. When a cloture vote failed to muster the necessary super majority to end the debate after four days of the filibuster, Justice Fortas asked to have his nomination withdrawn.

The modem divisiveness in the Senate over judicial nominations is directly traceable to the Senate's partisan treatment of judicial nominations beginning with Justice Fortas. The level of divisiveness has been increased by President Bush. He threw down a partisan gauntlet by renominating several controversial candidates not confirmed by the prior Senate.

The main qualifications of these candidates appears to be their appeal to the religious right and their rigid ideological views calling into question their capacity to judge objectively contentious issues coming before the courts.

The Bush administration apparently believes that the Senate should simply rubberstamp nominees it selects without Senate advice, much less the consent of a sizeable majority of the Senate. Slogans like seeking the appointment of judges who will not ''make law'' are trumpeted while President Bush nominates persons who will ''make law''—law of the sort advocated by his administration and its closed-minded right-wing supporters.

Because of the nature of the job of judges, the framers of the Constitution vested the Senate with a co-equal power over the nomination and confirmation of persons for life-time appointments to the judiciary. The Senate's role is not a subservient one of rubber-stamping anyone the president nominates unless it is found that they are an ax murderer or child molester.

This was made clear in the Federalist Papers, numbers 76–78. Over the past two centuries, the Senate developed a number of checks on both the president and members of the Senate to prevent the president and a majority of the Senate from running roughshod over those with substantial objections to nominations made by the president.

The result, until the first Bush administration and Sen. Hatch's chairmanship of the Judiciary Committee, has been negotiation and compromise over judicial nominees and the appointment of qualified moderates to the bench for the most part.

The present dispute over whether to eliminate the filibuster as a device to block nominees that a sizeable block of senators finds objectionable presents a further and dangerous erosion of the Senate's advice-and-consent function.

The Republicans hold a 55–to–45 majority of the seats in the Senate. The Republican majority represents approximately 47 percent of the United States population, while the 45-member Democrat minority represent 53 percent of the population. Senators representing less than a majority of the population are advocating the complete ceding of the advice-and-consent function to any president with a numerical majority of the membership of the Senate from his or her own political party.

The end result of the political campaign to further weaken, if not eliminate, the advice and-consent function of the Senate, will be to establish powers similar to those of the English monarch in 1789. The founders expressly sought to avoid this result by requiring the independent advice and consent of senators in the nomination and confirmation of important executive branch positions and lifetime appointments to the bench.

For Republicans to repudiate that role of the Senate, especially after their sorry record in dealing with the judicial nominees of President Clinton, is not only the height of hypocrisy, but is a dangerous precedent they will live to regret.

This is not the time for political opportunism, presidential arrogance or misleading oped pieces by Sen. Hatch. It is a time for members of the Senate to begin to act responsibly when carrying out their advice-and-consent function rather than further erode an important institutional check upon executive branch power and a majority party in the Senate that does not represent a majority of the American people.

Mr. WARNER. Mr. President, I rise today in support of the nomination of Justice Priscilla Owen to serve as a judge on the United States Court of Appeals for the Fifth Circuit.

When I evaluate individuals for Federal judgeships, I turn first to the U.S. Constitution. Article II, section 2 of the Constitution gives the President the responsibility to nominate, with the ''Advice and Consent of the Senate,'' individuals to serve as judges on the Federal courts. Thus, the Constitution provides a role for both the President and the Senate in this process. The President is given the responsibility of nominating, and the Senate has the responsibility to render ''advice and consent'' on the nomination.

As I have fulfilled my constitutional responsibilities as a Senator over the past 27 years that I have had the honor of representing the citizens of the Commonwealth of Virginia in the U.S. Senate, I have conscientiously made the effort to work on judicial nominations with the Presidents with whom I have served.

Whether our President was President Carter, President Reagan, President Bush, President Clinton, or President George W. Bush, I have accorded equal weight to the nominations of all Presidents, irrespective of party.

I have always considered a number of factors before casting my vote to confirm or reject a nominee. The nominee's character, professional career, experience, integrity, and temperament are all important. In addition, I consider whether the nominee is likely to interpret law according to precedent or impose his or her own views. The opinions of the officials from the State in which the nominee would serve and the views of my fellow Virginians are also important. In addition, I believe our judiciary should reflect the broad diversity of the citizens it serves.

These principles have served me well as I have closely examined the records of thousands of judicial nominees.

With respect to the nominee currently before the Senate, I reviewed Justice Owen's record, met with her personally last week, and considered her qualifications in light of all of these aforementioned factors. And let me say, Mr. President, that I came away rather impressed with this nominee.

You see, out of the thousands of nominees I have reviewed in the U.S. Senate, I have to say that Justice Owen has, without a doubt, one of the more impressive records.

In 1975, she earned her bachelors degree, cum laude, from Baylor University. She then remained at Baylor to earn her law degree. While in law school, she served as a member of the Baylor Law Review. And, when she graduated from law school in 1977, she once again earned the honors of graduating cum laude.

Upon graduating from law school, Justice Owen took the Texas bar exam. Not only did she pass it, she earned the highest score in the State on the December 1977 exam.

Since passing the bar, she spent approximately 16 years practicing law in a distinguished Houston law firm. She started as a young associate and through her efforts as a commercial litigator she later became a partner at the firm.

In 1994, Priscilla Owen was first elected to the Texas Supreme Court. Six years later, she overwhelmingly won a second term with 84 percent of the vote—a strong testament of public support given to her by the citizens of the State of Texas.

But not only do the people of Texas overwhelmingly believe that Judge Owens is a highly qualified Federal judge, it is important to recognize that every major newspaper in Texas endorsed her reelection.

She also has notable bipartisan support for her nomination, including three former Democrat judges on the Texas Supreme Court and the bipartisan support of 15 past Presidents of the State bar of Texas. The American Bar Association, often called the ''gold standard'' around here for evaluating judges, has unanimously deemed Justice Owen ''Well Qualified''—its highest rating.

Despite all of this strong, bipartisan support, however, over the course of the past 4 years, we have been unable to get to an up-or-down vote in the Senate on Justice Owen's nomination. All the while, this outstanding nominee has been waiting patiently for the Senate to act on her nomination. In my view, such an exemplary nominee should have been confirmed far sooner, especially since the seat for which she has been nominated has been dubbed by the Judicial Conference of the United States as a ''judicial emergency.''

The fact of the matter is that Justice Priscilla Owen is a highly distinguished jurist with impeccable credentials. There is no doubt in my mind that she should be confirmed for this lifetime appointment.

I look forward to voting in support of her nomination and encourage my colleagues to do the same.

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

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

Mr. FRIST. Mr. President, I have had the opportunity to review the agreement signed by the Senator from Virginia, the Senator from Arizona, the Senator from Nebraska, and 11 other Senators, an agreement that I have reviewed but to which I am not a party.

Let me start by reminding the Senate of my principle, a simple principle, that I have come to this Senate day after day stating, stressing. It is this: I fundamentally believe it is our constitutional responsibility to give judicial nominees the respect and the courtesy of an up-and-down vote on the floor of the Senate. Investigate them, question them, scrutinize them, debate them in the best spirit of this body, but then vote, up or down, yes or no, confirm or reject, but each deserves a vote.

Unlike bills, nominees cannot be amended. They cannot be split apart; they cannot be horse traded; they cannot be logrolled. Our Constitution does not allow for any of that. It simply requires up-or-down votes on judicial nominees. In that regard, the agreement announced tonight falls short of that principle.

It has some good news and it has some disappointing news and it will require careful monitoring.

Let me start with the good news. I am very pleased, very pleased that each and every one of the judges identified in the announcement will receive the opportunity of that fair up-or-down vote. Priscilla Owen, after 4 years, 2 weeks, and 1 day, will have a fair and up-or-down vote. William Pryor, after 2 years and 1 month, will have a fair up-or-down vote. Janice Rogers Brown, after 22 months, will have a fair up-or-down vote. Three nominees will get up-or-down votes with certainty now because of this agreement, whereas a couple of hours ago, maybe none would get up-or-down votes. That would have been wrong.

With the confirmation of Thomas Griffith to the DC Circuit Court of Appeals we have been assured—though it is not part of this particular agreement—there will be four who will receive up-or-down votes. And based on past comments in this Senate—although not in the agreement—I expect that David McKeague, after 3 years and 6 months, will get a fair up-or-down vote. I expect that Susan Neilson, after 3 years and 6 months, will get a fair or up-or-down vote. I expect Richard Griffin, after 2 years and 11 months, will get a fair up-or-down vote.

Now, the bad news, to me, or the disappointing news in this agreement. It is a shame that well-qualified nominees are threatened, still, with not having the opportunity to have the merits of their nominations debated on the floor.

Henry Saad has waited for 3 years and 6 months for the same courtesy. Henry Saad deserves a vote. It is not in this agreement. William Myers has waited for 2 years and 1 week for a fair up-or-down vote. He deserves a vote but is not in this agreement. If Owen, Pryor, and Brown can receive the courtesy and respect of a fair up-or-down vote, so can Myers and Saad.

I will continue to work with everything in my power to see that these judicial nominees also receive that fair up-or-down vote they deserve. But it is not in this agreement.

But in this agreement is other good news. It is significant that the signers give up using the filibuster as it was deployed in the last Congress in the last 2 years. The filibuster was abused in the last Congress. Mr. President, 10 nominees were blocked on 18 different occasions, 18 different filibusters in the last 2 years alone, with a leadership-led minority party obstruction, threatening filibusters on six others. That was wrong.

It was not in keeping with our precedents over the past 214 years. It made light of our responsibilities as United States Senators under the Constitution. It was a miserable chapter in the history of the Senate and brought the Senate to a new low.

Fortunately, tonight, it is possible this unfortunate chapter in our history can close. This arrangement makes it much less likely—indeed, nearly impossible—for such mindless filibusters to erupt on this floor over the next 18 months. For that I am thankful. Circuit court and Supreme Court nominees face a return to normalcy in the Senate where nominees are considered on their merits. The records are carefully examined. They offer testimony. They are questioned by the Senate Judiciary Committee. The committee acts, and then the Senate discharges its constitutional duty to vote up or down on a nominee.

Given this disarmament on the filibuster and the assurance of fair up-or-down votes on nominees, there is no need at present for the constitutional option. With this agreement, all options remain on the table, including the constitutional option.

If it had been necessary to deploy the constitutional option, it would have been successful and the Senate would have, by rule, returned to the precedent in the past 214 years. Instead, tonight, Members have agreed that this precedent of up-or-down votes should be a norm of behavior as a result of the mutual trust and good will in that agreement.

I, of course, will monitor this agreement carefully as we move ahead to fill the pending 46 Federal vacancies today and any other vacancies that may yet arise during this Congress. I have made it clear from the outset that I haven't wanted to use the constitutional option. I do not want to use the constitutional option, but bad faith and return to bad behavior during my tenure as majority leader will bring the Senate back to the point where all 100 Members will be asked to decide whether judicial nominees deserve a fair up-or-down vote.

I will not hesitate to call all Members to their duty if necessary. For now, gratified that our principle of constitutional duty to vote up or down has been taken seriously and as reflected in this agreement, I look forward to swift action on the identified nominations.

Now, the full impact of this agreement will await its implementation, its full implementation. But I do believe that the good faith and the good will ought to guarantee a return to good behavior, appropriate behavior, on the Senate floor and that when the gavel falls on this Congress, the 109th Congress, the precedent of the last 214 years will once again govern up-or-down votes on the floor of the Senate.

Now, this will be spun as a victory, I would assume, for everybody. Some will say it is victory for leadership, some for the group of 14. I see it as a victory for the Senate. I honestly believe it is a victory for the Senate where Members have put aside a party demand to block action on judicial nominees. They have rose to principle and then acted accordingly.

I am also gratified with how clearly the Democratic leader has repeated over and over again during this debate how much he looks forward to working with us, and I with him, as we move forward on the agenda of the 109th Congress. Our relationship has been forged in part by circumstance, but it has been leavened by friendship. I look forward to working with him as we work together to move the Nation's agenda forward together.

We have a lot to do, from addressing those vital issues of national defense and homeland security, to reinforcing a bill that hopefully will come very soon, addressing our energy independence, our role as a reliable and strong trading partner, to an orderly consideration of all the bills before us about funding, and to put the deficit on the decline. I look forward to working with the Democratic leader on these and many other issues of national importance.

Mr. President, a lot has been said about the uniqueness of this body. Indeed, our Senate is unique, and we all, as individuals and collectively as a body, have a role to play in ensuring its cherished nature remains intact. Indeed, as demonstrated by tonight's agreement, and by the ultimate implementation of that agreement, we have done just that.

It has withstood mighty tests that have torn other governments apart. Its genius is in its quiet voice, not in any mighty thunder. The harmony of equality brings all to its workings with an equal stake at determining its future. In all that the Senate has done in the last 2 years, I, as leader, have attempted to discharge my task to help steward this institution consistent with my responsibilities, not just as majority leader and not just as Republican leader, but also as a Senator from Tennessee.

In closing tonight, with this agreement, the Senate begins the hard work of steering back to its better days, leaving behind some of its worst. While I would have preferred and liked my principle of up-or-down votes to have been fully validated, for this Congress now we have begun our labors for fairness and up-or-down votes on judicial nominees with a positive course. And as all involved keep their word, it should be much smoother sailing.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. REID. Mr. President, this is a day I have waited for for a long time. We can put the 8 years of the Clinton administration behind us, the problems he had with the judges, over 60. We can put the first 4 years of the Bush administration behind us. I have looked forward to this day for a long time. We are now in a new Congress and a new day, and it was made possible by virtue of some very, very unique individuals called Senators. One of them is here on the floor. The other, Senator BYRD, has left.

Senator BYRD has served 53 years in the Congress, 47 in the Senate, 6 in the House. The chairman of the most important committee, many say around here, the Armed Services Committee, Senator WARNER of Virginia—if there were ever a southern gentleman, it is the white-haired Senator from Virginia, JOHN WARNER. They worked for months with some of the youngsters here, LINDSEY GRAHAM, MARK PRYOR, KEN SALAZAR, in coming up with this unique instrument that is only possible in the Senate.

Now, Mr. President, I say that this is not a victory for the Senate, though it is. I say this is a victory for the American people. It is a victory for the American people because the Senate has preserved the Constitution of the United States. No longer will we have to be giving the speeches here about breaking the rules to change the rules. We are moving forward in a new day, a new day where the two leaders can work on legislation that is important to this country.

Just as a side note, I can throw away this rumpled piece of paper I have carried around for more than a month that has the names MCCAIN, CHAFEE, SNOWE, WARNER, COLLINS, HAGEL, SPECTER, MURKOWSKI, and SUNUNU. It is gone. I do not need that any more because of the bravery of these Senators. I am grateful to my colleagues, as I have said, who brokered this deal. And it was a brokerage, for sure.

Now we can move beyond this time-consuming process that has deteriorated the comity of this great institution called the Senate. I am hopeful we can quickly turn to work on the people's business. We need to ensure that our troops have the resources they need to fight in Iraq and around the world and that Americans are free from terrorism. We need to protect retirees' pensions and long-term security. We need to expand health care opportunities for all families. We need to address rising gasoline prices and energy independence, and we need to restore fiscal responsibility and rebuild our economy so it lifts all American workers. That is our reform agenda. Together we can get the job done.

It is off the table. People of good will recognize what is best for the institution. There are no individual winners in this. Individual winners? No. A little teamwork it took. And the American people should see this picture: Democrats and Republicans, some who have been here as long as Senator BYRD and Senator WARNER, and some newcomers. Senator SALAZAR has been here for 5 months. He was part of this arrangement. People from red States, from blue States, they represent America. That is what happened tonight.

Now, I would rather that something else had happened. I would rather that we had marched down here tomorrow and voted and we gave our high fives and we had won. We are not doing that. We have won anyway because this is a victory for the American people.

I love this country, Mr. President. I have devoted my life to public service. I do not regret a day of it. I will have been in public service 41 years, and I said to my caucus that there has never been a more important issue I have dealt with in my political life than this issue that is now terminated. It is over with. And I feel so good. This will be the first night in at least 6 weeks that I will sleep peacefully. I have not had a peaceful night's rest in at least 6 weeks.

I owe a debt of gratitude to these Senators who did what the two leaders could not do. I tried. It could not be done. But I hope, as we proceed in the days to come, that this is past history. Of course, there will be filibusters in the future. It is the nature of this institution. And that is the way it should be. We are not on a slippery slope to saying all the Presidential nominations are subject to a simple majority—to change the rules. We are not going to say that legislation is subject to a simple majority to change the rules. The filibuster is here. Mr. SMITH can still come to Washington.

I, through the Chair, extend my appreciation to the distinguished Republican leader for his patience, my many trips to his office, the few trips he made to my office, the many telephone calls, the BlackBerrys we exchanged. I have admiration for the good doctor from Tennessee. And I hope that we, working together, can do good things for this country. The country needs a Senate that works together.

Again, Mr. President, the only person I see here who I can personally thank is the distinguished Senator from Virginia. I say, through the Chair, to you and the other 13 Senators, thank you very much.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, before he leaves the floor, I want to extend my congratulations to the majority leader for moving us to this point. Obviously, human nature, being what it is, had we not had a deadline, had the Priscilla Owen nomination not been brought up, had the debate not begun, we would not be where we are today. Senator FRIST, in a tireless and persistent manner, has been working on this issue since shortly after the election last year, talking to Senator REID.

I also want to compliment the Democratic leader. I suspect there is no issue upon which Senator FRIST and Senator REID have had discussions more frequently than this one, going back for the last 6 months.

I think there was bipartisan unhappiness in the Senate with the degree to which the Senate had deteriorated in the last Congress—this sort of random, mindless killing of nominees, 10 of them.

I think what has happened tonight is a result not only of the steadfastness of our majority leader, BILL FRIST, but also this coming together of the group

of 14, led in large measure on our side by Senator MCCAIN and Senator WARNER from Virginia, one of the real true supporters of this institution. They have allowed us to sort of step back from the brink. As I read this memorandum of understanding, signed by the seven Democrats and seven Republicans, all options are still on the table with regard to both filibusters and constitutional options. But what I also hear from these 14 distinguished colleagues is that they do not expect this to happen.

We have marched back from the brink, hopefully taken the first step, beginning tomorrow with cloture on Justice Priscilla Owen, to begin to deal with judicial nominations the way we always have prior to the last Congress. Sure, there were occasional cloture votes, but they were always invoked. They were always for the purpose of getting the nominee an up-or-down vote.

I want to thank Senator WARNER and his colleagues for making it possible for us to get back to the way we operated quite comfortably for 214 years. So even though this is not an agreement that I would have made or that the majority leader would have made—because he and I both believe that all nominees who come to the floor are entitled to an up-or-down vote—it is certainly a good beginning. And three very, very distinguished nominees, whose nominations have been languishing for a number of years, are going to get an up-or-down vote. I think that is something we can all celebrate on a bipartisan basis.

So I do indeed think this has been a good night for the Senate. And I am optimistic that for the balance of this Congress, we will operate the way we did for 214 years prior to the last Congress.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Chair.

Winston Churchill once said there is nothing more exhilarating than being shot at and missed. This evening I think Members of the Senate feel as I do——

The PRESIDING OFFICER. The Senator will excuse me. Let me say that I need to recognize the Senator from Colorado.

Mr. ALLARD. Mr. President, I inquire what the regular order might be. I was scheduled to speak at 8:15. I am not entirely sure on the regular order.

The PRESIDING OFFICER. The majority controls the time until 9 o'clock.

Mr. ALLARD. Mr. President, my time right now as set aside for the majority is now being taken up by this discussion. I would like to have some time reserved for myself in the 30 minutes. Right now we have 6 or 7 or 8 speakers lined up, and so I want to have an opportunity to make my views known at some point in time. I think we need to establish regular order, and if both parties have agreed that it goes back over to the other side at 9 o'clock, I would like to have that extended out so that when we reach 9 o'clock then I can speak from 9 to 9:30.

Mr. DURBIN. Mr. President, I make the unanimous consent request that as soon as I finish speaking, and the other Senators who have sought recognition, the Senator from Colorado be recognized for 30 minutes.

Mr. HARKIN. Mr. President, reserving the right to object, do I understand the order is that when 9 o'clock comes what is in order is before the Senate right now?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. I did not hear the unanimous consent request of my friend from Illinois.

Mr. DURBIN. I say through the Chair to my friend from Iowa, since there has been the interruption of the good news of this agreement, it was taken from the time of the Senator from Colorado, the majority, and I am trying to make sure his time is protected and that we can move all times to the point where the Senator from Colorado has his 30 minutes as soon as a few of us have spoken for just a few minutes and then we will continue.

Mr. HARKIN. I ask unanimous consent at the conclusion of the 30 minutes for the Senator from Colorado, the Senator from Iowa be recognized for 15 minutes.

Mr. WARNER. Mr. President, reserving the right to object—I shall not object—I hope I could state a few words following the distinguished Senator from Illinois. I was scheduled to speak at 8 o'clock. My time I think has been put to good use, and I would be very pleased if I could make my remarks. So if I could follow the Senator from Illinois for not to exceed 4 minutes.

Mr. SCHUMER. Mr. President, I just want to get the regular order. I was scheduled to speak at 9 o'clock on our side. Is that time preserved under the order?

The PRESIDING OFFICER. The unanimous consent request that the Senator from Colorado have 30 minutes is also at 9 o'clock; is that correct?

Mr. SCHUMER. All right, then, Mr. President, I ask unanimous consent that immediately after the Senator from Colorado, I be given the 15 minutes I was going to be given at 9 o'clock.

The PRESIDING OFFICER. Will the Senator from Illinois modify his request?

Mr. DURBIN. Let me try to modify this appropriately. I ask unanimous consent that I speak for 5 minutes, that I be followed by Senator WARNER who wishes to speak for 5 minutes, Senator SCHUMER for 5 minutes, then Senator ALLARD for 30 minutes, and Senator HARKIN following him for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. And after Senator HARKIN, Senator BOXER for 15 minutes.

Mr. KYL. Mr. President, reserving the right to object, since I was to speak at 9:30, I want to intervene. I will withhold depending upon what my colleagues say in the spirit of the latest agreement to see whether it is necessary to comment, and if not then I won't, but otherwise I will not object to the request that has been made.

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

Mr. DURBIN. I thank my colleagues.

It is great to have these bipartisan agreements on the floor of the Senate. Maybe a new spirit is dawning. I am going to take a very few moments. As I said at the outset, Winston Churchill said there is nothing more exhilarating than being shot at and missed. Many of us in the Senate feel that this agreement tonight means some of the most cherished traditions of the Senate will be preserved, will not be attacked, and will not be destroyed. I think it is a time for celebration on both sides of the aisle.

I salute one of my colleagues who is on the Senate floor this evening, Senator WARNER of Virginia. I was asked by my friends back in Illinois not long ago, Senator WARNER, tell us the Republican Senators you really respect, and I said JOHN WARNER is certainly one of those Senators. And I mean it sincerely. He has played a central role with Senator MCCAIN, Senator BYRD, Senator NELSON, Senator PRYOR, and so many others to bring us to this point.

What I think is important is this: What we have seen as the emergence of resolving this issue is the emergence of people from the center who are dedicated to this institution and to our role in our government. I hope that continues over to other issues, and I hope the White House, as well as the leaders of both political parties, will try to work in that same spirit, the spirit of moving toward the center in moderation. I might say that the fact that the President has had 95 percent of his nominees to the bench approved by the Senate is an indication that if he will pick men and women more toward the center, even a little right of center, which we expect, that the President is not going to run into the resistance he did with a handful of nominees that we on the Democratic side thought went too far.

I would like to say a word about Senator HARRY REID, who was in the Chamber just a moment ago. He spoke about sleepless nights. He and I talked about that for weeks. No one has spent more time worrying over this situation. He understood, as we all did, that this was not just another political issue, not just another political vote, but had Vice President CHENEY come to that chair tomorrow and ruled as we heard he would under the nuclear option, the Senate would have been changed forever. This institution has been preserved. The nuclear option is off the table. We have been admonished, and I think appropriately so, not

to misuse the filibuster, certainly when it comes to judicial nominees. That is good advice on both sides of the aisle under Democratic and Republic Presidents. I thank my colleagues, too, for bringing up some of the more contentious judges as part of this debate.

Senator REID went to Senator FRIST weeks ago and said if this is about one or two judges, let us get that resolved. The Senate, its traditions and the constitutional issues at stake, are more important than any single judge in our land. Unfortunately, that negotiation between Senator REID and Senator FRIST did not lead to the culmination that we had hoped it would. But thanks to the leadership of colleagues on both sides of the aisle in good faith and good spirit on a bipartisan basis we have now moved ourselves beyond this crisis. Now the challenge is whether we can continue in this spirit: Will we tomorrow come together and start working on important issues such as retirement security, health care in America, the protection of our Nation, the support of our men and women in uniform, doing something to help with education? It is an important agenda that calls for the best on both sides of the aisle to work together.

Again, let me thank Senator WARNER for his leadership. I know he has been patient. A couple weeks ago, the Senator came over to me in the corner of the Chamber and said: We ought to work together to get this resolved.

The Senator never quit. I admire him for that. I admire Senators on both sides of the aisle who brought us to this happy occasion.

And at that point, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank my distinguished colleague from Illinois.

Mr. President, when we opened our brief press conference upstairs, Senator MCCAIN and Senator BEN NELSON spoke for the entire group. It was made clear our everlasting gratitude to the tireless efforts by Senator FRIST and Senator REID. The framework that we have created can be no stronger than the foundation on which it rests. And that foundation was laid by our two respective leaders, and, indeed, the whips, Senator MCCONNELL and the Senator from Illinois. So we are not around this evening to try to take credit for anything. As a matter of fact, this was the most unusual gathering of Senators, and the manner in which it was conducted over a number of days—total humility among our group.

We are proud of the leadership that Senator MCCAIN gave, Senator BEN NELSON, Senator ROBERT BYRD, and others. But each Senator of the 14 was 1, but 1 among equals, working toward a common goal. And no one articulated that goal time and time again in every meeting more than Senator ROBERT BYRD of West Virginia, who said it is the Nation, it is the institution of the Senate, and the third priority is our own career. So I thank him for that.

I am proud to have been a part of this. I do hope that our wonderful Senate can now resume its long and distinguished service to our Nation over these 214 or 216 years, and I am very privileged to have been a small part of it at this time.

I thank the Chair. I yield the floor.

PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank the Chair. I thank all my colleagues. This will go down, hopefully, as a fine night in the Senate, in the U.S. Government. Armageddon has been avoided, and thank God for that. We in the Senate stepped right up to the precipice, but we did not fall in. This Republic works in amazing ways. And just as we were about to fall into an abyss of partisanship, of a destruction of the checks and balances that are the hallmark of this institution and this government, 12 Senators, many Democrats from red States, some Republicans from blue States, came together and created an agreement that I think serves this body well.

Does it have everything that we would have wanted on this side? No. But it takes the nuclear option off the table. It says that filibusters may continue to be used, albeit in a restrained way—although many would argue 10 out of 218 was restrained in itself. It also asks the President to consult and that, to me, would be a key lesson of this agreement. The reason that we came so close to this Armageddon is because, in my judgment, we didn't have the typical consultation that previous Presidents—Clinton, Bush, Reagan—had with the Senate before nominating judges.

The agreement widely states that it is the hope of the Senate—at least of the 12 signatories, but I am sure the other 88 Senators would join—that the President will begin to consult. That will not mean that judges will be so far from his political philosophy. He is the President and he gets to choose them. But it will mean that the kinds of partisan division that we have seen here is gone.

Mr. President, what I most feared about the nuclear option was the destruction of the checks and balances that are the hallmark of this institution. Those checks and balances have been preserved tonight. But make no mistake about it, if we don't all make efforts, we could get right back to this point soon enough. It could be on the issue of judges or on the issue of something else. The poison of too much partisanship is still here, and it is hoped that this agreement will set a model where everyone can pull back, it is hoped that there will be consultation on judges, and it is hoped that this agreement will set the stage for a better Senate, a better Congress, and a better Republic in the future.

Mr. President, this could become a historic night if the agreement that has been created keeps. We must preserve the checks and balances in the Senate. We must preserve the rights of the minority in the Senate. We must understand that a vote of 51 percent on the most major of decisions is not the right vote that is always called for. That has been the tradition in the Senate.

The reason we say that our rules take two-thirds to change is exactly to make it hard to change the rules and force the proposed changer to seek a bipartisan coalition. That bipartisanship is what differentiates us from the other body. Those checks and balances differentiate us from most other governments. We must fight to keep them and tonight we have made a giant step in that direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I thank the Senator from New York for his kind comments on the judicial nomination process. My thanks extend to all my colleagues tonight for their comments on the judicial nomination process and compromise negotiations.

I rise to congratulate the 14 Senators who have indicated through a Memorandum of Understanding that they will no longer support a filibuster on 3 of President Bush's judicial nominees. This is a good first step toward a bipartisan resolution.

My statement this evening is based on remarks that I prepared prior to the announcement of the judicial nomination compromise; however, the basic intent of my remarks has not changed even though the filibuster has been broken on three of the President's nominees. Tonight, I will address the qualifications of Priscilla Owen, and how important it is that we allow a yes or no vote on judicial nominees. All I ask for is an opportunity to have a yes or no vote on those judges that are pending before the Senate.

I am concerned about the next step in the judicial nomination debate—where are we going to go from here when it comes to the filibuster? I join my colleagues on both sides of the aisle who wish to move forward and forget about finger pointing and blame—who voted for who, who voted for a filibuster and how many times did they vote against cloture. I just hope we do indeed move forward. I hope we will look at each judge that is before the Senate for confirmation and vote them up or down based on their qualifications. That is what our forefathers had in mind when the advise and consent.

I join my colleagues in support of the nomination of Priscilla Owen, the Texas Supreme Court justice who was first nominated to the Fifth Circuit Court of Appeals in May 2001 by President Bush. I urge my colleagues to support her confirmation and allow an up-or-down vote on her nomination. I hope that fairness prevails and that we do indeed proceed with a vote on her nomination, and it looks like that is indeed the way the events have unfolded this evening.

I have had the opportunity to meet with Priscilla Owen personally. I don't know how many of my colleagues who oppose or who continue to oppose her have accepted her offer to visit with them, but I hope they will have the courtesy to meet her in person before deciding to refuse to offer her a fair up-or-down vote. If they do, they will quickly learn she is a person of integrity, humility, and possesses a keen understanding of the law.

On a personal note, she is a wonderful human being. I was particularly impressed when she told me that growing up she hoped to be a veterinarian. As a veterinarian myself, you can understand why I was impressed. She spoke of growing up and participating in a family cattle ranching enterprise, helping her parents and grandparents during calving season, nursing and branding.

There is something special about a person who has been kicked by a cow and swatted across the face with a dirty cow tail. It makes a person more real, more understanding of life and hard work. This is exactly the type of judge we need on the bench, one who understands real life, honest-living and hard-working people.

Instead of defaming her, I wish my colleagues would get to know her so that they might recognize the legal skill and value she would bring to the United States as a member of the Fifth Circuit Court of Appeals. Priscilla Owen will uphold the law, not make the law. Some find this to be a problem. I find it to be a blessing.

Priscilla Owen has served the law with distinction. A justice of the Texas Supreme Court since 1995, she received overwhelming approval from the people of Texas, 84 percent of whom voted to retain her service on the bench.

Unlike many Members of the Senate, including myself, when it came time for the voters to decide whether or not she should remain on the bench, Ms. Owen received the endorsement of every major newspaper in the State of Texas. I ask, does that sound like someone who is too extreme?

Priscilla Owen's life has not been limited to the law. She is a decent human being and dedicated community servant. She has worked to educate parents about the effect divorce has on children and worked to lessen the adversarial nature of legal proceedings when a marriage is dissolved. She works with the hearing impaired and organizations dedicated to service animals for those with disabilities. She teaches Sunday school and is committed to the poor and underprivileged.

It is clear that she is qualified to serve on the Fifth Circuit Court. The American Bar Association unanimously rated Justice Owen ''well qualified,'' its highest possible rating. She has the support of former Democrat justices on the Texas Supreme Court and 15 past presidents of the Texas State Bar.

To say that she is not qualified is utterly ridiculous. Because her credentials are so outstanding, throughout this debate, the other side has relied on hyperbole and rhetoric, accusing her of being ''extreme'' in order to smear her nomination. So the question her nomination presents us, then, is whether she is extreme or qualified? The great thing about the Constitution is that it provides us with a mechanism to make this type of ''advice and consent'' determination on whether she is extreme or qualified—through a simple up-or-down vote.

An up-or-down vote is a simple matter of fairness. Every judicial nominee that makes it out of the Judiciary Committee should receive an up or down vote. The filibuster is not in the Constitution. It is merely a parliamentary delay tactic that was relatively unused until modern times. In 214 years, never has a nominee with the majority of support of the United States Senate been denied a vote.

Throughout the history of the United States, a nominee who clearly held the majority support of the Senate had never been defeated by the use of the filibuster—until now. During the last Congress those opposed to President Bush's nominees tried to establish a precedent by using the filibuster to block a nomination. Having witnessed what was taking place, I appealed to my colleagues to restore the fairness that this body and the American people deserve. That is why I am so excited about moving forward with 3 of the nominations, which includes Priscilla Owen, so we can have an up-or-down vote.

Throughout this debate, I have consistently stated we must reach a compromise that allows an up-or-down vote on all nominees, while affording everybody an opportunity to be heard. This is not a partisan issue or flippant suggestion; it is simply a matter of fairness. If a nominee reaches the floor, then they should receive a vote—up or down. I don't believe there is anything wrong with providing a nominee an up-or-down vote once they reach the floor.

Some in this body act as if the filibuster has been used before to kill a judicial nominee. But such actions are simply misguided. Every nominee with a majority of support has received an up-or-down vote—every nominee for over 200 years.

I do not take the confirmation of judicial nominations lightly, nor do my colleagues. But we must not twist the confirmation process into a partisan platform.

Our fundamental duty to confirm the President's nominees is not an easy task. It carries with it the weight and responsibility of generations—a lifetime appointment to a position that requires a deep and mature understanding of the law.

We were elected to the Senate by people who believed we would accomplish our fundamental duties—as representatives of the people to say yes or no to the President's nominees.

I believe Members have a right to express their opinions. I also believe that Members have a right to a vote and that it is wrong to deny others of their opportunity to vote on judicial nominations.

The debate is not about numbers. It is not about percentages—how many judges that Republicans confirmed or how many judges Democrats have confirmed. To frame this debate as a numbers fight is not being fair to the American people. We were not sent to Congress to focus on a numerical count, but instead to carry out our constitutional obligations, in this instance the advice and consent clause.

Some Senators have come to the floor to argue that the advice and consent clause doesn't mean that we actually vote on nominees. They argue that a vote is only needed to confirm the nominee, but that other tactics can be used to disapprove the nominee. Unfortunately, these other tactics that have been used to kill a nomination have resulted in the obstruction of our constitutional duties.

To help address this point, I will turn to a recent article published in the National Review, which discusses the meaning of the advise and consent clause through the eyes of our country's Founders. The article notes the appointment clause is listed as an explicit power vested in the executive.

The advise and consent obligation follows this clause but it is in the article addressing executive powers. It is not listed in the article addressing legislative powers. The author believes that this is instructive because it helps us understand that the Founders intended the President to play the main role in the nomination process, not the legislature. Had the Founders intended the legislature to be the fulcrum, they would have listed the advise and consent clause as a fundamental duty in the article addressing legislative powers.

I ask unanimous consent to have that article printed in the RECORD.

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

[From National Review Online, May 17, 2005]

BREAKING THE RULES: THE FRAMERS INTENDED NO MORE THAN A SENATE MAJORITY TO APPROVE JUDGES

(By Clarke D. Forsythe)

The sharpening debate in the U.S. Senate over whether Democrats can block President Bush's judicial nominations by filibuster raises the basic question of the scope of the Senate's constitutional role to give ''Advice and Consent.'' What does it mean for the Senate to give ''Advice and Consent'' for federal judges?

Many people question whether changing the rules to allow only a majority vote for confirmations is proper, or even constitutional. However, the text of the Constitution, the record of the Constitutional Convention of 1787, and Supreme Court decisions all concur to show that the Constitution intended no more than a majority ''vote'' for the Senate's ''Advice and Consent'' for judicial appointments.

The key provision is Article II, Section 2, called the Appointments Clause: ''[The president] shall have Power, by and with the Advice and Consent of the Senate, to make

Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States . . .''

There are three striking aspects of the Appointments Clause, all of which are intentional and not accidental.

First, it is instructive if not definitive that the Appointments Clause is contained as an explicit power in Article II, involving executive powers, not in Article I, involving legislative powers.

Second, only a simple majority is required. The clause on the treaty power, after mentioning ''Advice and Consent,'' requires concurrence by ''two thirds of the Senators present.'' The clause on the appointment of ambassadors and others, including Supreme Court justices—by contrast—does not.

This is reinforced by the contrast found in several other provisions in the Constitution where a ''supermajority'' vote is required. In Article I, section 3, two-thirds (of members present) are required for Senate conviction for impeachment. In Article I, section 5, two-thirds are required to expel a member of either House. Article I, section 7 requires two-thirds for overriding a presidential veto. The fact that the Constitution explicitly requires two-thirds in some contexts indicates that the Senate's consent in Article II, section 2 is by majority vote when no supermajority vote is required.

The general rule is that majorities govern in a legislative body, unless another rule is expressly provided. Article I, section 5, for example, provides that ''a Majority of each [House] shall constitute a Quorum to do Business.''

More than a century ago, the Supreme Court stated in United States v. Ballin, a unanimous decision, that ''the general rule of all parliamentary bodies is that, when a quorum is present, the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case the terms of the organic act under which the body is assembled have prescribed specific limitations . . . No such limitation is found in the federal constitution, and therefore the general law of such bodies obtains.''

Third, the particular process in the Appointments Clause—of presidential nomination and Senate ''consent'' by a majority—was carefully considered by the Constitutional Convention. A number of alternative processes for appointments were thoroughly considered—and rejected—by the Constitutional Convention. And this consideration took place over several months.

The Constitutional Convention considered at least three alternative options to the final Appointments Clause: (1) placing the power in the president alone, (2) in the legislature alone, (3) in the legislature with the president's advice and consent.

On June 13, 1787, it was originally proposed that judges be ''appointed by the national Legislature,'' and that was rejected; Madison objected and made the alternative motion that appointments be made by the Senate, and that was at first approved. Madison specifically proposed that a ''supermajority'' be required for judicial appointments but this was rejected. On July 18, Nathaniel Ghorum made the alternative motion ''that the Judges be appointed by the Executive with the advice & consent of the 2d branch,'' (following on the practice in Massachusetts at that time). Finally, on Friday, September 7, 1787, the Convention approved the final Appointments Clause, making the president primary and the Senate (alone) secondary, with a role of ''advice and consent.''

Obviously, this question is something that the Framers carefully considered. The Constitution and Supreme Court decisions are quite clear that only a majority is necessary for confirmation. Neither the filibuster, nor a supermajority vote, is part of the Advice and Consent role in the U.S. Constitution. Until the past four years, the Senate never did otherwise. Changing the Senate rules to eliminate the filibuster and only require a majority vote is not only constitutional but fits with more than 200 years of American tradition.

Mr. ALLARD. Mr. President, had the Founders intended a 60-vote supermajority, they would have included the requirement in the Constitution the way they did on the treaty power clause. The clause on the treaty power, after mentioning ''advice and consent,'' requires concurrence by two-thirds of the Senators present. The clause on the appointment of ambassadors and others, including Supreme Court Justices, by contrast, does not.

The author then pointed out several other provisions in the Constitution where a supermajority vote is required. In article I, section 3, two-thirds of Members present are required for Senate conviction for impeachment. In article I, section 5, two-thirds are required to expel a member of either House. Article I, section 7 requires two-thirds for overriding a Presidential veto.

The fact that the Constitution explicitly requires two-thirds in some contexts indicates that the Senate's consent in article II, section 2 is by majority vote when no supermajority vote is required. The general rule is that majorities govern in a legislative body unless another rule is expressly provided.

The article also cited a Supreme Court case noting that more than a century ago, in United States v. Ballin, that ''the general rule of parliamentary bodies is that, when a quorum is present, the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case the terms of the organic act under which the body is assembled have prescribed specific limitations. . . . No such limitation is found in the Federal Constitution and, therefore, the general law of such bodies obtains.''

In the author's own words: ''. . . the particular process in the Appointments Clause—of presidential nomination and Senate 'consent' by a majority''—was carefully considered by the Constitutional Convention. A number of alternative processes for appointments were thoroughly considered—and rejected—by the Constitutional Convention. And this consideration took place over several months.

The Constitutional Convention considered at least three alternative options to the final appointments clause: (1) placing the power in the President alone,(2) in the legislature alone, (3) in the legislature with the President's advice and consent.

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On July 18, Nathaniel Ghorum made the alternative motion ''that the Judges be appointed by the Executive with the advice & consent of the 2d branch,'' following on the practice in Massachusetts at that time.

Finally, on Friday, September 7, 1787, the Convention approved the final appointments clause, making the President primary and the Senate alone secondary with the role of advise and consent.

I am no lawyer, but to me if a document consistently states when a supermajority vote is required and silent when it is not required, that they meant to write it that way and it was not a mere oversight no supermajority was required for the approval of judicial nominees.

Clearly, a supermajority was never intended, but what was intended was an up-or-down vote, a fair nonpartisan up-or-down vote.

If a Member of the Senate disapproves of a judge, then let them vote against the nominee. I encourage them to express their dissatisfaction and vote no on the nominee. But do not deprive those of us in the Senate who support a nominee of our right to a vote. Do not deny an up-or-down vote entirely. Let's decide whether the Members of this body approve or disapprove of the nominees, and let's vote. Let's vote to show whether this body believes the nominees are unfit for service or out of the mainstream. I believe they have majority support—majority support from the elected representatives of the people. But let's vote and find out.

It is our vote—the right of each Member to collectively participate in a show of advise and consent to the President—that exercises the remote choice of the people who sent us to Congress.

Our three-branch system of government cannot function without an equally strong judiciary. It is through the courts that justice is served, rights protected, and that lawbreakers are sentenced for their crimes.

Unfortunately, one out of four of President Bush's circuit nominees have been subjected to the filibuster, the worst confirmation of appellate court judges since the Roosevelt administration. The minority cannot willingly refuse to provide an up-or-down vote on judicial nominees without acknowledging that irreparable harm may be done to an equal branch of government.

The decision to vote up or down on a nominee or deny that vote entirely pits the Constitution against parliamentary procedure. That is the Constitution versus the filibuster. I urge my colleagues to put their faith in the

founding document and not in a filibuster. To do anything else dishonors the Constitution and relegates it to a mere rule of procedure.

I am pleased that we have reached a common ground on three of the judicial nominees. I am pleased that we have recognized our duties as Members of this body to uphold the Constitution. But I would ask my colleagues for fairness as we move forward for the rest of the session, for the rest of this Congress, to put partisan politics aside and to fulfill our advise and consent obligations on all nominations. As we move through the rest of the Congress, let's vote up or down and end this debate about filibusters with honor.

Mr. President, I am excited that we can now move forward.

I yield to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. ALLARD. Mr. President, it seems as though we need to do closing script, and if the Senator from Iowa will yield to me, I will be glad to do that formality.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

MORNING BUSINESS

Mr. ALLARD. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached statement from the President of the United States be entered into the RECORD today pursuant to the War Powers Resolution (P.L. 93–148) and P.L. 107–40.

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

THE WHITE HOUSE,
Washington, DC, May 20, 2005.

Hon. TED STEVENS,
President pro tempore of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am providing this supplemental consolidated report, prepared by my Administration and consistent with the War Powers Resolution (Public Law 93–148), as part of my efforts to keep the Congress informed about deployments of U.S. combat-equipped armed forces around the world. This supplemental report covers operations in support of the global war on terrorism, Kosovo, and Bosnia and Herzegovina.

THE GLOBAL WAR ON TERRORISM

Since September 24, 2001, I have reported, consistent with Public Law 107–40 and the War Powers Resolution, on the combat operations in Afghanistan against al-Qaida terrorists and their Taliban supporters, which began on October 7, 2001, and the deployment of various combat-equipped and combat-support forces to a number of locations in the Central, Pacific, and Southern Command areas of operation in support of those operations and of other operations in our global war on terrorism.

I will direct additional measures as necessary in the exercise of the U.S. right to self-defense and to protect U.S. citizens and interests. Such measures may include short-notice deployments of special operations and other forces for sensitive operations in various locations throughout the world. It is not possible to know at this time either the precise scope or duration of the deployment of U.S. Armed Forces necessary to counter the terrorist threat to the United States.

United States Armed Forces, with the assistance of numerous coalition partners, continue to conduct the U.S. campaign to pursue al-Qaida terrorists and to eliminate support to al-Qaida.

These operations have been successful in seriously degrading al-Qaida's training capabilities. United States Armed Forces, with the assistance of numerous coalition partners, ended the Taliban regime in Afghanistan and are actively pursuing and engaging remnant al-Qaida and Taliban fighters. Approximately 90 U.S. personnel are also assigned to the International Security Assistance Force (ISAF) in Afghanistan. The U.N. Security Council authorized the ISAF in U.N. Security Council Resolution 1386 of December 20, 2001, and has reaffirmed its authorization since that time, most recently, for a 12-month period from October 13, 2004, in U.N. Security Council Resolution 1563 of September 13, 2004. The mission of the ISAF under NATO command is to assist the Government of Afghanistan in creating a safe and secure environment that allows reconstruction and the reestablishment of Afghan authorities. Currently, all 26 NATO nations contribute to the ISAF. Ten non-NATO contributing countries also participate by providing military and other support personnel to the ISAF.

The United States continues to detain several hundred al-Qaida and Taliban fighters who are believed to pose a continuing threat to the United States and its interests. The combat-equipped and combat-support forces deployed to Naval Base, Guantanamo Bay, Cuba, in the U.S. Southern Command area of operations since January 2002 continue to conduct secure detention operations for the approximately 520 enemy combatants at Guantanamo Bay.

The U.N. Security Council authorized a Multinational Force (MNF) in Iraq under unified command in U.N. Security Council Resolution 1511 of October 16, 2003, and reaffirmed its authorization in U.N. Security Council Resolution 1546 of June 8, 2004, noting the Iraqi Interim Government's request to retain the presence of the MNF. Under U.N. Security Council Resolution 1546, the mission of the MNF is to contribute to the security and stability in Iraq, as reconstruction continues, until the completion of Iraq's political transformation. These contributions include assisting in building the capability of the Iraqi security forces and institutions, as the Iraqi people, represented by the Transitional National Assembly, draft a constitution and establish a constitutionally elected government. The U.S. contribution to the MNF is approximately 139,000 military personnel.

In furtherance of our efforts against terrorists who pose a continuing and imminent threat to the United States, our friends and allies, and our forces abroad, the United States continues to work with friends and allies in areas around the globe. United States combat-equipped and combat-support forces are located in the Horn of Africa region, and the U.S. forces headquarters element in Djibouti provides command and control support as necessary for military operations against al-Qaida and other international terrorists in the Horn of Africa region, including Yemen. These forces also assist in enhancing counterterrorism capabilities in Kenya, Ethiopia, Yemen, Eritrea, and Djibouti. In addition, the United States continues to conduct maritime interception operations on the high seas in the areas of responsibility of all of the geographic combatant commanders. These maritime operations have the responsibility to stop the movement, arming, or financing of international terrorists.

NATO-LED KOSOVO FORCE (KFOR)

As noted in previous reports regarding U.S. contributions in support of peacekeeping efforts in Kosovo, the U.N. Security Council authorized Member States to establish KFOR in U.N. Security Council Resolution 1244 of June 10, 1999. The mission of KFOR is to provide an international security presence in order to deter renewed hostilities; verify and, if necessary, enforce the terms of the Military Technical Agreement between NATO and the Federal Republic of Yugoslavia (which is now Serbia and Montenegro); enforce the terms of the Undertaking on Demilitarization and Transformation of the former Kosovo Liberation Army; provide day-to-day operational direction to the Kosovo Protection Corps; and maintain a safe and secure environment to facilitate the work of the U.N. Interim Administration Mission in Kosovo (UNMIK).

Currently, there are 23 NATO nations contributing to KFOR. Eleven non-NATO contributing countries also participate by providing military personnel and other support personnel to KFOR. The U.S. contribution to KFOR in Kosovo is about 1,700 U.S. military personnel, or approximately 10 percent of KFOR's total strength of approximately 17,000 personnel. Additionally, U.S. military personnel occasionally operate from Macedonia, Albania, and Greece in support of KFOR operations.

The U.S. forces have been assigned to a sector principally centered around Gnjilane in the eastern region of Kosovo. For U.S. KFOR forces, as for KFOR generally, maintaining a safe and secure environment remains the primary military task. The KFOR operates under NATO command and control and rules of engagement. The KFOR coordinates with and supports UNMIK at most levels; provides a security presence in towns, villages, and the countryside; and organizes checkpoints and patrols in key areas to provide security, protect minorities, resolve disputes, and help instill in the community a feeling of confidence.

In accordance with U.N. Security Council Resolution 1244, UNMIK continues to transfer additional competencies to the Kosovar provisional Institutions of Self-Government, which includes the President, Prime Minister, multiple ministries, and the Kosovo Assembly. The UNMIK retains ultimate authority in some sensitive areas such as police, justice, and ethnic minority affairs.

NATO continues formally to review KFOR's mission at 6–month intervals. These reviews provide a basis for assessing current force levels, future requirements, force structure, force reductions, and the eventual withdrawal of KFOR. NATO has adopted the Joint Operations Area plan to regionalize and rationalize its force structure in the Balkans. The UNMIK international police and the Kosovo Police Service (KPS) have full responsibility for public safety and policing throughout Kosovo except in the area of South Mitrovica, where KFOR and UNMIK share this responsibility due to security concerns. The UNMIK international police and KPS also have begun to assume responsibility for guarding patrimonial sites and established border-crossing checkpoints. The

KFOR augments security in particularly sensitive areas or in response to particular threats as needed.

NATO HEADQUARTERS—SARAJEVO IN BOSNIA AND HERZEGOVINA

Pursuant to the June 2004 decision made by NATO Heads of State and Government, and in accordance with U.N. Security Council Resolution 1575 of November 22, 2004, NATO concluded its Stabilization Force (SFOR) operations in Bosnia and Herzegovina and established NATO Headquarters—Sarajevo to continue to assist in implementing the Peace Agreement in conjunction with a newly established European Force (EUFOR). NATO Headquarters—Sarajevo, to which approximately 235 U.S. personnel are assigned, is, with EUFOR, the legal successor to SFOR. The principal tasks of NATO Headquarters—Sarajevo are providing advice on defense reform and performing operational supporting tasks, such as counterterrorism and supporting the International Criminal Tribunal for the Former Yugoslavia.

I have directed the participation of U.S. Armed Forces in all of these operations pursuant to my constitutional authority to conduct U.S. foreign relations and as Commander in Chief and Chief Executive. Officials of my Administration and I communicate regularly with the leadership and other Members of Congress with regard to these deployments, and we will continue to do so.

MEMORIAL DAY

Ms. STABENOW. Mr. President, I rise today to reflect on this year's Memorial Day and the importance of this holiday in American life.

As I attend Memorial Day parades and commemorations, I am struck by the spirit of national unity because I know that across Michigan and across our Nation our fellow Americans are taking part in similar gatherings where we take the time to reflect on our history and the sacrifice that brought us to where we are today.

Memorial Day is unique among American holidays. On Memorial Day we do not honor a particular date or event, a battle or the end of a war. On Memorial Day we do not honor an individual leader—a President or a general. On Memorial Day we do not even honor ourselves at least not in the present tense.

On Memorial Day we pay homage to the thousands and thousands of individual acts of bravery and sacrifice that stretch back to the battlefields of our revolution and to those taking place today in the deserts of Iraq and the mountains of Afghanistan.

This year, Memorial Day has a special significance as the 60th anniversary of the battle of Iwo Jima. This past February marks the dates in history that cost nearly 26,000 lives. The service members involved in that battle responded with courage and bravery. Iwo Jima is one of the most important battles of World War II. On behalf of a grateful Nation, we pay respect to the veterans of Iwo Jima and those who made the ultimate sacrifice.

This Memorial Day we also honor the men and women currently serving in Iraq and Afghanistan. We must honor our commitment to them by making sure they have everything they need to complete their mission and come home safely. We must also keep our promises to those who proudly served our country by making sure they receive the benefits they deserve.

So, as we observe this holiday we call Memorial Day, let us remember the centuries of sacrifice by the many men and women that this day represents. And let's make sure that all who served with honor are honored in return.

ADDITIONAL STATEMENTS

THE PASSING OF GEORGE POOLE

● Mr. CRAIG. Mr. President, I have sought recognition to comment on the passing of a dedicated, 28-year employee of the Department of Veterans Affairs Insurance Center, Mr. George Poole. Until his untimely death, Mr. Poole served within the VA Insurance Service, widely regarded as a model of efficiency and service excellence within the Federal Government.

We in the Congress spent a considerable amount of time on the supplemental appropriations bill debating enhancements to insurance benefits for our servicemembers fighting abroad. We were successful in not only increasing the amount of life insurance benefits available for servicemembers, but also creating a new traumatic injury insurance benefit for those severely disabled. Without the assistance of public servants like George, who provide the Veterans' Affairs Committee, and the Congress, with invaluable technical assistance on all legislation affecting insurance benefits, our job would be very difficult.

George began his life-long dedication to public service while serving honorably in the U.S. Air Force from 1964 through 1968. Subsequent to his service, he then received a bachelor's degree and a law degree, taking full advantage of the Department of Veterans Affairs-administered GI bill. There is little doubt that his time in the military service of his country, and his subsequent studies under the GI bill, inspired him to pursue a career dedicated to helping his fellow veterans. This dedication to fellow veterans translated into a long and distinguished 28-year career with the U.S. Department of Veterans Affairs where he served his Nation from 1977 until his death.

His long career with the Department of Veterans Affairs was entirely within the Insurance Service where he served in an impressive litany of capacities. Starting as a claims examiner in the death claims activity, he worked his way up through numerous management level positions including section chief, division chief and finally culminating his distinguished career as chief, program administration, a senior management position. In this, the final step in his career ladder, he was responsible for a variety of duties, not the least of which was composing legislative initiatives concerning servicemembers' and veterans' group life insurance programs. This insurance coverage is intended for members of this Nation's Active-Duty military and Reserve components, as well as veterans recently released from Active service, who are in, or recently were in, harm's way defending the United States. The importance of assuring that all members of the military, veterans, and their families are properly provided for in their time of need goes without question. Therefore, George's work will undoubtedly have a lasting effect on the families of thousands.

I would like to extend my sincere appreciation on behalf of a grateful Nation to the Poole family for George's dedicated service to this Nation's veterans. I also extend my heartfelt sympathies to the Poole family during their time of sorrow.●

TRIBUTE TO GLENN D. CUNNINGHAM

● Mr. LAUTENBERG. Mr. President, Today I wish to pay tribute to one of New Jersey's most acclaimed advocates of social justice, mayor and State senator Glenn D. Cunningham, on the 1-year anniversary of his passing.

Although Glenn's life was tragically cut short by a heart attack, his extraordinary legacy of public service lives on. His remarkable accomplishments are surpassed only by the love he felt for his family, friends, and the people in the community he served.

A lifelong resident of Jersey City, Glenn demonstrated his sense of duty early in life, enlisting in the United States Marine Corps after he completed high school. He served his country with distinction for four years, and then continued his commitment to public safety by joining the Jersey City Police Department in 1967.

Aided by a strong work ethic and intelligence, Glenn rose through the ranks of the department over the next 25 years, attaining the position of Captain. Realizing the value of education and the power of ideas, during this same time period he attended Jersey City State College and earned a bachelor's degree, graduating cum laude in 1974.

Glenn had a passion for helping people and the ability to take on many diverse responsibilities and perform many tasks at once. He expanded his public service career in 1975, serving as a Hudson County Freeholder until 1978. He was subsequently elected to the Jersey City Council, where he served two consecutive terms, including one term as city council president.

Upon his retirement from the police department in 1991, Glenn was appointed the director of the Hudson County Department of Public Safety.

In 1996, President Clinton appointed Glenn as United States Marshall for

the State of New Jersey. This appointment broke a barrier for African American leaders in our State, and I was proud to support Glenn for the position, knowing that he would do a great job.

Never one to be complacent or satisfied with the status quo, Glenn set his sights on another historic milestone, and in 2001 he became the first African-American mayor of Jersey City. Adding to his already impressive list of ''firsts,'' Glenn's 2004 election to the New Jersey State senate marked the first time a mayor of Jersey City has simultaneously held State office.

Glenn's illustrious career in public service was marked first and foremost by his unwavering commitment to the citizens of Jersey City. Like Frederick Douglass, Glenn battled to improve the lives of the people he represented even if his efforts hurt him politically.

Glenn's constituents could always approach him with their problems or concerns, and he made time to listen to them. His genuine care for others inspired hope, and his courage, dignity, and fierce determination helped reinvigorate a once-distressed city.

The effects of his reform-minded, progressive initiatives continue to resonate today. As a friend, a dedicated public servant, and a groundbreaking pioneer, Glenn is sorely missed by many. His memory, however, lives on, and will continue to inspire others to work for the same positive social change that was so close to his heart.●

HONORING THE VERMONT ARTS COUNCIL

● Mr. JEFFORDS. Mr. President, I rise today to recognize the 40th anniversary of the establishment of the Vermont Arts Council and its dedicated support for the arts in Vermont.

The Vermont Arts Council, the only nonprofit State arts agency in the country, was founded four decades ago ''on a simple and powerful premise: that the arts enrich lives and form a vital part of Vermont community life.''

Throughout the years, the Vermont Arts Council has served as Vermont's foremost arts advocate. Its resources are dedicated to the professional development of local artists, and it is a primary source of information about the arts, their impact on Vermont and across the Nation.

Vermont is rich in culture and creativity, and the Vermont Arts Council has played such a vital role in contributing to this environment where artists and arts organizations thrive. The arts and humanities are a powerful force in bringing us together and their presence is to be nurtured and integrated into our communities at every opportunity.

The Vermont Arts Council became a reality 40 years ago thanks to those who understand the important role the arts play in education and in our daily lives. Pauline Billings, who served as one of the original trustees of the council, has worked tirelessly in support of the arts in Vermont. It is so fitting that she is being honored with the council's Lifetime Achievement Award for the Arts. I cannot think of a more deserving recipient, and I welcome this opportunity to acknowledge Polly for her invaluable contributions.

It is with great pleasure that I recognize the Vermont Arts Council as it marks its 40th anniversary and pay tribute to the council's work in helping the arts remain a vibrant force in Vermont. Here is to another four decades of great achievement.●

OPENING OF THE NORTH DAKOTA COWBOY HALL OF FAME

● Mr. DORGAN. Mr. President, because truth in labeling is important these days, let me just simply label this as some old-fashioned bragging about my brother.

In last Sunday's Fargo Forum, a column by Jack Zaleski described the work of my brother Darrell in an extraordinary way and I wanted to share it far and wide.

Darrell has been a journalist, filmmaker, a writer, a historian and now a builder. It is already a remarkable career and much is yet to come.

But today I am reprinting for my colleagues the newspaper column that describes his latest project: the North Dakota Cowboy Hall of Fame. It will be dedicated to the history of ranch life and cowboy life on the northern Great Plains. His work is an inspiration to those who have a passion about honoring our history.

From the Indians, to the settlers and ranchers, to the rodeo cowboys and the bucking horses, the stories will be brought to life in the Cowboy Hall of Fame in Medora, North Dakota beginning next month.

It is a tribute to the dreams and hard work of Darrell Dorgan and many others who share in this accomplishment.

Congratulations to all of them.

I ask to have the attached article entitled ''Long Ride to Cowboy Hall of Fame'' from the May 22nd edition of the Fargo Forum printed in the RECORD.

The article follows.

[From the Forum, May 22, 2005]

LONG RIDE TO COWBOY HALL OF FAME

(By Jack Zaleski)

I've known Darrell Dorgan for 30 years. He's a member of a shrinking cadre of journalists and former journalists who got started in this business in North Dakota at about the same time. Most of them still are at it. Dorgan (a former journalist) is a contemporary of Grand Forks Herald editor/publisher Mike Jacobs, Bismarck Tribune managing editor Ken Rogers, North Dakota Public Radio news director Dave Thompson, and me.

These days Dorgan is executive director of the North Dakota Cowboy Hall of Fame. A few years ago he wrapped up a career in broadcast journalism during which he established himself as one of the most knowledgeable, dogged reporters in the Bismarck press corps. His work for Prairie Public Broadcasting was some of the best ever done for public television. For his efforts he won nearly every award a broadcaster can win.

But history was calling—specifically the history, legend and lore of western North Dakota. A bona fide expert on the exploits and foibles of Gen. George A. Custer, Dorgan eventually found a way to fold his love for the state's history into a craft and a living: filmmaking. His videos on such topics as Lewis & Clark in North Dakota, Fort Abraham Lincoln and Custer's 7th, and Sheheke, Ambassador of the Mandan have won praise and plaudits across the nation and in Europe.

It wasn't a big leap when Dorgan took on the task of raising funds to establish a North Dakota Cowboy Hall of Fame in historic Medora in the Badlands. As executive director, he worked tirelessly for several years to raise public and private money to fund the $4 million western heritage and cultural center. His efforts have paid off: The hall of fame has a sneak preview scheduled May 28 during the Cowboy Poetry and Art Show. The center will open officially in mid-June. A dedication celebration, complete with induction of hall of fame candidates, will come in early August, at about the time of the Champions Ride rodeo near Sentinel Butte, one of the state's premier bronc riding and roping events.

Dorgan would be the first to say he didn't do it alone. And of course, a lot of people deserve a measure of credit for the success of the project. But without his vision and focus on the task, the hall would still be a wish. It takes a point man to raise that much money. It takes perserverance.

I know there were times when Dorgan was discouraged. But he knew North Dakotans would respond to a center where cowboy and ranch life could be enshrined. He understood how deep western roots are planted in the state's history and heritage. He realized that the unique saga of North Dakota's cowboys, ranches and rodeos needed to be gathered in one western place and told through the eyes and by the voices of the men and women who lived the stories.

It was an ambitious vision from the start. It's been a long ride on a sometimes skittish horse. But Dorgan stuck with it, and this summer the hall of fame will open.

Not bad for a former newsman—and a broadcast journalist at that . . .●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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 2:22 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2361. An act making appropriations for the Department of the Interior, Environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2361. An act making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes; to the Committee on Appropriations.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1098. A bill to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LOTT, from the Committee on Rules and Administration:

Report to accompany S. Res. 50, An original resolution authorizing expenditures by committees of the Senate for the periods March 1, 2005, through September 30, 2005, October 1, 2005, through September 30, 2006, and October 1, 2006, through February 28, 2007 (Rept. No. 109–70).

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. CORZINE (for himself and Mr. LAUTENBERG):

S. 1096. A bill to amend the Wild and Scenic Rivers Act to designate portions of the Musconetcong River in the State of New Jersey as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 1097. A bill to amend title 4 of the United States Code to prohibit the double taxation of telecommuters and others who work from home; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mrs. MURRAY, Ms. MIKULSKI, Mrs. CLINTON, Mr. DORGAN, and Mr. DURBIN):

S. 1098. A bill to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program; read the first time.

By Mr. SHELBY:

S. 1099. A bill to repeal the current Internal Revenue Code and replace it with a flat tax, thereby guaranteeing economic growth and greater fairness for all Americans; to the Committee on Finance.

By Mr. BUNNING (for himself, Mr. CONRAD, Mr. HATCH, Mrs. BOXER, Mr. ALEXANDER, and Mr. DURBIN):

S. 1100. A bill to amend the Internal Revenue Code of 1986 to provide capital gains treatment for certain self-created musical works; to the Committee on Finance.

By Mrs. MURRAY (for herself and Mr. DEWINE):

S. 1101. A bill to amend the Head Start Act to address the needs of victims of child abuse and neglect, children in foster care, children in kinship care, and homeless children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER (for himself and Mr. BURNS):

S. 1102. A bill to extend the aviation war risk insurance program for 3 years; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. WYDEN, Mr. KYL, Mr. SCHUMER, Mr. CRAPO, Mr. PRYOR, Mr. JEFFORDS, and Mr. FRIST):

S. 1103. A bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mr. CHAFEE, Mr. NELSON of Florida, Ms. COLLINS, Mr. BINGAMAN, and Ms. CANTWELL):

S. 1104. A bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs; to the Committee on Finance.

By Mr. DODD (for himself, Mr. COCHRAN, Mr. LEVIN, Mr. KENNEDY, and Mr. AKAKA):

S. 1105. A bill to amend title VI of the Higher Education Act of 1965 regarding international and foreign language studies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 1106. A bill to authorize the construction of the Arkansas Valley Conduit in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1107. A bill to reauthorize the Head Start Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HAGEL (for himself, Mr. LUGAR, Mr. BIDEN, and Mr. REID):

S. Res. 152. A resolution welcoming His Excellency Hamid Karzai, the President of Afghanistan, and expressing support for a strong and enduring strategic partnership between the United States and Afghanistan; considered and agreed to.

By Mr. LIEBERMAN (for himself and Mr. SESSIONS):

S. Res. 153. A resolution expressing the support of Congress for the observation of the National Moment of Remembrance at 3:00 pm local time on this and every Memorial Day to acknowledge the sacrifices made on the behalf of all Americans for the cause of liberty; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. HAGEL, Mr. LAUTENBERG, Mr. DURBIN, Mr. CORZINE, Mr. FEINGOLD, and Mr. LEVIN):

S. Con. Res. 36. A concurrent resolution expressing the sense of Congress concerning actions to support the Nuclear Non-proliferation Treaty on the occasion of the Seventh NPT Review Conference; to the Committee on Foreign Relations.

By Mr. DEWINE:

S. Con. Res. 37. A concurrent resolution honoring the life of Sister Dorothy Stang; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 94

At the request of Mr. LUGAR, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 94, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 117

At the request of Mrs. FEINSTEIN, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. CORZINE) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 117, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 211

At the request of Mrs. CLINTON, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 211 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 267

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. ENZI) 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. 285

At the request of Mr. BOND, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 285, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 331

At the request of Mr. JOHNSON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 331, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Maryland (Ms. MIKULSKI) 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. 365

At the request of Mr. COLEMAN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 365, a bill to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes.

S. 401

At the request of Mr. HARKIN, the name of the Senator from New York

(Mrs. CLINTON) was added as a cosponsor of S. 401, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 441

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 441, a bill to amend the Internal Revenue Code of 1986 to make permanent the classification of a motorsports entertainment complex.

S. 515

At the request of Mr. BYRD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 515, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes.

S. 528

At the request of Mr. HARKIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 528, a bill to authorize the Secretary of Health and Human Services to provide grants to States to conduct demonstration projects that are designed to enable medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice.

S. 567

At the request of Mr. LUGAR, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 567, a bill to provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage, adoption, or failure to adopt rules of play for athletic competitions and practices.

S. 582

At the request of Mr. PRYOR, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 582, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

S. 601

At the request of Mr. CONRAD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 601, a bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan.

S. 611

At the request of Mr. FEINGOLD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 611, a bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on emergency Medical Services Advisory Council, and for other purposes.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 642

At the request of Mr. FRIST, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Maine (Ms. COLLINS) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 666

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 666, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 671

At the request of Mr. LIEBERMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 671, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for certain fuel cell property.

S. 713

At the request of Mr. ROBERTS, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 713, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 724

At the request of Mr. DODD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 724, a bill to improve the No Child Left Behind Act of 2001, and for other purposes.

S. 756

At the request of Mr. BENNETT, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 756, a bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus.

S. 772

At the request of Mr. CORNYN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 772, a bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

S. 798

At the request of Mr. FEINGOLD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 798, a bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes.

S. 811

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 811, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln.

S. 884

At the request of Ms. CANTWELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 884, a bill to conduct a study evaluating whether there are correlations between the commission of methamphetamine crimes and identify theft crimes.

S. 1022

At the request of Mr. SMITH, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit.

S. 1065

At the request of Mr. THUNE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1065, a bill to amend title 10, United States Code, to extend child care eligibility for children of members of the Armed Forces who die in the line of duty.

S. 1068

At the request of Mr. BAUCUS, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1068, a bill to provide for higher education affordability, access, and opportunity.

S. 1081

At the request of Mr. KYL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

At the request of Ms. STABENOW, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1081, supra.

S. 1082

At the request of Mrs. HUTCHISON, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1082, a bill to restore Second Amendment rights in the District of Columbia.

S. 1084

At the request of Mr. KENNEDY, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1084, a bill to eliminate child poverty, and for other purposes.

S. 1086

At the request of Mr. HATCH, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Florida (Mr. MARTINEZ) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 1086, a bill to improve the national program to register and monitor individuals who commit crimes against children or sex offenses.

S. 1092

At the request of Mr. SALAZAR, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1092, a bill to establish a program under which the Secretary of the Interior offers for lease certain land for oil shale development, and for other purposes.

S.J. RES. 18

At the request of Mrs. FEINSTEIN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S.J. Res. 18, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

AMENDMENT NO. 762

At the request of Mr. NELSON of Florida, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 762 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 1096. A bill to amend the Wild and Scenic Rivers Act to designate portions of the Musconetcong River in the State of New Jersey as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CORZINE. Mr. President, today, along with Senator LAUTENBERG, I am introducing legislation, the Musconetcong Wild and Scenic Rivers Act, to designate portions of the Musconetcong River in New Jersey as a component of the National Wild and Scenic Rivers System. I am proud to be joining my New Jersey colleague, Representative SCOTT GARRETT, who has introduced this legislation in the House of Representatives, with the support of Congressmen ROBERT ANDREWS, MICHAEL FERGUSON, RODNEY FRELINGHUYSEN, ROBERT MENENDEZ, FRANK PALLONE, DONALD PAYNE and JAMES SAXTON.

This is important legislation to help preserve and protect one of the most valuable natural resources in the State of New Jersey. The Musconetcong River is a 43 mile river that runs westward from Lake Musconetcong to the Delaware River. It provides many ecological, recreational and scenic benefits to the northwestern portion of our State. In addition, it is also home to a number of archeological sites and other historic areas, including one site in Warren County where scientists have discovered stone knives and other weapons dating back at least ten thousand years. Finally, it feeds acquifers that provide many residents in Hunterdon and Warren counties with quality drinking water.

Unfortunately, the beauty and value that the Musconetcong provides is at risk. The river faces pressures, for example, from the development that is occurring on or near its shores. This has caused water quality to deteriorate from increased levels of bacteria, silt and runoff from roadways. Further, many of the municipalities that lie along the river lack the financial resources to adequately protect the river for future generations.

The Musconetcong Wild and Scenic Rivers Act would help state, county and local officials begin to address these concerns, working alongside environmental and public interest groups. By including this river in the Wild and Scenic River System, it would allow New Jersey to implement a management plan for the river that has the support of three counties and 13 municipalities. In addition it would make the river eligible for financial, planning, and technical assistance to help preserve and protect it. The goal is to encourage uses and development that is compatible with the river.

The Wild and Scenic River System already includes the Maurice and Great Egg Harbor Rivers in New Jersey as well as the lower and middle portions of the Delaware River

I will work hard in the 109th Congress to see that the Musconetcong is added to this list. I hope my colleagues will support this legislation, and 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. 1096

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 ''Musconetcong Wild and Scenic Rivers Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Secretary of the Interior, in cooperation and consultation with appropriate Federal, State, regional, and local agencies, is conducting a study of the eligibility and suitability of the Musconetcong River in the State of New Jersey for inclusion in the Wild and Scenic Rivers System;

(2) the Musconetcong Wild and Scenic River Study Task Force, with assistance from the National Park Service, has prepared a river management plan for the study area entitled ''Musconetcong River Management Plan'' and dated April 2002 that establishes goals and actions to ensure long-term protection of the outstanding values of the river and compatible management of land and water resources associated with the Musconetcong River; and

(3) 13 municipalities and 3 counties along segments of the Musconetcong River that are eligible for designation have passed resolutions in which the municipalities and counties—

(A) express support for the Musconetcong River Management Plan;

(B) agree to take action to implement the goals of the management plan; and

(C) endorse designation of the Musconetcong River as a component of the Wild and Scenic Rivers System.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADDITIONAL RIVER SEGMENT.—The term ''additional river segment'' means the approximately 4.3–mile Musconetcong River segment designated as ''C'' in the management plan, from Hughesville Mill to the Delaware River Confluence.

(2) MANAGEMENT PLAN.—The term ''management plan'' means the river management plan prepared by the Musconetcong River Management Committee, the National Park Service, the Heritage Conservancy, and the Musconetcong Watershed Association entitled ''Musconetcong River Management Plan'' and dated April 2002 that establishes goals and actions to—

(A) ensure long-term protection of the outstanding values of the river segments; and

(B) compatible management of land and water resources associated with the river segments.

(3) RIVER SEGMENT.—The term ''river segment'' means any segment of the Musconetcong River, New Jersey, designated as a scenic river or recreational river by section 3(a)(167) of the Wild and Scenic Rivers Act (as added by section 4).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 4. DESIGNATION OF PORTIONS OF MUSCONETCONG RIVER, NEW JERSEY, AS SCENIC AND RECREATIONAL RIVERS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

''(167) MUSCONETCONG RIVER, NEW JERSEY.—

''(A) DESIGNATION.—The 24.2 miles of river segments in New Jersey, consisting of—

''(i) the approximately 3.5–mile segment from Saxton Falls to the Route 46 bridge, to be administered by the Secretary of the Interior as a scenic river; and

''(ii) the approximately 20.7–mile segment from the Kings Highway bridge to the railroad tunnels at Musconetcong Gorge, to be administered by the Secretary of the Interior as a recreational river.

''(B) ADMINISTRATION.—Notwithstanding section 10(c), the river segments designated under subparagraph (A) shall not be administered as part of the National Park System.''.

SEC. 5. MANAGEMENT.

(a) MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall manage the river segments in accordance with the management plan.

(2) SATISFACTION OF REQUIREMENTS FOR PLAN.—The management plan shall be considered to satisfy the requirements for a comprehensive management plan for the river segments under section 3(d) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(d)).

(3) RESTRICTIONS ON WATER RESOURCE PROJECTS.—For purposes of determining whether a proposed water resources project would have a direct and adverse effect on the values for which a river segment is designated as part of the Wild and Scenic Rivers System under section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)), the Secretary shall consider the extent to which the proposed water resources project is consistent with the management plan.

(4) IMPLEMENTATION.—The Secretary may provide technical assistance, staff support, and funding to assist in the implementation of the management plan.

(b) COOPERATION.—

(1) IN GENERAL.—The Secretary shall manage the river segments in cooperation with appropriate Federal, State, regional, and local agencies, including—

(A) the Musconetcong River Management Committee;

(B) the Musconetcong Watershed Association;

(C) the Heritage Conservancy;

(D) the National Park Service; and

(E) the New Jersey Department of Environmental Protection.

(2) COOPERATIVE AGREEMENTS.—Any cooperative agreement entered into under section 10(e) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(e)) relating to a river segment—

(A) shall be consistent with the management plan; and

(B) may include provisions for financial or other assistance from the United States to facilitate the long-term protection, conservation, and enhancement of the river segment.

(c) LAND MANAGEMENT.—

(1) IN GENERAL.—The Secretary may provide planning, financial, and technical assistance to local municipalities and nonprofit organizations to assist in the implementation of actions to protect the natural and historic resources of the river segments.

(2) PLAN REQUIREMENTS.—After adoption of recommendations made in section IV of the management plan, the zoning ordinances of the municipalities bordering the segments shall be considered to satisfy the standards and requirements under section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)).

(d) DESIGNATION OF ADDITIONAL RIVER SEGMENT.—

(1) FINDING.—Congress finds that the additional river segment is suitable for designation as a recreational river if the Secretary determines that there is adequate local support for the designation of the additional river segment in accordance with paragraph (3).

(2) DESIGNATION AND ADMINISTRATION.—If the Secretary determines that there is adequate local support for designating the additional river segment as a recreational river—

(A) the Secretary shall publish in the Federal Register notice of the designation of the segment;

(B) the segment shall be designated as a recreational river in accordance with the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.); and

(C) the Secretary shall administer the additional river segment as a recreational river.

(3) CRITERIA FOR LOCAL SUPPORT.—In determining whether there is adequate local support for the designation of the additional river segment, the Secretary shall consider the preferences of local governments expressed in resolutions concerning designation of the additional river segment.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act and the amendments made by this Act.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 1097. A bill to amend title 4 of the United States Code to prohibit the double taxation of telecommuters and others who work from home; to the Committee on Finance.

Mr. DODD. Mr. President. I am pleased to rise today, together with my colleague Senator LIEBERMAN, to introduce The Telecommuter Tax Fairness Act of 2005.

The Telecommuter Tax Fairness Act of 2005 will put an end to legal doctrine that unfairly penalizes thousands of workers in Connecticut and in other States throughout the country whose only offense is that they sometimes work from home or from a local office of their employer.

Technology has changed the way business is conducted in America. With the use of cell phones, lap-top computers, email, the Internet, mobile networking, and many other telecommunication advancements of the 21st century, Americans have a greater flexibility in where they can work, without compromising productivity. Many citizens now choose to work from home or alternative offices when their physical presence is not necessary at their primary place of work.

Telecommuting provides enormous benefits for businesses, families, and communities. It helps businesses lower costs and raise worker productivity. It reduces congestion on our roads and rails, and in so doing it lowers pollution. It helps workers better manage the demands of work and family. And last but not least, it can mean lower income taxes for working men and women.

Yet, the many benefits to workers of telecommuting are today placed in jeopardy because of current law in New York and a few other States. Today, New York State requires that workers pay income tax on income even if it is not earned in the State through their ''convenience of the employer'' rule. While there are several States that have the ''convenience of the employer'' rule, no other State applies it with the same rigor as New York.

New York's ''convenience of the employer'' rule requires that by working for a New York employer, all income earned from that employer must be declared in New York so long as the worker ''could'' perform his or her duties in New York. A worker for a New York employer who works part-time from home in Connecticut or another State is still subject to taxation by New York on 100 percent of his or her income. At the same time, the work done by that worker in a State outside New York is subject to taxation by that State.

This unfairly subjects many workers who telecommute from their homes or from satellite offices outside of New York to a double tax on that part of the income earned from home. According to Connecticut's Attorney General, thousands of Connecticut residents alone are affected by this unfair double taxation.

However, it isn't only Connecticut residents that are affected.

Thomas Huckaby is a Tennessee-based computer programmer that telecommuted for a firm in Queens, NY. In 1994 and 1995, Mr. Huckaby spent 75 percent of his time working in Tennessee and the remaining 25 percent working in the Queens office and attempted to apportion his income accordingly. New York, however, sought to tax 100 percent of his income and was successful due to it's ''convenience of employer'' rule. On March 29, 2005 the New York Court of Appeals upheld New York's rule in a 4 to 3 decision. Currently, Mr. Huckaby is in the process of petitioning the Supreme Court.

A similar story involves Arthur Gray, a New Hampshire resident who worked for the New York Company Cowen & Co. as an investment counselor from 1976 through 1996, and paid New York State income taxes during that time. In 1997, Arthur Gray, per his employer's request, opened and managed an office from his home in New Hampshire. Several times during the year, Mr. Gray worked in New York, but most of his days were spent in New Hampshire. When paying his taxes during this time, he paid New York State income taxes for the days he was in New York, but not for the days he worked in New Hampshire. New York, however, sought to tax 100 percent of his income and was successful due to this ''convenience of the employer'' rule.

These are only two examples of the far-reaching consequences of this ''convenience of employer'' rule. There are thousands of individuals across the country who are adversely impacted by this rule. Most, however, but most lack the time, money, or energy to take their case to court.

This potential for double taxation is not only unfair, it also discourages workers from telecommuting when we should be doing the opposite.

Legislation is needed to protect these honest workers who deserve fair and equitable treatment under the law. The Telecommuter Tax Fairness Act of 2005 accomplishes this by specifically preventing a State from engaging in the current fiction of deeming a nonresident to be in the taxing State when the nonresident is actually working in another State. In doing so, it will eliminate the possibility that citizens will be double-taxed when telecommuting.

Establishing a ''physical presence'' test—as this legislation would do—is the most logical basis for determining tax status. If a worker is in a State, and taking advantage of that State's infrastructure, the worker should pay taxes in that State.

Some suggest that the double-taxation quandary can easily be fixed by having other States provide a tax credit to those telecommuters. However, why should Connecticut, or any other

State, be required to allow a credit on income actually earned in the State? If a worker is working in Connecticut, he or she is benefiting from a range of Services paid for and maintained by Connecticut including roads, water, police, fire protection, and communications services. It's only fair that Connecticut ask that worker to help support the services that he or she uses.

This is not just an issue which deals with a small group of citizens from one small State. Rather, this is an issue which affects workers throughout the country. It will only grow more pressing as people and businesses continue to seek to take advantage of new technologies that affect the way we live and work.

I hope our colleagues will favorably consider 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. 1097

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 ''Telecommuter Tax Fairness Act of 2005''.

SEC. 2. PROHIBITION ON DOUBLE TAXATION OF TELECOMMUTERS.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following new section:

''§ 127. Prohibition on double taxation of telecommuters and others who work at home

''(a) PHYSICAL PRESENCE REQUIRED.—

''(1) IN GENERAL.—In applying its income tax laws to the salary of a nonresident individual, a State may only deem such nonresident individual to be present in or working in such State for any period of time if such nonresident individual is physically present in such State for such period and such State may not impose nonresident income taxes on such salary with respect to any period of time when such nonresident individual is physically present in another State.

''(2) DETERMINATION OF PHYSICAL PRESENCE.—For purposes of determining physical presence, no State may deem a nonresident individual to be present in or working in such State on the grounds that such nonresident individual is present at or working at home for the nonresident individual's convenience.

''(b) DEFINITIONS.—As used in this section—

''(1) STATE.—The term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

''(2) INCOME TAX.—The term 'income tax' has the meaning given such term by section 110(c).

''(3) INCOME TAX LAWS.—The term 'income tax laws' includes any statutes, regulations, administrative practices, administrative interpretations, and judicial decisions.

''(4) NONRESIDENT INDIVIDUAL.—The term 'nonresident individual' means an individual who is not a resident of the State applying its income tax laws to such individual.

''(5) SALARY.—The term 'salary' means the compensation, wages, or other remuneration earned by an individual for personal services performed as an employee or as an independent contractor.

''(c) NO INFERENCE.—Nothing in this section shall be construed as bearing on—

''(1) any tax laws other than income tax laws,

''(2) the taxation of corporations, partnerships, trusts, estates, limited liability companies, or other entities, organizations, or persons other than nonresident individuals in their capacities as employees or independent contractors,

''(3) the taxation of individuals in their capacities as shareholders, partners, trust and estate beneficiaries, members or managers of limited liability companies, or in any similar capacities, and

''(4) the income taxation of dividends, interest, annuities, rents, royalties, or other forms of unearned income.''.

(b) CLERICAL AMENDMENT.—The table of sections of such chapter 4 is amended by adding at the end the following new item:

''127. Prohibition on double taxation of telecommuters and others who work at home.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

By Mr. SHELBY:

S. 1099. A bill to repeal the current Internal Revenue Code and replace it with a flat tax, thereby guaranteeing economic growth and greater fairness for all Americans; to the Committee on Finance.

Mr. SHELBY. Mr. President, I rise today to once again introduce my flat tax bill, S. 1099 the ''Tax Simplification Act of 2005.'' The President has made fundamental tax reform a top priority for his second term. I believe my bill offers that fundamental tax reform and will drastically improve our Nation's economy and the way Americans go about the business of paying taxes. This bill would repeal the current Internal Revenue Code and create a single rate for all taxpayers—seventeen percent when the tax is fully implemented—and gives tax-free treatment to all savings and investment, not just dividends.

A major reason why I support a flat tax is because it will place more money into the hands of hardworking Americans. It will allow individuals—not the government—to decide how to best spend their money. Lowering taxes allows Americans to keep more of their money to keep up with monthly expenses like, insurance coverage, educational costs, and prescription drugs. Lowering taxes also makes it easier for Americans to save for their retirement through private savings plans. Although I strongly believe in the importance of private savings, my bill leaves the Social Security system intact and, in fact, provides seniors with more money by repealing the current tax on Social Security benefits.

I have said many times before that our current progressive tax system is unfair. It punishes success and stymies economic growth. The only way we can remedy this is to adopt a single tax rate for all taxpayers. Transitioning to a flat tax will not only increase the fairness of the tax code, but it will also increase the incentives to work and thus boost economic growth.

Today our tax code and its regulations total more than 60,000 pages which are complex, confusing and costly to comply with. Were a flat tax in place now, taxpayers would file a return the size of a postcard, and every American would be taxed equally and at the same rate. Rather than spending hours poring over convoluted IRS forms, or resorting to professional tax assistance, the flat tax allows taxpayers to determine their taxes quickly and easily. Everyone will fill out the same simple return, everyone will be taxed at the same rate, and everyone will pay their fare share. Paying taxes may never be a pleasant experience, but at least under a flat tax it wouldn't be mind-boggling.

I fully realize that the bill I am introducing today is a monumental shift from the current tax code, but the time is ripe for fundamental tax reform. We must not allow the enormity of the task to deter us from enacting better, more efficient tax laws. I therefore urge my colleagues to join me in support of 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. 1099

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 ''Tax Simplification Act of 2005''.

(b) TABLE OF CONTENTS.—

TITLE I—TAX REDUCTION AND SIMPLIFICATION

SEC. 101. INDIVIDUAL INCOME TAX.

(a) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 is amended to read as follows:

''SECTION 1. TAX IMPOSED.

''There is hereby imposed on the taxable income of every individual a tax equal to 19 percent (17 percent in the case of taxable years beginning after December 31, 2007) of the taxable income of such individual for such taxable year.''.

(b) TAXABLE INCOME.—Section 63 of such Code is amended to read as follows:

''SEC. 63. TAXABLE INCOME.

''(a) IN GENERAL.—For purposes of this subtitle, the term 'taxable income' means the excess of—

''(1) the sum of—

''(A) wages (as defined in section 3121(a) without regard to paragraph (1) thereof) which are paid in cash and which are received during the taxable year for services performed in the United States,

''(B) retirement distributions which are includible in gross income for such taxable year, plus

''(C) amounts received under any law of the United States or of any State which is in the nature of unemployment compensation, over

''(2) the standard deduction.

''(b) STANDARD DEDUCTION.—

''(1) IN GENERAL.—For purposes of this subtitle, the term 'standard deduction' means the sum of—

''(A) the basic standard deduction, plus

''(B) the additional standard deduction.

''(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

''(A) $25,580 in the case of—

''(i) a joint return, or

''(ii) a surviving spouse (as defined in section 2(a)),

''(B) $16,330 in the case of a head of household (as defined in section 2(b)), and

''(C) $12,790 in the case of an individual—

''(i) who is not married and who is not a surviving spouse or head of household, or

''(ii) who is a married individual filing a separate return.

''(3) ADDITIONAL STANDARD DEDUCTION.—For purposes of paragraph (1), the additional standard deduction is $5,510 for each dependent (as defined in section 152) who is described in section 151(c) for the taxable year and who is not required to file a return for such taxable year.

''(c) RETIREMENT DISTRIBUTIONS.—For purposes of subsection (a), the term 'retirement distribution' means any distribution from—

''(1) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

''(2) an annuity plan described in section 403(a),

''(3) an annuity contract described in section 403(b),

''(4) an individual retirement account described in section 408(a),

''(5) an individual retirement annuity described in section 408(b),

''(6) an eligible deferred compensation plan (as defined in section 457),

''(7) a governmental plan (as defined in section 414(d)), or

''(8) a trust described in section 501(c)(18).

Such term includes any plan, contract, account, annuity, or trust which, at any time, has been determined by the Secretary to be such a plan, contract, account, annuity, or trust.

''(d) INCOME OF CERTAIN CHILDREN.—For purposes of this subtitle—

''(1) an individual's taxable income shall include the taxable income of each dependent child of such individual who has not attained age 14 as of the close of such taxable year, and

''(2) such dependent child shall have no liability for tax imposed by section 1 with respect to such income and shall not be required to file a return for such taxable year.

''(e) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2006, each dollar amount contained in subsection (b) shall be increased by an amount determined by the Secretary to be equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment for such calendar year.

''(2) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

''(A) the CPI for the preceding calendar year, exceeds

''(B) the CPI for the calendar year 2005.

''(3) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

''(4) CONSUMER PRICE INDEX.—For purposes of paragraph (3), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor. For purposes of the preceding sentence, the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1986 shall be used.

''(5) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $10, such increase shall be rounded to the next highest multiple of $10.

''(f) MARITAL STATUS.—For purposes of this section, marital status shall be determined under section 7703.''.

SEC. 102. TAX ON BUSINESS ACTIVITIES.

(a) IN GENERAL.—Section 11 of the Internal Revenue Code of 1986 (relating to tax imposed on corporations) is amended to read as follows:

''SEC. 11. TAX IMPOSED ON BUSINESS ACTIVITIES.

''(a) TAX IMPOSED.—There is hereby imposed on every person engaged in a business activity a tax equal to 19 percent (17 percent in the case of taxable years beginning after December 31, 2007) of the business taxable income of such person.

''(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the person engaged in the business activity, whether such person is an individual, partnership, corporation, or otherwise.

''(c) BUSINESS TAXABLE INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'business taxable income' means gross active income reduced by the deductions specified in subsection (d).

''(2) GROSS ACTIVE INCOME.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'gross active income' means gross receipts from—

''(i) the sale or exchange of property or services in the United States by any person in connection with a business activity, and

''(ii) the export of property or services from the United States in connection with a business activity.

''(B) EXCHANGES.—For purposes of this section, the amount treated as gross receipts from the exchange of property or services is the fair market value of the property or services received, plus any money received.

''(C) COORDINATION WITH SPECIAL RULES FOR FINANCIAL SERVICES, ETC.—Except as provided in subsection (e)—

''(i) the term 'property' does not include money or any financial instrument, and

''(ii) the term 'services' does not include financial services.

''(3) EXEMPTION FROM TAX FOR ACTIVITIES OF GOVERNMENTAL ENTITIES AND TAX-EXEMPT ORGANIZATIONS.—For purposes of this section, the term 'business activity' does not include any activity of a governmental entity or of any other organization which is exempt from tax under this chapter.

''(d) DEDUCTIONS.—

''(1) IN GENERAL.—The deductions specified in this subsection are—

''(A) the cost of business inputs for the business activity,

''(B) wages (as defined in section 3121(a) without regard to paragraph (1) thereof) which are paid in cash for services performed in the United States as an employee, and

''(C) retirement contributions to or under any plan or arrangement which makes retirement distributions (as defined in section 63(c)) for the benefit of such employees to the extent such contributions are allowed as a deduction under section 404.

''(2) BUSINESS INPUTS.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'cost of business inputs' means—

''(i) the amount paid for property sold or used in connection with a business activity,

''(ii) the amount paid for services (other than for the services of employees, including fringe benefits paid by reason of such services) in connection with a business activity, and

''(iii) any excise tax, sales tax, customs duty, or other separately stated levy imposed by a Federal, State, or local government on the purchase of property or services which are for use in connection with a business activity.

Such term shall not include any tax imposed by chapter 2 or 21.

''(B) EXCEPTIONS.—Such term shall not include—

''(i) items described in subparagraphs (B) and (C) of paragraph (1), and

''(ii) items for personal use not in connection with any business activity.

''(C) EXCHANGES.—For purposes of this section, the amount treated as paid in connection with the exchange of property or services is the fair market value of the property or services exchanged, plus any money paid.

''(e) SPECIAL RULES FOR FINANCIAL INTERMEDIATION SERVICE ACTIVITIES.—In the case of the business activity of providing financial intermediation services, the taxable income from such activity shall be equal to the value of the intermediation services provided in such activity.

''(f) EXCEPTION FOR SERVICES PERFORMED AS EMPLOYEE.—For purposes of this section, the term 'business activity' does not include the performance of services by an employee for the employee's employer.

''(g) CARRYOVER OF CREDIT-EQUIVALENT OF EXCESS DEDUCTIONS.—

''(1) IN GENERAL.—If the aggregate deductions for any taxable year exceed the gross active income for such taxable year, the credit-equivalent of such excess shall be allowed as a credit against the tax imposed by this section for the following taxable year.

''(2) CREDIT-EQUIVALENT OF EXCESS DEDUCTIONS.—For purposes of paragraph (1), the credit-equivalent of the excess described in paragraph (1) for any taxable year is an amount equal to—

''(A) the sum of—

''(i) such excess, plus

''(ii) the product of such excess and the 3-month Treasury rate for the last month of such taxable year, multiplied by

''(B) the rate of the tax imposed by subsection (a) for such taxable year.

''(3) CARRYOVER OF UNUSED CREDIT.—If the credit allowable for any taxable year by reason of this subsection exceeds the tax imposed by this section for such year, then (in lieu of treating such excess as an overpayment) the sum of—

''(A) such excess, plus

''(B) the product of such excess and the 3-month Treasury rate for the last month of such taxable year, shall be allowed as a credit against the tax imposed by this section for the following taxable year.

''(4) 3-MONTH TREASURY RATE.—For purposes of this subsection, the 3-month Treasury rate is the rate determined by the Secretary based on the average market yield (during any 1-month period selected by the Secretary and ending in the calendar month in which the determination is made) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 months or less.''.

(b) TAX ON TAX-EXEMPT ENTITIES PROVIDING NONCASH COMPENSATION TO EMPLOYEES.—Section 4977 of such Code is amended to read as follows:

''SEC. 4977. TAX ON NONCASH COMPENSATION PROVIDED TO EMPLOYEES NOT ENGAGED IN BUSINESS ACTIVITY.

''(a) IMPOSITION OF TAX.—There is hereby imposed a tax equal to 19 percent (17 percent in the case of calendar years beginning after December 31, 2007) of the value of excludable compensation provided during the calendar year by an employer for the benefit of employees to whom this section applies.

''(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the employer.

''(c) EXCLUDABLE COMPENSATION.—For purposes of subsection (a), the term 'excludable compensation' means any remuneration for services performed as an employee other than—

''(1) wages (as defined in section 3121(a) without regard to paragraph (1) thereof) which are paid in cash,

''(2) remuneration for services performed outside the United States, and

''(3) retirement contributions to or under any plan or arrangement which makes retirement distributions (as defined in section 63(c)).

''(d) EMPLOYEES TO WHOM SECTION APPLIES.—This section shall apply to an employee who is employed in any activity by—

''(1) any organization which is exempt from taxation under this chapter, or

''(2) any agency or instrumentality of the United States, any State or political subdivision of a State, or the District of Columbia.''.

SEC. 103. SIMPLIFICATION OF RULES RELATING TO QUALIFIED RETIREMENT PLANS.

(a) IN GENERAL.—The following provisions of the Internal Revenue Code of 1986 are hereby repealed:

(1) NONDISCRIMINATION RULES.—

(A) Paragraphs (4) and (5) of section 401(a) (relating to nondiscrimination requirements).

(B) Sections 401(a)(10)(B) and 416 (relating to top heavy plans).

(C) Section 401(a)(17) (relating to compensation limit).

(D) Sections 401(a)(26) and 410(b) (relating to minimum participation and coverage requirements).

(E) Paragraphs (3), (8), (11), and (12) of sections 401(k), and section 4979, (relating to actual deferral percentage).

(F) Section 401(l) (relating to permitted disparity in plan contributions or benefits).

(G) Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions).

(H) Paragraphs (1)(D) and (12) of section 403(b) (relating to nondiscrimination requirements).

(I) Paragraph (3) of section 408(k) and paragraph (6) (other than subparagraph (A)(i)) of such section (relating to simplified employee pensions).

(2) CONTRIBUTION LIMITS.—

(A) Sections 401(a)(16), 403(b) (2) and (3), and 415 (relating to limitations on benefits and contributions under qualified plans).

(B) Sections 401(a)(30) and 402(g) (relating to limitation on exclusion for elective deferrals).

(C) Paragraphs (3) and (7) of section 404(a) (relating to percentage of compensation limits).

(D) Section 404(l) (relating to limit on includible compensation).

(3) RESTRICTIONS ON DISTRIBUTIONS.—

(A) Section 72(t) (relating to 10-percent additional tax on early distributions from qualified retirement plans).

(B) Sections 401(a)(9), 403(b)(10), and 4974 (relating to minimum distribution rules).

(C) Section 402(e)(4) (relating to net unrealized appreciation).

(4) SPECIAL REQUIREMENTS FOR PLAN BENEFITING SELF-EMPLOYED INDIVIDUALS.—Subsections (a)(10)(A) and (d) of section 401.

(5) PROHIBITION OF TAX-EXEMPT ORGANIZATIONS AND GOVERNMENTS FROM HAVING QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—Section 401(k)(4)(B).

(b) EMPLOYER REVERSIONS OF EXCESS PENSION ASSETS PERMITTED SUBJECT ONLY TO INCOME INCLUSION.—

(1) REPEAL OF TAX ON EMPLOYER REVERSIONS.—Section 4980 of such Code is hereby repealed.

(2) EMPLOYER REVERSIONS PERMITTED WITHOUT PLAN TERMINATION.—Section 420 of such Code is amended to read as follows:

''SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS.

''(a) IN GENERAL.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to an employer—

''(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of section 401(a) or any other provision of law solely by reason of such transfer (or any other action authorized under this section), and

''(2) such transfer shall not be treated as a prohibited transaction for purposes of section 4975.

The gross income of the employer shall include the amount of any qualified transfer made during the taxable year.

''(b) QUALIFIED TRANSFER.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

''(A) of excess pension assets of a defined benefit plan to the employer, and

''(B) with respect to which the vesting requirements of subsection (c) are met in connection with the plan.

''(2) ONLY 1 TRANSFER PER YEAR.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

''(c) VESTING REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—The vesting requirements of this subsection are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

''(d) DEFINITION AND SPECIAL RULE.—For purposes of this section—

''(1) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

''(A) the amount determined under section 412(c)(7)(A)(ii), over

''(B) the greater of—

''(i) the amount determined under section 412(c)(7)(A)(i), or

''(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

''(2) COORDINATION WITH SECTION 412.—In the case of a qualified transfer—

''(A) any assets transferred in a plan year on or before the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412, be treated as assets in the plan as of the valuation date for such year, and

''(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) in an amount equal to the amount of such transfer and for which amortization charges begin for the first plan year after the plan year in which such transfer occurs, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'.''.

SEC. 104. REPEAL OF ALTERNATIVE MINIMUM TAX.

Part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is hereby repealed.

SEC. 105. REPEAL OF CREDITS.

Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is hereby repealed.

SEC. 106. REPEAL OF ESTATE AND GIFT TAXES AND OBSOLETE INCOME TAX PROVISIONS.

(a) REPEAL OF ESTATE AND GIFT TAXES.—

(1) IN GENERAL.—Subtitle B of the Internal Revenue Code of 1986 is hereby repealed.

(2) EFFECTIVE DATE.—The repeal made by paragraph (1) shall apply to the estates of decedents dying, and gifts and generation-skipping transfers made, after December 31, 2005.

(b) REPEAL OF OBSOLETE INCOME TAX PROVISIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), chapter 1 of the Internal Revenue Code of 1986 is hereby repealed.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) sections 1, 11, and 63 of such Code, as amended by this Act,

(B) those provisions of chapter 1 of such Code which are necessary for determining whether or not—

(i) retirement distributions are includible in the gross income of employees, or

(ii) an organization is exempt from tax under such chapter, and

(C) subchapter D of such chapter 1 (relating to deferred compensation).

SEC. 107. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall apply to taxable years beginning after December 31, 2005.

TITLE II—SUPERMAJORITY REQUIRED FOR TAX CHANGES

SEC. 201. SUPERMAJORITY REQUIRED.

(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment thereto, or conference report thereon that includes any provision that—

(1) increases any Federal income tax rate,

(2) creates any additional Federal income tax rate,

(3) reduces the standard deduction, or

(4) provides any exclusion, deduction, credit, or other benefit which results in a reduction in Federal revenues.

(b) WAIVER OR SUSPENSION.—This section may be waived or suspended in the House of Representatives or the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

By Mrs. MURRAY (for herself and Mr. DEWINE):

S. 1101. A bill to amend the Head Start Act to address the needs of victims of child abuse and neglect, children in foster care, children in kinship care, and homeless children; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, today I rise with Senator DEWINE to introduce the ''Improving Head Start Access for Homeless and Foster Children Act of 2005.''

Head Start has made significant strides in providing comprehensive services to low-income children. Since

Head Start was established in 1965, low-income preschool-aged children have received education, health, nutritional, social and developmental services they would not otherwise have access to. Unfortunately, children in greatest need of these services—homelss and foster youth—are not receiving those services at adequate levels.

It is estimated that 1.35 million children experience homelessness each year, and the mean income of a homeless family is at 46 percent of the Federal poverty level. Due to extreme poverty and the inherent instability of homelessness, children facing these conditions have considerably higher physical, mental and emotional difficulties. It is not surprising that homeless children are reported to be twice as likely to have a learning disability and three times as likely of having an emotional or behavioral problem that interferes with their learning.

These children also face significant barriers to participation in Head Start. These children lack transportation. They lack the necessary documentation. They suffer from the invisibility of homeless families which leaves the community unaware of the need to include these children in Head Start recruitment and prioritization. As a result of these and other barriers, only 15 percent of preschool children identified as homeless are enrolled in preschool programs of any kind, compared to the 57 percent of low-income preschool children. Currently only 2 percent of the more than 900,000 students served by Head Start are children identified as homeless. States report that 60 percent of homeless students are having difficulties gaining access to Head Start.

In addition to homeless children, kids in foster care face a unique set of challenges which both increase their need for the stability and educational services provided by Head Start. Tragically, these same challenges also hinder their ability to gain access to those services. Foster children are likely to suffer from both emotional and physical instability. With more than 500,000 children in foster care and a shortage of foster parents in this country, these children often go without the attention and advocacy that preschool age children need.

More than 40 percent of the children in homeless shelters are under the age of five. The first years of a child's life significantly impact personal development and future academic achievement. That is why I once again stand with Senator DEWINE to increase access to Head Start for homeless and foster children.

Our bill would ensure equal access and benefits from to early education and supportive services provided by Head Start for the Nation's poorest children. It would make all homeless children eligible for Head Start. The bill also allow homeless children to be immediately enrolled in Head Start by allowing them extra time to provided required documentation; providing that that documentation be in a reasonable time frame. And, our bill would require school, district liaisons to assist families in obtaining necessary documents. In addition, our bill increases Head Start's outreach to homeless and foster children. Further, the bill would reduce barriers by encouraging coordination between Head Start agencies and community programs that serve these vulnerable populations.

Again, I would like to thank my colleague Senator DEWINE for his many efforts in supporting homeless and foster youth. I urge the Senate to ensure that all children, despite their background and socioeconomic situation receive equal access to a quality education.

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. 1101

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 ''Improving Head Start Access for Homeless and Foster Children Act of 2005''.

SEC. 2. DEFINITIONS.

Section 637 of the Head Start Act (42 U.S.C. 9832) is amended by adding at the end the following:

''(18) The term 'family' means all persons living in the same household who are—

''(A) supported by the income of at least 1 parent or guardian (including any relative acting in place of a parent, such as a grandparent) of a child enrolling or participating in the Head Start program; and

''(B) related to the parent or guardian by blood, marriage, or adoption.

''(19) The term 'homeless child' means a child described in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)).

''(20) The term 'homeless family' means the family of a homeless child.''.

SEC. 3. ALLOTMENT OF FUNDS; LIMITATIONS ON ASSISTANCE.

(a) QUALITY IMPROVEMENT.—Section 640(a)(3) of the Head Start Act (42 U.S.C. 9835(a)(3)) is amended—

(1) in subparagraph (B)—

(A) in clause (ii), by inserting ''children in foster care, children referred to Head Start programs by child welfare agencies, '' after ''background''; and

(B) in clause (v), by inserting '', including collaboration to increase program participation by underserved populations, including homeless children, children in foster care, and children referred to Head Start programs by child welfare agencies'' before the period; and

(2) in subparagraph (C)—

(A) in clause (ii)(IV)—

(i) by inserting ''homeless children, children in foster care, children referred to Head Start programs by child welfare agencies, '' after ''dysfunctional families''; and

(ii) by inserting ''and families'' after ''communities'';

(B) in clause (v)—

(i) by inserting ''homeless children, children in foster care, children referred to Head Start programs by child welfare agencies,'' after ''dysfunctional families''; and

(ii) by inserting ''and families'' after ''communities'';

(C) by redesignating clause (vi) as clause (viii); and

(D) by inserting after clause (v) the following:

''(vi) To conduct outreach to homeless families and to increase Head Start program participation by homeless children.''.

(b) COLLABORATION GRANTS.—Section 640(a)(5)(C)(iv) of the Head Start Act (42 U.S.C. 9835(a)(5)(C)(iv)) is amended—

(1) by inserting ''child welfare (including child protective services),'' after ''child care,'';

(2) by inserting ''home-based services (including home visiting services),'' after ''family literacy services''; and

(3) by striking ''and services for homeless children'' and inserting ''services provided through grants under section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a) and parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq. and 670 et seq.), and services for homeless children (including coordination of services with the Coordinator for Education of Homeless Children and Youth designated under section 722 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432)), children in foster care, and children referred to Head Start programs by child welfare agencies''.

(c) ALLOCATION OF FUNDS.—Section 640(g)(2) of the Head Start Act (42 U.S.C. 9835(g)(2)) is amended—

(1) in subparagraph (C)—

(A) by inserting ''organizations and agencies providing family support services, child abuse prevention services, protective services, and foster care, and'' after ''(including''; and

(B) by striking ''and public entities serving children with disabilities'' and inserting '', public entities, and individuals serving children with disabilities and homeless children (including local educational agency liaisons designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii)))'';

(2) in subparagraph (F), by inserting ''and homeless families'' after ''low-income families''; and

(3) in subparagraph (H), by inserting ''(including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii)))'' after ''community involved''.

(d) ENROLLMENT OF HOMELESS CHILDREN.—Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

''(m) The Secretary shall issue regulations to remove barriers to the enrollment and participation of homeless children in Head Start programs. Such regulations shall require Head Start agencies to—

''(1) implement policies and procedures to ensure that homeless children are identified and prioritized for enrollment;

''(2) allow homeless children to apply to, enroll in, and attend Head Start programs while required documents, such as proof of residency, immunization and other medical records, birth certificates, and other documents, are obtained; and

''(3) coordinate individual Head Start programs with programs for homeless children (including efforts to implement subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.)).''.

SEC. 4. DESIGNATION OF HEAD START AGENCIES.

Section 641(d)(4) of the Head Start Act (42 U.S.C. 9836(d)(4)) is amended—

(1) in subparagraph (B), by inserting ''including providing services, to the extent

practicable, such as transportation, to enable such parents to participate'' after ''level''

(2) in subparagraph (E)(iv), by striking ''; and'' and inserting a semicolon;

(3) in subparagraph (F), by inserting ''and'' after the semicolon; and

(4) by adding at the end the following:

''(G) to meet the needs of homeless children (including, to the extent practicable, the transportation needs of such children), children in foster care, and children referred to Head Start programs by child welfare agencies;''.

SEC. 5. QUALITY STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.

Section 641A of the Head Start Act (42 U.S.C. 9836a) is amended—

(1) in subsection (a)(2)(B)—

(A) in clause (iii), by inserting ''homeless children, children being raised by grandparents or other relatives, children in foster care, children referred to Head Start Programs by child welfare agencies,'' after ''children with disabilities,''; and

(B) in clause (vi), by striking ''background and family structure of such children'' and inserting ''background, family structure of such children (including the number of children being raised by grandparents and other relatives and the number of children in foster care), and the number of homeless children''; and

(2) in subsection (c)(2)(C), by striking ''disabilities)'' and inserting ''disabilities, homeless children, children being raised by grandparents or other relatives, children in foster care, and children referred to Head Start programs by child welfare agencies)''.

SEC. 6. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

Section 642 of the Head Start Act (42 U.S.C. 9837) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by inserting ''mental health services and treatment, domestic violence services, and'' after ''participating children'';

(B) in paragraph (10), by striking ''; and'' and inserting a semicolon;

(C) in paragraph (11)(B), by striking the period and inserting ''; and''; and

(D) by adding at the end the following:

''(12) inform foster parents or grandparents or other relatives raising children enrolled in the Head Start program, that they have a right to participate in programs, activities, or services carried out or provided under this subchapter.'';

(2) in subsection (c), by inserting '', the agencies responsible for administering section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a), parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq. and 670 et seq.), and programs under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), homeless shelters, other social service agencies serving homeless children and families,'' after ''(42 U.S.C. 9858 et seq.)''; and

(3) in subsection (d)(2)—

(A) in subparagraph (A), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (B), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(C) collaborating to increase the program participation of homeless children.''.

SEC. 7. HEAD START TRANSITION.

Section 642A of the Head Start Act (42 U.S.C. 9837a) is amended—

(1) in paragraph (2), by inserting ''local educational agency liaisons designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii)),'' after ''social workers'';

(2) in paragraph (5), by inserting ''and family outreach and support efforts under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.)'' before the semicolon;

(3) in paragraph (6), by striking ''; and '' and inserting a semicolon;

(4) in paragraph (7), by striking the period and inserting ''; and''; and

(5) by adding at the end the following:

''(8) developing and implementing a system to increase program participation of underserved populations, including homeless children.''.

SEC. 8. PARTICIPATION IN HEAD START PROGRAMS.

Section 645(a)(1) of the Head Start Act (42 U.S.C. 9840(a)(1)) is amended—

(1) in subparagraph (B), by striking clause (i) and inserting the following:

''(i) programs assisted under this subchapter may include—

''(I) participation of homeless children, children whose families are receiving public assistance, children in foster care, and children who have been referred to a Head Start program by a child welfare agency; or

''(II) to a reasonable extent, participation of other children in the area served who would benefit from such programs,

whose families do not meet the low-income criteria prescribed pursuant to subparagraph (A); and''; and

(2) in the flush matter following subparagraph (B), by adding at the end the following: ''A homeless child shall automatically be deemed to meet the low-income criteria.''.

SEC. 9. EARLY HEAD START PROGRAMS FOR FAMILIES WITH INFANTS AND TODDLERS.

Section 645A of the Head Start Act (42 U.S.C. 9840a) is amended—

(1) in subsection (b)—

(A) in paragraph (4), by inserting ''(including parenting skills training, training in basic child development, and training to meet the special needs of their children)'' after ''role as parents'';

(B) in paragraph (5)—

(i) by inserting ''(including home visiting and other home-based services)'' after ''with services'';

(ii) by striking ''disabilities)'' and inserting ''disabilities and homeless infants and toddlers (including homeless infants and toddlers with disabilities)); and

(iii) by striking ''services);'' and inserting ''services, housing services, family support services, and other child welfare services);''; and

(C) in paragraph (8), by inserting '', and the agencies responsible for administering section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a) and parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq. and 670 et seq.)'' before the semicolon; and

(2) in subsection (g)(2)(B)—

(A) in clause (iii), by striking ''; and'' and inserting a semicolon;

(B) in clause (iv), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(v) providing professional development designed to increase the program participation of underserved populations, including homeless infants and toddlers, infants and toddlers in foster care, and infants and toddlers referred by child welfare agencies.''.

SEC. 10. TECHNICAL ASSISTANCE AND TRAINING.

Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (c)—

(A) in paragraph (2), by striking ''disabilities)'' and inserting ''disabilities, children in foster care, and children referred by child welfare agencies)'';

(B) in paragraph (5), by inserting '', including the needs of homeless children and their families'' before the semicolon;

(C) in paragraph (10), by striking ''; and'' and inserting a semicolon;

(D) in paragraph (11) by striking the period and inserting ''; and''; and

(E) by adding at the end the following:

''(12) assist Head Start agencies and programs in increasing the program participation of homeless children.''; and

(2) in subsection (e)—

(A) by inserting ''training for personnel providing services to children determined to be abused or neglected, children receiving child welfare services, and children referred by child welfare agencies,'' after ''language),''; and

(B) by inserting ''and family'' after ''community''.

SEC. 11. RESEARCH, DEMONSTRATIONS, AND EVALUATION.

Section 649 of the Head Start Act (42 U.S.C. 9844) is amended—

(1) in subsection (a)(1)(B), by striking ''disabilities)'' and inserting ''disabilities, homeless children, children who have been abused or neglected, and children in foster care''; and

(2) in subsection (c)(1)(B) by inserting '', including those that work with children with disabilities, children who have been abused and neglected, children in foster care, children and adults who have been exposed to domestic violence, children and adults facing mental health and substance abuse problems, and homeless children and families'' before the semicolon.

SEC. 12. REPORTS.

Section 650(a) of the Head Start Act (42 U.S.C. 9846(a)) is amended—

(1) in the matter preceding paragraph (1), by striking ''disabled and'' and inserting ''disabled children, homeless children, children in foster care, and'';

(2) in paragraph (8), by inserting ''homelessness, whether the child is in foster care or was referred by a child welfare agency,'' after ''background''; and

(3) in paragraph (12), by inserting ''substance abuse treatment, housing services,'' after ''physical fitness''.

Mr. DEWINE. Mr. President, today I join with Senator MURRAY to introduce the ''Improving Head Start Access for Homeless and Foster Children Act of 2005.'' The problems children who are homeless and in foster care face are daunting. I am grateful to Senator MURRAY for her leadership in this area. She and I worked on coordinating and improving access to services for homeless and foster children in the Individuals with Disabilities Education Act (IDEA), and I am glad to have had the opportunity to work with her again on this issue.

Who is more vulnerable than a child, under the age of five, living on the street or in a shelter? Who is more vulnerable than a child under five who has been abused and neglected? Just because young children cannot speak to their needs does not mean that they should have no voice. The hundreds of thousands of children in the United States who experience homelessness, separation from their parents, or abuse and neglect each year are in need of our help to ensure their needs are met. Unfortunately, their voices are all too often not heard and their needs go unmet. The bill we are introducing

today would serve as one more step, one move closer, to ensuring homeless and foster children are visible and their voices audible.

In the United States, on any given day, more than half a million children are in foster care, 20,000 of whom are in my home State of Ohio, alone. Of this group, 27 percent are age five and—under. In 2003, we also know that more than 900,000 children were found to be victims of child abuse or neglect. Children as young as six months old can suffer from long-term effects after experiencing or witnessing trauma. More than half of the children in foster care experience developmental delays. Children in foster care have three to seven times more chronic medical conditions, birth defects, emotional disorders, and academic failures than children of similar socioeconomic backgrounds who never enter foster care.

In its 2000 Report to Congress, the U.S. Department of Education noted that only 15 percent of preschool children identified as homeless were enrolled in preschool programs. In comparison, 57 percent of low-income preschool children participated in preschool in 1999. These statistics are especially troubling in light of the fact that over 40 percent of children living in shelters are under the age of five—an age when early childhood education can have a significant positive impact on a child's development and future academic achievement.

Head Start began in 1965, and since its inception, it has served more than 22 million of America's poorest children. This important program has helped these children build the skills they need to succeed in school and provide them with the services they need to be healthy and active in society. With its comprehensive services and family-centered approach, Head Start often offers the most appropriate educational setting for children and families experiencing homelessness and for children in foster care. By providing comprehensive health, nutrition, education, and social services, Head Start helps provide for the needs of these vulnerable children. And, with the passage of this bill, Head Start could help even more. Yet, programmatic and policy barriers continue to limit their access to and participation in Head Start. Some barriers to Head Start access are related to lack of coordination with child welfare agencies, high mobility, lack of required documentation, and lack of transportation.

Our bill would encourage Head Start grantees to reduce these barriers by directing them to increase their outreach to homeless and foster children. It also would encourage coordination between Head Start grantees and community service providers and homeless and foster children. It would increase the coordination for these populations as they transition out of Head Start to elementary school and increase reporting requirements. And, it would allow homeless children to be automatically eligible for Head Start.

Again, I thank my colleague, Senator MURRAY, for her leadership on this issue. I look forward to working with her to incorporate these ideas into the Head Start reauthorization bill currently being considered in the Health, Education, Labor, and Pensions Committee.

By Mr. ROCKEFELLER (for himself and Mr. BURNS):

S. 1102. A bill to extend the aviation war risk insurance program for 3 years; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce legislation to mandate that the Federal Aviation Administration (FAA) extend the offering of war risk insurance through August 31, 2007, to our Nation's air carriers. I am very pleased that Senator BURNS, the Chairman of the Aviation Subcommittee, has agreed to co-sponsor this legislation.

Prior to September 11, 2001, war risk insurance was generally attainable and affordable for U.S. airlines. But, as we know, that day changed everything for America. No industry was more dramatically and fundamentally changed than the U.S. aviation industry. Recognizing that the commercial insurance market was not willing to provide war risk insurance to the airline industry in the immediate aftermath of September 11, Congress required the FAA provide war risk insurance to U.S. air carriers. We expected that in time U.S. air carriers would be able to obtain commercial war risk insurance. Unfortunately, the commercial war risk insurance market has priced its products beyond the means of our air carriers. According to the Air Transport Association, a return to the commercial market to obtain war risk insurance could cost U.S. airlines $600 million to $700 million a year, up from the current $140 million. Because of the lack of a vibrant competitive commercial market, last year, Congress extended its mandate that the FAA provide this insurance.

In a report to Congress, the FAA noted that even though war risk insurance is available in the private market, it is offered on terms that the industry just cannot afford. My bill would mandate the continuation of this vital program through August 31, 2008. In time, we should expect the private market to offer this coverage, but the reality is that the insurance industry continues to seek exorbitant rates for this coverage. The market has failed and it is the government's responsibility to provide this insurance as we have done in previous times of war.

The financial conditions faced by domestic airlines have seen little, if any, improvement. This legislation is supported by the low-cost carriers who are the healthiest companies in the industry, as they know that their profitability would be at risk if they were forced to go to commercial market for this insurance at this time. The current commercial market is simply unable to provide adequate war-risk coverage without unreasonable cost to airlines. For airlines, private coverage would mean annual payment increases of millions of dollars. Even with FAA insurance coverage, airlines are projected to lose $5.5 billion this year. This legislation will help the airlines weather their current financial crisis. If U.S. airlines were forced to go to the commercial market for this insurance, we would likely see more airlines in bankruptcy or cease to exist at all.

I believe that airlines remain a prime targets for terrorist acts. It is because of this threat that the commercial insurance market is unaffordable for the airlines. My legislation seeks to address a pressing problem facing one of the most critical industries in the country. My bill is one small but important measure that Congress can take to make sure our nation has a vibrant and financially secure airline industry.

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. 1102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AIRLINE WAR RISK POLICIES AND TERRORISM COVERAGE.

(a) EXTENSION OF POLICIES.—Section 44302(f) of title 49, United States Code, is amended by striking ''August 31, 2005, and may extend through December 31, 2005,'' in paragraph (1) and inserting ''August 31, 2008, and may extend through December 31, 2008,''.

(b) EXTENSION OF TERRORISM COVERAGE.—Section 44303(b) of title 49, United States Code, is amended by striking ''December 31, 2005,'' and inserting ''December 31, 2008,''.

By Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. WYDEN, Mr. KYL, Mr. SCHUMER, Mr. CRAPO, Mr. PRYOR, Mr. JEFFORDS, and Mr. FRIST):

S. 1103. A bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax; to the Committee on Finance.

Mr. BAUCUS. Mr. President, this weekend, millions of Americans watched in suspense as Anakin Skywalker was lured to the Dark side and became Darth Vader. What millions of those same Americans may not be aware of is another Darth Vader lurking in our tax code; that is, the Alternative Minimum Tax, or AMT.

The AMT has many of the same qualities as Anakin Skywalker. The AMT was supposed to bring order and fairness to the tax world, but it eventually got off on the wrong path and became a threat to middle-income taxpayers. Both Skywalker and the AMT started off with great intentions, but eventually they went astray. And now we have the Darth Vader of the Tax Code bearing down on millions of unsuspecting families.

That is why I am pleased to join with my friend and Chairman CHUCK GRASSLEY, and our fellow committee colleagues, Senators WYDEN and KYL, to introduce legislation today that will repeal the individual AMT. Our bill simply says that individuals beginning January 1, 2006 will owe zero, I repeat, zero dollars under the AMT. Further, our bill provides that individuals with AMT credits can continue to use those up to 90 percent of their regular tax liability.

If we do not act, CRS estimates that in 2006, the family-unfriendly AMT will hit middle-income families earning $63,000 with three children. What was once meant to ensure that a handful of millionaires did not eliminate all taxes through excessive deductions is now meaning millions of working families, including thousands in my home State of Montana, are subject to a higher stealth tax. It is truly bizarre, Mr. Chairman, that we have designed a tax deeming more children ''excessive deductions'' and duly paying your State taxes a bad thing. Already, 5,000 Montana families pay a higher tax because of the AMT. But this number could multiply many times over if we do not act soon.

Not only is the AMT unfair and poorly targeted, it is an awful mess to figure out. The Finance Committee heard testimony today from our National Taxpayer Advocate, who has singled out this item as causing the most complexity for individual taxpayers, and also from a tax practitioner who has seen first-hand how difficult this is for her clients. We heard also from other witnesses who said it is time for repeal of the AMT.

Of course, repeal does not come without cost and that cost is significant even if we assume the 2001 and 2003 tax cuts are not extended. We are committed to working together to identify reasonable offsets. Certainly, I do not think we want a tax system unfairly placing a higher tax burden on millions of middle-income families with children. But it does not serve those families either if our budget deficit is significantly worse.

Again, I look forward to working with my colleagues on this AMT repeal bill will put an end to the Darth Vader of the tax code, without any sequels.

By Mrs. CLINTON (for herself, Mr. CHAFEE, Mr. NELSON of Florida, Ms. COLLINS, Mr. BINGAMAN, and Ms. CANTWELL):

S. 1104. A bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs; to the Committee on Finance.

Mrs. CLINTON. Mr. President, I rise to introduce legislation that would allow States to use Federal funds to provide critical healthcare services to pregnant women and children. I want to thank Senator CHAFEE for his leadership on this important issue. I also want to recognize former Senator Bob Graham and the late Senator John Chafee, who championed this legislation for many years. Their commitment laid the groundwork for our bill introduction today.

This bill, the Immigrant Children's Health Improvement Act, is fundamentally about three things—fairness, fiscal relief, and financial savings.

I will start with fairness. All across New York and America, legal immigrants work hard, pay taxes, and exercise their civic responsibilities. I see examples of this every day in New York. They fight for our country in the military. They contribute to our Nation's competitiveness and economic growth. They help revitalize neighborhoods and small towns across the country. And most are fiercely proud to call themselves Americans.

Yet, in 1996, Congress denied safety net services to legal immigrants who had been in the country for less than 5 years. Today, Senator CHAFEE and I are here to introduce legislation that would take a first step towards correcting that injustice. The Immigrant Children's Health Improvement Act will allow States to use, Federal funds to make SCHIP, (the State Children's Health Improvement Program, and Medicaid available to pregnant women and children who are legal immigrants within the 5-year ban.

There is tremendous need for this legislation. An Urban Institute study found that children of immigrants are three times as likely to be in fair or poor health. While most children receive preventative medicine, such as vaccines, too often immigrant children do not. They are forced to receive their healthcare via emergency rooms—the least cost-effective place to provide care. To make matters worse, minor illnesses, which would be easily treated by a pediatrician, may snowball into life-threatening conditions.

This legislation is also a matter of good fiscal policy. Today, 19 States, including New York and Rhode Island, plus the District of Columbia, use State funds to provide healthcare services to legal immigrants within the 5-year waiting period. According to the most recent estimates from the Congressional Budget Office, at least 155,000 children and 60,000 adults are receiving these benefits. A total of 387,000 recent legal immigrants would be eligible to receive these services if their States opt to take advantage of the program.

And finally, this bill is about long-term healthcare cost savings. According to the National Bureau of Economic Research, covering uninsured children and pregnant women through Medicaid can reduce unnecessary hospitalization by 22 percent. Pregnant women who forgo prenatal care are likely to develop complications during pregnancy, which results in higher costs for postpartum care. And women without access to prenatal care are four times more likely to deliver low birth weight infants and seven times more likely to deliver prematurely than women who receive prenatal care, according to the Institute of Medicine. All of these health outcomes are costly to society and to the individuals involved.

Thank you for allotting me this time to speak on such an urgent matter. I look forward to working with you and the rest of my colleagues to enact this bill into law in the near future.

By Mr. DODD (for himself, Mr. COCHRAN, Mr. LEVIN, Mr. KENNEDY, and Mr. AKAKA):

S. 1105. A bill to amend title VI of the Higher Education Act of 1965 regarding international and foreign language studies; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today with Senators COCHRAN, LEVIN, KENNEDY and AKAKA to introduce The International and Foreign Language Studies Act of 2005.

In recent years, foreign language needs have significantly increased throughout the Federal Government due to the presence of a wider range of security threats, the emergence of new nation states, and the globalization of the U.S. economy. Likewise, American business increasingly needs internationally experienced employees to compete in the global economy and to manage a culturally diverse workforce.

Currently, the U.S. government requires 34,000 employees with foreign language skills across 70 Federal agencies. These agencies have stated over the last few years, that translator and interpreter shortfalls have adversely affected agency operations and hindered U.S. military, law enforcement, intelligence, and diplomatic efforts.

Despite our growing needs, the number of undergraduate foreign language degrees conferred is only one percent of all degrees. Only one third of undergraduates report that they are taking foreign language courses and only 11 percent report that they have studied abroad.

At a time when our security needs are more important than ever, at a time when our economy demands that we enter new markets, and at a time when the world requires us to engage in diplomacy in more thoughtful and considered ways, it is extremely important that we have at our disposal a multilingual, multicultural, internationally experienced workforce. The Dodd-Cochran International and Foreign Language Studies Act attempts to do this in a number of ways.

The Dodd-Cochran International and Foreign Language Studies Act will increase undergraduate study abroad as a means to enhance foreign language proficiency and deepen cultural knowledge. The bill will reinstate undergraduate eligibility for Foreign Language and Area Studies Fellowships. The bill will encourage the Department of Education to engage in the collection, analysis and dissemination of

data on international education and foreign language needs so that we know and understand exactly what our needs in this area are. Within the Institute for International and Public Policy, the bill provides scholarships and creates an ''expert track'' for doctoral students in critical areas, disciplines and languages. And, most importantly, the Dodd-Cochran bill will demonstrate our nation's commitment to increasing the foreign language proficiency and international expertise of our citizens by increasing the amount appropriated to international education, including international business education, to allow for more opportunities for more students.

The Higher Education Act authorizes the Federal Government's major activities as they relate to financial assistance for students attending colleges and universities. It provides aid to institutions of higher education, services to help students complete high school and enter and succeed in postsecondary education, and mechanisms to improve the training of our emerging workforce. This bill will help fulfill that mission.

Foreign language skills and international study are vital to secure the future economic welfare of the United States in an increasingly international economy. Foreign language skills and international study are also vital for the nation to meet 21st century security challenges properly and effectively, especially in light of the terrorist attacks on September 11, 2001.

I hope our colleagues who are not cosponsoring this bill will give it serious consideration. By working together, I believe that the Senate as a body can act to ensure that we strengthen our Nation's security and economy by capitalizing on the talents and dreams of those who wish to enter the international arena.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues Senators DODD, COCHRAN, LEVIN and AKAKA in introducing the International and Foreign Languages Studies Act to increase study abroad and increase foreign language study here at home for undergraduate and graduate students.

The study of foreign language and foreign cultures is more important than ever. Yet in 2003, the number of fellowships awarded for such studies was 30 percent less than the high point in 1967. Only 40 percent of undergraduates report taking any foreign language coursework and only 20 percent have studied abroad.

Learning another language is more than a desirable educational goal. It is a national security goal as well. We need more students to pursue other languages, especially the lesser taught languages like Chinese, Japanese, Farsi, Dari Persian and Arabic, which will be critical for international business as well as for national defense.

In addition to supporting language studies, the bill builds bridges with overseas universities to promote research and training abroad for American students. It supports the expansion of the Centers for International Business Education, and increases the scope of the Institute for International and Public Policy by creating an accelerated track for PhD students in key areas.

This bill is an important part of America's participation in globalization, and I urge my colleagues to strongly support it.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 1106. A bill to authorize the construction of the Arkansas Valley Conduit in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, it is with much excitement and anticipation that I, along with Congresswoman MARILYN MUSGRAVE in the House of Representatives, introduce legislation known as ''The Arkansas Valley Conduit.'' This bill will ensure the expedited construction of a pipeline that will provide the small, financially strapped towns and water agencies along the Arkansas River with safe, clean, affordable water. By creating a Federal-Local cost share to help offset the costs of constructing the Conduit, this legislation will protect the future of Southeastern Colorado. First introduced during the 107th Session of Congress and subsequently in the 108th, we have redrafted the legislation for the 109th Session to create a stronger stand-alone bill. Congresswoman MUSGRAVE and I have worked hard to craft it so that it meets the needs of a region of Colorado that has suffered from decades of inadequate drinking water supplies. On the heels of one of the worst droughts in Colorado history, the Conduit will provide a dependable source of water to communities—water that will allow these communities to grow and prosper.

By way of background, the Arkansas Valley Conduit was originally authorized by Congress forty years ago as a part of the Fryingpan-Arkansas Project. Due to the authorizing statute's lack of a cost share provision and Southeastern Colorado's depressed economic status, the Conduit was never built. Until recently, the region has been fortunate to enjoy an economical and safe alternative to pipeline-transportation of Project Water: the Arkansas River. Sadly, the water quality in the Arkansas has degraded to a point where it is no longer economical to use as a means of transport. At the same time, the Federal Government has continued to strengthen its unfunded water quality standards.

Several years ago, in an effort to resurrect the Conduit, Senator Ben Nighthorse Campbell and I worked to secure $200,000 for a Bureau of Reclamation Re-evaluation Statement on the project. Thanks to this effort, the people of the valley began to realize that the Conduit may one day be more than just a pipedream, and that Congress was serious about fulfilling the promise of the Fryingpan-Arkansas Project.

Our legislation calls for a 80/20 Federal/Local cost share. This is a sizeable sum, but is a far cry from the estimated $640 million it would take to build new treatment facilities for each of the communities if the Conduit was not built. It requires cooperation of the Department of the Interior, U.S. Army Corps of Engineers and local project participants.

The Arkansas Valley Conduit will deliver fresh, clean water to dozens of valley communities and tens-of-thousands of people along the river. Local community participants continue to explore options for financing their share of the costs, and are working hard to develop the organization that will oversee the Conduit project. I applaud those in the community who have worked so hard for the past several years to make the Conduit a reality. Upon its completion, it will stand as testament to a pioneering vision and commitment to sensible water policy.

With the help of my colleagues, the promise made by Congress forty years ago to the people of Southeastern Colorado, will finally become a reality.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 1106

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 ''Arkansas Valley Conduit Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Public Law 87–590 (76 Stat. 389) authorized the Fryingpan-Arkansas project, including construction of the Arkansas Valley Conduit, a pipeline extending from Pueblo Reservoir, Pueblo, Colorado to Lamar, Colorado;

(2) the Arkansas Valley Conduit was never built, partly because of the inability of local communities to pay 100 percent of the costs of construction of the Arkansas Valley Conduit;

(3) in furtherance of the goals and authorization of the Fryingpan-Arkansas project, it is necessary to provide separate authorization for the construction of the Arkansas Valley Conduit;

(4) the construction of the Arkansas Valley Conduit is necessary for the continued viability of southeast Colorado; and

(5) the Arkansas Valley Conduit would provide the communities of southeast Colorado with safe, clean, and affordable water.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate water supply for the beneficiaries identified in Public Law 87–590 (76 Stat. 389) and related authorizing documents and subsequent studies; and

(2) to establish a cost-sharing requirement for the construction of the Arkansas Valley Conduit.

SEC. 3. ARKANSAS VALLEY CONDUIT, COLORADO.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the ''Secretary'') shall plan, design, and construct a water delivery pipeline, and branch lines as needed, from a location in the vicinity (as determined by the Secretary) of Pueblo Reservoir, Pueblo, Colorado to a location in the vicinity (as determined by the Secretary) of Lamar, Colorado, to be known as the ''Arkansas Valley Conduit'', without regard to the cost-ceiling for the Fryingpan Arkansas Project established under section 7 of Public Law 87–590 (76 Stat. 393).

(b) LEAD NON-FEDERAL ENTITY.—

(1) DESIGNATION.—The Southeastern Colorado Water Conservancy District, or a designee of the Southeastern Colorado Water Conservancy District that is recognized under State law as an entity that has taxing authority, shall be the lead non-Federal entity for the Arkansas Valley Conduit.

(2) DUTIES.—The lead non-Federal entity shall—

(A) act as the official agent of the Arkansas Valley Conduit;

(B) pay—

(i) the non-Federal share of any increased costs required under subsection (e)(2)(C); and

(ii) the non-Federal share of construction costs under subsection (e)(2); and

(C) pay costs relating to, and perform, the operations, maintenance, and replacement of the Arkansas Valley Conduit.

(c) COOPERATION.—To the maximum extent practicable during the planning, design, and construction of the Arkansas Valley Conduit, the Secretary shall collaborate and cooperate with the United States Army Corps of Engineers, other Federal agencies, and non-Federal entities.

(d) COST ESTIMATE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary, in cooperation with the lead non-Federal entity, shall prepare an estimate of the total costs of constructing the Arkansas Valley Conduit.

(2) ACTUAL COSTS.—If the actual costs of construction exceed the estimated costs, the difference between the actual costs and the estimated costs shall be apportioned in accordance with subsection (e)(2)(C).

(3) AGREEMENT ON ESTIMATE AND DESIGN.—The estimate prepared under paragraph (1), and the final design for the Arkansas Valley Conduit, shall be—

(A) subject to the agreement of the Secretary and the lead non-Federal entity;

(B) developed in cooperation with the lead non-Federal entity; and

(C) consistent with commonly accepted engineering practices.

(e) COST-SHARING REQUIREMENT.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of the total costs of the planning, design, and construction of the Arkansas Valley Conduit shall be 80 percent.

(B) INCREASED COSTS.—The Federal share of any increased costs that are a result of fundamental design changes conducted at the request of any person other than the lead non-Federal entity shall be 100 percent.

(2) NON-FEDERAL SHARE.—

(A) NON-FEDERAL SHARE.—The non-Federal share of the total costs of the planning, design, and construction of the Arkansas Valley Conduit shall be 20 percent.

(B) FORM.—Up to 100 percent of the non-Federal share may be in the form of in-kind contributions or tasks that are identified in the cost estimate prepared under subsection (d)(1) as necessary for the planning, design, and construction of the Arkansas Valley Conduit.

(C) INCREASED COSTS.—

(i) FUNDAMENTAL DESIGN CHANGES.—The lead non-Federal entity shall pay any increased costs that are a result of fundamental design changes conducted at the request of the lead non-Federal entity.

(ii) OTHER CAUSES.—For any increased costs that are from causes (including increased supply and labor costs and unforseen field changes) other than fundamental design changes referred to in clause (i) and paragraph (1)(B)—

(I) the Federal share shall be 80 percent; and

(II) the non-Federal share shall be 20 percent.

(D) UP-FRONT PAYMENT.—Not later than 180 days after the date of completion of the cost-estimate under subsection (d), the Secretary and the non-Federal entity may enter into an agreement under which—

(i) the Secretary pays 100 percent of the non-Federal share on behalf of the non-Federal entity; and

(ii) the non-Federal entity reimburses the Secretary for the funds paid by the Secretary in accordance with the terms of the agreement.

(E) TIMING.—Except as provided in subparagraph (D), the non-Federal share shall be paid in accordance with a schedule established by the Secretary that—

(i) takes into account the capability of the applicable non-Federal entities to pay; and

(ii) provides for full payment of the non-Federal share by a date that is not later than 50 years after the date on which the Arkansas Valley Conduit is capable of delivering water.

(f) TRANSFER ON COMPLETION.—On completion of the Arkansas Valley Conduit, as certified in an agreement between the Secretary and the lead non-Federal entity, the Secretary shall transfer ownership of the Arkansas Valley Conduit to the lead non-Federal entity.

(g) APPLICABLE LAW.—Except as provided in this Act, Public Law 87–590 (76 Stat. 389) and related authorizing documents and subsequent studies shall apply to the planning, design, and construction of the Arkansas Valley Conduit.

(h) WATER RIGHTS.—Nothing in this Act affects any State water law or interstate compact.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

(b) LIMITATION.—Amounts made available under subsection (a) shall not be used for the operation or maintenance of the Arkansas Valley Conduit.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1107. A bill to reauthorize the Head Start Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to introduce the Head Start Improvements for School Readiness Act with my colleague, Senator KENNEDY.

This legislation would reauthorize the Head Start program and make important improvements to the Head Start Act and help ensure that today's children receiving services by this important program will be better prepared for success in the future. Success in life depends a great deal on the preparation for that success, which comes early in life. It is well documented in early childhood education research that students who are not reading well by the third grade will struggle with reading most of their lives. That is why the Head Start program is so important. Head Start provides early education for thousands of children each year, most of whom would not have the opportunity to attend preschool programs elsewhere.

The Head Start program is important generally, but there is some room for improvement. Earlier this year the Senate Committee on Health, Education, Labor and Pensions held a hearing on the administration of the Head Start program, and found that a number of changes might help improve the performance of the program overall.

The first change required by this program would be providing for all Head Start grantees found to have a deficiency to recompete the next time the program's grant is up for renewal. The bill would also require grantees to recompete if they have not resolved issues of noncompliance within 120 days, or a longer time specified by the Secretary of Health and Human Services. This will create an important incentive for programs to operate at their best, which is in the best interest of our children.

The bill would also shorten the timeline for programs to be terminated. In some instances, Head Start grantees have been found to be operating programs that are unsafe, or improperly using Federal funds. In these cases, the Administration has acted to terminate these programs. Unfortunately, under the law, Head Start grantees have been able to appeal these rulings. This process can be lengthy, some examples exceed 600 days, or almost two years, before a final ruling is made. In order to address this issue, and put the health and education of children first, the legislation we introduce today would limit the time available for Head Start grantees to appeal decisions made by the Secretary to terminate grants.

A third improvement is to clarify the role of the governing body and policy councils in individual Head Start programs. After careful review, the Committee found that many of the important fiscal and legal responsibilities of Head Start grantees were not explicitly assigned to either the policy council or the governing body, or in many instances, were assigned equally to both. In order to clarify the shared governance model, the bill we introduce today would clarify the responsibilities of the governing body and the policy council for each Head Start grantee. We believe this will lead to more consistent, high quality fiscal and legal management, which will ensure these programs are serving children in the best way they can.

I wish to thank my colleagues on the Committee, particularly Senator KENNEDY, for their help in drafting this bipartisan legislation to reauthorize the Head Start Act. I believe the legislation we are introducing today will improve the quality and effectiveness of the Head Start program for generations of children to come.

I ask unanimous consent that a copy 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. 1107

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 ''Head Start Improvements for School Readiness Act''.

SEC. 2. STATEMENT OF PURPOSE.

Section 636 of the Head Start Act (42 U.S.C. 9831) is amended by inserting ''educational instruction in prereading skills, premathematics skills, and language and through'' after ''low-income children through''.

SEC. 3. DEFINITIONS.

Section 637 of the Head Start Act (42 U.S.C. 9832) is amended—

(1) in paragraph (2), by inserting ''(including a community-based organization)'' after ''nonprofit'';

(2) in paragraph (3)(C), by inserting '', including financial literacy,'' after ''Parent literacy'';

(3) in paragraph (17), by striking ''Mariana Islands,'' and all that follows and inserting ''Mariana Islands.''; and

(4) by adding at the end the following:

''(18) The term 'homeless child' means a child described in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)).

''(19) The term 'limited English proficient', used with respect to a child, means a child—

''(A) who is enrolled or preparing to enroll in a Head Start program, Early Head Start program, or other early care and education program;

''(B)(i) who was not born in the United States or whose native language is a language other than English;

''(ii)(I) who is a Native American, Alaska Native, or a native resident of a United States territory; and

''(II) who comes from an environment where a language other than English has had a significant impact on the child's level of English language proficiency; or

''(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

''(C) whose difficulty in speaking or understanding the English language may be sufficient to deny such child—

''(i) the ability to successfully achieve in a classroom in which the language of instruction is English; or

''(ii) the opportunity to participate fully in society.

''(20) The term 'deficiency' means—

''(A) a systemic or substantial failure of an agency in an area of performance that the Secretary determines involves—

''(i) a threat to the health, safety, or civil rights of children or staff;

''(ii) a denial to parents of the exercise of their full roles and responsibilities related to program operations;

''(iii) a failure to comply with standards related to early childhood development and health services, family and community partnerships, or program design and management;

''(iv) the misuse of funds under this subchapter;

''(v) loss of legal status or financial viability, loss of permits, debarment from receiving Federal grants or contracts, or the improper use of Federal funds; or

''(vi) failure to meet any other Federal or State requirement that the agency has shown an unwillingness or inability to correct, after notice from the Secretary, within the period specified;

''(B) systemic failure of the board of directors of an agency to fully exercise its legal and fiduciary responsibilities;

''(C) substantial failure of an agency to meet the administrative requirements of section 644(b);

''(D) failure of an agency to demonstrate that the agency attempted to meet the coordination and collaboration requirements with entities described in section 640(a)(5)(D)(iii)(I); or

''(E) having an unresolved area of noncompliance.

''(21) The term 'unresolved area of noncompliance' means failure to correct a noncompliance item within 120 days, or within such additional time (if any) authorized by the Secretary, after receiving from the Secretary notice of such noncompliance item, pursuant to section 641A(d).''.

SEC. 4. FINANCIAL ASSISTANCE FOR HEAD START PROGRAMS.

Section 638 of the Head Start Act (42 U.S.C. 9833) is amended by inserting ''for a period of 5 years'' after ''provide financial assistance to such agency''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended to read as follows:

''SEC. 639. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated for carrying out the provisions of this subchapter $7,215,000,000 for fiscal year 2006, $7,515,000,000 for fiscal year 2007, $7,815,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 and 2010.

''(b) SPECIFIC PROGRAMS.—From the amount appropriated under subsection (a), the Secretary shall make available to carry out research, demonstration, and evaluation activities, including longitudinal studies under section 649, not more than $20,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2010, of which not more than $7,000,000 for each of fiscal years 2006 through 2010 shall be available to carry out impact studies under section 649(g).''.

SEC. 6. ALLOTMENT OF FUNDS.

(a) ALLOTMENT.—Section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following:

''(A) Indian Head Start programs, services for children with disabilities, and migrant and seasonal Head Start programs, except that—

''(i) subject to the availability of appropriations, the Secretary shall reserve for each fiscal year for use by Indian Head Start and migrant and seasonal Head Start programs (referred to in this subparagraph as 'covered programs'), on a nationwide basis, a sum that is the total of not less than 4 percent of the amount appropriated under section 639 for that fiscal year (for Indian Head Start programs), and not less than 5 percent of that appropriated amount (for migrant and seasonal Head Start programs), except that—

''(I) if reserving the specified percentages for Indian Head Start programs and migrant and seasonal Head Start programs would reduce the number of children served by Head Start programs, relative to the number of children served on the date of enactment of the Head Start Improvements for School Readiness Act, taking into consideration an appropriate adjustment for inflation, the Secretary shall reserve percentages that approach, as closely as practicable, the specified percentages and that do not cause such a reduction; and

''(II) notwithstanding any other provision of this subparagraph, the Secretary shall reserve for each fiscal year for use by Indian Head Start programs and by migrant and seasonal Head Start programs, on a nationwide basis, not less than the amount that was obligated for use by Indian Head Start programs and by migrant and seasonal Head Start programs for the previous fiscal year;

''(ii) after ensuring that each grant recipient for a covered program has received an amount sufficient to enable the grant recipient to serve the same number of children in Head Start programs as were served by such grant recipient on the date of enactment of the Head Start Improvements for School Readiness Act, taking into consideration an appropriate adjustment for inflation, and after allotting the funds reserved under paragraph (3)(A) as specified in paragraph (3)(D), the Secretary shall distribute the remaining funds available under this subparagraph for covered programs, by—

''(I) distributing 65 percent of the remainder by giving priority to grant recipients in the States serving the smallest percentages of eligible children (as determined by the Secretary); and

''(II) distributing 35 percent of the remainder on a competitive basis;'';

(B) by striking subparagraph (C) and inserting the following:

''(C) training and technical assistance activities that are sufficient to meet the needs associated with program expansion and to foster program and management improvement activities as described in section 648, in an amount for each fiscal year that is equal to 2 percent of the amount appropriated under section 639 for such fiscal year, of which—

''(i) 50 percent shall be made available to Head Start agencies to use directly, or by establishing local or regional agreements with community experts, colleges and universities, or private consultants, for any of the following training and technical assistance activities, including—

''(I) activities that ensure that Head Start programs meet or exceed the program performance standards described in section 641A(a)(1);

''(II) activities that ensure that Head Start programs have adequate numbers of trained, qualified staff who have skills in working with children and families, including children and families who are limited English proficient and children with disabilities;

''(III) activities to pay expenses, including direct training for expert consultants working with any staff, to improve the management and implementation of Head Start services and systems;

''(IV) activities that help ensure that Head Start programs have qualified staff who can promote language skills and literacy growth of children and who can provide children with a variety of skills that have been identified as predictive of later reading achievement, school success, and other educational skills described in section 641A;

''(V) activities to improve staff qualifications and to assist with the implementation of career development programs and to encourage the staff to continually improve their skills and expertise, including developing partnerships with programs that recruit, train, place, and support college students in Head Start centers to deliver an innovative early learning program to preschool children;

''(VI) activities that help local programs ensure that the arrangement, condition, and implementation of the learning environments in Head Start programs are conducive to providing effective program services to children and families;

''(VII) activities to provide training necessary to improve the qualifications of Head Start staff and to support staff training, child counseling, health services, and other services necessary to address the needs of children enrolled in Head Start programs, including children from families in crises, children who experience chronic violence or homelessness, and children who experience substance abuse in their families, and children under 3 years of age, where applicable;

''(VIII) activities to provide classes or in-service-type programs to improve or enhance parenting skills, job skills, adult and family literacy, including financial literacy, or training to become a classroom aide or bus driver in a Head Start program;

''(IX) additional activities deemed appropriate to the improvement of Head Start agencies' programs, as determined by the agencies' technical assistance and training plans; or

''(X) any other activities regarding the use of funds as determined by the Secretary;

''(ii) 50 percent shall be made available to the Secretary to support a regional or State system of early childhood education training and technical assistance, and to assist local programs (including Indian Head Start programs and migrant and seasonal Head Start programs) in meeting the standards described in section 641A(a)(1); and

''(iii) not less than $3,000,000 of the amount in clause (ii) appropriated for such fiscal year shall be made available to carry out activities described in section 648(d)(4);'';

(C) in subparagraph (D), by striking ''agencies;'' and inserting ''agencies);''; and

(D) by adding at the end of the flush matter at the end the following: ''The Secretary shall require each Head Start agency to report at the end of each budget year on how funds provided to carry out subparagraph (C)(i) were used.'';

(2) in paragraph (3)—

(A) in subparagraph (A)(i)(I)—

(i) by striking ''60 percent of such excess amount for fiscal year 1999'' and all that follows through ''2002, and''; and

(ii) by inserting before the semicolon the following: '', 30 percent of such excess amount for fiscal year 2006, and 40 percent of such excess amount for each of fiscal years 2007 through 2010'';

(B) in subparagraph (B)—

(i) in clause (i), by striking ''performance standards'' and all that follows and inserting ''standards and measures pursuant to section 641A.'';

(ii) by striking clause (ii) and inserting the following:

''(ii) Ensuring that such programs have adequate numbers of qualified staff, and that such staff is furnished adequate training, including training to promote the development of language skills, prematheatics skills, and prereading in young children and in working with limited English proficient children, children in foster care, children referred by child welfare services, and children with disabilities, when appropriate.'';

(iii) by striking clause (iii) and inserting the following:

''(iii) Developing and financing the salary scales and benefits standards under section 644(a) and section 653, in order to ensure that salary levels and benefits are adequate to attract and retain qualified staff for such programs.'';

(iv) by striking clause (iv) and inserting the following:

''(iv) Using salary increases to—

''(I) assist with the implementation of quality programs and improve staff qualifications;

''(II) ensure that staff can promote the language skills and literacy growth of children and can provide children with a variety of skills that have been identified, through scientifically based early reading research, as predictive of later reading achievement, as well as additional skills identified in section 641A(a)(1)(B)(ii); and

''(III) encourage the staff to continually improve their skills and expertise by informing the staff of the availability of Federal and State incentive and loan forgiveness programs for professional development.'';

(v) in clause (v), by inserting '', including collaborations to increase program participation by underserved populations of eligible children'' before the period; and

(vi) by striking clauses (vii) and (viii) and inserting the following:

''(vii) Providing assistance to complete postsecondary coursework including scholarships or other financial incentives, such as differential and merit pay, to enable Head Start teachers to improve competencies and the resulting child outcomes.

''(viii) Promoting the regular attendance and stability of all Head Start children with particular attention to highly mobile children, including children from migrant and seasonal farmworking families (where appropriate), homeless children, and children in foster care.

''(ix) Making such other improvements in the quality of such programs as the Secretary may designate.'';

(C) in subparagraph (C)—

(i) in clause (i)(I), by striking the last sentence and inserting ''Salary increases, in excess of cost-of-living allowances, provided with such funds shall be subject to the specific standards governing salaries and salary increases established pursuant to section 644(a).'';

(ii) in clause (ii)—

(I) in the matter preceding subclause (I), by striking ''education performance'' and inserting ''additional educational'';

(II) in subclause (I), by inserting '', prereading,'' after ''language'';

(III) by striking subclause (II) and inserting the following:

''(II) to help limited English proficient children attain the knowledge, skills, and development specified in section 641A(a)(1)(B)(ii) and to promote the acquisition of the English language by such children and families;''; and

(IV) by striking subclause (IV) and inserting the following:

''(IV) to provide education and training necessary to improve the qualifications of Head Start staff, particularly assistance to enable more instructors to be fully competent and to meet the degree requirements under section 648A(a)(2)(A), and to support staff training, child counseling, and other services necessary to address the challenges of children participating in Head Start programs, including children from immigrant, refugee, and asylee families, children from families in crisis, homeless children, children in foster care, children referred to Head Start programs by child welfare agencies, and children who are exposed to chronic violence or substance abuse.'';

(iii) in clause (iii), by inserting '', educational staff who have the qualifications described in section 648A(a),'' after ''ratio'';

(iv) in clause (v), by striking ''programs, including'' and all that follows and inserting ''programs.'';

(v) by redesignating clause (vi) as clause (ix); and

(vi) by inserting after clause (v) the following:

''(vi) To conduct outreach to homeless families in an effort to increase the program participation of eligible homeless children.

''(vii) To conduct outreach to migrant and seasonal farmworking families and families with limited English proficient children.

''(viii) To partner with institutions of higher education and nonprofit organizations, including community-based organizations, that recruit, train, place, and support college students to serve as mentors and reading coaches to preschool children in Head Start programs.

''(ix) To upgrade the qualifications and skills of educational personnel to meet the professional standards described in section 648A(a)(1), including certification and licensure as bilingual education teachers and for other educational personnel who serve limited English proficient students.'';

(3) in paragraph (4)—

(A) in subparagraph (A), by striking ''1998'' and inserting ''2005''; and

(B) by striking subparagraph (B) and inserting the following:

''(B) any amount available after all allotments are made under subparagraph (A) for such fiscal year shall be distributed as follows:

''(i) Each State shall receive an amount sufficient to serve the same number of children in Head Start programs in each State as were served on the date of enactment of the Head Start Improvements for School Readiness Act, taking into consideration an appropriate adjustment for inflation.

''(ii) After ensuring that each State has received the amount described in clause (i) and after allotting the funds reserved under paragraph (3)(A) as specified in paragraph (3)(D), the Secretary shall distribute the remaining balance, by—

''(I) distributing 65 percent of the balance by giving priority to States serving the smallest percentages of eligible children (as determined by the Secretary); and

''(II) distributing 35 percent of the balance on a competitive basis.'';

(4) in paragraph (5)—

(A) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(B) by striking subparagraphs (B), (C), and (D) and inserting the following:

''(B)(i) From the reserved sums, the Secretary shall award a collaboration grant to each State to facilitate collaboration between Head Start agencies and entities (including the State) that carry out other activities designed to benefit low-income families and children from birth to school entry.

''(ii) Grants described in clause (i) shall be used to—

''(I) encourage Head Start agencies to collaborate with entities involved in State and local planning processes to better meet the needs of low-income families and children from birth to school entry;

''(II) encourage Head Start agencies to coordinate activities with the State agency responsible for administering the State program carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) and entities providing resources and referral services in the State to make full-working-day and full calendar year services available to children;

''(III) promote alignment of Head Start services with State early learning and school readiness goals and standards, including the Head Start child outcome framework;

''(IV) promote better linkages between Head Start agencies and other child and family agencies, including agencies that provide health, mental health, or family services, or other child or family supportive services; and

''(V) carry out the activities of the State Director of Head Start Collaboration authorized in subparagraph (D).

''(C) In order to improve coordination and delivery of early education services to children in the State, a State that receives a grant under subparagraph (B) shall—

''(i) appoint an individual to serve as the State Director of Head Start Collaboration;

''(ii) ensure that the State Director of Head Start Collaboration holds a position with sufficient authority and access to ensure that the collaboration described in subparagraph (B) is effective and involves a range of State agencies; and

''(iii) involve the State Head Start Association in the selection of the Director and involve the Association in determinations relating to the ongoing direction of the collaboration office.

''(D) The State Director of Head Start Collaboration, after consultation with the State Advisory Council described in subparagraph (E), shall—

''(i) not later than 1 year after the date of enactment of the Head Start Improvements for School Readiness Act, conduct an assessment that—

''(I) addresses the needs of Head Start agencies in the State with respect to collaborating, coordinating services, and implementing State early learning and school readiness goals and standards to better serve children enrolled in Head Start programs in the State;

''(II) shall be updated on an annual basis; and

''(III) shall be made available to the general public within the State;

''(ii) assess the availability of high quality prekindergarten services for low-income children in the State;

''(iii) develop a strategic plan that is based on the assessment described in clause (i) that will—

''(I) enhance collaboration and coordination of Head Start services with other entities providing early childhood programs and services (such as child care and services offered by museums), health care, mental health care, welfare, child protective services, education and community service activities, family literacy services, reading readiness programs (including such programs offered by public and school libraries), services relating to children with disabilities, other early childhood programs and services for limited English proficient children and homeless children, and services provided for children in foster care and children referred to Head Start programs by child welfare agencies, including agencies and State officials responsible for such services;

''(II) assist Head Start agencies to develop a plan for the provision of full-working-day, full calendar year services for children enrolled in Head Start programs who need such care;

''(III) assist Head Start agencies to align services with State early learning and school readiness goals and standards and to facilitate collaborative efforts to develop local school readiness standards; and

''(IV) enable agencies in the State to better coordinate professional development opportunities for Head Start staff, such as by—

''(aa) assisting 2- and 4-year public and private institutions of higher education to develop articulation agreements;

''(bb) awarding grants to institutions of higher education to develop model early childhood education programs, including practica or internships for students to spend time in a Head Start or prekindergarten program;

''(cc) working with local Head Start agencies to meet the degree requirements described in section 648A(a)(2)(A), including providing distance learning opportunities for Head Start staff, where needed to make higher education more accessible to Head Start staff; and

''(dd) enabling the State Head Start agencies to better coordinate outreach to eligible families;

''(iv) promote partnerships between Head Start agencies, State governments, and the private sector to help ensure that preschool children from low-income families are receiving comprehensive services to prepare the children to enter school ready to learn;

''(v) consult with the chief State school officer, local educational agencies, and providers of early childhood education and care to conduct unified planning regarding early care and education services at both the State and local levels, including undertaking collaborative efforts to develop and make improvements in school readiness standards;

''(vi) promote partnerships (such as the partnerships involved with the Free to Grow initiative) between Head Start agencies, schools, law enforcement, and substance abuse and mental health treatment agencies to strengthen family and community environments and to reduce the impact on child development of substance abuse, child abuse, domestic violence, and other high risk behaviors that compromise healthy development;

''(vii) promote partnerships between Head Start agencies and other organizations in order to enhance the Head Start curriculum, including partnerships to promote inclusion of more books in Head Start classrooms and partnerships to promote coordination of activities with the Ready-to-Learn Television program carried out under subpart 3 of part D of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6775 et seq.); and

''(viii) identify other resources and organizations (both public and private) for the provision of in-kind services to Head Start agencies in the State.

''(E)(i) The Governor of the State shall designate or establish a council to serve as the State advisory council on collaboration on early care and education activities for children from birth to school entry (in this subchapter referred to as the 'State Advisory Council').

''(ii) The Governor may designate an existing entity to serve as the State Advisory Council, if the entity includes representatives described in subclauses (I) through (XXIV) of clause (iii).

''(iii) Members of the State Advisory Council shall include, to the maximum extent possible—

''(I) the State Director of Head Start Collaboration;

''(II) a representative of the appropriate regional office of the Administration for Children and Families;

''(III) a representative of the State educational agency and local educational agencies;

''(IV) a representative of institutions of higher education;

''(V) a representative (or representatives) of the State agency (or agencies) responsible for health or mental health care;

''(VI) a representative of the State agency responsible for teacher professional standards, certification, and licensing, including prekindergarten teacher professional standards, certification standards, certification, and licensing, where applicable;

''(VII) a representative of the State agency responsible for child care;

''(VIII) early childhood education professionals, including professionals with expertise in second language acquisition and instructional strategies in teaching limited English proficient children;

''(IX) kindergarten teachers and teachers in grades 1 through 3;

''(X) health care professionals;

''(XI) child development specialists, including specialists in prenatal, infant, and toddler development;

''(XII) a representative of the State agency responsible for assisting children with developmental disabilities;

''(XIII) a representative of the State agency responsible for programs under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.);

''(XIV) a representative of the State interagency coordinating councils established under section 641 of the Individuals with Disabilities Education Act (20 U.S.C. 1441);

''(XV) a representative of the State Head Start Association (where appropriate), and other representatives of Head Start programs in the State;

''(XVI) a representative of the State network of child care resource and referral agencies;

''(XVII) a representative of community-based organizations;

''(XVIII) a representative of State and local providers of early childhood education and child care;

''(XIX) a representative of migrant and seasonal Head Start programs and Indian Head Start programs (where appropriate);

''(XX) parents;

''(XXI) religious and business leaders;

''(XXII) the head of the State library administrative agency;

''(XXIII) representatives of State and local organizations and other entities providing professional development to early care and education providers; and

''(XXIV) a representative of other entities determined to be relevant by the chief executive officer of the State.

''(iv)(I) The State Advisory Council shall be responsible for, in addition to responsibilities assigned to the council by the chief executive officer of the State—

''(aa) conducting a periodic statewide needs assessment concerning early care and education programs for children from birth to school entry;

''(bb) identifying barriers to, and opportunities for, collaboration and coordination between entities carrying out Federal and State child development, child care, and early childhood education programs;

''(cc) developing recommendations regarding means of establishing a unified data collection system for early care and education programs throughout the State;

''(dd) developing a statewide professional development and career ladder plan for early care and education in the State; and

''(ee) reviewing and approving the strategic plan, regarding collaborating and coordinating services to better serve children enrolled in Head Start programs, developed by the State Director of Head Start Collaboration under subparagraph (D)(iii).

''(II) The State Advisory Council shall hold public hearings and provide an opportunity for public comment on the needs assessment and recommendations described in subclause (I). The State Advisory Council shall submit a statewide strategic report containing the needs assessment and recommendations described in subclause (I) to the State Director of Head Start Collaboration and the chief executive officer of the State.

''(III) After submission of a statewide strategic report under subclause (II), the State Advisory Council shall meet periodically to review any implementation of the recommendations in such report and any changes in State and local needs.''; and

(5) in paragraph (6)—

(A) in subparagraph (A), by striking ''7.5 percent'' and all that follows and inserting ''11 percent for fiscal year 2006, 13 percent for fiscal year 2007, 15 percent for fiscal year 2008, 17 percent for fiscal year 2009, and 18 percent for fiscal year 2010, of the amount appropriated pursuant to section 639(a).'';

(B) by striking subparagraph (B);

(C) in subparagraph (C)(i), by striking ''required to be''; and

(D) by redesignating subparagraph (C) as subparagraph (B).

(b) SERVICE DELIVERY MODELS.—Section 640(f) of the Head Start Act (42 U.S.C. 9835(f)) is amended by striking ''needs.'' and inserting ''needs, including—

''(1) models that leverage the capacity and capabilities of the delivery system of early childhood education and child care; and

''(2) procedures to provide for the conversion of part-day programs to full-day programs or part-day slots to full-day slots.''.

(c) ADDITIONAL FUNDS.—Section 640(g)(2) of the Head Start Act (42 U.S.C. 9835(g)(2)) is amended—

(1) by striking subparagraph (C) and inserting the following:

''(C) the extent to which the applicant has undertaken communitywide strategic planning and needs assessments involving other community organizations and Federal, State, and local public agencies serving children and families (including organizations and agencies providing family support services and protective services to children and families and organizations serving families in whose homes English is not the language customarily spoken), and individuals, organizations, and public entities serving children with disabilities, children in foster care, and homeless children including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii));'';

(2) in subparagraph (D), by striking ''other local'' and inserting ''the State and local'';

(3) in subparagraph (E), by inserting ''would like to participate but'' after ''community who'';

(4) in subparagraph (G), by inserting ''leverage the existing delivery systems of such services and'' after ''manner that will''; and

(5) in subparagraph (H), by inserting '', including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii)),'' after ''community involved''.

(d) REGULATIONS.—Section 640(i) of the Head Start Act (42 U.S.C. 9835(i)) is amended by inserting ''and requirements to ensure the appropriate supervision and background checks of individuals with whom the agencies contract to transport those children'' before the period.

(e) MIGRANT AND SEASONAL HEAD START PROGRAMS.—Section 640(l) of the Head Start Act (42 U.S.C. 9835(l)) is amended by striking paragraph (3) and inserting the following:

''(3) In carrying out this subchapter, the Secretary shall continue the administrative arrangement at the national or regional level for meeting the needs of Indian children and children of migrant and seasonal farmworkers and shall ensure that appropriate funding is provided to meet such needs, including training and technical assistance and the appointment of a national migrant and seasonal Head Start collaboration director and a national Indian Head Start collaboration director.

''(4)(A) For the purposes of paragraph (3), the Secretary shall conduct an annual consultation in each affected Head Start region, with tribal governments operating Head Start and Early Head Start programs.

''(B) The consultations shall be for the purpose of better meeting the needs of American Indian and Alaska Native children and families pertinent to subsections (a), (b), and (c) of section 641, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services within tribal communities.

''(C) The Secretary shall publish a notification of the consultations in the Federal Register prior to conducting the consultations.

''(D) A detailed report of each consultation shall be prepared and made available, on a timely basis, to all tribal governments receiving funds under this subchapter.''.

(f) HOMELESS CHILDREN.—Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

''(m) ENROLLMENT OF HOMELESS CHILDREN.—The Secretary shall issue regulations to remove barriers to the enrollment and participation of homeless children in Head Start programs. Such regulations shall require Head Start agencies to—

''(1) implement policies and procedures to ensure that homeless children are identified and receive appropriate priority for enrollment;

''(2) allow homeless children to apply to, enroll in, and attend Head Start programs while required documents, such as proof of residency, proof of immunization, and other medical records, birth certificates, and other documents, are obtained within a reasonable timeframe (consistent with State law); and

''(3) coordinate individual Head Start programs with efforts to implement subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).

''(n) RULE OF CONSTRUCTION.—Nothing in this subchapter shall be construed to require a State to establish a program of early education for children in the State, to require any child to participate in a program of early education in order to attend preschool, or to participate in any initial screening prior to participation in such program, except as provided under section 612(a)(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(3)) and consistent with section 614(a)(1)(C) of such Act (20 U.S.C. 1414(a)(1)(C)).

''(o) MATERIALS.—All curricula funded under this subchapter shall be scientifically based and age appropriate. Parents shall have the opportunity to examine any such curricula or instructional materials funded under this subchapter.''.

SEC. 7. DESIGNATION OF HEAD START AGENCIES.

Section 641 of the Head Start Act (42 U.S.C. 9836) is amended to read as follows:

''SEC. 641. DESIGNATION OF HEAD START AGENCIES.

''(a) DESIGNATION.—

''(1) IN GENERAL.—The Secretary is authorized to designate as a Head Start agency any local public or private nonprofit or for-profit agency, within a community, including a community-based organization that—

''(A) has power and authority to carry out the purpose of this subchapter and perform the functions set forth in section 642 within a community; and

''(B) is determined to be capable of planning, conducting, administering, and evaluating, either directly or by other arrangements, a Head Start program.

''(2) REQUIRED GOALS FOR DESIGNATION.—In order to be designated as a Head Start agency, an entity described in paragraph (1) shall establish program goals for improving the school readiness of children participating in a program under this subchapter, including goals for meeting the performance standards and additional educational standards described in section 641A and shall establish results-based school readiness goals that are aligned with State early learning standards, if applicable, and requirements and expectations for local public schools.

''(3) ELIGIBILITY FOR SUBSEQUENT GRANTS.—In order to receive a grant under this subchapter subsequent to the initial grant provided following the date of enactment of the Head Start Improvements for School Readiness Act, an entity described in paragraph (1) shall demonstrate that the entity has met or is making progress toward meeting the goals described in paragraph (2).

''(4) GOVERNING BODY.—

''(A) IN GENERAL.—

''(i) ENSURING HIGH QUALITY PROGRAMS.—In order to be designated as a Head Start agency, an entity described in paragraph (1) shall have a governing body—

''(I) with legal and fiscal responsibility for administering and overseeing programs under this subchapter; and

''(II) that fully participates in the development, planning, implementation, and evaluation of the programs to ensure the operation of programs of high quality.

''(ii) ENSURING COMPLIANCE WITH LAWS.—The governing body shall be responsible for ensuring compliance with Federal laws and regulations, including the performance standards described in section 641A, as well as applicable State, Tribal, and local laws and regulations, including laws defining the nature and operations of the governing body.

''(B) COMPOSITION OF GOVERNING BODY.—

''(i) IN GENERAL.—The governing body shall be composed as follows:

''(I) Not less than 1 member of the governing body shall have a background in fiscal management.

''(II) Not less than 1 member of the governing body shall have a background in early childhood development.

''(III) Not less than 1 member of the governing body shall live in the local community to be served by the entity.

''(ii) CONFLICT OF INTEREST.—Members of the governing body shall—

''(I) not have a conflict of interest with the Head Start agency or delegate agencies; and

''(II) not receive compensation for service to the Head Start agency.

''(C) RESPONSIBILITIES.—

''(i) IN GENERAL.—The governing body shall be responsible, in consultation with the policy council or the policy committee of the Head Start agency, for—

''(I) the selection of delegate agencies and such agencies' service areas;

''(II) establishing criteria for defining recruitment, selection, and enrollment priorities;

''(III) all funding applications and amendments to funding applications for programs under this subchapter;

''(IV) the annual self-assessment of the Head Start agency or delegate agency's progress in carrying out the programmatic and fiscal intent of such agency's grant application, including planning or other actions that may result from the review of the annual audit, self-assessment, and findings from the Federal monitoring review;

''(V) the composition of the policy council or the policy committee of the Head Start agency and the procedures by which group members are chosen;

''(VI) audits, accounting, and reporting;

''(VII) personnel policies and procedures including decisions with regard to salary scales (and changes made to the scale), salaries of the Executive Director, Head Start Director, the Director of Human Resources, and the Chief Fiscal Officer, and decisions to hire and terminate program staff; and

''(VIII) the community assessment, including any updates to such assessment.

''(ii) CONDUCT OF RESPONSIBILITIES.—The governing body shall develop an internal control structure to facilitate these responsibilities in order to—

''(I) safeguard Federal funds;

''(II) comply with laws and regulations that have an impact on financial statements;

''(III) detect or prevent noncompliance with this subchapter; and

''(IV) receive audit reports and direct and monitor staff implementation of corrective actions.

''(D) RECEIPT OF INFORMATION.—To facilitate oversight and Head Start agency accountability, the governing body shall receive regular and accurate information about program planning, policies, and Head Start agency operations, including—

''(i) monthly financial statements (including detailed credit card account expenditures for any employee with a Head Start agency credit card or who seeks reimbursement for charged expenses);

''(ii) monthly program information summaries;

''(iii) program enrollment reports, including attendance reports for children whose care is partially subsidized by another public agency;

''(iv) monthly report of meals and snacks through programs of the Department of Agriculture;

''(v) the annual financial audit;

''(vi) the annual self-assessment, including any findings related to the annual self-assessment;

''(vii) the community assessment of the Head Start agency's service area and any applicable updates; and

''(viii) the program information reports.

''(E) TRAINING AND TECHNICAL ASSISTANCE.—Appropriate training and technical assistance shall be provided to the members of the governing body to ensure that the members understand the information the members receive and can effectively oversee and participate in the programs of the Head Start agency.

''(b) COMMUNITIES.—For purposes of this subchapter, a community may be a city, county, or multicity or multicounty unit within a State, an Indian reservation (including Indians in any off-reservation area designated by an appropriate tribal government in consultation with the Secretary), or a neighborhood or other area (irrespective of boundaries or political subdivisions) that provides a suitable organizational base and possesses the commonality of interest needed to operate a Head Start program.

''(c) PRIORITY IN DESIGNATION.—In administering the provisions of this section, the Secretary shall, in consultation with the chief executive officer of the State involved, give priority in the designation (including redesignation) of Head Start agencies to any high-performing Head Start agency or delegate agency that—

''(1) is receiving assistance under this subchapter;

''(2) meets or exceeds program and financial management requirements or standards described in section 641A(a)(1);

''(3) has no unresolved deficiencies and has not had findings of deficiencies during the last triennial review under section 641A(c); and

''(4) can demonstrate, through agreements such as memoranda of understanding, active collaboration with the State or local community in the provision of services for children (such as the provision of extended day services, education, professional development and training for staff, and other types of cooperative endeavors).

''(d) DESIGNATION WHEN ENTITY HAS PRIORITY.—If no entity in a community is entitled to the priority specified in subsection (c), the Secretary shall, after conducting an open competition, designate a Head Start agency from among qualified applicants in such community.

''(e) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, under no condition may a non-Indian Head Start agency receive a grant to carry out an Indian Head Start program.

''(f) EFFECTIVENESS.—In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall consider the effectiveness of each such applicant to provide Head Start services, based on—

''(1) any past performance of such applicant in providing services comparable to Head Start services, including how effectively such applicant provided such comparable services;

''(2) the plan of such applicant to provide comprehensive health, educational, nutritional, social, and other services needed to aid participating children in attaining their full potential, and to prepare children to succeed in school;

''(3) the capacity of such applicant to serve eligible children with programs that use scientifically based research that promote school readiness of children participating in the program;

''(4) the plan of such applicant to meet standards set forth in section 641A(a)(1), with particular attention to the standards set forth in subparagraphs (A) and (B) of such section;

''(5) the plan of such applicant to coordinate the Head Start program the applicant proposes to carry out with other preschool programs, including—

''(A) the Early Reading First and Even Start programs under subparts 2 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371 et seq., 6381 et seq.);

''(B) programs under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

''(C) State prekindergarten programs;

''(D) child care programs;

''(E) the educational programs that the children in the Head Start program involved will enter at the age of compulsory school attendance; and

''(F) reading readiness programs such as those conducted by public and school libraries;

''(6) the plan of such applicant to coordinate the Head Start program that the applicant proposes to carry out with public and private entities who are willing to commit resources to assist the Head Start program in meeting its program needs;

''(7) the plan of such applicant to collaborate with a local library, where available, that is interested in that collaboration, to—

''(A) develop innovative programs to excite children about the world of books, such as programs that involve—

''(i) taking children to the library for a story hour;

''(ii) promoting the use of library cards;

''(iii) developing a lending library or using a mobile library van; and

''(iv) providing fresh books in the Head Start classroom on a regular basis;

''(B) assist in literacy training for Head Start teachers; and

''(C) support parents and other caregivers in literacy efforts;

''(8) the plan of such applicant—

''(A) to seek the involvement of parents of participating children in activities (at home and in the center involved where practicable) designed to help such parents become full partners in the education of their children;

''(B) to afford such parents the opportunity to participate in the development and overall conduct of the program at the local level, including through providing transportation costs;

''(C) to offer (directly or through referral to local entities, such as entities carrying out Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6381 et seq.), public and school libraries, and entities carrying out family support programs) to such parents—

''(i) family literacy services; and

''(ii) parenting skills training;

''(D) to offer to parents of participating children substance abuse counseling (either directly or through referral to local entities), including information on the effect of drug exposure on infants and fetal alcohol syndrome;

''(E) at the option of such applicant, to offer (directly or through referral to local entities) to such parents—

''(i) training in basic child development (including cognitive development);

''(ii) assistance in developing literacy and communication skills;

''(iii) opportunities to share experiences with other parents (including parent mentor relationships);

''(iv) regular in-home visitation; or

''(v) any other activity designed to help such parents become full partners in the education of their children;

''(F) to provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in subparagraphs (C), (D), and (E) in which such parents may choose to become involved (taking into consideration their specific family needs, work schedules, and other responsibilities); and

''(G) to extend outreach to fathers, in appropriate cases, in order to strengthen the role of fathers in families, in the education of their young children, and in the Head Start program, by working directly with fathers and father figures through activities such as—

''(i) in appropriate cases, including fathers in home visits and providing opportunities for direct father-child interactions; and

''(ii) targeting increased male participation in the conduct of the program;

''(9) the ability of such applicant to carry out the plans described in paragraphs (2), (4), and (5);

''(10) other factors related to the requirements of this subchapter;

''(11) the plan of such applicant to meet the needs of limited English proficient children and their families, including procedures to identify such children, plans to provide trained personnel, and plans to provide services to assist the children in making progress toward the acquisition of the English language;

''(12) the plan of such applicant to meet the needs of children with disabilities;

''(13) the plan of such applicant who chooses to assist younger siblings of children who will participate in the Head Start program, to obtain health services from other sources;

''(14) the plan of such applicant to collaborate with other entities carrying out early childhood education and child care programs in the community;

''(15) the plan of such applicant to meet the needs of homeless children and children in foster care, including the transportation needs of such children; and

''(16) the plan of such applicant to recruit and retain qualified staff.

''(g) INTERIM BASIS.—If there is not a qualified applicant in a community for designation as a Head Start agency, the Secretary shall designate a qualified agency to carry out the Head Start program in the community on an interim basis until a qualified applicant from the community is so designated.

''(h) INVOLVEMENT OF PARENTS AND AREA RESIDENTS.—The Secretary shall continue the practice of involving parents and area residents who are affected by programs under this subchapter in the selection of

qualified applicants for designation as Head Start agencies.

''(i) PRIORITY.—In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall give priority to applicants that have demonstrated capacity in providing effective, comprehensive, and well-coordinated early childhood services to children and their families.''.

SEC. 8. QUALITY STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.

Section 641A of the Head Start Act (42 U.S.C. 9836a) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by striking ''642(d)'' and inserting ''642(c)'';

(B) in paragraph (1)(B)—

(i) in clause (i), by striking ''education performance standards'' and inserting ''educational performance standards''; and

(ii) by striking clause (ii) and inserting the following:

''(ii) additional educational standards based on the recommendations of the National Academy of Sciences panel described in section 649(h) and other experts in the field, to ensure that the curriculum involved addresses, and that the children participating in the program show appropriate progress toward developing and applying, the recommended educational outcomes, after the panel considers the appropriateness of additional educational standards relating to—

''(I) language skills related to listening, understanding, speaking, and communicating, including—

''(aa) understanding and use of a diverse vocabulary (including knowing the names of colors) and knowledge of how to use oral language to communicate for various purposes;

''(bb) narrative abilities used, for example, to comprehend, tell, and respond to a story, or to comprehend instructions;

''(cc) ability to detect and produce sounds of the language the child speaks or is learning; and

''(dd) clarity of pronunciation and speaking in syntactically and grammatically correct sentences;

''(II) prereading knowledge and skills, including—

''(aa) alphabet knowledge including knowing the letter names and associating letters with their shapes and sounds in the language the child speaks or is learning;

''(bb) phonological awareness and processes that support reading, for example, rhyming, recognizing speech sounds and separate syllables in spoken words, and putting speech sounds together to make words;

''(cc) knowledge, interest in, and appreciation of books, reading, and writing (either alone or with others), and knowledge that books have parts such as the front, back, and title page;

''(dd) early writing, including the ability to write one's own name and other words and phrases; and

''(ee) print awareness and concepts, including recognizing different forms of print and understanding the association between spoken and written words;

''(III) premathematics knowledge and skills, including—

''(aa) number recognition;

''(bb) use of early number concepts and operations, including counting, simple adding and subtracting, and knowledge of quantitative relationships, such as part versus whole and comparison of numbers of objects;

''(cc) use of early space and location concepts, including recognizing shapes, classification, striation, and understanding directionality; and

''(dd) early pattern skills and measurement, including recognizing and extending simple patterns and measuring length, weight, and time;

''(IV) scientific abilities, including—

''(aa) building awareness about scientific skills and methods, such as gathering, describing, and recording information, making observations, and making explanations and predictions; and

''(bb) expanding scientific knowledge of the environment, time, temperature, and cause-and-effect relationships;

''(V) general cognitive abilities related to academic achievement and child development, including—

''(aa) reasoning, planning, and problem-solving skills;

''(bb) ability to engage, sustain attention, and persist on challenging tasks;

''(cc) intellectual curiosity, initiative, and task engagement; and

''(dd) motivation to achieve and master concepts and skills;

''(VI) social and emotional development related to early learning and school success, including developing—

''(aa) the ability to develop social relationships, demonstrate cooperative behaviors, and relate to teachers and peers in positive and respectful ways;

''(bb) an understanding of the consequences of actions, following rules, and appropriately expressing feelings;

''(cc) a sense of self, such as self-awareness, independence, and confidence;

''(dd) the ability to control negative behaviors with teachers and peers that include impulsiveness, aggression, and noncompliance; and

''(ee) knowledge of civic society and surrounding communities;

''(VII) physical development, including developing—

''(aa) fine motor skills, such as strength, manual dexterity, and hand-eye coordination; and

''(bb) gross motor skills, such as balance and coordinated movements; and

''(VIII) in the case of limited English proficient children, progress toward acquisition of the English language while making meaningful progress in attaining the knowledge, skills, abilities, and development described in subclauses (I) through (VII);'';

(C) in paragraph (1)(D), by striking ''projects; and'' and inserting ''projects, including regulations that require that the facilities used by Head Start agencies (including Early Head Start agencies) and delegate agencies for regularly scheduled center-based and combination program option classroom activities—

''(i) shall be in compliance with State and local requirements concerning licensing for such facilities; and

''(ii) shall be accessible by State and local authorities for purposes of monitoring and ensuring compliance.'';

(D) in paragraph (2)—

(i) in subparagraph (B)—

(I) in clause (i), by striking ''the date of enactment of this section'' and inserting ''the date of enactment of the Head Start Improvements for School Readiness Act'';

(II) in clause (ii), by striking ''the date of enactment of this Act'' and inserting ''the date of enactment of the Head Start Improvements for School Readiness Act'';

(III) in clause (vi), by striking ''; and'' and inserting a semicolon;

(IV) in clause (vii), by striking ''public schools'' and inserting ''the schools that the children will be attending''; and

(V) by adding at the end the following:

''(viii) the unique challenges faced by individual programs, including those programs that are seasonal or short term and those programs that serve rural populations; and'';

(ii) in subparagraph (C)(ii), by striking ''the date of enactment of the Coats Human Services Reauthorization Act of 1998'' and inserting ''the date of enactment of the Head Start Improvements for School Readiness Act''; and

(iii) by adding at the end the following:

''(D) consult with Indian tribes, American Indian and Alaska Native experts in early childhood development, linguists, and the National Indian Head Start Directors Association on the review and promulgation of program standards and measures (including standards and measures for language acquisition and school readiness).'';

(E) by adding at the end the following:

''(4) EVALUATIONS AND CORRECTIVE ACTIONS FOR DELEGATE AGENCIES.—

''(A) PROCEDURES.—

''(i) IN GENERAL.—Subject to clause (ii), the Head Start agency shall establish procedures relating to its delegate agencies, including—

''(I) procedures for evaluating delegate agencies;

''(II) procedures for defunding delegate agencies; and

''(III) procedures for appealing a defunding decision relating to a delegate agency.

''(ii) TERMINATION.—The Head Start agency may not terminate a delegate agency's contract or reduce a delegate agency's service area without showing cause or demonstrating the cost-effectiveness of such a decision.

''(B) EVALUATIONS.—Each Head Start agency—

''(i) shall evaluate its delegate agencies using the procedures established pursuant to this section, including subparagraph (A); and

''(ii) shall inform the delegate agencies of the deficiencies identified through the evaluation that shall be corrected.

''(C) REMEDIES TO ENSURE CORRECTIVE ACTIONS.—In the event that the Head Start agency identifies a deficiency for a delegate agency through the evaluation, the Head Start agency may—

''(i) initiate procedures to terminate the designation of the agency unless the agency corrects the deficiency;

''(ii) conduct monthly monitoring visits to such delegate agency until all deficiencies are corrected or the Head Start agency decides to defund such delegate agency; and

''(iii) release funds to such delegate agency only as reimbursements until all deficiencies are corrected or the Head Start agency decides to defund such delegate agency.

''(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to impact or obviate the responsibilities of the Secretary with respect to Head Start agencies or delegate agencies receiving funding under this subchapter.'';

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking the paragraph heading and inserting the following:

''(2) CHARACTERISTICS AND USE OF MEASURES.—'';

(ii) in subparagraph (B), by striking '', not later than July 1, 1999; and'' and inserting a semicolon;

(iii) in subparagraph (C), by striking the period and inserting a semicolon;

(iv) by striking the flush matter following subparagraph (C); and

(v) by adding at the end the following:

''(D) measure characteristics that are strongly predictive (as determined on a scientific basis) of a child's school readiness and later performance in school;

''(E) be appropriate for the population served; and

''(F) be reviewed not less than every 4 years, based on advances in the science of early childhood development.

The performance measures shall include the performance standards and additional educational standards described in subparagraphs (A) and (B) of subsection (a)(1).'';

(B) in paragraph (3)—

(i) in subparagraph (A), by striking ''; and'' and inserting a semicolon;

(ii) in subparagraph (B), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(C) to enable Head Start agencies to individualize programs of instruction to better meet the needs of the child involved.'';

(C) by striking paragraph (4) and inserting the following:

''(4) RESULTS-BASED OUTCOME MEASURES.—Results-based outcome measures shall be designed for the purpose of promoting the knowledge, skills, abilities, and development, described in subsection (a)(1)(B)(ii), of children participating in Head Start programs that are strongly predictive (as determined on a scientific basis) of a child's school readiness and later performance in school.''; and

(D) by striking paragraph (5) and inserting the following:

''(5) ADDITIONAL LOCAL RESULTS-BASED EDUCATIONAL MEASURES AND GOALS.—Head Start agencies may establish and implement additional local results-based educational measures and goals.'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting ''and Head Start centers'' after ''Head Start programs'';

(ii) in subparagraph (A), by striking ''such agency'' and inserting ''Head Start center'';

(iii) by striking subparagraph (C) and inserting the following:

''(C) Unannounced site inspections of Head Start centers for health and safety reasons, as appropriate.'';

(iv) by redesignating subparagraph (D) as subparagraph (E); and

(v) by inserting after subparagraph (C) the following:

''(D) Notwithstanding subparagraph (C), followup reviews, including—

''(i) prompt return visits to agencies, programs, and centers that fail to meet 1 or more of the performance measures developed by the Secretary under subsection (b); and

''(ii) a review of programs with citations that include findings of deficiencies not later than 6 months after the date of such citation.''; and

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

''(2) CONDUCT OF REVIEWS.—The Secretary shall ensure that reviews described in paragraph (1)—

''(A) that incorporate a monitoring visit, may incorporate the visit without prior notice of the visit to the agency involved or with such limited prior notice as is necessary to ensure the participation of parents and key staff members;

''(B) are conducted by review teams that shall include individuals who are knowledgeable about Head Start and other early childhood education programs and, to the maximum extent practicable, the diverse (including linguistic and cultural) needs of eligible children (including children with disabilities, homeless children, and children in foster care) and limited English proficient children and their families;

''(C) include as part of the reviews of the programs, a review and assessment of program effectiveness, as measured in accordance with the results-based performance measures developed by the Secretary pursuant to subsection (b) and with the standards established pursuant to subparagraphs (A) and (B) of subsection (a)(1);

''(D) seek information from the communities and States where Head Start programs exist about innovative or effective collaborative efforts, barriers to collaboration, and the efforts of the Head Start agencies to collaborate with the entities carrying out early childhood education and child care programs in the community;

''(E) include as part of the reviews of the programs, a review and assessment of whether the programs are in conformity with the income eligibility requirements under section 645 and regulations promulgated under such section;

''(F) include as part of the reviews of the programs, a review and assessment of whether programs have adequately addressed the population and community needs (including needs of populations of limited English proficient children and children of migrant and seasonal farmworking families); and

''(G) include as part of the reviews of the programs, data from the results of periodic child assessments, and a review and assessment of child outcomes and performance as they relate to State, local, and agency-determined school readiness goals.'';

(4) in subsection (d)(1)—

(A) in the matter preceding subparagraph (A), by inserting ''or fails to address the community needs and strategic plan identified in section 640(g)(2)(C),'' after ''subsection (b),''; and

(B) in subparagraph (A), by inserting ''and identify the technical assistance to be provided consistent with paragraph (3)'' after ''corrected'';

(5) in subsection (e), by striking the last sentence and inserting ''The information contained in such report shall be made available to all parents with children receiving assistance under this subchapter in an understandable and uniform format, and to the extent practicable, provided in a language that the parents can understand. Such information shall be made widely available through public means such as distribution through public agencies, and, at a minimum, by posting such information on the Internet immediately upon publication.''; and

(6) by adding at the end the following:

''(f) SELF-ASSESSMENTS.—

''(1) IN GENERAL.—Not less frequently than once each program year, with the consultation and participation of policy groups and, as appropriate, other community members, each agency receiving funds under this subchapter shall conduct a self-assessment of the effectiveness and progress in meeting programs goals and objectives and in implementing and complying with Head Start program performance standards.

''(2) REPORT AND IMPROVEMENT PLANS.—

''(A) REPORT.—An agency conducting a self-assessment shall report the findings of the self-assessment to the relevant policy council, policy committee, governing body, and regional office of the Department of Health and Human Services. Each self-assessment shall identify areas of strength and weakness.

''(B) IMPROVEMENT PLAN.—The agency shall develop an improvement plan approved by the governing body of the agency to strengthen any areas identified in the self-assessment as weaknesses or in need of improvement.

''(3) ONGOING MONITORING.—Each Head Start agency, Early Head Start agency, and delegate agency shall establish and implement procedures for the ongoing monitoring of their Head Start and Early Head Start programs, to ensure that the operations of the programs work toward meeting program goals and objectives and Head Start performance standards.

''(4) TRAINING AND TECHNICAL ASSISTANCE.—Funds may be made available, through section 648(d)(13), for training and technical assistance to assist agencies in conducting self-assessments.

''(g) REDUCTION OF GRANTS AND REDISTRIBUTION OF FUNDS IN CASES OF UNDER-ENROLLMENT.—

''(1) DEFINITIONS.—In this subsection:

''(A) ACTUAL ENROLLMENT.—The term 'actual enrollment' means, with respect to the program of a Head Start agency, the actual number of children enrolled in such program and reported by the agency (as required in paragraph (2)) in a given month.

''(B) BASE GRANT.—The term 'base grant' means, with respect to a Head Start agency for a fiscal year, that portion of the grant derived—

''(i) from amounts reserved for use in accordance with section 640(a)(2)(A), for a Head Start agency administering an Indian Head Start program or migrant and seasonal Head Start program;

''(ii) from amounts reserved for payments under section 640(a)(2)(B); or

''(iii) from amounts available under section 640(a)(2)(D) or allotted among States under section 640(a)(4).

''(C) FUNDED ENROLLMENT.—The term 'funded enrollment' means, with respect to the program of a Head Start agency in a fiscal year, the number of children that the agency is funded to serve through a grant for the program during such fiscal year, as indicated in the grant agreement.

''(2) ENROLLMENT REPORTING REQUIREMENT FOR CURRENT FISCAL YEAR.—Each entity carrying out a Head Start program shall report on a monthly basis to the Secretary and the relevant Head Start agency—

''(A) the actual enrollment in such program; and

''(B) if such actual enrollment is less than the funded enrollment, any apparent reason for such enrollment shortfall.

''(3) SECRETARIAL REVIEW AND PLAN.—The Secretary shall—

''(A) on a semiannual basis, determine which Head Start agencies are operating with an actual enrollment that is less than the funded enrollment based on not less than 4 consecutive months of data;

''(B) for each such Head Start agency operating a program with an actual enrollment that is less than 95 percent of its funded enrollment, as determined under subparagraph (A), develop, in collaboration with such agency, a plan and timetable for reducing or eliminating under-enrollment taking into consideration—

''(i) the quality and extent of the outreach, recruitment, and community needs assessment conducted by such agency;

''(ii) changing demographics, mobility of populations, and the identification of new underserved low-income populations;

''(iii) facilities-related issues that may impact enrollment;

''(iv) the ability to provide full-day programs, where needed, through Head Start funds or through collaboration with entities carrying out other preschool or child care programs, or programs with other funding sources (where available);

''(v) the availability and use by families of other preschool and child care options (including parental care) in the local catchment area; and

''(vi) agency management procedures that may impact enrollment; and

''(C) provide timely and ongoing technical assistance to each agency described in subparagraph (B) for the purpose of implementing the plan described in such subparagraph.

''(4) IMPLEMENTATION.—Upon receipt of the technical assistance described in paragraph (3)(C), a Head Start agency shall immediately implement the plan described in paragraph (3)(B).

''(5) SECRETARIAL ACTION FOR CONTINUED UNDER-ENROLLMENT.—If, 1 year after the date of implementation of the plan described in paragraph (3)(B), the Head Start agency continues to operate a program at less than full enrollment, the Secretary shall, where determined appropriate, continue to provide technical assistance to such agency.

''(6) SECRETARIAL REVIEW AND ADJUSTMENT FOR CHRONIC UNDER-ENROLLMENT.—

''(A) IN GENERAL.—If, after receiving technical assistance and developing and implementing a plan to the extent described in paragraphs (3), (4), and (5) for 9 months, a Head Start agency is still operating a program with an actual enrollment that is less than 95 percent of its funded enrollment, the Secretary may—

''(i) designate such agency as chronically under-enrolled; and

''(ii) recapture, withhold, or reduce the base grant for the program by a percentage equal to the percentage difference between funded enrollment and actual enrollment for the program for the most recent year in which the agency is determined to be under-enrolled under paragraph (2)(B).

''(B) WAIVER OR LIMITATION OF REDUCTIONS.—If the Secretary, after the implementation of the plan described in paragraph (3)(B), finds that—

''(i) the causes of the enrollment shortfall, or a portion of the shortfall, are beyond the agency's control (such as serving significant numbers of migrant or seasonal farmworker, homeless, foster, or other highly mobile children);

''(ii) the shortfall can reasonably be expected to be temporary; or

''(iii) the number of slots allotted to the agency is small enough that under-enrollment does not constitute a significant shortfall, the Secretary may, as appropriate, waive or reduce the percentage recapturing, withholding, or reduction otherwise required by subparagraph (A).

''(C) PROCEDURAL REQUIREMENTS; EFFECTIVE DATE.—The actions taken by the Secretary under this paragraph with respect to a Head Start agency shall take effect 1 day after the date on which—

''(i) the time allowed for appeal under section 646(a) expires without an appeal by the agency; or

''(ii) the action is upheld in an administrative hearing under section 646.

''(7) REDISTRIBUTION OF FUNDS.—

''(A) IN GENERAL.—The Secretary shall use amounts recovered from a Head Start agency through recapturing, withholding, or reduction under paragraph (6) in a fiscal year—

''(i) in the case of a Head Start agency administering an Indian Head Start program or a migrant and seasonal Head Start program, whose base grant is derived from amounts specified in paragraph (1)(C)(i), to redirect funds to 1 or more agencies that—

''(I) are administering Head Start programs serving the same special population; and

''(II) demonstrate that the agencies will use such redirected funds to increase enrollment in their Head Start programs in such fiscal year; or

''(ii) in the case of a Head Start agency in a State, whose base grant is derived from amounts specified in clause (ii) or (iii) of paragraph (1)(C), to redirect funds to 1 or more agencies that—

''(I) are administering Head Start programs in the same State; and

''(II) make the demonstration described in clause (i)(II).

''(B) SPECIAL RULE.—If there is no agency located in a State that meets the requirements of subclauses (I) and (II) of subparagraph (A)(ii), the Secretary shall use amounts described in subparagraph (A) to redirect funds to Head Start agencies located in other States that make the demonstration described in subparagraph (A)(i)(II).

''(C) ADJUSTMENT TO FUNDED ENROLLMENT.—The Secretary shall adjust as necessary the requirements relating to funded enrollment indicated in the grant agreement of a Head Start agency receiving redistributed amounts under this paragraph.''.

SEC. 9. CENTERS OF EXCELLENCE IN EARLY CHILDHOOD.

The Head Start Act is amended by inserting after section 641A (42 U.S.C. 9836a) the following:

''SEC. 641B. CENTERS OF EXCELLENCE IN EARLY CHILDHOOD.

''(a) DEFINITION.—In this section, the term 'center of excellence' means a Center of Excellence in Early Childhood designated under subsection (b).

''(b) DESIGNATION AND BONUS GRANTS.—The Secretary shall, subject to the availability of funds under this subchapter, including under subsection (f), establish a program under which the Secretary shall—

''(1) designate not more than 200 exemplary Head Start agencies (including Early Head Start agencies, Indian Head Start agencies, and migrant and seasonal Head Start agencies) as Centers of Excellence in Early Childhood; and

''(2) make bonus grants to the centers of excellence to carry out the activities described in subsection (d).

''(c) APPLICATION AND DESIGNATION.—

''(1) APPLICATION.—

''(A) NOMINATION AND SUBMISSION.—

''(i) IN GENERAL.—To be eligible to receive a designation as a center of excellence under subsection (b), except as provided in clause (ii), a Head Start agency in a State shall be nominated by the Governor of the State and shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(ii) INDIAN AND MIGRANT AND SEASONAL HEAD START PROGRAMS.—In the case of an Indian Head Start agency or a migrant or seasonal Head Start agency, to be eligible to receive a designation as a center of excellence under subsection (b), such an agency shall be nominated by the head of the appropriate regional office of the Department and Health and Human Services and shall submit an application to the Secretary in accordance with clause (i).

''(B) CONTENTS.—At a minimum, the application shall include—

''(i) evidence that the Head Start program carried out by the agency has significantly improved the school readiness of, and enhanced academic outcomes for, children who have participated in the program;

''(ii) evidence that the program meets or exceeds standards and performance measures described in subsections (a) and (b) of section 641A, as evidenced by successful completion of programmatic and monitoring reviews, and has no findings of deficiencies with respect to the standards and measures;

''(iii) evidence that the program is making progress toward meeting the requirements described in section 648A;

''(iv) evidence demonstrating the existence of a collaborative partnership among the Head Start agency, the State (or a State agency), and other early care and education providers in the local community involved;

''(v) a nomination letter from the Governor, or appropriate regional office, demonstrating the agency's ability to carry out the coordination, transition, and training services of the program to be carried out under the bonus grant involved, including coordination of activities with State and local agencies that provide early childhood services to children and families in the community served by the agency;

''(vi) information demonstrating the existence of a local council for excellence in early childhood, which shall include representatives of all the institutions, agencies, and groups involved in the work of the center for, and the local provision of services to, eligible children and other at-risk children, and their families; and

''(vii) a description of how the Center, in order to expand accessibility and continuity of quality early care and education, will coordinate the early care and education activities assisted under this section with—

''(I) programs carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.);

''(II) other programs carried out under this subchapter, including the Early Head Start programs carried out under section 645A;

''(III)(aa) Early Reading First and Even Start programs carried out under subparts 2 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371 et seq., 6381 et seq.);

''(bb) other preschool programs carried out under title I of that Act (20 U.S.C. 6301 et seq.); and

''(cc) the Ready-to-Learn Television program carried out under subpart 3 of part D of title II of that Act (20 U.S.C. 6775 et seq.);

''(IV) programs carried out under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.);

''(V) State prekindergarten programs; and

''(VI) other early care and education programs.

''(2) SELECTION.—In selecting agencies to designate as centers of excellence under subsection (b), the Secretary shall designate not less than 1 from each of the 50 States, the District of Columbia, an Indian Head Start program, a migrant and seasonal Head Start program, and the Commonwealth of Puerto Rico.

''(3) TERM OF DESIGNATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall designate a Head Start agency as a center of excellence for a 5-year term. During the period of that designation, subject to the availability of appropriations, the agency shall be eligible to receive a bonus grant under subsection (b).

''(B) REVOCATION.—The Secretary may revoke an agency's designation under subsection (b) if the Secretary determines that the agency is not demonstrating adequate performance or has had findings of deficiencies described in paragraph (1)(B)(ii).

''(4) AMOUNT OF BONUS GRANT.—The Secretary shall base the amount of funding provided through a bonus grant made under subsection (b) to a center of excellence on the number of children eligible for Head Start services in the community involved. The Secretary shall, subject to the availability of funding, make such a bonus grant in an amount of not less than $200,000 per year.

''(d) USE OF FUNDS.—

''(1) ACTIVITIES.—A center of excellence that receives a bonus grant under subsection (b) may use the funds made available through the bonus grant—

''(A) to provide Head Start services to additional eligible children;

''(B) to better meet the needs of working families in the community served by the center by serving more children in existing Early Head Start programs (existing as of the date the center is designated under this section) or in full-working-day, full calendar year Head Start programs;

''(C) to model and disseminate best practices for achieving early academic success, including achieving school readiness and developing prereading and prematheматics skills for at-risk children and achieving the acquisition of the English language for limited English proficient children, and to provide seamless service delivery for eligible children and their families;

''(D) to further coordinate early childhood and social services available in the community served by the center for at-risk children (birth through age 8), their families, and pregnant women;

''(E) to provide training and cross training for Head Start teachers and staff, child care providers, public and private preschool and elementary school teachers, and other providers of early childhood services, and training and cross training to develop agency leaders;

''(F) to provide effective transitions between Head Start programs and elementary school, to facilitate ongoing communication between Head Start and elementary school teachers concerning children receiving Head Start services, and to provide training and technical assistance to providers who are public elementary school teachers and other staff of local educational agencies, child care providers, family service providers, and other providers of early childhood services, to help the providers described in this subparagraph increase their ability to work with low-income, at-risk children and their families;

''(G) to develop or maintain partnerships with institutions of higher education and nonprofit organizations, including community-based organizations, that recruit, train, place, and support college students to serve as mentors and reading coaches to preschool children in Head Start programs; and

''(H) to carry out other activities determined by the center to improve the overall quality of the Head Start program carried out by the agency and the program carried out under the bonus grant involved.

''(2) INVOLVEMENT OF OTHER HEAD START AGENCIES AND PROVIDERS.—A center that receives a bonus grant under subsection (b), in carrying out activities under this subsection, shall work with the center's delegate agencies, several additional Head Start agencies, and other providers of early childhood services in the community involved, to encourage the agencies and providers described in this sentence to carry out model programs.

''(e) RESEARCH AND REPORTS.—

''(1) RESEARCH.—The Secretary shall, subject to the availability of funds to carry out this subsection, make a grant to an independent organization to conduct research on the ability of the centers of excellence to improve the school readiness of children receiving Head Start services, and to positively impact school results in the earliest grades. The organization shall also conduct research to measure the success of the centers of excellence at encouraging the center's delegate agencies, additional Head Start agencies, and other providers of early childhood services in the communities involved to meet measurable improvement goals, particularly in the area of school readiness.

''(2) REPORT.—Not later than 48 months after the date of enactment of the Head Start Improvements for School Readiness Act, the organization shall prepare and submit to the Secretary and Congress a report containing the results of the research described in paragraph (1).

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2006 and each subsequent fiscal year—

''(1) $90,000,000 to make bonus grants to centers of excellence under subsection (b) to carry out activities described in subsection (d);

''(2) $2,500,000 to pay for the administrative costs of the Secretary in carrying out this section, including the cost of a conference of centers of excellence; and

''(3) $2,000,000 for research activities described in subsection (e).''.

SEC. 10. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

Section 642 of the Head Start Act (42 U.S.C. 9837) is amended to read as follows:

''SEC. 642. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

''(a) IN GENERAL.—In order to be designated as a Head Start agency under this subchapter, an agency shall have authority under its charter or applicable law to receive and administer funds provided under this subchapter, funds and contributions from private or local public sources that may be used in support of a Head Start program, and funds provided under any Federal or State assistance program pursuant to which a public or private nonprofit or for-profit agency (as the case may be) organized in accordance with this subchapter, could act as a grantee, contractor, or sponsor of projects appropriate for inclusion in a Head Start program. Such an agency shall also be empowered to transfer funds so received, and to delegate powers to other agencies, subject to the powers of its governing board and its overall program responsibilities. The power to transfer funds and delegate powers shall include the power to make transfers and delegations covering component projects in all cases in which that power will contribute to efficiency and effectiveness or otherwise further program objectives.

''(b) ADDITIONAL REQUIREMENTS.—In order to be designated as a Head Start agency under this subchapter, a Head Start agency shall also—

''(1) establish a program with all standards set forth in section 641A(a)(1), with particular attention to the standards set forth in subparagraphs (A) and (B) of such section;

''(2) demonstrate the capacity to serve eligible children with scientifically based curricula and other interventions and support services that help promote the school readiness of children participating in the program;

''(3) establish effective procedures and provide for the regular assessment of Head Start children, including observational and direct formal assessment, where appropriate;

''(4) seek the involvement of parents, area residents, and local business in the design and implementation of the program;

''(5) provide for the regular participation of parents and area residents in the implementation of the program;

''(6) provide technical and other support needed to enable such parents and area residents to secure, on their own behalf, available assistance from public and private sources;

''(7) establish effective procedures to facilitate the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children, and to afford such parents the opportunity to participate in the development and overall conduct of the program at the local level;

''(8) conduct outreach to schools in which Head Start children will enroll, local educational agencies, the local business community, community-based organizations, faith-based organizations, museums, and libraries to generate support and leverage the resources of the entire local community in order to improve school readiness;

''(9) offer (directly or through referral to local entities, such as entities carrying out Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6381 et seq.)), to parents of participating children, family literacy services, and parenting skills training;

''(10) offer to parents of participating children substance abuse and other counseling (either directly or through referral to local entities), if needed, including information on the effect of drug exposure on infants and fetal alcohol syndrome;

''(11) at the option of such agency, offer (directly or through referral to local entities), to such parents—

''(A) training in basic child development (including cognitive development);

''(B) assistance in developing literacy and communication skills;

''(C) opportunities to share experiences with other parents (including parent mentor relationships);

''(D) regular in-home visitation; or

''(E) any other activity designed to help such parents become full partners in the education of their children;

''(12) provide, with respect to each participating family, a family needs assessment that includes consultation with such parents (including foster parents and grandparents, where applicable) about the benefits of parent involvement and about the activities described in this subsection in which such parents may choose to be involved (taking into consideration their specific family needs, work schedules, and other responsibilities);

''(13) consider providing services to assist younger siblings of children participating in its Head Start program, to obtain health services from other sources;

''(14) perform community outreach to encourage individuals previously unaffiliated with Head Start programs to participate in its Head Start program as volunteers;

''(15)(A) inform custodial parents in single-parent families that participate in programs, activities, or services carried out or provided under this subchapter about the availability of child support services for purposes of establishing paternity and acquiring child support; and

''(B) refer eligible parents to the child support offices of State and local governments;

''(16) provide parents of limited English proficient children outreach and information in an understandable and uniform format and, to the extent practicable, in a language that the parents can understand; and

''(17) at the option of such agency, partner with an institution of higher education and a nonprofit organization to provide college students with the opportunity to serve as mentors or reading coaches to Head Start participants.

''(c) PROGRESS.—

''(1) IN GENERAL.—Each Head Start agency shall take steps to ensure, to the maximum extent possible, that children maintain the developmental and educational gains achieved in Head Start programs and build upon such gains in further schooling.

''(2) COORDINATION.—

''(A) LOCAL EDUCATIONAL AGENCY.—In communities where both public prekindergarten programs and Head Start programs operate, a Head Start agency shall collaborate and coordinate activities with the local educational agency or other public agency responsible for the operation of the prekindergarten program and providers of prekindergarten, including outreach activities to identify eligible children.

''(B) ELEMENTARY SCHOOLS.—Head Start staff shall, with the permission of the parents of children enrolled in Head Start programs, regularly communicate with the elementary schools such children will be attending to—

''(i) share information about such children;

''(ii) get advice and support from the teachers in such elementary schools regarding teaching strategies and options; and

''(iii) ensure a smooth transition to elementary school for such children.

''(C) OTHER PROGRAMS.—The head of each Head Start agency shall coordinate activities and collaborate with the State agency responsible for administering the State program carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), other entities carrying out early childhood education and development programs, and the agencies responsible for administering section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a), parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq. and 670 et seq.), programs under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6381 et seq.), and programs under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.), serving the children and families served by the Head Start agency.

''(3) COLLABORATION.—A Head Start agency shall take steps to coordinate activities with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

''(A) collaborating on the shared use of transportation and facilities;

''(B) collaborating to reduce the duplication of services while increasing the program participation of underserved populations of eligible children; and

''(C) exchanging information on the provision of noneducational services to such children.

''(4) PARENTAL INVOLVEMENT.—In order to promote the continued involvement of the parents of children that participate in Head Start programs in the education of their children upon transition to school, the Head Start agency shall—

''(A) provide training to the parents—

''(i) to inform the parents about their rights and responsibilities concerning the education of their children; and

''(ii) to enable the parents—

''(I) to understand and work with schools in order to communicate with teachers and other school personnel;

''(II) to support the schoolwork of their children; and

''(III) to participate as appropriate in decisions relating to the education of their children; and

''(B) take other actions, as appropriate and feasible, to support the active involvement of the parents with schools, school personnel, and school-related organizations.

''(d) ASSESSMENT.—Each Head Start agency shall adopt, in consultation with experts in child development and with classroom teachers, an assessment to be used when hiring or evaluating any classroom teacher in a center-based Head Start program. Such assessment shall measure whether such teacher has mastered the functions described in section 648A(a)(1) and attained a level of literacy appropriate to implement Head Start curricula.

''(e) FUNDED ENROLLMENT; WAITING LIST.—Each Head Start agency shall enroll 100 percent of its funded enrollment and maintain an active waiting list at all times with ongoing outreach to the community and activities to identify underserved populations.

''(f) TECHNICAL ASSISTANCE AND TRAINING PLAN.—In order to receive funds under this subchapter, a Head Start agency shall develop an annual technical assistance and training plan. Such plan shall be based on the agency's self-assessment, the community needs assessment, and the needs of parents to be served by such agency.''.

SEC. 11. HEAD START TRANSITION.

Section 642A of the Head Start Act (42 U.S.C. 9837a) is amended to read as follows:

''SEC. 642A. HEAD START TRANSITION AND ALIGNMENT WITH K–12 EDUCATION.

''Each Head Start agency shall take steps to coordinate activities with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

''(1) developing and implementing a systematic procedure for transferring, with parental consent, Head Start program records for each participating child to the school in which such child will enroll;

''(2) establishing ongoing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, health staff, and local educational agency liaisons designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii))) to facilitate coordination of programs;

''(3) developing continuity of developmentally appropriate curricula and practice between the Head Start agency and local educational agency to ensure an effective transition and appropriate shared expectations for children's learning and development as the children make the transition to school;

''(4) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers to discuss the educational, developmental, and other needs of individual children;

''(5) organizing and participating in joint training, including transition-related training of school staff and Head Start staff;

''(6) developing and implementing a family outreach and support program, in cooperation with entities carrying out parental involvement efforts under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), and family outreach and support efforts under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), taking into consideration the language needs of limited English proficient parents;

''(7) assisting families, administrators, and teachers in enhancing educational and developmental continuity and continuity of parental involvement in activities between Head Start services and elementary school classes;

''(8) linking the services provided in such Head Start program with the education services, including services relating to language, literacy, and numeracy, provided by such local educational agency;

''(9) helping parents understand the importance of parental involvement in a child's academic success while teaching the parents strategies for maintaining parental involvement as their child moves from the Head Start program to elementary school;

''(10) developing and implementing a system to increase program participation of underserved populations of eligible children, including children with disabilities, homeless children, children in foster care, and limited English proficient children; and

''(11) coordinating activities and collaborating to ensure that curricula used in the Head Start program is aligned with State early learning standards with regard to cognitive, social, emotional, and physical competencies that children entering kindergarten are expected to demonstrate.''.

SEC. 12. SUBMISSION OF PLANS TO GOVERNORS.

Section 643 of the Head Start Act (42 U.S.C. 9838) is amended—

(1) in the first sentence—

(A) by inserting ''for approval'' after ''submitted to the chief executive officer of the State''; and

(B) by striking ''45'' and inserting ''30''; and

(2) in the last sentence, by inserting ''to Indian and migrant and seasonal Head Start programs in existence on the date of enactment of the Head Start Improvements for School Readiness Act, or'' after ''other assistance''.

SEC. 13. PARTICIPATION IN HEAD START PROGRAMS.

Section 645(a) of the Head Start Act (42 U.S.C. 9840(a)) is amended—

(1) in paragraph (1)(A), by inserting ''130 percent of'' after ''below''; and

(2) by adding at the end the following:

''(3)(A) In this paragraph:

''(i) The term 'dependent' has the meaning given the term in paragraphs (2)(A) and (4)(A)(i) of section 401(a) of title 37, United States Code.

''(ii) The terms 'member' and 'uniformed services' have the meanings given the terms in paragraphs (23) and (3), respectively, of section 101 of title 37, United States Code.

''(B) The following amounts of pay and allowance of a member of the uniformed services shall not be considered to be income for purposes of determining the eligibility of a dependent of such member for programs funded under this subchapter:

''(i) The amount of any special pay payable under section 310 if title 37, United States Code, relating to duty subject to hostile fire or imminent danger.

''(ii) The amount of basic allowance payable under section 403 of such title, including any such amount that is provided on behalf of the member for housing that is acquired or constructed under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code, or any other related provision of law.

''(4) After demonstrating a need through a community needs assessment, a Head Start agency may apply to the Secretary to convert part-day sessions, particularly consecutive part-day sessions, into full-day sessions.''.

SEC. 14. EARLY HEAD START PROGRAMS.

Section 645A of the Head Start Act (42 U.S.C. 9840a) is amended—

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

''SEC. 645A. EARLY HEAD START PROGRAMS.'';

(2) in subsection (b)—

(A) in paragraph (4), by striking ''provide services to parents to support their role as parents'' and inserting ''provide additional services to parents to support their role as parents (including parenting skills training and training in basic child development)'';

(B) by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (6), (7), (10), (11), and (12), respectively;

(C) by inserting after paragraph (4) the following:

''(5) where appropriate and in conjunction with services provided under this section to the children's immediate families (or as approved by the Secretary), provide home-based services to family child care homes and kin caregivers caring for infants and toddlers who also participate in Early Head Start programs, to provide continuity in supporting the children's physical, social, emotional, and intellectual development;'';

(D) in paragraph (6), as redesignated by subparagraph (B)—

(i) by inserting ''(including home-based services)'' after ''with services''; and

(ii) by inserting '', and family support services'' after ''health services'';

(E) by inserting after paragraph (7), as redesignated by subparagraph (B), the following:

''(8) develop and implement a systematic procedure for transitioning children and parents from an Early Head Start program into a Head Start program or another local early childhood education program;

''(9) establish channels of communication between staff of Early Head Start programs and staff of Head Start programs or other local early childhood education programs, to facilitate the coordination of programs;''; and

(F) in paragraph (11), as redesignated by subparagraph (B)—

(i) by striking ''and providers'' and inserting '', providers''; and

(ii) by inserting '', and the agencies responsible for administering section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a) and parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq. and 670 et seq.)'' after ''(20 U.S.C. 1400 et seq.)'';

(3) in subsection (d)—

(A) in paragraph (1), by inserting '', including tribal governments and entities operating migrant and seasonal Head Start programs'' after ''subchapter''; and

(B) in paragraph (2), by inserting '', including community-based organizations'' after ''private entities'';

(4) in subsection (g)(2)(B), by striking clause (iv) and inserting the following:

''(iv) providing professional development and personnel enhancement activities, including the provision of funds to recipients of grants under subsection (a), relating to—

''(I) effective methods of conducting parent education, home visiting, and promoting quality early childhood development;

''(II) recruiting and retaining qualified staff; and

''(III) increasing program participation for underserved populations of eligible children.'';

(5) by adding at the end the following:

''(h) STAFF QUALIFICATIONS AND DEVELOPMENT.—

''(1) CENTER-BASED STAFF.—The Secretary shall ensure that, not later than September 30, 2010, all teachers providing direct services to Early Head Start children and families in Early Head Start centers have a minimum of a child development associate credential or an associate degree, and have been trained (or have equivalent course work) in early childhood development.

''(2) HOME VISITOR STAFF.—

''(A) STANDARDS.—In order to further enhance the quality of home visiting services provided to families of children participating in home-based, center-based, or combination program options under this subchapter, the Secretary shall establish standards for training, qualifications, and the conduct of home visits for home visitor staff in Early Head Start programs.

''(B) CONTENTS.—The standards for training, qualifications, and the conduct of home visits shall include content related to—

''(i) structured child-focused home visiting that promotes parents' ability to support the child's cognitive, social, emotional, and physical development;

''(ii) effective strengths-based parent education, including methods to encourage parents as their child's first teachers;

''(iii) early childhood development with respect to children from birth through age 3;

''(iv) methods to help parents promote emergent literacy in their children from birth through age 3, including use of research-based strategies to support the development of literacy and language skills for children who are limited English proficient;

''(v) health, vision, hearing, and developmental screenings;

''(vi) strategies for helping families coping with crisis; and

''(vii) the relationship of health and well-being of pregnant women to prenatal and early child development.''.

SEC. 15. APPEALS, NOTICE, AND HEARING AND RECORDS AND AUDITS.

(a) APPEALS.—Section 646(a) of the Head Start Act (42 U.S.C. 9841(a)) is amended by striking paragraphs (3) and (4) and inserting the following:

''(3) financial assistance under this subchapter may be terminated or reduced, and an application for funding may be denied, after the recipient has been afforded reasonable notice and opportunity for a full and fair hearing, including—

''(A) a right to file a notice of appeal of a decision within 30 days of notice of the decision from the Secretary; and

''(B) access to a full and fair hearing of the appeal, not later than 120 days from receipt by the Secretary of the notice of appeal;

''(4) the Secretary shall develop and publish procedures (including mediation procedures) to be used in order to—

''(A) resolve in a timely manner conflicts potentially leading to an adverse action between—

''(i) recipients of financial assistance under this subchapter; and

''(ii) delegate agencies or Head Start Parent Policy Councils;

''(B) avoid the need for an administrative hearing on an adverse action; and

''(C) prohibit a Head Start agency from expending financial assistance awarded under this subchapter for the purpose of paying legal fees pursuant to an appeal under paragraph (3), except that such fees shall be reimbursed by the Secretary if the agency prevails in such decision; and

''(5) the Secretary may suspend funds to a grantee for not more than 30 days.''.

(b) RECIPIENTS.—Section 647(a) of the Head Start Act (42 U.S.C. 9842(a)) is amended by striking ''Each recipient of'' and inserting ''Each Head Start agency, Head Start center, or Early Head Start center receiving''.

(c) ACCOUNTING.—Section 647 of the Head Start Act (42 U.S.C. 9842) is amended by adding at the end the following:

''(c) Each Head Start agency, Head Start center, or Early Head Start center receiving financial assistance under this subchapter shall maintain, and annually submit to the Secretary, a complete accounting of its administrative expenses, including expenses for salaries and compensation funded under this subchapter and provide such additional documentation as the Secretary may require.''.

SEC. 16. TECHNICAL ASSISTANCE AND TRAINING.

Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (a)(2), by striking ''(b) and (c)'' and inserting ''(b), (c), and (d)'';

(2) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(3) by inserting after subsection (a) the following:

''(b) The Secretary shall make available funds set aside in section 640(a)(2)(C)(ii) to support a regional or State system of early childhood education training and technical assistance that improves the capacity of Head Start programs to deliver services in accordance with the standards described in section 641A(a)(1), with particular attention to the standards described in subparagraphs (A) and (B) of such section. The Secretary shall—

''(1) ensure that agencies with demonstrated expertise in providing high-quality training and technical assistance to improve the delivery of Head Start services, including the State Head Start Associations, State agencies, migrant and seasonal Head Start programs, and other entities providing training and technical assistance in early education, for the region or State are included in the planning and coordination of the system; and

''(2) encourage States to supplement the funds authorized in section 640(a)(2)(C)(ii) with Federal, State, or local funds other than Head Start funds, to expand training and technical assistance activities beyond Head Start agencies to include other providers of other early childhood services within a region or State.'';

(4) in subsection (d), as so redesignated—

(A) in paragraph (1)(B)(ii), by striking ''educational performance measures'' and inserting ''measures'';

(B) in paragraph (2), by inserting ''and for activities described in section 1221(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371(b)(3))'' after ''children with disabilities'';

(C) in paragraph (5), by inserting '', including assessing the needs of homeless children and their families'' after ''needs assessment'';

(D) in paragraph (10), by striking ''; and'' and inserting a semicolon;

(E) in paragraph (11), by striking the period and inserting a semicolon; and

(F) by adding at the end the following:

''(12) assist Head Start agencies and programs in increasing the program participation of homeless children;

''(13) provide training and technical assistance to members of governing bodies to ensure that the members can fulfill the functions described in section 641(a)(4);

''(14) provide training and technical assistance to Head Start agencies to assist such agencies in conducting self-assessments; and

''(15) assist Head Start agencies and Head Start programs in improving outreach to, and quality of services available to, limited English proficient children and their families, including such services to help such families learn English, particularly in communities that have experienced a large percentage increase in the population of limited English proficient individuals, as measured by the Bureau of the Census.'';

(5) in subsection (e), as so redesignated, by inserting ''including community-based organizations,'' after ''nonprofit entities'';

(6) in subsection (f), as so redesignated, by inserting ''or providing services to children determined to be abused or neglected, training for personnel providing services to children referred by entities providing child welfare services or receiving child welfare services,'' after ''English language),''; and

(7) by adding at the end the following:

''(g) The Secretary shall provide, either directly or through grants or other arrangements, funds for training of Head Start personnel in addressing the unique needs of migrant and seasonal farmworking families, families with limited English proficiency, and homeless families.

''(h) Funds used under this section shall be used to provide high quality, sustained, and intensive, training and technical assistance in order to have a positive and lasting impact on classroom instruction. Funds shall be used to carry out activities related to 1 or more of the following:

''(1) Education and early childhood development.

''(2) Child health, nutrition, and safety.

''(3) Family and community partnerships.

''(4) Other areas that impact the quality or overall effectiveness of Head Start programs.

''(i) Funds used under this section for training shall be used for needs identified annually by a grant applicant or delegate agency in its program improvement plan, except that funds shall not be used for long-distance travel expenses for training activities—

''(1) available locally or regionally; or

''(2) substantially similar to locally or regionally available training activities.

''(j)(1) To support local efforts to enhance early language and preliteracy development of children in Head Start programs, and to provide the children with high-quality oral language skills, and environments that are rich in literature, in which to acquire language and preliteracy skills, each Head Start agency, in coordination with the appropriate State office and the relevant State Head Start collaboration office, shall ensure that all of the agency's Head Start teachers receive ongoing training in language and emergent literacy (referred to in this subsection as 'literacy training'), including appropriate curricula and assessments to improve instruction and learning. Such training shall include training in methods to promote phonological and phonemic awareness and vocabulary development in an age-appropriate and culturally and linguistically appropriate manner.

''(2) The literacy training shall be provided at the local level in order—

''(A) to be provided, to the extent feasible, in the context of the Head Start programs of the State involved and the children the program serves; and

''(B) to be tailored to the early childhood literacy background and experience of the teachers involved.

''(3) The literacy training shall be culturally and linguistically appropriate and support children's development in their home language.

''(4) The literacy training shall include training in how to work with parents to enhance positive language and early literacy development at home.

''(5) The literacy training shall include specific methods to best address the needs of children who are English language learners or are limited English proficient.

''(6) The literacy training shall include specific methods to best address the needs of children who have speech and language delays, including problems with articulation, or have other disabilities.''.

SEC. 17. STAFF QUALIFICATION AND DEVELOPMENT.

Section 648A of the Head Start Act (42 U.S.C. 9843a) is amended—

(1) in subsection (a)—

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

''(2) DEGREE REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall ensure that—

''(i) not later than September 30, 2010, all Head Start teachers in center-based programs have at least—

''(I)(aa) an associate degree (or equivalent coursework) relating to early childhood; or

''(bb) an associate degree in a related educational area and, to the extent practicable, coursework relating to early childhood; and

''(II) demonstrated teaching competencies, as determined by the program director involved (including, at a minimum, an appropriate level of literacy, a demonstrated capacity to be highly engaged with children, and a demonstrated ability to effectively implement an early childhood curriculum); and

''(ii) not later than September 30, 2008, all Head Start curriculum specialists and education coordinators in center-based programs have—

''(I) the capacity to offer assistance to other teachers in the implementation and adaptation of curricula to the group and individual needs of a class; and

''(II)(aa) a baccalaureate or advanced degree relating to early childhood; or

''(bb) a baccalaureate or advanced degree and coursework equivalent to a major relating to early childhood;

''(iii) not later than September 30, 2008, all Head Start teaching assistants in center-based programs have—

''(I) at least a child development associate credential;

''(II) enrolled in a program leading to an associate or baccalaureate degree; or

''(III) enrolled in a child development associate credential program to be completed within 2 years; and

''(iv) not later than September 30, 2011—

''(I) in States that have established teacher requirements for State prekindergarten programs, all Head Start teachers in center-based programs—

''(aa) if such requirements are not less than those requirements described in subclause (II), meet such teacher requirements for State prekindergarten programs; and

''(bb) if such requirements are less than those requirements described in subclause (II), meet the requirements described in subclause (II); and

''(II) in States that do not have teacher requirements for their State prekindergarten programs, 50 percent of all Head Start teachers in each center-based program have a baccalaureate degree relating to early childhood (or a related educational area or a baccalaureate degree that meets State specialized training requirements for prekindergarten teachers, such as State licensure, endorsement, or certification for prekindergarten or other early childhood area), and demonstrated teaching competencies, as determined by the program director involved (including, at a minimum, an appropriate level of literacy, a demonstrated capacity to be highly engaged with children, and a demonstrated ability to effectively implement an early childhood curriculum).

''(B) TEACHER IN-SERVICE REQUIREMENT.—Each Head Start teacher shall attend an average of not less than 15 clock hours of professional development per year. Such professional development shall be high quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom, and regularly evaluated for effectiveness.

''(C) PROGRESS.—

''(i) REPORT.—The Secretary shall—

''(I) require Head Start agencies to—

''(aa) demonstrate continuing progress each year to reach the result described in subparagraph (A);

''(bb) submit to the Secretary a report indicating the number and percentage of classroom instructors in center-based programs with child development associate credentials or associate, baccalaureate, or graduate degrees; and

''(II) compile and submit a summary of all program reports described in subclause (I)(bb) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

''(ii) DEMONSTRATE PROGRESS.—A Head Start agency may demonstrate progress by partnering with institutions of higher education or other programs that recruit, train, place, and support college students to deliver an innovative early learning program to preschool children.

''(D) SERVICE REQUIREMENTS.—The Secretary shall establish requirements to ensure that, in order to enable Head Start agencies to comply with the requirements of subparagraph (A), individuals who receive financial assistance under this subchapter to pursue a degree described in subparagraph (A) shall—

''(i) teach or work in a Head Start program for a minimum of 3 years after receiving the degree; or

''(ii) repay the total or a prorated amount of the financial assistance received based on the length of service completed after receiving the degree.''; and

(B) by striking paragraphs (3) and (4) and inserting the following:

''(3) WAIVER.—

''(A) IN GENERAL.—On request, the Secretary may grant a waiver of the postsecondary degree requirements of paragraph (2) for 1 or more Head Start agencies, either individually, statewide, or throughout a region, that can demonstrate—

''(i) that continuing aggressive statewide and national efforts have been unsuccessful at recruiting an individual to serve as a Head Start teacher or curriculum specialist or education coordinator who meets the requirements of paragraph (2)(A);

''(ii) limited access to degree programs (including quality distance learning programs), due to the remote location of the program involved; or

''(iii) that Head Start staff members are, as of the day the waiver is granted, enrolled in a program that—

''(I) grants the required degree; and

''(II) will be completed within 1 year.

''(B) LIMITATION.—An agency that receives a waiver under subparagraph (A) shall ensure that Head Start teachers for the agency, as of the day the waiver is granted, who have not met the postsecondary degree requirements of paragraph (2) but are otherwise highly qualified and competent shall be directly and appropriately supervised by a teacher who has met or exceeded the requirements of this subchapter.

''(C) DURATION.—The Secretary may not grant a waiver under subparagraph (A) for a period that exceeds 1 year.'';

(2) in subsection (c)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(4) promote the use of appropriate strategies to meet the needs of special populations (including limited English proficient populations).'';

(3) in subsection (d)(3)(C) by inserting '', including a center,'' after ''any agency''; and

(4) by adding at the end the following:

''(f) PROFESSIONAL DEVELOPMENT PLANS.—Every Head Start agency and center shall create, in consultation with employees of the agency or center (including family service workers), a professional development plan for employees who provide direct services to children, including a plan for classroom teachers, curriculum specialists, and education coordinators to meet the requirements set forth in subsection (a).''.

SEC. 18. TRIBAL COLLEGES AND UNIVERSITIES HEAD START PARTNERSHIP.

The Head Start Act (42 U.S.C. 9831 et seq.) is amended by inserting after section 648A the following:

''SEC. 648B. TRIBAL COLLEGE OR UNIVERSITY HEAD START PARTNERSHIP PROGRAM.

''(a) PURPOSE.—The purpose of this section is to promote social competencies and school readiness in Indian children.

''(b) TRIBAL COLLEGE OR UNIVERSITY HEAD START PARTNERSHIP PROGRAM.—

''(1) GRANTS.—The Secretary is authorized to award grants, for periods of not less than 5 years, to Tribal Colleges and Universities to—

''(A) implement education programs that include education concerning tribal culture and language and increase the number of associate, baccalaureate, and graduate degrees

in early childhood education and related fields that are earned by Indian Head Start agency staff members, parents of children served by such an agency, and members of the tribal community involved;

''(B) develop and implement the programs under subparagraph (A) in technology-mediated formats, including providing the programs through such means as distance learning and use of advanced technology, as appropriate; and

''(C) provide technology literacy programs for Indian Head Start agency staff members and children and families of children served by such an agency.

''(2) STAFFING.—The Secretary shall ensure that the American Indian Programs Branch of the Head Start Bureau of the Department of Health and Human Services shall have staffing sufficient to administer the programs under this section and to provide appropriate technical assistance to Tribal Colleges and Universities receiving grants under this section.

''(c) APPLICATION.—Each Tribal College or University 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, including a certification that the Tribal College or University has established a partnership with 1 or more Indian Head Start agencies for the purpose of conducting the activities described in subsection (b).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 through 2010.

''(e) DEFINITIONS.—In this section:

''(1) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

''(2) TRIBAL COLLEGE OR UNIVERSITY.—The term 'Tribal College or University'—

''(A) has the meaning given such term in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c); and

''(B) means an institution determined to be accredited or a candidate for accreditation by a nationally recognized accrediting agency or association.''.

SEC. 19. RESEARCH, DEMONSTRATIONS, AND EVALUATION.

Section 649 of the Head Start Act (42 U.S.C. 9844) is amended—

(1) in subsection (a)(1)(B), by inserting ''and children determined to be abused or neglected'' after ''children with disabilities'';

(2) in subsection (d)—

(A) in paragraph (8), by adding ''and'' after the semicolon;

(B) by striking paragraph (9);

(C) by redesignating paragraph (10) as paragraph (9); and

(D) by striking the last sentence;

(3) in subsection (g)—

(A) in paragraph (1)(A)—

(i) by striking clause (i); and

(ii) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(B) in paragraph (7)(C)—

(i) in clause (i)(I), by striking ''2003'' and inserting ''2007''; and

(ii) in clause (ii), by striking ''Labor and Human Resources'' and inserting ''Health, Education, Labor, and Pensions''; and

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

''(h) NATIONAL ACADEMY OF SCIENCES STUDY.—

''(1) IN GENERAL.—The Secretary shall enter into a contract with the Board on Children, Youth, and Families of the National Research Council, the Board on Testing and Assessments, and the Institute of Medicine, of the National Academy of Sciences to establish an independent panel of experts to review and synthesize research and theories in the social, behavioral, and biological sciences regarding early childhood, and make recommendations with regard to each of the following:

''(A) Age- and developmentally appropriate Head Start academic requirements and outcomes, including the standards described in section 641A(a)(1)(B)(ii).

''(B) Differences in the type, length, mix, and intensity of services that are necessary to ensure that children from challenging family or social backgrounds (including low-income children, children with disabilities, and limited English proficient children) enter kindergarten ready to succeed.

''(C) Appropriate assessments of young children for the purposes of improving instruction, services, and program quality, including—

''(i) formal and systematic observational assessments in a child's natural environment;

''(ii) assessments of children's development through parent and provider interviews;

''(iii) appropriate accommodations for children with disabilities and limited English proficient children;

''(iv) appropriate assessments for children with disabilities, limited English proficient children, and children from different cultural backgrounds; and

''(v) other assessments used in Head Start programs.

''(D) Identification of existing, or recommendations for the development of, scientifically based, valid and reliable assessments that are capable of measuring child outcomes in the domains important to school readiness, including language skills, prereading ability, premathematics ability, cognitive ability, scientific ability, social and emotional development, and physical development;

''(E) Appropriate use and application of valid and reliable assessments for Head Start programs identified in accordance with subparagraph (D).

''(2) COMPOSITION.—

''(A) IN GENERAL.—The panel described in paragraph (1) shall consist of multiple experts in each of the following areas:

''(i) Child development (including cognitive, social, emotional, and physical development) and child education (including approaches to learning).

''(ii) Professional development, including preparation of individuals who teach young children.

''(iii) Assessment of young children (including children with disabilities and limited English proficient children), including screening, diagnostic, and classroom-based instructional assessment.

''(B) REPRESENTATIVES.—The panel described in paragraph (1) shall be selected and appointed by the National Academy of Sciences, after consultation with the Secretary of Health and Human Services.

''(3) TIMING.—

''(A) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Head Start Improvements for School Readiness Act, the Board on Children, Youth, and Families of the National Research Council, the Board on Testing and Assessments, and the Institute of Medicine, of the National Academy of Sciences shall establish the panel described in paragraph (1), including selecting and appointing the members of the panel. Representatives described in paragraph (2) shall be selected and appointed after consultation with the Secretary.

''(B) RECOMMENDATIONS.—Not later than 1 year after the panel described in paragraph (1) is established, the panel shall complete, and submit to the Secretary a report containing, the recommendations described in paragraph (1). The Secretary shall not implement the amendments made to section 641A(a)(1)(B)(ii) by the Head Start Improvements for School Readiness Act until the panel submits the report.

''(4) APPLICATION OF PANEL REPORT.—The Secretary shall use the results of the review and recommendations described in paragraph (1) to (where appropriate) develop, inform, and revise—

''(A) the educational standards, and the performance measures, described in section 641A; and

''(B) the assessments utilized in the Head Start programs.

''(i) SERVICES TO LIMITED ENGLISH PROFICIENT CHILDREN AND FAMILIES.—

''(1) STUDY.—The Secretary shall conduct a study on the status of limited English proficient children and their families in Head Start or Early Head Start programs.

''(2) REPORT.—The Secretary shall prepare and submit to Congress, not later than September 2009, a report containing the results of the study, including information on—

''(A) the demographics of limited English proficient children from birth through age 5, including the number of such children receiving Head Start or Early Head Start services and the geographic distribution of children described in this subparagraph;

''(B) the nature of Head Start or Early Head Start services provided to limited English proficient children and their families, including the types, content, duration, intensity, and costs of family services, language assistance, and educational services;

''(C) procedures in Head Start programs for the assessment of language needs and the transition of limited English proficient children to kindergarten, including the extent to which Head Start programs meet the requirements of section 642A for limited English proficient children;

''(D) the qualifications and training provided to Head Start and Early Head Start teachers serving limited English proficient children and their families;

''(E) the rate of progress made by limited English proficient children and their families in Head Start programs and Early Head Start programs, including—

''(i) the rate of progress of the limited English proficient children toward meeting the additional educational standards described in section 641A(a)(1)(B)(ii) while enrolled in Head Start programs, measured between 1990 and 2004;

''(ii) the correlation between such progress and the type of instruction and educational program provided to the limited English proficient children; and

''(iii) the correlation between such progress and the health and family services provided by Head Start programs to limited English proficient children and their families; and

''(F) the extent to which Head Start programs make use of funds under section 640(a)(3) to improve the quality of Head Start services provided to limited English proficient children and their families.''.

SEC. 20. REPORTS.

Section 650 of the Head Start Act (42 U.S.C. 9846) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''Labor and Human Resources'' and inserting ''Health, Education, Labor, and Pensions'';

(B) in paragraph (8), by inserting ''homelessness, children in foster care, children who are abused or neglected,'' after ''ethnic background,''; and

(C) in the flush matter at the end by striking ''Labor and Human Resources'' and inserting ''Health, Education, Labor, and Pensions''; and

(2) in subsection (b), by striking ''Labor and Human Resources'' and inserting ''Health, Education, Labor, and Pensions''.

SEC. 21. COMPARABILITY OF WAGES.

Section 653 of the Head Start Act (42 U.S.C. 9848) is amended—

(1) by striking ''The Secretary shall take'' and inserting ''(a) The Secretary shall take'';

(2) in the first sentence of subsection (a), by striking ''or (2)'' and inserting ''(2) in excess of the salary of the Secretary, in the case of an individual compensated with funds awarded under this subchapter or the Community Services Block Grant Act (42 U.S.C. 9901 et seq.); or (3)''; and

(3) by adding at the end the following:

''(b) If in any fiscal year the restriction described in subsection (a)(2) is violated, the Secretary shall withhold from the base grant of the Head Start agency involved (as defined in section 641A(g)(1)) for the next fiscal year, an amount equal to the aggregate amount by which the salary that resulted in the violation exceeded the salary of the Secretary.''.

SEC. 22. LIMITATION WITH RESPECT TO CERTAIN UNLAWFUL ACTIVITIES.

Section 655 of the Head Start Act (42 U.S.C. 9850) is amended by inserting ''or in'' after ''assigned by''.

SEC. 23. POLITICAL ACTIVITIES.

Section 656 of the Head Start Act (42 U.S.C. 9851) is amended—

(1) by striking all that precedes ''chapter 15'' and inserting the following:

''SEC. 656. POLITICAL ACTIVITIES.

''(a) STATE OR LOCAL AGENCY.—For purposes of''; and

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

''(b) RESTRICTIONS.—

''(1) IN GENERAL.—A program assisted under this subchapter, and any individual employed by, or assigned to, a program assessed under this subchapter (during the hours in which such individual is working on behalf of such program), shall not engage in—

''(A) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office;

''(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

''(C) any voter registration activity.

''(2) RULES AND REGULATIONS.—The Secretary, after consultation with the Director of the Office of Personnel Management, may issue rules and regulations to provide for the enforcement of this section, which may include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.''.

SEC. 24. PARENTAL CONSENT REQUIREMENT FOR HEALTH SERVICES.

The Head Start Act (42 U.S.C. 9831 et seq.) is amended by adding at the end the following new section:

''SEC. 657A. PARENTAL CONSENT REQUIREMENT FOR NONEMERGENCY INTRUSIVE PHYSICAL EXAMINATIONS.

''(a) DEFINITION.—The term 'nonemergency intrusive physical examination' means, with respect to a child, a physical examination that—

''(1) is not immediately necessary to protect the health or safety of the child or the health or safety of another individual; and

''(2) requires incision or is otherwise invasive, or involves exposure of private body parts.

''(b) REQUIREMENT.—A Head Start agency shall obtain written parental consent before administration of, or referral for, any health care service provided or arranged to be provided, including any nonemergency intrusive physical examination of a child in connection with participation in a program under this subchapter.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit agencies from using established methods, for handling cases of suspected or known child abuse and neglect, that are in compliance with applicable Federal, State, or tribal law.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 152—WELCOMING HIS EXCELLENCY HAMID KARZAI, THE PRESIDENT OF AFGHANISTAN, AND EXPRESSING SUPPORT FOR A STRONG AND ENDURING STRATEGIC PARTNERSHIP BETWEEN THE UNITED STATES AND AFGHANISTAN.

Mr. HAGEL (for himself, Mr. LUGAR, Mr. BIDEN, and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 152

Whereas Afghanistan has suffered the ravages of war, foreign occupation, and oppression;

Whereas following the terrorist attacks of September 11, 2001, the United States launched Operation Enduring Freedom, which helped to establish an environment in which the people of Afghanistan are building the foundations for a democratic government;

Whereas, on January 4, 2004, the Constitutional Loya Jirga of Afghanistan adopted a constitution that provides for equal rights for full participation of women, mandates full compliance with international norms for human and civil rights, establishes procedures for free and fair elections, creates a system of checks and balances between the executive, legislative, and judicial branches, encourages a free market economy and private enterprise, and obligates the state to prevent terrorist activity and the production and trafficking of narcotics;

Whereas, on October 9, 2004, approximately 8,400,000 Afghans, including nearly 3,500,000 women, voted in Afghanistan's first direct Presidential election at the national level, demonstrating commitment to democracy, courage in the face of threats of violence, and a deep sense of civic responsibility;

Whereas, on December 7, 2004, Hamid Karzai took the oath of office as the first democratically elected President in the history of Afghanistan;

Whereas nationwide parliamentary elections are planned in Afghanistan for September 2005, further demonstrating the Afghan people's will to live in a democratic state, and the commitment of the Government of Afghanistan to democratic norms;

Whereas the Government of Afghanistan is committed to halting the cultivation and trafficking of narcotics and has pursued, in cooperation with the United States and its allies, a wide range of counter-narcotics initiatives;

Whereas the United States and the international community are working to assist Afghanistan's counter-narcotics campaign by supporting programs to provide alternative livelihoods for farmers, sustainable economic development, and capable Afghan security forces; and

Whereas, on March 17, 2005, Secretary of State Condoleezza Rice said of Afghanistan ''this country was once a source of terrorism; it is now a steadfast fighter against terrorism. There could be no better story than the story of Afghanistan in the last several years and there can be no better story than the story of American and Afghan friendship. It is a story of cooperation and friendship that will continue. We have a long-term commitment to this country'': Now, therefore, be it

Resolved, That the Senate—

(1) welcomes, as an honored guest and valued friend of the United States, President Hamid Karzai on the occasion of his visit to the United States as the first democratically elected President of Afghanistan scheduled for May 21 through 25, 2005;

(2) supports a democratic, stable, and prosperous Afghanistan as essential to the security of the United States; and

(3) supports a strong and enduring strategic partnership between the United States and Afghanistan as a primary objective of both countries to advance their shared vision of peace, freedom, security and broad-based economic development in Afghanistan, the broader South Asia region, and throughout the world.

SENATE RESOLUTION 153—EXPRESSING THE SUPPORT OF CONGRESS FOR THE OBSERVATION OF THE NATIONAL MOMENT OF REMEMBRANCE AT 3:00 PM LOCAL TIME ON THIS AND EVERY MEMORIAL DAY TO ACKNOWLEDGE THE SACRIFICES MADE ON THE BEHALF OF ALL AMERICANS FOR THE CAUSE OF LIBERTY

Mr. LIEBERMAN (for himself and Mr. SESSIONS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 153

Whereas Americans have been formally recognizing the sacrifice of those who gave their lives in the service of their country since 1868 when General John A. Logan, Commander of the Grand Army of the Republic, designated May 30 as Decoration Day;

Whereas those early commemorations encouraged Americans to decorate the graves of war dead with flowers so that, as General Logan stated, ''We should guard their graves with sacred vigilance . . . Let pleasant paths invite the coming and going of reverent visitors and fond mourners. Let no neglect, no ravages of time, testify to the present or to the coming generations that we have forgotten as a people the cost of a free and undivided republic.'';

Whereas in these times of challenge, when Americans have once again answered the call to defend freedom, it is as important as ever that all Americans take time to honor those brave men and women who throughout our Nation's history have given their lives in the cause of liberty;

Whereas in 2000, President Clinton signed into law ''The National Moment of Remembrance Act'' to encourage Americans to pause at 3:00 pm local time on Memorial Day for a minute of silence to remember and honor those who have died in the service of their Nation; and

Whereas the National Moment of Remembrance brings the country together in unity of purpose, to honor the sacrifice of those who have died for their Nation, and to rededicate all Americans to the original spirit of Decoration Day: Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms its support for the National Moment of Remembrance at 3:00 pm on Memorial Day, created to honor the men and women of the United States who died in the pursuit of freedom and peace; and

(2) urges the people of the United States to observe the National Moment of Remembrance this Memorial Day so that the sacrifices of those who have died are not forgotten and that, as President Abraham Lincoln said, ''The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart . . . should swell into a mighty chorus of remembrance, gratitude and rededication . . .''.

Mr. LIEBERMAN. Mr. President, I rise today to submit a Resolution with my good friend, Senator JEFF SESSIONS. Our resolution reaffirms the Senate's support for a National Moment of Remembrance at 3:00 p.m. on Memorial Day, and calls upon all Americans to observe the National Moment of Remembrance this Memorial Day.

Memorial Day is a holiday unique in the world and distinctly American in spirit.

On Memorial Day we honor no single man or woman—no general or admiral—but generations of Americans who selflessly answered their Nation's call to defend not national boundaries but a noble cause.

On Memorial Day we pay homage not to a single battle or war, but to the enduring struggle for freedom that stretches from Bunker Hill to Baghdad.

In these challenging times, when we hear almost daily of American servicemen and women who have sacrificed their lives to defend this great Nation, it is especially important that all Americans take a moment on Memorial Day to honor all these fallen heroes who throughout our history have made the ultimate sacrifice so that we may enjoy the freedoms we have today.

Many may not be aware, but Americans began formally recognizing the sacrifice of those who had given their lives in the service of their country in 1868 when General John A. Logan, Commander of the Grand Army of the Republic, designated May 30 as Decoration Day.

The first large observance was held that year in Arlington National Cemetery.

Those early commemorations encouraged Americans to decorate the graves of war dead with flowers. The goal of this, as General Logan eloquently put it, was that ''We should guard their graves with sacred vigilance. . . Let pleasant paths invite the coming and going of reverent visitors and fond mourners. Let no neglect, no ravages of time, testify to the present or to the coming generations that we have forgotten as a people the cost of a free and undivided republic.''

Through Decoration Day, General Logan began a noble tradition that we carry forward to this day.

We in Congress recently sought to reinforce that tradition and encourage all Americans to not lose sight of the meaning of Memorial Day, as Decoration Day has been known since 1971.

In 2000 we passed and the President signed the ''National Moment of Remembrance Act'' which encouraged all Americans to pause wherever they are at 3:00 p.m. local time on Memorial Day for a moment of silence to remember and honor those who have died in service to their country.

Since we passed that legislation, we have seen our Nation attacked.

Once again our fighting men and women have responded to the call to defend their Nation. They have done so magnificently. Their courage and valor are inspiring and are important reminders that we must continue to support those that fight, and honor those who have fallen.

We honor our heroes who founded and preserved our Nation and have since carried the torch of freedom into corners of the world where people huddled under tyranny's dark shadows.

We honor these heroes with the words of President Abraham Lincoln in our heart when he said: ''The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart . . should swell into a mighty chorus of remembrance, gratitude and rededication.''

SENATE CONCURRENT RESOLUTION 36—EXPRESSING THE SENSE OF CONGRESS CONCERNING ACTIONS TO SUPPORT THE NUCLEAR NON-PROLIFERATION TREATY ON THE OCCASION OF THE SEVENTH NPT REVIEW CONFERENCE

Mrs. FEINSTEIN (for herself, Mr. HAGEL, Mr. LAUTENBERG, Mr. DURBIN, Mr. CORZINE, Mr. FEINGOLD, and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 36

Whereas the Treaty on the Non-proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (in this resolution referred to as the ''Nuclear Non-Proliferation Treaty''), codifies one of the most important international security arrangements in the history of arms control, the arrangement by which states without nuclear weapons pledge not to acquire them, states with nuclear weapons commit to eventually eliminate them, and nonnuclear states are allowed to use for peaceful purposes nuclear technology under strict and verifiable control;

Whereas the Nuclear Non-Proliferation Treaty is one of the most widely supported multilateral agreements, with 188 countries adhering to the Treaty;

Whereas the Nuclear Non-proliferation Treaty has encouraged many countries to officially abandon nuclear weapons or nuclear weapons programs, including Argentina, Belarus, Brazil, Kazakhstan, Libya, South Africa, South Korea, Ukraine, and Taiwan;

Whereas, at the 1995 NPT Review and Extension Conference, the states-parties agreed to extend the Nuclear Non-Proliferation Treaty indefinitely, to reaffirm the principles and objectives of the Treaty, to strengthen the Treaty review process, and to implement further specific and practical steps on non-proliferation and disarmament;

Whereas, at the 2000 NPT Review Conference, the states-parties agreed to further practical steps on non-proliferation and disarmament;

Whereas President George W. Bush stated on March 7, 2005, that ''the NPT represents a key legal barrier to nuclear weapons proliferation and makes a critical contribution to international security,'' and that ''the United States is firmly committed to its obligations under the NPT'';

Whereas the International Atomic Energy Agency (IAEA) is responsible for monitoring compliance with safeguard agreements pursuant to the Nuclear Non-Proliferation Treaty and reporting safeguard violations to the United Nations Security Council;

Whereas Presidents George W. Bush and Vladimir Putin stated on February 24, 2005, that ''[w]e bear a special responsibility for the security of nuclear weapons and fissile material in order to ensure that there is no possibility such weapons or materials would fall into terrorist hands'';

Whereas Article IV of the Nuclear Non-Proliferation Treaty calls for the fullest possible exchange of equipment and materials for peaceful nuclear endeavors and allows states to acquire sensitive technologies to produce nuclear fuel for energy purposes but also recognizes that such fuel could be used to secretly produce fissile material for nuclear weapons programs or quickly produce such material if the state were to decide to withdraw from the Treaty;

Whereas the Government of North Korea ejected international inspectors from that country in 2002, announced its withdrawal from the Nuclear Non-Proliferation Treaty in 2003, has recently declared its possession of nuclear weapons, and is in possession of facilities capable of producing additional nuclear weapons-usable material;

Whereas the Government of Iran has pursued an undeclared program to develop a uranium enrichment capacity, repeatedly failed to fully comply with and provide full information to the IAEA regarding its nuclear activities, and stated that it will not permanently abandon its uranium enrichment program which it has temporarily suspended through an agreement with the European Union;

Whereas the network of arms traffickers associated with A.Q. Khan has facilitated black-market nuclear transfers involving several countries, including Iran, Libya, and North Korea, and represents a new and dangerous form of proliferation;

Whereas governments should cooperate to control exports of and interdict illegal transfers of sensitive nuclear and missile-related technologies to prevent their proliferation;

Whereas the United Nations Secretary-General's High-Level Panel on Threats, Challenges and Change concluded that ''[a]lmost 60 States currently operate or are constructing nuclear power or research reactors, and at least 40 possess the industrial and scientific infrastructure which would enable them, if they chose, to build nuclear weapons at relatively short notice if the legal and normative constraints of the Treaty regime no longer apply,'' and warned that ''[w]e are approaching a point at which the erosion of the non-proliferation regime could become irreversible and result in a cascade of proliferation'';

Whereas stronger international support and cooperation to achieve universal compliance with tighter nuclear non-proliferation rules and standards constitute essential elements of nuclear non-proliferation efforts;

Whereas sustained leadership by the United States Government is essential to help implement existing legal and political commitments established by the Nuclear Non-Proliferation Treaty and to realize a

more robust and effective global nuclear non-proliferation system; and

Whereas the governments of the United States and other countries should pursue a comprehensive and balanced approach to strengthen the global nuclear non-proliferation system, beginning with the Seventh NPT Review Conference of 2005: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SHORT TITLE.

This resolution may be cited as the ''Reinforce the Nuclear Non-Proliferation Treaty Act of 2005''.

SEC. 2. SENSE OF CONGRESS ON SUPPORT OF THE NUCLEAR NON-PROLIFERATION TREATY.

Congress—

(1) reaffirms its support for the objectives of the Nuclear Non-Proliferation Treaty and expresses its support for all appropriate measures to strengthen the Treaty and to attain its objectives; and

(2) calls on all parties participating in the Seventh Nuclear NPT Review Conference—

(A) to insist on strict compliance with the non-proliferation obligations of the Nuclear Non-Proliferation Treaty and to undertake effective enforcement measures against states that are in violation of their Article I or Article II obligations under the Treaty;

(B) to agree to establish more effective controls on sensitive technologies that can be used to produce materials for nuclear weapons;

(C) to expand the ability of the International Atomic Energy Agency to inspect and monitor compliance with non-proliferation rules and standards to which all states should adhere through existing authority and the additional protocols signed by the states party to the Nuclear Non-Proliferation Treaty;

(D) to demonstrate the international community's unified opposition to a nuclear weapons program in Iran by—

(i) supporting the efforts of the United States and the European Union to prevent the Government of Iran from acquiring a nuclear weapons capability; and

(ii) using all appropriate diplomatic and other means at their disposal to convince the Government of Iran to abandon its uranium enrichment program;

(E) to strongly support the ongoing United States diplomatic efforts in the context of the six-party talks that seek the verifiable and incontrovertible dismantlement of North Korea's nuclear weapons programs and to use all appropriate diplomatic and other means to achieve this result;

(F) to pursue diplomacy designed to address the underlying regional security problems in Northeast Asia, South Asia, and the Middle East, which would facilitate non-proliferation and disarmament efforts in those regions;

(G) to accelerate programs to safeguard and eliminate nuclear weapons-usable material to the highest standards to prevent access by terrorists and governments;

(H) to halt the use of highly enriched uranium in civilian reactors;

(I) to strengthen national and international export controls and relevant security measures as required by United Nations Security Council Resolution 1540;

(J) to agree that no state may withdraw from the Nuclear Non-Proliferation Treaty and escape responsibility for prior violations of the Treaty or retain access to controlled materials and equipment acquired for ''peaceful'' purposes;

(K) to accelerate implementation of disarmament obligations and commitments under the Nuclear Non-Proliferation Treaty for the purpose of reducing the world's stockpiles of nuclear weapons and weapons-grade fissile material; and

(L) to strengthen and expand support for the Proliferation Security Initiative.

Mrs. FEINSTEIN. Mr. President, I rise today along with Senator HAGEL, Senator LAUTENBERG, Senator DURBIN, Senator CORZINE, and Senator FEINGOLD to submit a resolution calling on the parties participating at the Seventh Review Conference in New York City to reaffirm their support for and take additional measures to strengthen the Nuclear Nonproliferation Treaty.

Our resolution calls on parties to the conference to, among other things: insist on strict compliance with the nonproliferation obligations of the Treaty and to undertake effective enforcement measures against states that are in violation of their Article I or Article II obligations; agree to establish more effective controls on sensitive technologies that can be used to produce materials for nuclear weapons; support the efforts of the United States and the European Union (EU) to prevent Iran from acquiring a nuclear weapons capability; support the Six-Party talks that seek the verifiable disarmament of North Korea's nuclear weapons program; accelerate programs to safeguard and eliminate nuclear-weapons usable material to the highest standards to prevent access by terrorists or other states; agree that no state may withdraw from the Treaty and escape responsibility for prior violations of the treaty or retain access to controlled materials and equipment acquired for ''peaceful'' purposes, and; accelerate implementation of the NPT-related disarmament obligations and commitments that would, in particular, reduce the world's stockpiles of nuclear weapons and weapons-grade material.

More than 180 states have gathered in New York to review progress on implementing their respective obligations as signatories of the Treaty and discuss additional steps each party can take to fulfill all of the NPT objectives.

The Nuclear Nonproliferation Treaty has played a critical role in protecting U.S. national security interests and promoting peace and stability in the international community by bringing nuclear armed and non-nuclear armed states together to stop the proliferation of nuclear weapons.

Each party has clear and specific obligations. States with nuclear weapons pledge to eventually eliminate them while states without nuclear weapons pledge not to acquire them.

The track record of the Treaty speaks for itself. This framework has successfully convinced countries such as Ukraine, Kazahkstan, Belarus, Libya and South Africa to forgo possession of nuclear weapons. At the dawn of the nuclear age, who would have thought this would be possible?

Simply put, the fewer number of states with nuclear weapons, the less likely such weapons will be used or fall into the wrong hands. The Treaty has saved lives and prevented unthinkable catastrophe.

The success of the Treaty is a testament to United States leadership and our commitment to multilateral diplomacy and cooperation. The gains in the area of nuclear nonproliferation over the past thirty plus years would not have been possible if we had chosen to shut ourselves out of the international community or take on the great challenges of the world on our own.

And, I might point out, as a signatory to the Treaty, we have increased the security of Americans and our national security interests at a far less cost than any military intervention. Successful arms control treaties give us more bang for our buck.

Now is a critical opportunity to examine the successes of the past and the steps all parties can take to strengthen the Nuclear Nonproliferation Treaty in the future.

Indeed, the world has changed dramatically since the last Review Conference in 1995 and the challenges to the nuclear nonproliferation regime have become more acute. In the past few years we have witnessed: the September 11th attacks and the intent of terrorist groups such as al-Qaeda to acquire and use nuclear weapons; the discovery of the AQ Khan nuclear black market; North Korea's withdrawal from the Nuclear Nonproliferation Treaty and announcement that it possessed nuclear weapons; the exposure of Iran's violations of its obligations as a signatory of the Nuclear Nonproliferation Treaty and the possibility that states may use the ''Article 4 loophole'' and develop a nuclear fuel cycle capability; the existence of global stockpiles of nuclear weapons usable materials.

Combined with an uncertainty on the part of non-nuclear weapon states about the intent of nuclear weapon states to fulfill their disarmament obligations, these challenges threaten the continuation of a successful nuclear nonproliferation regime.

As the United Nation's report ''A More Secure World'' states: ''We are approaching a point at which the erosion of the nonproliferation regime could become irreversible and result in a cascade of proliferation.''

North Korea has already withdrawn from the Treaty and escaped penalty. Iran may be next. How many others will follow if we stand still and do nothing to strengthen the NPT?

It would be an understatement to say that the collapse of the nuclear nonproliferation regime will have a devastating effect on the security and stability of the entire world.

That is why the Review Conference is so important and why we must not let divisions between nuclear armed and non-nuclear armed states prevent the conclusion of a successful conference. We must come together to breathe new life into the nuclear nonproliferation regime and seriously consider the steps

outlined above that will strengthen the treaty and make the world safer from the threat of nuclear terror.

I urge my colleagues to support this resolution.

SENATE CONCURRENT RESOLUTION 37—HONORING THE LIFE OF SISTER DOROTHY STANG

Mr. DEWINE submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 37

Whereas Sister of Notre Dame de Namur Dorothy Stang moved to the Amazon 22 years ago to help poor farmers build independent futures for their families, and was murdered on Saturday, February 12, 2005, at the age of 73, in Anapu, Para, a section of Brazil's Amazon rain forest;

Whereas Sister Dorothy, a citizen of Brazil and the United States, worked with the Pastoral Land Commission, an organization of the Catholic Church that fights for the rights of rural workers and peasants, and defends land reforms in Brazil;

Whereas Sister Dorothy's death came less than a week after her meeting with Brazil's Human Rights Secretary about threats to local farmers from some loggers and landowners;

Whereas, after receiving several death threats, Sister Dorothy recently commented, ''I don't want to flee, nor do I want to abandon the battle of these farmers who live without any protection in the forest. They have the sacrosanct right to aspire to a better life on land where they can live and work with dignity while respecting the environment.'';

Whereas Sister Dorothy was born in Dayton, Ohio, entered the Sisters of Notre Dame de Namur community in 1948, and professed final vows in 1956;

Whereas, from 1951 to 1966, Sister Dorothy taught elementary classes at St. Victor School in Calumet City, Illinois, St. Alexander School in Villa Park, Illinois, and Most Holy Trinity School in Phoenix, Arizona, and began her ministry in Brazil in 1966, in Coroata, in the state of Maranhao;

Whereas, last June, Sister Dorothy was named ''Woman of the Year'' by the state of Para for her work in the Amazon region, in December 2004, she received the ''Humanitarian of the Year'' award from the Brazilian Bar Association for her work helping the local rural workers, and earlier this year, she received an ''Honorary Citizenship of the State'' award from the state of Para; and

Whereas Sister Dorothy lived her life according to the mission of the Sisters of Notre Dame: making known God's goodness and love of the poor through a Gospel way of life, community, and prayer, while continuing a strong educational tradition and taking a stand with the poor, especially poor women and children, in the most abandoned places, and committing her one and only life to work with others to create justice and peace for all: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby honors the life and work of Sister Dorothy Stang.

AMENDMENTS SUBMITTED AND PROPOSED

SA 763. Mr. BURNS (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 188, to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011 to carry out the State Criminal Alien Assistance Program.

TEXT OF AMENDMENTS

SA 763. Mr. BURNS (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 188, to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011 to carry out the State Criminal Alien Assistance Program, as follows:

At the end add the following new section:

SEC. 3. LIMITATION ON USE OF FUNDS.

Section 241(i)(6) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(6)) is amended to read as follows:

''(6) Amounts appropriated pursuant to the authorization of appropriations in paragraph (5) that are distributed to a State or political subdivision of a State, including a municipality, may be used only for correctional purposes.''.

MEASURE READ THE FIRST TIME—S. 1098

Mr. ALLARD. Mr. President, I understand that S. 1098, introduced earlier today by Senator KENNEDY, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the title of the bill for the first time.

The senior assistant bill clerk read as follows:

A bill (S. 1098) to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program.

Mr. ALLARD. Mr. President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. The bill will be read the second time at the next legislative session.

ORDERS FOR TUESDAY, MAY 24, 2005

Mr. ALLARD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, May 24. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and that the Senate then return to executive session and resume consideration of the nomination of Priscilla Owen to the Fifth Circuit Court of Appeals; provided that the time until 11:40 a.m. be divided equally between the leaders or their designees, and the time from 11:40 a.m. to 12 noon be equally divided between the two leaders; provided further that notwithstanding provisions of rule XXII, at 12 noon, the Senate proceed to the cloture vote on the Owen nomination, with the live quorum waived.

I further ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party luncheons.

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

PROGRAM

Mr. ALLARD. Mr. President, tomorrow, the Senate will resume consideration of the nomination of Priscilla Owen to be a U.S. circuit judge for the Fifth Circuit Court of Appeals. At 12 noon, we will proceed to the cloture vote on the Owen nomination, and that will be the first vote of the day. Given the events of the day, it is expected cloture will be invoked on this well-qualified nominee. We have had 4 days of substantive debate on the nomination. It is our hope that once cloture is invoked, we can quickly move to a vote on confirmation.

ORDER FOR ADJOURNMENT

Mr. ALLARD. 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, following the remarks of Senator HARKIN for up to 15 minutes, Senator BOXER for up to 15 minutes, Senator LEAHY; provided, that Senator KYL be also recognized prior to adjournment.

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

Mr. ALLARD. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I ask unanimous consent that Senator LEAHY, because of his time schedule, speak prior to my statement, and I still be allowed my 15 minutes and Senator BOXER still be allowed her 15 minutes.

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

The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the Senator from Iowa for his courtesy. I apologize to the Senator from Colorado. I was distracted when he was giving the order to put us out. I should have realized, after 31 years here, when we are on autopilot. And, of course, the Senator was following precisely the agreement as usually somebody does in wrapup that has been worked out between the Democratic leader and the Republican leader and was totally within his rights. I apologize for interrupting.

Mr. ALLARD. I thank the Senator from Vermont for speaking up. We certainly did not want to shortchange on his right to speak. I was glad to see when we got to the last part of the iteration we had the Senator from Vermont included.

Mr. LEAHY. Mr. President, the distinguished Senator has always been protective of the rights of Members of both sides.

JUDICIAL NOMINEES

Mr. LEAHY. Mr. President, we have other Senators who wish to speak.

There has been a lot that has gone on here tonight. I will speak further on this tomorrow. I thought on this occasion it would not be inappropriate to quote again from ''Profiles in Courage.''

At the end of that book, President Kennedy included a eulogy. Interestingly enough, it was a eulogy in 1866 upon the death of Senator Solomon Foot, a predecessor of mine from Vermont. The eulogy for Senator Foot of Vermont was delivered by Senator William Pitt Fessenden of Maine. Senator Fessenden, like Senator Foot, was a Republican—in fact, all Senators from Vermont, every single Senator from Vermont, with the exception of one, has been a Republican. But Senator Fessenden would soon thereafter vote against his party to acquit President Andrew Johnson of charges of impeachment.

Senator Fessenden was the first of seven courageous Republican Senators who voted his conscience before his country rather than party. Despite the pressures and whatever the consequences, he exercised his judgment as a Senator, consistent with his oath to do impartial justice.

Let me just read what he said after the death of Senator Foot of Vermont:

When, Mr. President, a man becomes a member of this body, he cannot even dream of the ordeal to which he cannot fail to be exposed;

of how much courage he must possess to resist the temptations which daily beset him;

of that sensitive shrinking from undeserved censure which he must learn to control;

of the ever-recurring contest between a natural desire for public appropriation and a sense of public duty;

of the load of injustice he must be content to bear, even from those who should be his friends;

the imputations of his motives;

the sneers and sarcasms of inmorance malice;

all the manifold injuries which partisan or private malignity, disappointed of its objects, may shower upon his unprotected head.

All this, Mr. President, if he retained his integrity, he must learn to bear unmoved, and walk steadily onward in the path of duty, sustained only by the reflection that time may do him justice, or if not, that after all his individual hopes and aspirations, and even his name among men, should be of little account to him when weighed in the balance against the welfare of a people of whose destiny he is a constituted guardian and defender.

A number of our Senate colleagues today from both parties stood up to keep the Senate from making a terrible, an irreparable mistake—terrible and irreparable because, for the first time in over 200 years, the Senate would no longer have a check and balance. For the first time in over 200 years, the Senate would no longer be able to protect the rights of the minorities.

I applaud them for this. As I said, I will speak more tomorrow. I thank my distinguished colleague and dear friend from Iowa for letting me go ahead.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I am very pleased to hear about the bipartisan agreement that preserves minority rights in the Senate, that preserves the right of the minority to extended debate, that preserves the checks and balances that our Founding Fathers prized so highly.

My hope now is that after weeks of distraction, after weeks during which the majority leader threatened the nuclear option, to sort of blow up the Senate, now we hopefully can return to the people's business.

I thank the 14 Senators, I guess 7 Democrats and 7 Republicans, who worked so hard to bring us back from the brink and get us away from this nuclear option that really would have destroyed the smooth functioning of the Senate.

But we have been talking for weeks and weeks about this, about this nuclear option. People I have talked to have been absolutely astonished that the Senate has been distracted by these nuclear option threats. They keep asking me why haven't we been addressing the real concerns that keep Americans up at night: worrying about their jobs, their health care and their families' future. Why is the Senate spending its time on this narrow ideological agenda and ignoring the people's business?

The majority leader, the Senator from Tennessee, had planned to keep the Senate up through the night tonight as a prelude to detonating this nuclear option.

In anticipation of that, early yesterday, on my Senate Web site and through the news outlets, I informed the people of my State of Iowa I would be coming to the floor late this evening to share their concerns and their worries, the things that keep them up at night.

The response has been overwhelming. I said that my Des Moines office and my Washington offices would be open all night, answering calls and receiving e-mails. I encouraged Iowans to keep the calls and e-mails coming all through the night and to let me know what keeps them up at night. I had planned to spend as much time as possible answering the phones myself.

Since noon today, we have received over 600 e-mails and 500 phone calls. I thank all the Iowans who contacted me by e-mail or by phone. I had planned to read as many as I could tonight, during the long night that we were supposed to be here. Obviously, that is not going to happen. But we have been inundated with messages from Iowans telling us what they want the Senate to stay up all night working on. Believe me, detonating the nuclear option is not on their list.

To the contrary, my fellow Iowans are deeply concerned about ''kitchen table'' issues such as health care, job security, pension security, education, increasing the minimum wage, the war in Iraq, the price of gasoline.

Sherry, in Sioux City e-mailed me to make two points.

One, I do not like the GOP violating the rules and violating the Founding Fathers' checks and balances; and, two, I am retiring from teaching tomorrow and I am afraid most of my students will not be in good enough jobs to afford their own health care. Plus I myself must wait 24 months for health coverage because I don't qualify for Medicare.

Linda in Des Moines sent the following e-mail:

Mr. Harkin, thank you for asking. I will tell you what keeps me up at night. The fear I will get sick and not be able to work. I have to work some overtime every week right now to just get by. I have not been able to accumulate a savings to fall back on. What with more health care costs my employer is putting on me, higher gas prices, higher grocery costs. I have to run as fast as I can to just barely keep up.

Patricia in West Branch, IA, sent this e-mail:

I work two jobs, my husband 3, to send our son to college. We all need some relief from this worry. Education, health care, the poor who do not have homes or food. So let's worry about the real issues here.

Patty in Olin, IA, e-mailed me with what keeps her up at night:

Two Things: Gas and College 1.

Shirley in Eldridge, IA, e-mailed me with the following brief message:

I am bothered about rising health costs for retirees. I am concerned about the rising cost of gasoline and the rising cost of a college education. I am concerned that my grandchildren may not have the same opportunities that I and my children had to obtain an advanced degree.

This is the message that Al in Hinton, IA, sent me:

Health Insurance—I am seeing many educators who want to retire, some who need to retire, however they cannot, due to the cost of health care. They have worked 30 years and must keep working until age 65. After 30 years in the classroom, an individual has earned the right to retire. Please address health care, this is the National Crisis.

Sara in Anamosa, IA, shared a broad range of worries:

Dear Senator Harkin: I am a teacher who is concerned that American High Schools are not given the funds needed to train our students to compete in a global economy.

Sue, a librarian in Iowa City, told me:

I am concerned about the rising cost of a college education. . . .I worry that the divide between those who can afford college and those who cannot is growing ever wider. I don't think our economy will be well-served by making an education an opportunity that only the wealthy can afford.

Susan from Des Moines send me the following e-mail:

The fear that the Social Security system is going to be changed keeps me up at night. . . . My worry is not just for myself but everyone affected by the proposed revisions in the social security system.

Barbara from Mount Vernon, IA, had this to say:

What keeps me up at night is how I'm going to pay my bills and still provide care

for the kids. I serve at my job at Four Oaks, Inc. I'm a youth counselor at 4 Oaks serving children in a residential setting who have been abused or neglected. Some of the needs these children are the need for deep relationships with adults. With the high turnover in facilities such as mine, children go through hardship once again. Staff needs to move on to other fields where the pay will meet their day to day obligations. As a supervisor I do stay up at night worrying about the children and my own financial needs.

Shannon from Garwin, Iowa, sent me this message:

Dear Senator Harkin. I can easily tell you what keeps me up at night. Thank you for asking. I am a 30 year old Registered Nurse. . . . I have a very expensive health insurance plan that goes up every year. It does not cover my family, me only. My husband works as an electrician and has no insurance. Our children have health insurance that we pay for out of pocket. We have no dental. We worry constantly. Save for college? That is a joke in its self.

Ron, in La Mars, IA, said:

We need an aggressive program for alternative fuels. If we do not break away from foreign oil we will be bogged down in the Middle East forever.

Ann, an elementary school principal in Waukon, IA, had this to say:

There are many things that keep me up at night. Among these concerns are the rising meth problem in Iowa. The reduction of services to families through medicaid cuts and cuts in the department of human services. I have families who fear their foodstamps will be cut.

Here is Fabian from Bellevue, IA:

Collapse of the general economy in industrial and manufacturing sectors.

Patrick from Sioux City, IA:

We need to reform the health care and transportation systems in America.

Kim of Cresco, IA:

We need to be more focused on education in America than the filibuster.

Here is Sandra, who e-mailed me:

Dear Senator Harkin, these are the things that keep me up at night:

1. Social security—I think we just need to improve on the program that exists. I know that my husband and I and our children will not have the needed money to start our own savings account. Our children have good jobs, but there is no way they will be able to set-aside enough needed money to retire on.

2. As a health professional, I can tell you first-hand what is happening to people who cannot afford to pay health insurance and also, prescription drugs needed. I treat the results of that each day. Each month, we personally pay, out of our own pocket, nearly $2000.00 for insurance and drugs. Our drugs are for diabetes and prostate problems, something we cannot help. That is $24,0000 a year, and farming is not that profitable. Something has got to change or we will not survive!

This is a comment from George:

I am 62 years old. I had surgery for prostate cancer 4 years ago. Post op I can not afford $1000 month for health insurance and have not seen a doctor in 3 years for follow up procedures. I am sinking into depression (and debt) and see no way out . . . .

Doris, from Wellman said:

We need to raise the minimum wage.

Here is Ann, another person who e-mailed me:

I have families without jobs or such low-paying jobs they work several to make ends meet. Children are left unsupervised. How about increasing the minimum wage?

Mr. President, this is what Iowans are telling me, in 600 plus e-mails, and over 500 phone calls today. This is what they want the Senate working on. And we spent all this time talking about a filibuster, a nuclear option: This judge, that judge. People must wonder if we have become totally dysfunctional around here, so I am hopeful that, with this agreement, we are going to see a new day. I am hopeful that the majority leader will now turn his leadership and his energy to turn the Senate to the people's business.

Let's have a bill out here to raise the minimum wage and let's get an up-or-down vote on it. Let's get the Energy bill here on the floor so we can amend it and then have an up-or-down vote. Let's do something about health care. Why don't we extend the Federal Employees Health Benefit Program that all of us have—why don't we extend it to small businesses all over America so they, too, can have the same kind of health coverage that we in the Congress have?

How about pension security? Let's get legislation on the floor so we do not have more United Airlines, next maybe all the other airlines, perhaps even General Motors has now said they may not be able to meet their pension guarantees.

Education funding? How many times do we hear from our schools that we are not funding No Child Left Behind, that the guarantee we made almost 30 years ago now that we were going to fund the Individuals with Disabilities Education Act at 40 percent of the cost, now we are still at less than 20 percent?

This is what the vast majority of my Iowans say we should be working on. So I hope a new day is here. I hope, with this agreement that was forged, we can leave that past behind us and that we can now bring this type of legislation to the floor. Forget about the nuclear option and get on with the people's business here in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I understand that I have 15 minutes. I might take 10 or I might want to take another 10 in addition. I ask unanimous consent I may speak up to 25 minutes.

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

Mrs. BOXER. What I want to say, before my friend from Iowa leaves, thank you so much, Senator HARKIN. I think what you addressed in your remarks is something that has been missing from this debate, and that is what the people are telling us back home. They, in my opinion, do not want to see the filibuster go away because they understand it is a very important part of the American fabric of politics for more than 200 years. They also understand, without a doubt, that the issues that concern their everyday lives are just not being addressed. My friend laid them out beautifully.

In Iowa, CA, our people are feeling the same things. They are struggling with high gas prices, lack of health care, worried about the cost of health care, and education. They are absolutely frightened about the President's attack on Social Security. They want us to fight back. They want us to solve the Social Security long-range problem without reducing benefits, without taking away Social Security, and not turning Social Security into a guaranteed gamble. These are issues that are key. Transportation is another issue my friend mentioned. I thank Senator HARKIN for his contribution tonight.

I also thank my colleagues on both sides of the aisle who took this Senate back from a cliff where there were very treacherous waters below. They turned us away from a power grab by the majority, from a move that was clearly an abuse of power. They called it themselves, those who wanted this option, the nuclear option. They were right to call it the nuclear option because it would have been so devastating, not only to the Senate, not only to the people of this country, but to the foundation of our Republic—the checks and balances which were put into this system by our brilliant Founders who came together. As Senator BYRD reminded us tonight that Benjamin Franklin said: ''I've given you a Republic, if you can keep it.''

That is the key. Can we keep the Republic? We do not keep a representative democracy such as this if we allow one side, whichever side that is, to trample upon the rights of the other. What happens is you wind up trampling on the rights of the American people themselves.

The other day I was making a mental note of who supported the nuclear option, taking away the right of any Senator to filibuster a judicial nominee, who in this body supported that, versus those who thought it ought to be sustained and we ought to have that right. When we add up the number of people we represent on each side, the senators on the side that wanted to keep the filibuster represented far more people, millions more people. So this was a moment in time when the rights of so many of those people would have been taken away, just as the rights of their Senators would be taken away.

Again, I thank my colleagues on both sides who worked so hard to bring us back from this abuse of power. I hope that it means forever. I personally hope we never hear the words ''nuclear option'' again. It would be best for this country if we allowed the 200-year history plus of this country to sustain us.

The filibuster started in 1806. This is the filibuster's 200th year. It has been used sparingly. Let's look at how many times we have blocked President Bush's judges. I hope I don't have to bring this chart out again. I hope we

are done with this. But for tonight we need to summarize where we have been.

Mr. President, 208 to 10 is what caused all the angst by the Republicans. They wanted to take away our right to block 5 percent of George Bush's judges. As I have said at home in many meetings, if any one of you got 95 percent of what you wanted in your life, you would be smiling. I would be—unless I wanted everything and I thought I knew best and I was the smartest. We all go through those times when we think that way but one would hope at this point when we get here, after working a little bit here in the Senate—and I admit I didn't see it right in the beginning—we come to respect rights of the minority. The filibuster has been used rarely.

I also want to discuss what I call the filibuster fantasy world that cropped up in these debates. I will show a chart I was going to use in the debate which, thankfully, we do not have to have. But for the purposes of history, we ought to look at what was shaping up.

First of all, every day we came to the Senate we heard Republicans say: The Democrats started the filibusters on judges. That is funny, in a way, because the opposite is true. In modern times, the use of the filibuster began with Abe Fortas in the 1960s. I looked at a headline in the Washington Post from the 1960s. It said: ''Filibuster Launched Against Fortas.'' This was President Johnson's, a Democrat, nominee to the Supreme Court. The first paragraph of that Post article said:

The Republicans launched an all-out filibuster against Abe Fortas.

That is a fact. The filibuster fantasy says that Democrats started the filibusters on judges.

The second fantasy we have heard repeatedly recently from Republicans is Republicans have never filibustered judges.

That one I can state from personal experience does not hold up—I don't have to rely on newspapers; I don't have to rely on hearsay; I don't have to rely on folk tales. I was here and I saw the Republican filibuster against two terrific people from California, Marsha Berzon and Richard Paez. Guess what? That was not in the 1800s or the 1960s. It was the year 2000. And do Members know who voted to continue to filibuster Richard Paez? BILL FRIST, the good doctor, who says he wants to take away our rights. Tonight he says he is backing off. He has no choice but to back off because, luckily, we had enough people from both sides of the aisle to pull us back from this precipice. BILL FRIST himself filibustered Richard Paez. Pretty amazing for him to say that we should never filibuster when he filibustered, when his Republican colleagues are on the record saying they were proud to filibuster and it is their constitutional right to filibuster.

So you can't rewrite the record book. We have a CONGRESSIONAL RECORD. We had a vote to end the filibuster on Richard Paez, a wonderful candidate put up by President Clinton. BILL FRIST voted to filibuster that man. Yet he says if we Democrats vote to filibuster somebody, and I am quoting him, ''we are behaving badly.'' He said that four times tonight. Bad behavior.

This is not a kindergarten class. This is not even high school. This is the Senate. When I decide to filibuster a judge, which is my prerogative, and will remain so, I am happy to say under this good agreement, I am not behaving badly, I am behaving as a Senator who has looked at this nominee, who has seen that this nominee is dangerous to America, who has seen that this nominee is extremist and will hurt the American families who I represent. Am I not behaving as a Senator? No, I am not behaving badly.

Let's look at the other Republican filibuster fantasies. They say all judges should get an up-or-down vote. Do you know how many votes Priscilla Owen had so far? Four. She is about to have the fifth. Janice Rogers Brown has had one. Clinton judges, 61 of them, most of them never made it out of committee. Most of them were pocket filibustered. They never had an up-or-down vote. Every one of George Bush's nominees have had an up-or-down vote. They may not have made the 60 votes they needed to make because for 200 years-plus the Senate has had the right for extended debate. These people could not get the 60 votes.

Why couldn't they get 60 votes? Because these nominees are so extreme. I will talk about one of them in a minute and tell Members why because it is an extraordinary circumstance. The President sent down a nominee who is out of the mainstream.

First, I want to tell you a story about ORRIN HATCH who was the Republican chairman of the Judiciary Committee for a time when Bill Clinton was President. ORRIN HATCH called me into his office and he said: Senator BOXER, if you want to get a vote on a judge from California, don't send me anyone from the liberal side. Send me mainstream judges, Senator. Send me mainstream judges and we will be OK. We had a great chat.

I said: Well, I am not so sure; maybe sometimes you want to have someone a little more liberal.

He said: Don't discuss it with me. Mainstream judges. That's it.

So for ORRIN HATCH, when Bill Clinton was President, he had a litmus test. Mainstream judges. I didn't think it was that unreasonable. Where is the litmus test now on mainstream judges? It has gone out the windows.

Alberto Gonzales himself said that Priscilla Owen's opinions were ''unconscionable judicial activism''. So we say to the President of the United States of America: Do what Bill Clinton did, send us mainstream judges and we do not have any problem with that. We will walk down this aisle proudly. Frankly, we did it 208 times. I am not sure this President has any cause for alarm. He got 95 percent of his judges, but he wants it all, after all, he is George Bush. We had a King George. We had a king. Now we want a President of all the people. We do not want a king. We want him to govern. We do not want him to rule. There is a difference.

This wonderful agreement sustains our right in the future to step out if each of us determines there is a reason to filibuster.

Now, again, the filibuster fantasy is that Priscilla Owen and Janice Rogers Brown have never had a vote in the Senate. I have already stated, they just cannot make the 60-vote cut because they are so out of the mainstream.

Then there is this issue the Republicans have now said they want to change from the nuclear option to the constitutional option. Nothing in the Constitution prohibits filibusters. We know that. The Constitution says the Senate shall writes its own rules, which brings me to another point.

Here is something I want the American people to know. I want my colleagues to understand. The Constitution says the Senate shall write its own rules, and Rule XXII of the Senate says if you want to change a rule of the Senate, folks, you have to get 67 votes to move to change the rules. It is important to do this when you change the rules of the Senate. The Constitution says we shall write our own rules. But the Senate rules do not envision a small group of Senators changing the rules. It ensures that a large group of Senators must approve of changing the Senate rules. If you have to change the rules, this is what you have to have 67 votes to close off debate for a rule change.

Guess what? My Republican friends who brought us the nuclear option knew they could not get 67 votes to destroy the system of checks and balances, to change our government as we have known it for so many years. They could not get 67 votes, not even close. They even had to have DICK CHENEY in the chair for this vote, folks, because it could be that close; 51, maybe. What do they do? How are they going to get around the rules of the Senate? Well, not to worry about the rules of the Senate. We will make a precedent.

The Parliamentarian will say that Senators have a right to filibuster, absolutely. The Parliamentarian will say we need 67 votes to change the rules of the Senate, but DICK CHENEY, sitting in the chair as a rubberstamp for this administration, as part of it, will say: I disagree with the Parliamentarian. We can change this right now by declaring by fiat no more filibusters of judges ever again. That is the new precedent.

I would ask my friends, what kind of an example is this to set for our children? Let's say our children go to school, and they know to get an 80 percent on a test is a B, and they get a 75 percent. Let's say they then go to their teacher and say: Oh, I got a 75 percent,

and I don't want to come home with a C. Can you just change the rules today for me and make it an A? Change the rules. Or if you are serving on a jury, and everyone has to agree on the guilt of someone, but, oh, they decide on this day, only 9 of the 12 have to agree.

I could go on and on with examples like this. The fact is, it is a terrible precedent for our children to see grown people in the Senate change more than 200 years of Senate history by going around the rules of the Senate.

I was here when I was just a freshman. I was annoyed with the filibuster. I was really annoyed. The Republicans were filibustering all the time. I thought it was terrible. One of my colleagues said: Let's change the rules.

I said: Great. I think President Clinton ought to get his whole agenda through. I am tired of hearing about what I don't agree with.

I was wrong. I did not know I was wrong. I was wrong. But one thing I did, I did not try to do it with some slipshod, fake precedent change. I tried to do it by getting 67 votes. We did not even come near 20 because it is a losing proposition.

The nuclear option would have been a disaster. And I have to tell you, out in the countryside, the polling is showing that the people are sick of this place. They do not understand what we are doing. We are irrelevant to them. And indeed it is no wonder we are viewed this way given all the effort we have expended on this nuclear option business. It simply fits into what the people have been saying for a while, that we just do not get it.

They are paying these gas prices at the pump, and what are we doing? Nothing. The President could release some strategic petroleum reserves. Oh, no, the first President in modern times never to do that. And, yes, gas is going down a few pennies, I am happy about that. But, believe you me, it is not going down far enough. What are we doing about that? Nothing that I could see. No, no, we are wasting our time on the nuclear option because the President wanted 100 percent of what he asked for. He did not want 95 percent. He wanted 100 percent of his judges.

Another President once tried to pack the courts, and his name was Franklin Roosevelt, a great Democratic President. Do you know what? When Franklin Roosevelt was in office, there were 74 Democrats in the Senate. Franklin Roosevelt was annoyed. He wanted 100 percent. He got 60 percent in the election, a lot more than this President did. He had 74 Democratic Senators. And he wanted to pack the courts. He wanted to double the number of Supreme Court Justices, put his people in play, have the Democrats in the Senate rubberstamp and make sure that his New Deal would live forever more.

Do you know what stopped him? Democratic Senators. They said: Mr. President, we admire you. We respect you. But we know it is wrong to pack the courts. It is not right. We want an independent judiciary. Let us not change the rules in the middle of the game.

I was so hopeful that we would have some Republican Senators this time who had a sense of history, who understood better than I did when I was new here that the filibuster protects not only the minority but protects the American people.

I want to explain to you, in my final moments, why it is so important that we keep the filibuster. In this deal, three judges are going to go through, are going to have a simple majority vote. One of them is Janice Rogers Brown. Now, I am not thrilled about this because I think her record is so far out of the mainstream that she will hurt the American people. But I do not want to just put out rhetoric. I want to show you Janice Rogers Brown and some of the times in which Janice Rogers Brown, as a judge on the California Supreme Court, stood alone in her dissents. So when you ask me: Senator BOXER, why is it that you filibustered Janice Rogers Brown—and, by the way, I support this deal. Even though she will only need 51 votes, I still support the deal. But I have to tell you, I am going to fight to deprive her of those 51 votes, if I can. She stood alone on a court of six Republicans and one Democrat. She is a Republican. She stood alone 31 times because the court was not rightwing enough for her.

Let's look at some of the times Janice Rogers Brown stood alone, how way out of the mainstream to the extreme she is.

She said a manager could use racial slurs against his Latino employees. Can you imagine a decision like that? It is OK to use racial slurs against Latino employees. Janice Rogers Brown said that in Aguilar v. Avis Rental Car.

She is bad on first amendment rights. She argued that a message sent by an employee to coworkers criticizing a company's employment practices was not protected by the free speech first amendment, but she has been very protective of corporate speech. So she walks away from the individual but supports the right of corporate speech.

If you want individual rights protected, this is not your person. Here is one: She protects companies, not shareholders.

She is bad for rape victims. She was the only member of the court to vote to overturn the conviction of the rapist of a 17-year-old girl because she believed the victim gave mixed messages to the rapist.

Now, I just want to say something here. Every one of us here would come to the defense of a 17-year-old rape victim. And on a court of six Republicans and one Democrat, only one person stood alone, stood by the rapist, Janice Rogers Brown. So when I say I do not want her to be promoted, you can see why.

Janice Rogers Brown is bad for children and families. She was the only member of the court to oppose an effort to stop the sale of cigarettes to children. Now, I do not know how you all feel about this, but this is 2005, and we know what an addiction to cigarettes can be. We do not want our kids being able to purchase cigarettes in stores. Janice Rogers Brown stood alone in Stop Youth Addiction v. Lucky Stores. She stood alone on a court of six Republicans, one Democrat. She stood alone and would not protect our children from the sale of tobacco.

Senior citizens: the only member of the court to find that a 60-year-old woman who was fired from her hospital job could not sue. This is what she said in this dissent, where she stood alone on a court of six Republicans and one Democrat. She said:

> Discrimination based on age does not mark its victims with a stigma of inferiority and second class citizenship.

Really? Really? A 60-year-old woman was fired from her hospital job on age discrimination. State and Federal law prohibit age discrimination. Janice Rogers Brown stood alone and said there is no stigma. Someone fires you because you are old, and there is no stigma.

But that is the least of it. Janice Rogers Brown——

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

Mrs. BOXER. Mr. President, I ask unanimous consent for 1 minute to close.

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

Mrs. BOXER. Thank you, I say to my friend from Alabama.

Janice Rogers Brown has an attitude toward seniors which is extraordinary. She calls senior citizens cannibals. She says they are militant and they cannibalize their grandchildren by getting free stuff from the Government. I have to tell you, this woman is so far out of the mainstream, this is just a touch of the debate that is to hit the Senate floor.

So when we stand up as Democrats and say no to Janice Rogers Brown, we have a reason. It is not about the Senate. It is not about partisanship. It is about the American people and the American family.

Thank you, Mr. President. And I thank those Senators on both sides of the aisle for bringing us back from this precipice.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I may be allowed to speak for up to 20 minutes in morning business.

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

Mr. SESSIONS. Mr. President, I would ask the Senator, before she leaves—I notice the debates over filibusters have seen people maybe flip and change their views—but I would ask her if it is not true that she just said a few moments ago that we must

keep the filibuster, but in 1995 the Senator was one of 19 Senators who voted to eliminate it entirely, not even just against judges but against the whole legislative calendar also?

Mrs. BOXER. If the Senator heard me speak, I spoke quite a while about that. I said how wrong I was, how green I was, how I was frustrated with the Republicans blocking things. And I was dead wrong. I also said that what we tried to do is change the rules, which takes 67 votes. We did not go in the dead of night to try and get it done. So, yes, the Senator is right. I was dead wrong. Tough to admit that, but I have been very open about that since the beginning of the debate.

Mr. SESSIONS. That is good. And I apologize for not being here and hearing your remarks to begin with. I would not have asked that.

Mrs. BOXER. I don't blame the Senator.

Mr. SESSIONS. Mr. President, I want to share a few thoughts at this time. There is no doubt that there has not been maintained in this body a successful filibuster against a President's nominee for a judicial office until this last Congress when the Democrats changed the ground rules, as they stated they were going to do, and commenced systematic leadership-led filibusters against some of the finest nominees we have ever had.

People say: Well, you people in the Senate are upset, and you are fractious, and there is too much of this, and you guys need to get together. But it was not the Republicans who started filibustering judges. And it was a historic change in our procedures when the Democrats started doing it. It caused great pain and anguish.

When you have somebody as fine as Judge Bill Pryor, who I know, from Alabama, the editor and chief of the Tulane Law Review, a man of incredible principle and intelligence and ability, and who always wants to do the right thing, to hear him trashed and demeaned really hurt me.

I am so pleased to hear today that those who have reached the compromise have said that we will give Bill Pryor an up-or-down vote. He had a majority of the Senate for him before, a bipartisan majority. At least two Democrats voted for giving him an up-or-down vote and would have voted for him, I am sure, if he had gotten that up-or-down vote. We would have had that done a long time ago except for having, for the first time in history, a systematic tactic of blocking those nominees from an up-or-down vote through the use of the filibuster on judges.

Priscilla Owen made the highest possible score on the Texas bar exam, got an 84-percent vote in Texas, was endorsed by every newspaper in Texas—a brilliant, successful private practitioner—and they have held her up for over 4 years. The only thing I can see that would justify holding her up was that she is so capable, so talented, that she would have been on a short list for the Supreme Court. She should not have been blocked and denied the right to have an up-or-down vote.

Justice Janice Rogers Brown from California was on the ballot a few years ago with four other judges in California. She got the highest vote in the California ballot, 74 percent of the vote on the California ballot. California is not a rightwing State. She got three-fourths of the vote. And they say she is an extremist? Not fair. It is just not fair to say that about these nominees.

It was said by the Senator from California that they did not get 60 votes, they did not make the cut. When has 60 votes been the cut? The vote, historically, since the founding of this Republic, is a majority vote. Lets look at that. The Constitution says that the Congress shall advise and consent on treaties, provided two-thirds agree, and shall advise and consent on judges and other nominees.

Since the founding of the Republic, we have understood that there was a two-thirds supermajority for ratification and advice and consent on treaties and a majority vote for judges. That is what we have done. That is what we have always done. But there was a conscious decision on behalf of the leadership, unfortunately, of the Democratic Party in the last Congress to systematically filibuster some of the best nominees ever submitted to the Senate. It has been very painful.

And to justify that, they have come up with bases to attack them that really go beyond the pale. I talked to a reporter recently of a major publication, a nationwide publication. People would recognize his name if I mentioned it. I talked about why I thought the nominees had been unfairly attacked, their records distorted and taken out of context, and they really were unfairly misrepresenting their statements, opinions and actions. She said: Well, that's politics, isn't it?

Are we in a Senate now where because somebody is on a different side of the aisle, have we gotten so low that we can just distort somebody's record—a person, a human being who is trying to serve their country—we can do that to them? I don't think that is right. I don't think we should do it. But I do believe we are sliding into that and have been doing so.

For example, it was said recently by Senator BOXER that Judge Gonzales—now Attorney General of the United States—said that Priscilla Owen was an unconscionable activist. He did not say that about her. He did not. He has written a letter to say he did not. He testified under oath at a Judiciary hearing and said he did not. What he said was he reached a certain conclusion about what the legislature meant when they passed a parental notification statute, and based on that, he himself, he said, would have been an unconscionable activist if he voted other than to say that the child did not have to notify her parents. Other members of the court reached a different conclusion about what the legislature meant with the statute, and he did not accuse anyone else of being an unconscionable activist. They have been running ads on television saying that as if it were a fact. It is not. Surely, we should have the decency not to do those kinds of things.

An allegation just made about Janice Rogers Brown was that she criticized the free speech of an employee for criticizing their boss. That is not exactly what the case was. What the facts were—that employee sent out 200,000 e-mails on the boss's computer system attacking the boss and the company. It was a disgruntled employee. How much do you have to take, clogging up the system with spam? One of the most liberal justices on the California Supreme Court joined with her in that view. That is not an extreme position. She wasn't saying a person could not criticize her boss.

Another comment that was really troubling to me—and I have to say it because Janice Rogers Brown, although very firmly established and highly successful in California, grew up in Alabama, a small town not too far from where I grew up. She left Alabama as a young teenager and went to California and ended up going to UCLA Law School and being awarded the distinguished graduate award there. She is a wonderful person. I have taken an interest in her history. She grew up in discrimination in the South. That is one reason they left. A sharecropper's daughter, she was not raised in an environment where African Americans were treated equally. That is a fact. They say now that she said it is OK to use racial slurs against Latinos. You have heard that comment. She said that Janice Rogers Brown said that.

That is not what she said. That is absolutely not the facts of that case. It is really sad to hear that said, and the facts would demonstrate that that claim against her is a totally unfounded charge.

Also, with regard to her position on the Supreme Court of California, she wrote more majority opinions in the year 2002 than any other judge on the court. When a majority reaches a view about the case, and a majority on the court decides how it should come out, they appoint someone to write the opinion for the majority. She wrote more majority opinions than any other justice on the court. How could she be out of the mainstream of the California court? I felt really compelled to make some comments about her and her record.

Mr. President, I will conclude tonight by once again recalling that when the Republicans had the majority in 1998, right after I came to the Senate in 1997, President Clinton was nominating judges. Two of them were very activist judge nominees for the Ninth Circuit Court of Appeals, the most activist court in the United States—the California, West Coast Court of Appeals. It

had been reversed 27 out of 28 times by the U.S. Supreme Court, I believe, the year before that and consistently was the most reversed court in America. Those two nominees, Berzon and Paez, which I strongly opposed—and I think a review of their record would show they have been activist and should not have been confirmed. But Orrin Hatch said in our Republican conference: No, let's don't filibuster judges; that is wrong.

I was a new Member of the Senate, as the Senator from California said she was. He stepped up and said: Don't filibuster. We need to give them and up-or-down vote. The then-majority leader, TRENT LOTT, moved for cloture to give them an up-or-down vote. I voted to give Berzon and Paez an up-or-down vote, and we did that. We invoked cloture, brought them up. The Republican majority brought up the Clinton nominees, and we voted them up. They were both confirmed, and they are both on the bench today.

Our record was one that rejected filibusters. Now, what happened after all of this occurred? It was a huge alteration of the Senate's tradition and, I think, the constitutional intent. I think the Constitution is clear that a majority is what we were looking for. So we were faced with a difficult decision of what to do and how to handle it.

I compliment Senator BILL FRIST, the majority leader of the Senate. He systematically raised this issue with the leadership on the other side. He provided every opportunity to debate these nominees so that nobody could say they didn't have a full opportunity to debate. He researched the history of the Senate, and he presented positions on it and why the filibuster on judicial nominees was against our history. He urged us to reach an accord and compromise. All we heard was no, no, no, you are giving a warm kiss to the far right, you are taking steps that are extreme, you are approving extreme nominees, people who should not be on the bench, and we are not going to compromise and we are not going to talk to you.

After considerable effort and determination and commitment to principle, Senator FRIST moved us into a position to execute the constitutional option, also referred to as the nuclear option. It has been utilized, as he demonstrated, many times by majority leaders in the past. It is not something that should be done lightly, but it is certainly an approved historical technique that has been used in this Senate. As a result of that, and the fact that they were facing a challenge, I think it was at that point we began to have movement on the other side, and they realized this deal was not going to continue as it was and that, under the leadership of Senator FRIST, we were not going to continue this unprecedented, unhistorical action of filibustering judicial nominees.

So it was out of that that we had the agreement that was reached today. With that constitutional option hanging over the heads of a number of people, a serious reconsideration took place. I think a number of Senators on the other side have been uneasy about this filibuster. They have not felt comfortable with it, but it was leadership-led and difficult, apparently, for them to not go along. Although, I have to note that Senator Zell Miller and BEN NELSON consistently opposed it and supported the Republican nominees each and every time as they came forward.

So out of all of this, we have reached an accord tonight. It has led to what appears to be a guarantee that three nominees, at least—Priscilla Owen, Janice Rogers Brown, and William Pryor, who is sitting now as a recess appointee on the Eleventh Circuit—will get an up-or-down vote. I believe all three of them will, and should be, rightfully, confirmed as members of the court of appeals of the United States of America. They will serve with great distinction. I am sorry we don't have that same confidence that Judge Saad or Judge Myers will also get a vote. They may or may not, apparently. But we don't have the same confidence from this agreement that they will. I think they deserve an up-or-down vote also. But today's agreement was a big step forward.

Maybe we can go forward now and set aside some of the things of the past, and we will see Members of the other side adhere to the view of those who signed the agreement that a filibuster should not be executed except under extraordinary circumstances. Certainly, that is contrary to the position that they were taking a few months ago and certainly the position being taken last year.

So progress has been made. I salute particularly the majority leader who I believe, through his leadership and consistency, led to this result today. I am thrilled for Judge Pryor and his family because I know him, I respect him, and I know he will be a great judge. I am excited for his future.

Mr. President, seeing no other Senator here, I yield the floor.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:45 a.m. tomorrow.

Thereupon, the Senate, at 10:13 p.m., adjourned until Tuesday, May 24, 2005, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate May 23, 2005:

DEPARTMENT OF EDUCATION

TOME LUCE, OF TEXAS, TO BE ASSISTANT SECRETARY FOR PLANNING, EVALUATION, AND POLICY DEVELOPMENT, DEPARTMENT OF EDUCATION, VICE BRUNO VICTOR MANNO, RESIGNED.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

ARLENE HOLEN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING AUGUST 30, 2010, VICE ROBERT H. BEATTY, JR., TERM EXPIRED.

DEPARTMENT OF JUSTICE

ROD J. ROSENSTEIN, OF MARYLAND, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF MARYLAND FOR THE TERM OF FOUR YEARS, VICE THOMAS M. DIBIAGIO.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ERIC T. OLSON, 0000

EXTENSIONS OF REMARKS

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

SPEECH OF

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

The House in Committee of the Whole House on the State of the Union had under consideration on the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes:

Mr. KUCINICH. Mr. Chairman, the idea behind environmental justice is simple. People of color and people of limited means bear more than their fair share of environmental problems—like exposure to pollution—and are denied more than their fair share of environmental benefits—like access to natural areas or clean water.

It is also important to point out that if you were to look at both race and poverty to see which one would best predict locations of environmental contaminants in the air or water, you would find race to be the better predictor, according to studies dating back to 1987.

Here's another way to look at it: Many studies have found that middle-income people of color live near more contamination than low-income white people. Enforcement of environmental laws is also less prevalent and weaker in communities of color. Penalties for hazardous waste violations were found to be roughly 500 percent higher when those violations happened in mostly white communities than when they happened in communities of color.

In 1992, then President Bush created an Office of Environmental Justice in the EPA precisely to begin to deal with this problem. In 1994, President Clinton expanded the directive's scope and applicability, again, in recognition of the seriousness of the problem.

But now, the Executive Order and the EPA's Office of Environmental Justice are being ignored to death by the Administration. The National Environmental Justice Advisory Council is withering away. The EPA Inspector General in 2004 found that the EPA failed to comply with the Executive Order and changed their interpretation of the order to avoid an emphasis on people of color and low-income people. The U.S. Commission on Civil Rights found in 2002 that federal agencies did not incorporate environmental justice into their core missions as directed by the Executive Order. Congress must step in to restore these efforts and take them to the next level.

The Hastings amendment would do exactly that. Every community, every person deserves equal access to clean air, clean water, natural areas, and healthy food. I urge my colleagues to support the Hastings amendment.

UNDERSTANDING THE LIFE AND TIMES OF MALCOLM X

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. RANGEL. Mr. Speaker, I rise again today to draw the attention of this Chamber to the importance of this day in African-American history. Today marks what would have been the 80th birthday of Malcolm X, one of the more revolutionary and controversial leaders of the Civil Rights Movement.

Malcolm X was born on May 19, 1925. It was a time in American history where the opportunities of African-Americans were limited due to segregation and racial intolerance. He nonetheless was born to parents that were, not only proud of the black race, but instilled that pride in their politics, actions, and, most importantly, their children. He learned at an early age about the challenges that black men would face just because of the color of their skin and found ways to rise above those obstacles.

Too often, historians, social scientists, and the American public have attempted to pigeonhole Malcolm into a singular character. When they do so, they miss the true man, his life, and his experiences. Malcolm X's personal story is a tale of many challenges, many conflicting events, many goals, and many aspirations. He was not simply the young son of a slain Black Nationalist or the young black student discouraged by his white teachers in the 1930s. Neither would he only be the street thug and hustler of 1940s nor the incarcerated felon of the 1950s. Nor was he just the influential minister of the Nation of Islam or the worldly Muslim of the Organization of Afro-American Unity who loved his white brethren. He was all of these persons and more.

Malcolm Little, Detroit Red, Malcolm X, and El-Hajj Malik El-Shabazz were the same individual, seeking a goal of racial justice for himself, his family, and his people. He walked his journey in life in the same way that many blacks of his time have and as many do today. The education, radicalism, determination, and sense of justice that Malcolm fought for in his life represented the thoughts of blacks throughout the world then and today. To box him into any one of those personas would be a failure to understand his life and experiences and those of his time.

We should all take time this day and in the days to come to reflect on the challenges and accomplishments of Malcolm X. To this goal, I would like to alert this august chamber to the perceptive exhibition at the Schomberg Center for Research in Black Culture at the New York Public Library in Harlem. This new exhibit, ''Malcolm X: A Search for Truth,'' opened in commemoration of the birthday of Malcolm X and provides insight into his personal story, development, and journey.

I would like to submit in the RECORD the following New York Times review on the value and insight of this exhibition to understanding Malcolm X. On the occasion of his 80th birthday, it is a fitting tribute that we honor this extraordinary individual and realize the significance of his life journey.

THE PERSONAL EVOLUTION OF A CIVIL RIGHTS GIANT

May 19, 2005—In the 1940's, Malcolm Little a k a Detroit Red (and, later, a k a Malcolm X, a k a El-Hajj Malik El-Shabazz) wanted to impress co-conspirators in petty crime with his ruthlessness and daring. He loaded his pistol with a single bullet, twirled the cylinder, put the muzzle to his head and fired. The gesture demonstrated that he was unafraid of death and therefore not afraid of much else. And when he recounts the story in his 1965 autobiography (''as told to'' Alex Haley), the reader is also impressed—though evidence of his brilliance, fury and self-destructiveness is, by then, hardly necessary.

A new exhibition about Malcolm X opens at the Schomburg Center for Research in Black Culture today (which would have been his 80th birthday). And though it doesn't mention this theatrical gesture in its survey of one of the most significant black leaders in American history, Malcolm's public displays of passion and position sometimes seem as courageous, dangerous, and even, yes, foolish, as his game of Russian roulette.

The exhibition, ''Malcolm X: A Search for Truth,'' seeks to map out the major themes of his life in a ''developmental journey'' reflecting his ''driving intellectual quest for truth.'' It offers evidence that has been unavailable: personal papers, journals, letters, lecture outlines—rescued from being sold at auction in San Francisco and on eBay in 2002.

Those papers, which the Shabazz family had lost control of when monthly fees for a commercial storage facility were left unpaid, were returned to them, and then lent for 75 years to the New York Public Library's Schomburg Center in Harlem. The documents are lightly sampled in this first public showing, but they will eventually offer greater insight into Malcolm X's developmental journey: from child of a Black Nationalist father murdered in his prime, to a star elementary school pupil in a largely white school; to a hustler and criminal; to a convert, while in prison, to Elijah Muhammad's eccentric brand of Islam; to a radical minister who built Muhammad's Nation of Islam into a major national movement, declaring the white race to be the devil incarnate; and finally, to a political leader who, cut off by Muhammad, turned to traditional Islam and was rethinking his views, just as he was assassinated in New York's Audubon Ballroom in 1965 at the age of 39.

His brief life stands as a challenge no matter one's perspective, an overweening presence in the roiling currents of American racial debates. After all, Islam is a force in the American black community partly because of Malcolm X (who, after his 1964 hajj to Mecca, changed his name to El-Hajj Malik El-Shabazz). Advocates of reparations for slavery echo his arguments. Less radically, so do believers in the encouragement of black-run businesses and schools. And by seeking to internationalize race, particularly in the mid-1960's, Malcolm X helped set the stage for the doctrines of Third

Worldism, which asserts that Western enslavement of dark-skinned peoples is played out on a world scale.

Even those who dissent from such views can recognize in Malcolm X's fearsome intelligence and self-discipline a kind of a developmental quest, ultimately left incomplete. The exhibition, which also includes material from the Schomburg and other collections, tells that story chronologically, using textual summaries and photographs to create a context for the personal papers.

Those papers include letters from Malcolm to his brother, Philbert Little, describing his first embrace of the Nation of Islam, as well as a disturbing sequence of letters about his final embrace, suggesting how Muhammad tried to rein him in. And above the display cases, the walls are lined with photographs chronicling the life: an elementary-school photograph of Malcolm, glimpses of the bodies of Nation of Islam followers killed by Los Angeles police in 1962, views of halls packed with devoted listeners, and finally, glimpses of the fallen chairs and stark disorder of the Audubon Ballroom after Malcolm X was murdered. An epilogue to the exhibition displays court drawings of the trial of the accused assassins, along with objects found on his body, including a North Vietnamese stamp showing an American helicopter getting shot down.

But, despite the new personal documents, there is something familiar about the exhibition, which does not offer new interpretations and misses an opportunity to delve more deeply into the difficulties in Malcolm's quest. In his autobiography, Malcolm X spoke of the importance of speaking the ''raw, naked truth'' about the nature of race relations. He also recognized one of the tragic consequences of enslavement: the erasure of the past. The name ''X'' was provided to initiates as a stand in for a lost original name. Names could also be readily changed because they were little more than expressions of newly formed identities.

In fact, invention became crucial. For Malcolm X, it was a matter of control: mastering one's past, determining one's character and, finally, controlling one's future. Documents describe how members of the Nation of Islam were expelled for any backsliding, including adultery. In one letter, Malcolm almost provides a motto for his kind of charismatic discipline:

''For one to control one's thoughts and feelings means one can actually control one's atmosphere and all who walks into its sphere of influence.''

But this also means that the truth can seem less crucial than the kind of identity being constructed, the kind of past being invented. After reading the autobiography, we learn from Alex Haley's epilogue that Malcolm actually confessed that his story of Russian roulette was not what it seemed: He had palmed the bullet. Everybody had been hustled, the readers included. The adoption of Nation of Islam ideology, with its invented history and its evil scientist named Yacub breeding the white race, is another kind of hustle.

Curiously, the exhibition itself doesn't make enough of such distinctions. In a wall display, labeled ''Messengers of Hope and Liberation,'' major figures like W. E. B. Du Bois have no more stature than such figures as Wallace D. Fard. Fard was the greater influence on Malcolm X, since he created the Nation of Islam mythology, but he may not have had any African heritage at all and, as Karl Evanzz argues in his recent book, ''The Messenger: The Rise and Fall of Elijah Muhammad,'' he had even encouraged the practice of human sacrifice.

As if reluctant to be too judgmental, there is also not enough explanation of the quarrel with Elijah Muhammad, though the photographer Gordon Parks quoted Malcolm X saying, just before his death: ''I did many things as a Muslim that I'm sorry for now. I was a zombie then—like all Muslims—I was hypnotized, pointed in a certain direction and told to march. Well, I guess a man's entitled to make a fool of himself if he's ready to pay the cost. It cost me 12 years.''

That kind of statement is too blunt for this exhibition, which makes suggestions but seems reluctant to draw too many distinctions. But even the differing interpretations of Malcolm's final transformation might have been outlined with more clarity. It is intriguing to read, in one 1964 letter from Malcolm's office to Martin Luther King Jr., an expression of apology for ''unkind things'' said in the past. And the trial of the accused assassins from the Nation of Islam merits more explanation, particularly because a conspiracy theory of F.B.I. involvement has long simmered, even as Muhammad was known to have encouraged threats against Malcolm X and had already sent one disciple to kill him. The quest for truth, surely, goes on, but part of it means facing squarely the extent of certain kinds of hustle.

''Malcolm X: A Search for Truth'' is at the Schomburg Center for Research in Black Culture, 515 Lenox Avenue, at 135th Street, Harlem, (212) 491–2200, through Dec. 31.

24TH ANNIVERSARY OF THE INDIAN MEDICAL ASSOCIATION

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to announce that the Indian Medical Association will be celebrating their 24th year of establishment by hosting a gala dinner and banquet on Friday, June 3, 2005 at the Halls of St. George, in Schereville, Indiana.

The Indian Medical Association was created 24 years ago to promote goodwill and bonding friendships among local physicians through an exchange of medical knowledge and other healthcare related issues. They are dedicated to providing affordable and quality health care. The Indian Medical Association is also actively involved in patient care, health care delivery, charitable work, hosting educational seminars for physicians, and health fairs for the general public in the Northwest Indiana region.

In 2004, the Indian Medical Association offered scholarships to medical, nursing, and high school students. In January 2005, they raised more than $100,000 for the Tsunami Relief Fund. The Indian Medical Association is a great asset to Northwest Indiana. This organization has committed itself to providing quality service to the residents of Indiana's First Congressional District in the medical community and has demonstrated exemplary service in its cultural, scholastic, and charitable endeavors.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in commending the Indian Medical Association for their outstanding contributions. Their commitment to improving the quality of life for the people of Northwest Indiana and throughout the world is truly inspirational and should be recognized and commended.

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

SPEECH OF

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

The House in Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2361.

Mr. KUCINICH. Mr. Chairman, more than ever before, our wastewater treatment systems are failing. Effluent from wastewater treatment plants is contaminating our rivers with chemicals like Triclosan—a germ toxin added to countless consumer products; hormones such as the active ingredient in estrogen therapy; the insect repellant DEET; and an anti-epileptic drug (Environmental Science and Technology, 36 (6), 1202–1211, 2002 http://pubs.acs.org/cgibin/jtextd?esthag/36/6/html/es011055j.html).

As these chemicals are released from treatment plants into our rivers, lakes and oceans, they are finding their way into the natural resources on which we heavily depend. New studies show that they are starting to show up in our drinking water (''Pollutants in New Jersey's Drinking Water,'' Environmental Science and Technology, December 8, 2004 (http://pubs.acs.org/ subscribe/journals/esthag-w/2004/dec/science/pt__nj.html); ''Pharmaceutical Data Eludes Environmental Researchers,'' Environmental Science and Technology, March 16, 2005). A Baylor University study in Texas found a prescription drug in fish tissues (''Frogs, fish and pharmaceuticals a troubling brew'' November 14, 2003 (http://www.cnn.com/2003/TECH/science/11/14coolsc.frogs.fish/).

At the same time that these new challenges are emerging, we are still trying to overcome the well-established wastewater contaminants from aging and broken sewer systems that continue to contaminate water with E. coli and other water borne diseases. By EPA's 2003 estimate, the need for sewer upgrades alone is so great and so widespread that the funding required to alleviate it is $181 billion (''Wastewater Treatment: Overview and Background,'' Congressional Research Service, February 7, 2005). In fact, the infrastructure is so old in many places that when it rains, wastewater treatment plants can't handle the increased volume. The result is that untreated or poorly treated sewage flows into our waters, causing our beaches to be closed in order to protect public health. Forty three percent of the communities dealing with this are on the Great Lakes, which holds 20% of the world's fresh water supply.

So what is the solution proposed by this Administration and Republican leadership in Congress? Reduce funding for wastewater infrastructure by $350 million. Ohio alone would lose $20 million in revenue and roughly 650 jobs from FY 05 if the proposed cuts to the Clean Water State Revolving Fund come to pass.

While the need to upgrade our wastewater infrastructure to deal with emerging problems increases, the proposed cuts in this bill take us in the opposite direction. Lets improve our health and the environment, not make it

worse. I urge my colleagues to support the Clean Water State Revolving Fund and the Obey amendment.

RECOGNIZING REVEREND DOCTOR EARL ABEL

HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. CLEAVER. Mr. Speaker, I rise today to pay tribute to Reverend Doctor Earl Abel, a remarkable and compassionate leader whose legacy has touched so many Kansas Citians. After an extended illness, Reverend Abel passed on May 17, 2005. His is a deep loss felt by his family, his church congregation, the greater Kansas City community, the State of Missouri, and most assuredly, our nation. Reverend Abel will long be remembered for his social activism and advocacy on behalf of those individuals suffering from poverty, homelessness, and injustice. He fought for the common person and his influence was far reaching, both inside and outside the African American community.

His calling brought him to organize and pastor the Palestine Missionary Baptist Church of Jesus Christ in January, 1959. His initial congregation consisted of 11 members. His present church membership is in excess of 2,000 members.

In this era where the term ''faith based initiative'' is a buzzword on Capitol Hill, Reverend Abel was one who took this phrase to heart, and applied it in the Kansas City community long before it was a politically popular phrase. It has been said that economic development is the last frontier of the civil rights movement. Reverend Abel was quoted in the Kansas City Star, our local newspaper, as saying, ''The black churches put ourselves in this role, because we felt the community needed development, and there was nobody to develop it. We're a church, and part of our mission is to try to provide what the community needs.'' In providing the community's needs, he championed the building of Palestine Camp, a $5 million youth summer camp. He also built two housing complexes which house 118 senior citizens called Palestine Gardens, and a $2.5 million activity center.

Rev. Abel attended the University of Kansas and received his Doctorate of Divinity from Western Baptist Bible College. He was appointed by Governor Mel Carnahan to the Appellate Judicial Commission at a time when there were few minority or women representatives amongst the 39 judges on the Missouri Supreme Court and the Court of Appeals. There are now nine female judges and five African American judges on those benches, including the Chief Justice of the Missouri Supreme Court, Justice Ronnie L. White.

In 2002, he was vice chairman of a successful public safety sales tax campaign, which provided for new and renovated police facilities, replacement of aging ambulances, new tornado sirens, and other public safety capital improvements. In May 2003, Reverend Abel was appointed to the advisory board for U. S. Senator CHRISTOPHER BOND's ''Kansas City Engine for Economic Development Fund.'' He most recently served as Chaplain for the Kansas City, Missouri Police Department and has served as past President of the Baptist Ministers Union of Kansas City, the Kansas City Council on Crime Prevention, and was twice appointed to the Kansas City Human Relations Commission.

He served on Boards of the Heart of America United Way, the Local Investment Commission (LINC), Douglass National Bank, and was an Early Childhood Commission member for the Missouri Department of Social Services.

Mr. Speaker, please join me in expressing our heartfelt sympathy to his wife, Hazel Lair Abel, his children, Carol and Rick, his five grandchildren, and his many relatives and friends. I urge my colleagues to please join me in conveying our gratitude to his family for sharing this great man with us, and to accept our condolences for their tremendous loss. He was an inspiration to us all.

TRIBUTE TO THE HONORABLE MARGARET SMITH, RETIRED SENATOR OF THE GENERAL ASSEMBLY OF THE STATE OF ILLINOIS

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. RUSH. Mr. Speaker, I rise today to recognize and honor the life of the Honorable Margaret Smith who made her heavenly transition on Monday, May 16, 2005. Senator Smith served with distinction in the Illinois General Assembly for 22 years until her retirement in December, 2002.

Prior to her 20-year tenure in the Illinois State Senate, Senator Smith served one term as a member of the Illinois House of Representatives. Senator Smith served as the chairwoman of the influential Senate Public Health and Welfare Committee, where she had the distinction of being the first female State Senator in the United States to serve as the chairperson of the same committee chaired previously by her spouse, the late Senator Fred J. Smith.

Senator Smith has been recognized for her sponsorship and support of legislation on health care and women's issues, including requiring Illinois to cover the cost of mammograms for poor women, requiring insurance companies to cover mammograms, protecting senior citizens in nursing homes and assisted living facilities, improving the child immunization system in Illinois; and accordingly received the coveted ''Legislator of the Year Award'' from every major public health organization in Illinois, including the Illinois Nurses' Association, the Illinois Health Care Association, and the Illinois Hospital and Health Systems Association.

A recognized national leader, Senator Smith served as a member of the National Conference of Black State Legislators, the Midwestern Legislative Conference, and the National Conference of State Legislators, NCSL, serving as the chairperson of the NCSL's Health and Human Services Committee.

Mr. Speaker, I want to encourage all those whose lives were touched by this gentle stateswoman, the Honorable Margaret Smith, to always remember to look to the hills from which comes all of their help. Senator Smith was an anchor within the Illinois governmental and political landscape. I am truly blessed to have known, worked with and supported her. I am honored to pay tribute to this outstanding public servant and am privileged to enter these words into the CONGRESSIONAL RECORD of the United States House of Representatives.

HONORING CARL BROWN

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mrs. BLACKBURN. Mr. Speaker, it's not every day that I get the opportunity to recognize someone who has demonstrated tremendous dedication to public service. But today I have just such an opportunity.

I ask my colleagues to join me in thanking Carl Brown, Tennessee's Department of Human Services Assistant Commissioner, for being one of those people who makes government work better.

Carl has served our State for more than 4 decades and he's done a magnificent job. The thousands of disabled Tennesseans he has helped over the years know exactly what I mean when I say that Carl has lived to serve others. He has always known that there are few higher callings in life than helping those in need. And we are grateful for him.

While I'm thankful for Carl and his service to our State, we will miss his work at the Department of Human Services when he retires this May 2005.

All of us in Tennessee wish Carl and his wife, Mary Frances, a wonderful retirement with their children and grandchildren.

INTRODUCTION OF LANDLESS ISSUE

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. YOUNG of Alaska. Mr. Speaker, today, I am introducing legislation which will correct an injustice to five Southeast Alaska Native villages.

For over 25 years, the Southeast Alaska Villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell have been denied fundamental rights and compensation afforded other Alaska Native villages under the Alaska Native Claims Settlement Act (ANCSA). ANCSA fails to recognize these five villages for the purposes of establishing urban or village corporations under the Act. Consequently, the Alaska Natives from these villages have been denied the rights afforded other Alaska Natives to proper settlement under ANCSA of historical land claims.

A significant number of Natives enrolled at each of the villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell during the original ANCSA process, but they were denied the opportunity to establish village or urban corporations in 1971. Consequently, although Natives enrolled to these villages during the ANCSA process and did become at-large shareholders in the regional corporation for

Southeast Alaska, Natives from these five communities were denied rights to land and local resources that Natives enrolled to other village and urban corporations in Southeast Alaska received under ANCSA.

ANCSA prohibits the Native villages in Southeast Alaska from obtaining an administrative and/or judicial solution. Section 11 of ANCSA establishes a general process for determining Native village eligibility for villages outside Southeast Alaska. A completely different process was set forth under Section 16 of ANCSA for determining the eligibility of Native villages in Southeast Alaska. Unlike Section 11, there is no provision in Section 16 providing an appeal right or other procedures for qualification of Southeast Alaska Native villages not included in the original list.

Appeals to the Alaska Native Claims Appeal Board of the U.S. Department of the Interior in 1974 and 1977, on behalf of Natives enrolled to the villages of Haines, Tenakee and Ketchikan were denied based on a narrow, technical reading, of ANCSA Section 16. The Appeals Board ruled that Section 16 prevents the Board from even considering whether ''unlisted'' Southeast villages could be determined eligible for benefits, thus precluding any administrative or judicial redress.

In 1994, a congressionally directed study determined the omission of these Southeast Alaska Native villages from ANCSA to be erroneous. In 1993, the Federal government contracted with the Institute of Social and Economic Research (ISER) at the University of Alaska, Anchorage, to prepare a report on the status of these villages. ISER presented its report to Congress in February 1994, concluding that the eligibility requirements for villages eligible to form Native corporations were met by the Native communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell. The report notes that, with the exception of Tenakee, the communities appeared on early versions of Native village lists, and their subsequent omission was not clearly explained in any provision of ANCSA nor in the accompanying legislative history. In short, the ISER report found no distinction between the five communities and other Southeast Alaska communities listed in Section 16, and thus no justification for omission of these five Southeast Native communities from ANCSA.

A solution to the myriad of issues that have prevented a resolution to this situation has presented itself in past congressional sessions. These past legislative attempts have failed for a variety of reasons outside the control of the Southeast Alaska Native villages. My legislation addresses these issues and seeks to build a solid, bipartisan coalition of support among key members of Congress, the Administration, and other outside interest groups. The legislation presents a compromise that has been favorably received by the affected villages, Sealaska Corporation, the state and others. The elements of the compromise include the following:

The Native residents enrolled to the five Native villages will be allowed to organize five urban corporations, one for each unrecognized community.

The newly formed Corporations would be provided the following compensation package:

The Congress would recognize the five communities as Alaska Native Villages, pursuant to the Alaska Native Claims Settlement Act.

The Secretary of the Interior would offer, and the Urban Corporation for each community could accept, the surface estate to approximately 23,000 acres of forest lands.

Sealaska Corporation, the Native Regional Corporation for Southeast Alaska, would receive title to the subsurface estate to the designated lands.

The Urban Corporations for each community would receive a lump sum payment to be used as start-up funds for the newly established Corporation.

The Secretary of the Interior would determine such other appropriate compensation to redress the inequities faced by unrecognized communities for the past 30+ years.

I thank my colleagues and urge your support for this important legislation for five Southeast Alaska communities.

TRIBUTE TO MS. CYNTHIA DUNN KEARLY

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. MORAN of Virginia. Mr. Speaker, I rise today to honor a teacher who has made an impact on our community through selfless dedication and commitment to her students. Ms. Cynthia Dunn Kearly is a special education teacher at Douglas MacArthur Elementary School in Alexandria, Virginia. But to her students and their families, she is much more than that. An educator with gifts of creativity and passion, Ms. Kearly serves as an inspiration for what great instructors can offer.

At Douglas MacArthur Elementary School, Ms. Kearly is regularly asked to take students with special needs and foster in them confidence and success. Her work with students has not only earned her the respect of parents and her colleagues, but has also won her numerous accolades locally and nationwide. As an educator in the Alexandria City Public School system, Ms. Kearly was a recipient of the Harry Burke Award for Outstanding Performance in Special Education. This honor has been bestowed on many great teachers and Ms. Kearly's selection follows perfectly in this tradition.

Additionally, Ms. Kearly's exemplary work is being recognized nationally as well. She is one of three teachers nationwide to be awarded the 2005 Commonwealth Academy Recognition for Educators (CARE) Award. The CARE award recognizes outstanding educators who have made significant contributions to leaving no child behind in their local communities. The focus of the award is to highlight teachers who work with students that have organizational, attention and learning challenges. To her coworkers and supervisors, there is little doubt that Ms. Kearly is a worthy recipient. The Superintendent of Schools for the City of Alexandria has said about her that ''She truly exemplifies the kind of professional who should be recognized and honored for her great work with special needs students.''

Mr. Speaker, I am proud to have Ms. Kearly teach within Virginia's Eighth Congressional District. She is transforming lives with her selfless dedication to serving young people in our community. I often remind friends and neighbors that good teachers are among our greatest assets in Northern Virginia. For this reason, we must take opportunities to encourage our best and brightest to commit themselves to this service, but also to thank the men and women already giving so much of themselves.

TRIBUTE TO THE LATE MARK ELMORE

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. MOORE of Kansas. Mr. Speaker, I rise today to pay tribute to Mark Elmore of Olathe, who worked and guided Johnson County Developmental Supports, JCDS, for 27 years. Sadly, Mark Elmore died Sunday, May 15, at the age 61. I knew Mark Elmore. He was a good and decent man.

Based in Lenexa, JCDS is a comprehensive community service agency that supports Johnson County people of all ages with mental retardation and other developmental disabilities, along with their families. It provides direct services to more than 500 individuals daily. Elmore joined the agency as executive director in 1978. His leadership moved the agency from a period in the late 1970s, when staff cutbacks were a reality and financial stability was threatened, to the steady growth and fiscal solvency JCDS enjoys today.

Annabeth Surbaugh, chairman of the Johnson County Board of Commissioners, led the Johnson County community in mourning the death of this dedicated and well respected leader. As she stated publicly on learning of his death, Mark Elmore's commitment to JCDS was total. He took tremendous pride in the accomplishments of JCDS, leading the highly recognized agency through nine consecutive 3-year national accreditation awards. His self-imposed job description included doing whatever was needed to provide the best services and programs to consumers with special needs to enhance their overall quality of life.

Chairman Surbaugh noted that in the early years of developing JCDS, Elmore was known to have taken clients into his own home, to visit them in their homes and at work, and to even shovel snow off sidewalks outside the facility to ensure the safe arrival of both staff and consumers. ''Johnson County has lost a great man with a great heart and a great friend. Mark Elmore was a man of high principles. His encouragement, dedication, and compassion for the special-needs community set an example for all of us,'' Surbaugh said. ''He was the heart and soul of JCDS.''

Mark Elmore also was well known throughout the state of Kansas, becoming a driving force in creation of developmental disability programs and legislation in the state. Elmore was a key player in the development and implementation of the 1995 Developmental Disability Reform Act, which emphasized opportunities for integration and inclusion in community life. Changes ushered in by the Act have resulted in a continued expansion of services and supports at the local level, and the advance of what has now become a coordinated network of individual and agency service providers, which in Johnson County now serves nearly 1,000 individuals and families.

In a statement, Gayle Richardson, chairperson of the JCDS Governing Board, spoke

on behalf of the agency in reacting to Elmore's death. ''If you wish to learn how to leave this world a better place, I commend Mark Elmore to you. He was not only a skilled professional, but a man beloved by his family, staff, and the folks he served at JCDS. He gave his heart and his mind to his job, and his legacy to us is a flourishing agency, whose mission is to enhance the lives of people with disabilities—not a glamour job, but a most satisfying one,'' Richardson said. ''He made us proud and eager to fulfill this mission. One of his last gifts was to work with the Board to ensure the health of JCDS beyond his term, which came all too soon.''

County Manager Michael B. Press agreed. ''His life truly exemplified the spirit of public service: to help the needy, to succor the distressed, and to serve the community without regard to the necessary personal sacrifices required,'' he said. ''Our hearts and prayers are with his family at this time. He will be missed.''

Mark Elmore is survived by his wife, Jeanette; son and daughter-in-law, Brenton and Kirsten Elmore; daughter and son-in-law, Tracie and Raymond Kaiser; and two grandsons. The couple would have celebrated their 40th anniversary next month.

Mr. Speaker, Johnson County has suffered a tremendous loss with the untimely death of Mark Elmore. I join with all Johnson Countians in mourning his loss, and place in the CONGRESSIONAL RECORD two articles from the local news media reporting on Mark Elmore's life and legacy:

[From the Kansas City Star, May 18, 2005]

ADVOCATE FOR THE DISABLED DEAD AT 61

Mark Elmore, the Olathe man whose dedication and passion for those with developmental disabilities spanned more than three decades, died Sunday of a brain tumor. He was 61.

As executive director of Johnson County Developmental Supports, Elmore helped create landmark legislation in Kansas. The new laws allowed those with mental and physical challenges to live in their own homes and learn life skills vital to landing a job, making friends and finding meaning in life.

''He gave his heart and mind to this job,'' said Gayle Richardson, chairwoman of the support group's board of directors. ''His legacy to us is a flourishing agency.''

''Flourishing'' was not the adjective Elmore would have chosen 27 years ago.

In 1978, he was hired to turn around the agency facing deep federal cuts that threatened to close its doors.

He streamlined the agency and improved services by listening to parents and their children about their desire to live at home, away from sterile and impersonal institutions. He found money to hire expert workers and expand services.

When Elmore started, the agency served 66 persons. Today, Johnson County Developmental Supports, also known as JCDS, serves 530 clients daily and oversees aid for more than 1,300 residents. Its annual budget is $20 million.

''Johnson County has lost a great friend with a great heart,'' said Annabeth Surbaugh, chairwoman of the Johnson County Commission. ''Mark Elmore was the heart and soul of JCDS.''

In the early years, Elmore was known to take clients in to his own home for days and weeks at a time, Surbaugh said.

Those who knew him best describe a tireless, 36–year cheerleader and fund-raiser for the developmentally disabled who organized lobbying efforts in Topeka to create new laws and disability programs.

In 1996, he was the first to receive the Distinguished Leadership Award from InterHab, an advocacy group he helped found in 1969.

''His life truly exemplified the spirit of public service: to help the needy . . . and to support everything fine and noble,'' said Mike Press, the county manager.

Outside of work, Elmore enjoyed home remodeling, spending time in the Colorado Rocky Mountains and restoring a Model A, Thunderbird and a 1965 Mustang. He had planned to retire later this year.

Last week he underwent a biopsy of a spot on his brain. Surgery revealed a tumor more extensive than originally thought. He lapsed into a coma and did not regain consciousness.

He is survived by his wife, Jeanette; son and daughter-in-law, Brenton and Kirsten Elmore; daughter and son-in-law, Tracie and Raymond Kaiser; and two grandsons. The couple would have celebrated their 40th anniversary next month.

Services will be at noon Saturday at the College Church of the Nazarene, 2020 E. Sheridan St., Olathe. The family suggests memorial contributions to Friends of Johnson County Developmental Supports, 10501 Lackman Road, Lenexa, KS 66219.

Dennis Tucker, associate executive director of the support group, will serve as interim director until a new leader is named.

[From the Olathe News, May 18, 2005]

LONGTIME COUNTY EXECUTIVE DIRECTOR DIES

(By Dan J. Smith)

The man who for nearly three decades led a county agency that provides care for people with developmental disabilities has died.

Olathe resident Mark Elmore helped grow Johnson County Developmental Supports and had served as the organization's executive director since 1978. Elmore, who was 61, died Sunday at Olathe Medical Center.

''Mark was one of the special people that come around once in a lifetime,'' said Trish Moore, Elmore's friend and director of human services and aging for the county. ''He believed in what he was doing, and he created programs that will last and help people forever. He left a great legacy.''

Under Elmore's leadership, JCDS earned three-year national accreditations nine consecutive times and provided services each day to more than 500 people with mental retardation and other disabilities.

''He had incredible passion for what he was doing,'' Moore said. ''He had wonderful ethics, and he was a great advocate. He was the person that you would want as a colleague, as a neighbor and as a friend.''

Elmore opened his home to several JCDS clients during the agency's infancy, said Annabeth Surbaugh, chair of the Johnson County Commission.

''I've been here as an elected person for 13 years, and to myself and many people in this county, Mark was Developmental Supports,'' Surbaugh said. ''He had been there so long, and he was so committed to it that it wasn't a job. It was his mission in life.''

''If you wish to learn how to leave this world a better place, I commend Mark Elmore to you,'' a written statement read from Gayle Richardson, chair of the commission-appointed JCDS board, which oversees the agency. ''He was not only a skilled professional, but a man beloved by his family, staff and the folks he served at JCDS.

''He made us proud and eager to fulfill his mission,'' Richardson wrote. ''One of his last gifts was to work with the board to ensure the health of JCDS beyond his term, which came all too soon.''

Elmore and his wife, Jeanette, would have celebrated their 40th wedding anniversary next month. Jeanette, two children and two grandchildren survive.

A noon funeral service is scheduled for Saturday at the College Church of the Nazarene, 2020 E. Sheridan St. Penwell-Gabel Funeral Home is handling funeral arrangements.

The family suggests memorial contributions to the Friends of Johnson County Developmental Supports, 10501 Lackman Road.

Dennis Tucker, associate executive director of JCDS, will assume interim executive director duties until a successor is named.

IN RECOGNITION OF NATIONAL TRANSPORTATION WEEK

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. CUMMINGS. Mr. Speaker, as a member of the Transportation and Infrastructure Committee, I rise today, during National Transportation Week, to recognize our remarkable transportation accomplishments and to draw attention to the critical challenges that we now face.

During the half-century that has passed between the first permanent Transportation Week in 1962 and this week in 2005, we have created a world-class transportation system that moved our nation forward to the 21st century.

We built an Interstate System that now extends more than 46,000 miles.

We built major new subway systems in cities like San Francisco; Washington, DC; and Atlanta.

We created a cabinet-level Department of Transportation.

We created Amtrak to preserve intercity passenger rail service.

And we maintained and expanded a Federal transportation financing system based largely on the collection of gas taxes.

Unfortunately, that system of financing is now breaking down and our forward progress is threatened.

This week, as we celebrate the 43rd annual National Transportation Week, we are 2 years into the effort to reauthorize Federal transportation spending.

Unfortunately, all the proposals currently under consideration fall short of funding our extensive transportation needs.

The transportation reauthorization legislation adopted by the House would provide $284.9 billion, while the bill passed this week by the Senate would provided $295 billion. Both of these funding levels are imperfect compromises.

Chairman YOUNG and Ranking Member OBERSTAR originally introduced the House reauthorization legislation at a funding level of $375 billion.

The Bush Administration has, however, demanded that spending be limited to $284.9 billion—or a figure that is approximately $90 billion below the level of investment that even the Department of Transportation says is needed.

What is the real difference between $375 billion and $285 billion?

It is the difference between merely maintaining a transportation system in which drivers experience nearly 4 billion hours of delay and constructing the new roads and transit facilities necessary to reduce congestion and to save some of the more than 40,000 lives lost on our highways each year.

It is the difference between the 13.5 million jobs that would be supported by $285 billion and the nearly 18 million jobs that would be supported by $375 billion.

To fill the gap between the funding the Federal Government is willing to provide and the funding that is needed, we have created so-called ''innovative'' financing mechanisms, such as garvee bonds.

These mechanisms enable states to issue increasing amounts of debt to try to meet the transportation needs that Federal funding is no longer meeting.

As the title of an insightful report issued this year by the Brookings Institution describes it, these are simply short-sighted and unsustainable means of building ''Today's Roads with Tomorrow's Dollars.''

The Federal Highway Administration reports that at the end of 2003, States had more than $77 billion in total highway related debt outstanding.

As with our growing national debt, States' reliance on debt only shifts the burden of paying for our present transportation infrastructure needs on to future generations.

We are going to confront a time in the not-too-distant future when States will have a back-log of construction projects that cannot be built because states are still paying for the roads they built 15 years ago.

There is an old saying: even if you are on the right track, you'll get run over if you just sit there. The transportation reauthorization bill has now been passed by both the House and the Senate. Our immediate task must be to provide a measure of relief to our States by passing a conference report as soon as possible.

As we approach the end of our sixth extension to TEA–21, we must remember that the more we delay, the less we are able to relieve the burden of debt States are incurring to fund transportation.

REMARKS FOR H.R. 540

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. TIAHRT. Mr. Speaker, I rise today in favor of H.R. 540. This bill would authorize the Equus Beds Aquifer recharge project in my district that will help meet the water needs of nearly 500,000 people in Kansas. This is an environmentally beneficial plan that will help ensure the City of Wichita, surrounding smaller communities, agriculture irrigators and local industry will have a clean and plentiful water supply for decades to come.

I want to thank Chairman POMBO for his leadership in working with me on this important project. Seeking federal authorization for the recharge of the Equus Beds Aquifer is something I have worked on for many years, and I am grateful to the Chairman and his staff for including language contained in my original bill into H.R. 540.

I also want to thank City of Wichita officials for their efforts in helping this project move forward. Their vision to ensure our community's water needs are met both now and in the future is extremely important. Leadership from Mayor Carlos Mayans along with City Council members Carl Brewer, Sue Schlapp, Jim Skelton, Paul Gray, Bob Martz and Sharon Fearey will continue to be needed for this project to be a success.

Wichita Water and Sewer Director David Warren and Water Supply Projects Administrator Gerald Blain have been especially helpful to me and my staff over the years in navigating the details of the recharge project. I appreciate their dedication to public service.

Nearly half a million people depend on the Equus Beds Aquifer and Cheney Reservoir to meet their water needs. Without water from the Equus Beds, Wichita and surrounding communities would face a serious water shortage.

The Equus Beds Aquifer is the body of water beneath portions of Sedgwick, Harvey, McPherson and Reno counties within the boundaries of Groundwater Management District Number 2. The aquifer lies under 900,000 acres, and annual withdrawals from the aquifer average 157,000 acre feet. Approximately 55 percent of the water is used for irrigation; 39 percent is used for municipal needs in Wichita, Halstead, Newton, Hutchinson, McPherson and Valley Center; and six percent is used by local industry.

The Equus Beds Aquifer recharge project involves taking floodwater from the Little Arkansas River and depositing that excess water into the aquifer through water supply wells after going through a filtration system.

Since the 1950's, water levels in the aquifer have dropped 40 feet because water rights and pumpage exceed the aquifer's natural recharge rate of six inches per year. Due to this over usage, saltwater from the southwest and oilfield brine from the northwest are threatening the aquifer. When the aquifer levels were higher, the elevated levels created a natural barrier that kept the contamination at bay. Now that the water levels have dropped, the natural barrier is no longer there. If the aquifer is not replenished, the maximum chloride levels will eventually exceed what is permitted for both agricultural and municipal usage.

This aquifer recharge project is a win-win project for all the communities who depend on its water. The City of Wichita and surrounding municipalities benefit because water can be safely stored to meet short-term and long-term water supply needs.

Agriculture irrigators also benefit because the risk of saltwater contamination is reduced. Without the natural barrier of an elevated water level in the aquifer, the water would eventually become contaminated to the point where it would be unsuitable for use even on crops. Irrigators should also see reduced costs associated with pumping since the water level will rise.

The Little Arkansas River and its ecosystem also benefit. During times of drought, a natural discharge from the Equus Beds Aquifer into the river will occur creating a more stable base flow.

Under the language contained in H.R. 540, the City of Wichita will be required to maintain and operate the recharge project, which ensures the federal government will not bear costs associated with its ongoing operation costs.

Recharging the Equus Beds is the most cost-efficient means to provide water for the greater Wichita area. And it is the best option available to keep salt and oilfield brine out of this critical water supply without greatly restricting water usage.

In 2004, Gerald Bain with the City of Wichita testified before the House Committee on Resources on the need for federal authorization of the recharge project. I am including his testimony with my remarks because I think it tells of the water needs faced by our community and the many benefits that will come with a recharge of the Equus Beds.

I urge my colleagues to join me today in voting for H.R. 540. This is a good bill that will greatly benefit the people in south-central Kansas.

The 2004 testimony by Gerald T. Blain, P.E.:

The City of Wichita, Kansas has had water supply wells in the Equus Beds Aquifer for over 60 years, and the aquifer has been a major source of the City's drinking water. However, because of excess pumping from the aquifer by municipal and agricultural users, water levels in the aquifer had declined up to 40 feet from their pre-development levels by 1992. Because of this over development, the Equus Beds aquifer is threatened by saltwater contamination from two sources. One source is natural saltwater from the Arkansas River located along the southwest border of the City's wellfield. The other source is oilfield brine contamination left over from the development of oil wells in the Burrton area in the 1930's, located northwest of the wellfield.

Groundwater modeling by the Bureau of Reclamation indicates that the chloride levels, which are an indicator of salinity, could exceed 300 mg/l in much of the wellfield by the year 2050. This would be above the 250 mg/l standard for drinking water. In order to protect the water quality of the area, steps must be taken to retard the movement of the salt-water plumes.

In 1993 the City of Wichita began implementation of a unique Integrated Local Water Supply Plan that is intended to meet the City's water supply needs through the year 2050. By the year 2050 it is projected that the City's water supply needs will almost double what they are now. The City's Plan uses a variety of local water resources to meet water needs, rather than requiring the City to transfer water from a remote reservoir in Northeast Kansas. A key component of the Plan includes an Aquifer Storage and Recovery (ASR) project to recharge the City's existing wellfield in the Equus Beds Aquifer.

The excess pumping from the aquifer, and the resulting water level decline, has created a storage volume of almost 65 billion gallons that can be used to store water. The basic concept of the City's ASR project is to capture water from the Little Arkansas River and use it to recharge the aquifer. Computer modeling, and past experience at other sites throughout the country, has found that by recharging the aquifer a hydraulic barrier can be created that would retard the movement of the salt-water plumes. In addition, the 65 billion gallons that could be stored in the dewatered portion of the aquifer could be used as a component of the City's water supply.

Unfortunately, all of the ''conventional'' water rights in the Little Arkansas River have already been allocated. However, excess flows in the river, which occur only after it rains or snows, have not been allocated. Computer modeling has predicted that there are enough days of excess flow that enough water can be captured to allow the aquifer to be recharged and become a valuable component of

the City's water supply. The modeling predicts that if the City builds an ASR system with the capacity to capture up to 100 million gallons per day, that it would still capture only a fraction of the water flowing down the river, and it would not have a negative impact on the river.

The City intends to capture water from the river using two techniques, either by using ''bank storage'' wells or by pumping directly from the river. ''Bank Storage'' wells take advantage of a unique geological condition that occurs along the river. As the river rises above the base flow, water is temporarily stored in the river's banks, but as the flow in the river declines, the water in the banks discharges back into the river. The City intends to drill wells adjacent to the river that will capture ''bank storage'' water and induce river water to replace the water pumped.

The City recognized that some of the concepts included in the proposed ASR project have not been done before, so to prove the feasibility of those concepts the City completed a 5-year Demonstration Project. During the Demonstration Project, which was done in partnership with the Bureau of Reclamation and the US Geological Survey, the City constructed a full-scale well adjacent to the Little Arkansas River, a river intake and a water treatment plant, and a variety of recharge facilities. To prove that the recharge project was safe, over 4,000 water samples were collected and analyzed for up to 400 different potential contaminates. During the Demonstration Project over one billion gallons of water were successfully recharged into the aquifer, and the City was able to prove that excess flows in the Little Arkansas River could be captured and recharged, and that it can be done without harming the aquifer.

The full-scale ASR project, which will be constructed in phases, will capture and recharge up to 100 million gallons per day, and will cost approximately $137 million. All of the water that will be recharged into the aquifer must meet drinking water standards, and will be monitored and regulated by the Kansas Department of Health and Environment and the U.S. Environmental Protection Agency.

Normally, when surface water is developed for a water resource, it requires the construction of a reservoir. A reservoir that would provide the same storage as this ASR project would probably consume around 25,000 to 30,000 acres of prime farmland. It is projected that the ASR project will use less than 400 acres of farmland.

The City of Wichita and others believe that the ASR project is a Win-Win project, because it appears that all of the stakeholders receive benefits from the projects. As a result of this project:

The City develops a water supply source that will allow it to meet its water supply needs through the year 2050.

The water quality of the wellfield is protected from salt-water contamination.

There is no requirement to curtail irrigation to restore water levels and protect water quality.

Irrigators will have lower pumping costs because water levels will be higher.

Low flows in the Little Arkansas River will improve, because additional water will ''leak'' from the Equus Beds back into the river.

The project uses less land than any other surface water development project.

The City has already implemented some components of the Integrated Local Water Supply Plan, including implementation of a water rate structure designed to reduce water consumption, and a greater emphasis on using water from Cheney Reservoir, and a corresponding reduction in water pumped from the Equus Beds. That alteration in water use has already allowed water levels in the Equus Beds to rise over 20 feet in some areas.

Phase I of the ASR Project, which is currently being designed, will have the capacity to capture and recharge up to 10 million gallons per day of water from the Little Arkansas River by using Bank Storage wells. The location of the first recharge facilities is intended to begin the formation of a hydraulic barrier to the movement of salt-water plume from the Burrton area. It will take almost 10 years to construct the entire full-scale project.

The City believes that this project represents a new approach to developing water resources, while at the same time protecting an existing water resource from contamination. The City of Wichita therefore urges support for federal assistance for this unique project.

IN HONOR AND RECOGNITION OF CONGRESSWOMAN MARCY KAPTUR OF OHIO'S NINTH CONGRESSIONAL DISTRICT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in tribute of Congresswoman MARCY KAPTUR, for her many lifetime achievements as a Representative from Ohio's Ninth Congressional District.

KAPTUR was first elected to the United States House of Representatives in 1982. She struggled forcefully to gain a seat on the prestigious Appropriations Committee. As the senior Democratic woman on the Appropriations committee she has always been a fighter for Ohio's farmers—protecting one of the state's most important resources.

She is also the first Democratic woman to serve on the House Defense Appropriations Committee. Congresswoman KAPTUR has had the opportunity to work on many committees while in Congress, including Budget; Banking Finance and Urban Affairs; and Veterans Affairs. Her array of experience on many different committees and subcommittees has allowed her to pursue her keen interests in economic growth, seniors issues, the environment and the economy.

KAPTUR's accomplishments include introducing legislation for Washington, D.C.'s World War II Memorial. Although it was a 17-year process, her hard work finally paid off in the spring of 2004 with the opening of the new memorial. The World War II Memorial honors the more than 400,000 people who died in the war as well as the 16 million people who served in the armed forces. KAPTUR's dedication to seeing this memorial built shows her commitment to all veterans. Because of her work on the memorial, the Veterans of Foreign Wars selected her as the first woman in history to receive the organization's Americanism Award.

Mr. Speaker, I am truly honored to serve in the House of Representatives with Congresswoman KAPTUR. She is an inspiration to the people of Northwest Ohio who are lucky to have her as their representative for more than 20 years. Please join with me today to honor the many achievements of my friend and colleague Congresswoman MARCY KAPTUR—the longest serving Democratic woman currently in Congress—a woman with a dedicated mission to her constituents.

RECOGNIZING LINDA CLARK AS ''ELEMENTARY TEACHER OF THE YEAR''

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. BURGESS. Mr. Speaker, I rise today to recognize the service and commitment of Linda Clark. Ms. Clark, Denton School District's ''Elementary Teacher of the Year,'' has dedicated 26 years to educating and enlightening elementary school students, helping them to be successful not only in the classroom but also in the community.

Ms. Linda Clark was one of 22 teachers in the district nominated for ''Teacher of the Year.'' She helped establish the prestigious Writing Happens program, a curriculum which educates students in the basic structures of different writing structure and techniques. Additionally, Ms. Clark enrolled her students in a program that allows them to talk to the astronauts on the International Space Station. With such innovative programs, Ms. Clark has allowed her students to establish mentorship relationships with role models and has extended the classroom experience beyond its normal boundaries. Linda Clark's distinctive teaching style allows her students to experience a unique, hands-on approach in the classroom.

It is with great honor that I stand here today to recognize a woman who has inspired and motivated so many of our youth. The contribution of Linda Clark and her unique teaching style should serve as inspiration to others in her field and those who wish to make a positive difference in the lives of young people.

IN HONOR OF THE CENTRAL OHIO SINGERS ASSOCIATION

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Central Ohio Singers' 36th Song Festival, to be held this year at the World View Community Church, and later at the German Central Foundation in Olmsted Township, Ohio.

Since 1803, when Ohio was officially instated into the union, groups of German singers have journeyed throughout the State, offering melodies that connect the new world with the old, and preserving culture and history of their German homeland along the way.

Organizations such as the World View Community Church and the Donauschwaben German American Cultural Center serve a vital role in promoting and preserving German traditions for each new American generation.

Americans of German heritage have been, and continue to be, a vital component of the diverse cultural fabric that adorns the entire State of Ohio. Places like the German American Cultural Center are havens of memories and tangible bridges extending to every corner of the world, and are also places of real support and services for newly settled immigrants.

Mr. Speaker and Colleagues, please join me in honor and tribute of every member of the Central Ohio Singers Association, past and present. These talented and dedicated singers have culled a legacy of cultural and historical preservation through melody and song, warmly reflecting their German heritage. This music of the heart adds color and depth to the American landscape, and serves to uplift our entire community.

STOP THE THEFT OF OUR SOCIAL SECURITY NUMBERS ACT OF 2005

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. FILNER. Mr. Speaker, I rise today to introduce the ''Stop the Theft of Our Social Security Numbers Act of 2005'' (H.R. 2518).

Many of my constituents have alerted me to a serious attack on our personal privacy, and an insidious practice that has become known as identity theft. Amazingly enough, this theft is facilitated by a public agency, the Department of Health and Human Services, which aids and abets this theft not through the Internet or any high-technology means but through the U.S. Postal Service. By including our Social Security numbers on Medicare related mailings, the Department of Health and Human Services places thousands of Medicare beneficiaries at risk of becoming victims of identity theft.

To combat this problem, I have introduced this bill which prohibits the Department of Health and Human Services from including our Social Security numbers on Medicare related mailings the department mails us every year.

Identity theft is one of the fastest growing crimes of this decade. It creates a nightmare for those who become victims. Identity thieves make off with billions of dollars each year and each day more than 1,000 people are being defrauded. In fact, the Federal Trade Commission recently listed identity theft as the top consumer complaint. With just your name and your Social Security number, a thief can open credit lines worth $10,000, rent apartments, sign up for utilities, and even earn income. Your credit rating is ruined, you risk being rejected for everything from a college loan to a mortgage, and it is up to you to fix it all. Law enforcement will generally not pursue these identity theft cases.

Having your Social Security card number on a Medicare related mailing puts people at a higher risk for identity theft. Mail that is lost or stolen with personally identifiable information like a person's Social Security number can be used by criminals to steal someone's identity and commit fraud.

The Department of Health and Human Services has said that the health insurance claim number on Medicare related mailings is a variation of the recipient's Social Security number, not the actual number. This agency has noted that the number may be based on the Social Security number of a spouse or parent; however, more often than not, the number the agency uses is the person's Social Security number preceded or followed by a single letter of the alphabet. The agency has said that it has no immediate plans of stopping this practice. What more can the Department of Health and Human Services do to aid the theft of your identity? Give thieves and unscrupulous people your mother's maiden name?

Not to long ago, we were experiencing the same problem with the mailing labels sent to us from the IRS. I was told that there was no way the IRS would change this practice. I found it incomprehensible that neither the agency nor its contractor would change a computer program for booklets that would be mailed out to millions of Americans all over our Nation. After I introduced a bill to require the IRS to stop putting our Social Security numbers on its mailings, the department finally found a way to stop this bad practice.

Many commercial health insurance companies have already taken steps to remove Social Security numbers from their mailings as well as all other forms of client identification. Some States prohibit companies from displaying Social Security numbers internally and assign consumers unique numbers that would appear on Medicare cards. It is time for the Federal government to do its part to stop identity theft and help protect an individual's personal privacy.

There is no excuse for leaving Medicare beneficiaries vulnerable to identity theft with a thinly disguised Social Security number on Medicare related mailings.

My bill will force the Department of Health and Human Services to make this change to protect one of the most precious keys to our personal information, our Social Security number.

IN HONOR AND REMEMBRANCE OF AMBASSADOR MILTON A. WOLF

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Milton Wolf, a friend and a great leader in the Greater Cleveland community and around the world. Ambassador Wolf led a multifaceted life that included time as a soldier, meteorologist, educator, real estate developer, fund-raiser, philanthropist, humanitarian, peacemaker, and family man. He grew up in Cleveland's Glenville neighborhood, the son of Cleveland policeman Sam Wolf and his wife Sylvia. His father worked for a time as a vice detective under Eliot Ness, then the Cleveland safety director.

The outbreak of World War II coincided with Milton's graduation from Glenville High School. Young Milton enlisted right away into the Army Air Corps where he served as a meteorologist. Upon his return from the war, he resumed his studies, ultimately earning his doctorate in economics from Case Western Reserve University. His early career focused on real estate development, but he also became interested in politics and raised money for political campaigns, including Jimmy Carter's successful presidential race in 1976. In 1977, President Carter appointed him as ambassador to Austria, a post he kept until 1980. During his service there, he received Austria's Great Gold Medal of Honor with Sash for ''most distinguished and successful contribution toward the enrichment of Austro-American relations.'' Ambassador Wolf played a key role in arranging details of the meeting in Vienna between President Carter and Soviet President Leonid Brezhnev, for the signing of the Salt II Strategic Arms Limitation Treaty. Ambassador Wolf was decorated in 1997 with the Austrian Cross of Honor for Science and Art First Class in recognition of his scholarly work in economics, his strong ties to the diplomatic community and his philanthropic activities.

Ambassador Wolf was strongly committed to local and international institutions. He recently made major endowments to Cleveland Clinic's heart center and to a faculty chair at Cleveland State University. He served as chairman of the board of trustees of the Ohio State University where he oversaw the university's $500 million investment program in the early 1990s. He served on the boards of the Jewish Community Federation of Cleveland, Case Western Reserve University, the Cleveland Orchestra, the Cleveland Clinic Foundation, and the Mount Sinai Medical Center. Ambassador Wolf also served as chairman of the Council of American Ambassadors, governor of the United Nations Association of the United States of America, and member of the board of directors of the Institute for the Study of Diplomacy at Georgetown University. He served as president of the American Jewish Joint Distribution Committee, overseeing $70 million in assistance for needy Jews and others in more than 50 countries. In 1994, the committee honored him with its Raoul Wallenberg International Humanitarian Award.

Ambassador Milton A. Wolf will be greatly missed in Greater Cleveland and around the world. He was preceded in death by his wife of 53 years, Roslyn. Mr. Speaker and colleagues, please join me in honoring and remembering Ambassador Wolf. Please also join me as I offer my deep condolences to his son, Leslie, his daughters Caryn, Nancy, and Sherri, his brother Sanford, his five grandchildren, and his extended family and many friends.

RECOGNIZING TONY SWAFFORD AND BETTY TUNNICLIFF

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. BURGESS. Mr. Speaker, I rise today to recognize the service and commitment of Tony Swafford and Betty Tunnicliff to the education community. Mr. Swafford and Ms. Tunnicliff has dedicated 33 and 23 years of service, respectively, educating and mentoring our Nation's youth.

Serving as both administrators and teachers, Mr. Swafford and Ms. Tunnicliff retire at the end of this school year. I would like to take this occasion to thank them for their years of promoting education and the youth of Denton.

In taking time to direct the Denton Independent School District, both Tony and Betty established precedence in administrative standards that will not soon be forgotten. Their

combined 56 years of work improved the quality of education in Denton; their excellence in academia influenced lives and molded bright futures.

The loyalty in which both Tony Swafford and Betty Tunnicliff served their students and the Denton Independent School District is a testament to their genuine care for America's youth.

IN HONOR AND RECOGNITION OF CONGRESSMAN SHERROD BROWN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Congressman SHERROD BROWN, for his distinctive service to the people of Ohio's Thirteenth Congressional District.

Having served in the House for 13 years, BROWN has continually been an advocate for laborers and manufacturers. He has battled for America's working families by protecting overtime pay, advocating for an increase in the minimum wage, and extending long-term unemployment benefits.

Brown has constantly been a leader in fighting against trade agreements. We have worked together in opposing the Central America Free Trade Agreement. He has shown dedication in opposing this legislation and has made his stance very clear until provisions are added to protect workers, the economy, and the environment. He is persistent on protecting the rights of all workers, not just in northeast Ohio.

Beyond his outstanding service to his constituents, BROWN has formed solid bonds with community leaders and agencies in his district. It is easy to see why BROWN is so popular in Northeast Ohio. He has hosted press conferences covering a range of issues—from prescription drugs and the healthcare bill of rights to unemployment compensation extension. In 2002 my colleague received the Distinguished Public Health Legislator of the Year award from the American Public Health Association, the Nation's largest public health organization.

BROWN's commitment to his constituents is evident in everything he does. He travels to Ohio every weekend to host town hall meetings on social security, attend community events and speak with both college and high school students. He also donated all the proceeds of his latest book, ''Myths of Free Trade,'' to RESULTS and Cleveland Jobs with Justice, two organizations committed to social and economic justice.

Mr. Speaker and Colleagues, please join me in honor and recognition of one of Ohio's hardest working and most dedicated Congressmen. His exceptional work on behalf of the people of Northeast Ohio should be an inspiration for all of us. His integrity and expertise has helped him to be a successful Congressman for Ohio's 13th District.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

SPEECH OF

HON. TOM COLE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes:

Mr. COLE of Oklahoma. Mr. Chairman, I rise today to speak about the need to reform our immigration laws to curtail abuse, make Americans safer, and uphold the rule of law. In short, we need an immigration policy that works for America. Although I will vote against the amendment, by drawing attention to this issue, Congressman TOM TANCREDO is performing an important service.

I supported the REAL ID Act which makes it harder for terrorists to take advantage of our immigration laws. And I have cosponsored legislation, H.R. 98, authored by Chairman DAVID DREIER that would make it harder for employers to hire unauthorized workers.

While I agree with the general intent of this amendment, I must reluctantly oppose the amendment because I believe it would have the unintended consequence of making Americans less safe. Our immigration laws need to be enforced. But denying homeland security funds to local governments, which in turn use the money to prevent future terrorist attacks, is something I cannot support.

Mr. Chairman, in the future I hope we will look at other measures that will encourage local authorities to support and enforce federal immigration laws. Such measures must encourage local compensation without endangering the lives of innocent Americans that we are charged to protect.

IN HONOR OF MAYOR NORMAL MUSIAL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Mayor Norman Musial, upon his retirement as Mayor of the City of North Olmsted. His years of leadership and public service, first as council member and then mayor, are framed by integrity, vision and concern for every resident within this community.

Born in Toledo into a blue collar family, Mayor Musial cultivated a deep appreciation for family, community and hard work. Reflecting personal values of integrity and public service, Mayor Musial's commitment to the betterment of his community reflects across all levels of government within the City of North Olmsted. As a longtime resident and civic leader in North Olmsted, Mayor Musial has successfully led the effort to improve, uplift, and renew all facets of the community, including vital areas of safety, residential services, recreation, streets and sidewalks, transportation, and senior citizen programs.

Mayor Musial worked his way through the University of Toledo, and graduated with a degree in engineering in 1954. He transferred from NACA to NASA Lewis Research Center in Cleveland, in 1955. While working at NASA, Mayor Musial attended Cleveland-Marshall Law School and graduated with a law degree. Equipped with an innovative mind and energetic spirit, Mayor Musial worked in the NASA Patent Office, and soon became the Chief Patent Counsel. He became an inventor himself, and holds a patent on the Heat Flux Measuring Device.

Beyond his roles as public servant and beyond a profession that extended from the sciences to law, Mayor Musial continues to hold his family and community closest to his heart. In 1953, he married his wife, Patricia. Together they raised four children: Mark, Jon, Lisa and Todd. Besides inventor, lawyer and elected official, Mayor Musial can list Boy Scout Leader, Indian Guide Leader and Webelos Leader as titles of supreme importance, reflecting the caring and dedication he has for his family.

Mr. Speaker and Colleagues, please join me in offering my good friend, Mayor Norman Musial, our appreciation and admiration on his significant accomplishments within the City of North Olmsted. Moreover, his kind nature and compassion for others has allowed the true spirit of community to flourish within the city limits and beyond its borders. I wish Mayor Musial, his wife Patricia and their children and grandchildren, blessing of peace, strength and happiness, today and throughout the coming years.

SUPPORTING THE PASSAGE OF SPYWARE LEGISLATION

HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. ISSA. Mr. Speaker, I rise today in support of H.R. 744 and H.R. 29. Both will help eliminate the monitoring of and tampering with computers across America. I thank Representatives BOB GOODLATTE and MARY BONO for bringing this legislation before us today.

I support the goals of both the ''Internet Spyware Prevention Act'' and the ''Securely Protect Yourself Against Cyber Trespass Act.'' Computer users currently lose personal information to the purveyors of malicious computer software that has come to be known as spyware. These bills establish jail terms and severe monetary penalties for various types of invasive actions. Individuals, under the veil of business activity or otherwise, will no longer be able to remotely take control of computers, nor change their settings without.

We have come to depend upon computers in almost every aspect of our lives. An unimaginable amount of personal information sits on computers that must remain secure.

Again, I applaud the efforts of the House Committees on Judiciary and Energy & Commerce.

IN HONOR OF GARY M. KLINGLER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Air Traffic Manager, Gary M. Klingler, upon the occasion of his retirement after nearly forty years of outstanding federal service with the Cleveland Air Route Traffic Control Center.

In 1970, Mr. Klingler began his career as an air traffic controller at the Youngstown, Ohio Control Tower. He also served as a Navy flight instructor at the Advanced Jet Training Command. Mr. Klingler's federal service is framed by expertise, integrity and unwavering focus on safety, and has improved standards and procedures in all areas of flight operations in many Airport Control Towers throughout our country, including Flint, Michigan; Jackson, Michigan; Springfield, Ohio; Washington, DC and here in Cleveland, Ohio. Mr. Klingler is the recipient of numerous commendations and awards from the FAA, including the ''Manager of the Year'' award, ''Above and Beyond'' award, and the ''Wings of Excellence'' award. His efforts in enhancing the overall safety at Cleveland Hopkins International Airport were recognized by the White House with a ''Hammer Award.'' Beyond his professional excellence, Mr. Klingler is an exemplary role model, citizen and friend. His many years of community involvement has enhanced the foundations of our Cleveland community, as well as the communities of Detroit and Saline, Michigan. He has served on many civic boards and organizations, including the Far West Detroit Civic Association and the Cleveland Federal Executive Board, and continues to lend his assistance to others in need.

Mr. Speaker and Colleagues, please join me in offering my friend, Gary M. Klingler, our appreciation and admiration on his significant service and accomplishments with the FAA—an exemplary career that spans nearly forty years. His vision, expertise and focus on air safety has served to enhance the security in our travels across the skies above Cleveland, Ohio, and across the country. Additionally, his concern for the people of his community continues to have a positive impact within many levels of our society. I wish Mr. Klingler and his entire family many blessings of peace, health and happiness, today and throughout the coming years.

TRIBUTE TO JAY VAN DEN BERG

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to Jay Van Den Berg, a distinguished community leader in Southwest Michigan for the past 30 years. Today, leaders from throughout the community are gathering at Michigan Works, to honor Jay's accomplishments and pay homage to a job well done as he is retiring from his numerous leadership posts.

Jay started his career as a teacher, selflessly giving all he had to each of his students, before moving on to a long, industrious career as an executive with the Whirlpool Corporation. Although he was working in the private sector, Jay utilized his leadership to promote academic achievement and excellence in our schools across the region, netting him more than a dozen state and national education awards.

Jay was a tireless advocate for bringing business and education together to create a stronger community. He could always be seen serving in leadership positions throughout Southwest Michigan whether it was with the Business Roundtable, Michigan Business Leaders for Education Excellence, The Michigan Works Workforce Development Board and many many others.

Through Jay's valiant leadership, the HOSTS mentoring program was established in Benton Harbor, and since then hundreds of students improved their reading scores and have been given the opportunity to succeed in school, as well as in life. His tireless work with the career preparation systems in Berrien, Van Buren and Cass Counties have become a national model and have enabled our young students to raise their test scores, allowing them to seek post-secondary education. These are just 2 of the examples of Jay's great work with the young people of our community.

Education plays such an important role in the lives of our young people, and it is because of people like Jay Van Den Berg, that many have had the opportunity to succeed. I stand today, with the folks of the great sixth district of Michigan, to give a heartfelt ''thank you'' to Jay, and wish him a long and enjoyable retirement.

LEGISLATION ON BEHALF OF SC JOHNSON

HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. RYAN of Wisconsin. Mr. Speaker, I rise today to introduce legislation on behalf of SC Johnson, a family-owned and family-managed company headquartered in Racine, Wisconsin. The company is a global manufacturer and marketer of a broad range of well known consumer household brands including WINDEX, RAID, GLADE, PLEDGE, EDGE shaving gel, ZIPLOC and SCRUBBING BUBBLES. SC Johnson has 12,000 employees worldwide and 3,000 employees located in Racine, WI.

We must help manufacturers like SC Johnson remain competitive in the global marketplace so that good, high-paying manufacturing jobs are retained in Wisconsin and throughout the United States. Over the past few years, our State has lost over 77,000 manufacturing jobs. We must bring down the cost of manufacturing at home so that we can stem the job loss and help companies create new jobs for hard-working Americans.

The 2 bills that I am offering today will help accomplish this important objective by suspending duties for multiple components of unique air freshener products that are imported from abroad and incorporated into finished products assembled by SC Johnson in the United States. One of the devices is a continuous-action device that pumps fragrance throughout a room. The other device is plugged into an electrical outlet and diffuses warmed fragrance throughout an area. No comparable products are produced in this country. Suspending the tariffs will bring down SC Johnson's costs of doing business at home and benefit the SC Johnson employees who live and work at the company's world headquarters in Racine and at other locations throughout the United States.

I look forward to working with my colleagues in Congress to pass this legislation.

HONORING VICE ADMIRAL PHILLIP M. BALISLE, UNITED STATES NAVY

HON. DAN BOREN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. BOREN. Mr. Speaker, I rise today to honor Vice Admiral Phillip M. Balisle, United States Navy, who is retiring after more than 36 years of faithful service to our nation.

A native of Idabel, Oklahoma, Vice Admiral Balisle began his career in 1969 as a Seaman Recruit in the Naval Reserve while attending Oklahoma State University. After attending Officer Candidate School he was commissioned as an Ensign in the United States Navy in 1970.

During the years that followed, Vice Admiral Balisle accrued an impressive operational career highlighted by command of USS KIDD (DDG 993), USS ANZIO (CG 68), Cruiser Destroyer Group THREE and the ABRAHAM LINCOLN Battle Group. Ashore he commanded NAVCOMMSTA United Kingdom and served as Director Theater Air Warfare and Director Surface Warfare on the Chief of Naval Operations' staff.

Throughout his career Vice Admiral Balisle has been a visionary. Examples of his initiatives and contributions are the conceptualization for establishment of the Afloat Training Group, the Joint Theater and Air Missile Defense Organization, the Joint Single Integrated Air Picture System Engineer Organization, the Navy's Distributed Engineering Plant, the Distance Support Concept and the Navy Virtual Systems Command. He also was a leader in the development of numerous combat systems programs and initiatives, as well as developing the concept for the Navy's newest shipbuilding program, the Littoral Combatant Ship.

In his most recent assignment as Commander of the Naval Sea Systems Command, Vice Admiral Balisle led unprecedented organizational change amid a historic time of overall Navy transformation.

Initiating a multi-phased approach to continual command transformation, he directed an unprecedented Headquarters realignment, including the establishment of five radically reshaped Program Executive Offices and the creation of a Warfare Systems Engineering Directorate and a Human Systems Integration Directorate. This realignment resulted in a 20 percent personnel downsizing—done without a single RIF. The Human Systems Integration Directorate is fundamentally changing how the Navy engineers its ships around the Sailor, shaping a new Sea Warrior skills based focus. He also established a disciplined Technical Authority process as a vital NAVSEA mission component.

Vice Admiral Balisle launched a shipyard transformation plan anchored by the "One Shipyard" concept to level-load our nuclear-capable public and private yards, mobilize and share resources, develop common business practices and stabilize the country's entire ship repair industry as a vital national asset.

He significantly changed the business model for NAVSEA's warfare centers that had been in place for decades, shifting from decentralized independent geographically focused business sectors to a corporate national warfare center enterprise. This included the establishment of nationally focused product area directors, along with work assignment executives and a retooled teaming structure that eliminates geographic boundaries and better enables mission execution and resource sharing across an integrated NAVSEA Warfare Center enterprise. Through these unprecedented corporate realignments, NAVSEA positioned itself to be an agile, responsive organization to meet the unpredictable demands of a long and challenging Global War Against Terror while supporting the development and construction of a transformed 21st Century Navy.

Concurrent and complementary to this organization and business process reshaping, Vice Admiral Balisle introduced to NAVSEA a reinvigorated, disciplined program to establish, preserve and revitalize the workforce and work assignment to support Technical Authority execution, the cornerstone responsibilities of the government to operate safely and as a responsive peer of industry. He significantly changed the Navy's contracting approach and vehicles for services and ship maintenance with the introduction of a nationwide Seaport services contract and Multi-ship, Multi-option contracts for ship class maintenance availabilities.

Central to all these initiatives, Vice Admiral Balisle established NAVSEA's Task Force Lean to put in place and accelerate the implementation and expansion of Lean and Six Sigma business processes across the NAVSEA enterprise, achieving dramatic improvements in operating efficiency and process execution.

Vice Admiral Balisle has been a foremost architect in helping to shape the 21st Century Navy to meet the needs of our nation in executing the Global War Against Terrorism and building and equipping tomorrow's fleet.

He is an individual of uncommon character and his professionalism will be sincerely missed. I am proud, Mr. Speaker, to thank him for his honorable service in the United States Navy, and to wish him "fair winds and following seas" as he closes his distinguished military career.

PROTECTING THE UNIVERSAL SERVICE FUND FROM THE ANTIDEFICIENCY ACT

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mrs. CUBIN. Mr. Speaker, last fall, the Federal Communications Commission (FCC) concluded that some components of the Universal Service Fund (USF) are subject to the Antideficiency Act, even though USF dollars are not paid out of the U.S. Treasury. This unexpected interpretation disrupted an important component of the universal service program for nearly 6 months and resulted in the Universal Service Administrative Company losing millions of dollars in investments that would otherwise have been used to support communications services in rural and high cost areas, as well as the E-Rate program for school districts and libraries.

Congress intervened late last year by temporarily exempting the USF from the Antideficiency Act until December 31, 2005. That exemption will be expiring soon, and many believe the Antideficiency Act also threatens to disrupt the much larger High Cost and Low Income USF programs. It is vital that Congress address this issue as soon as possible to permanently eliminate the uncertainty hanging over the entire USF.

That's why I am introducing legislation, along with Representative GONZALES, to permanently exempt the USF from the Antideficiency Act. This is a necessary step to ensure that consumers will continue to have access to quality telecommunications services and our schools and libraries will have Internet connectivity, all at affordable rates.

This is a bipartisan initiative that enjoys support from a broad coalition of stakeholders in the telecommunications, high-tech, educational arenas, as well as local governments and public interest organizations. This is a companion measure to a bill introduced in the other body, which also has broad bipartisan support. Fixing the situation is a time-sensitive matter and Representative GONZALES and I urge our colleagues to support this measure and help us work toward prompt passage.

IN HONOR AND REMEMBRANCE OF HOWARD W. BROADBENT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Howard W. Broadbent, dedicated family man, friend and mentor to many, talented attorney and United States veteran.

Mr. Broadbent was born in Cleveland and graduated from Cleveland Heights High School. His studies at Ohio State University were interrupted for the call to duty during WWII, where he served as a Lieutenant and Amphibious Boat Officer in the United States Navy. After the war, he completed his studies at OSU, and ultimately earned a law degree with honors from Case Western Reserve University Law School.

Mr. Broadbent began working at the law firm of James M. and John J. Carney, and specialized in zoning and real estate. He eventually formed the Carney & Broadbent Law Firm, specializing again in real estate and corporate matters. As an expert regarding zoning issues, Mr. Broadbent was consistently sought out for his advice and opinion by mayors, council representatives and planning and zoning board members from across the county. He also served as law director for Middleburg Heights, and served as substitute judge for the Rocky River Municipal Court. Additionally, Mr. Broadbent served on the Board of the Cuyahoga County Port Authority.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Howard W. Broadbent. He was married for fifty-five years to his beloved wife, Dorothy, who passed away in 2003. His friendship, commitment to his family, and his dedicated service to our country will be remembered always. I offer my condolences to his daughters, Diane and Kitty, and son Jack; his grandson, Douglas; his brother, John, and his many extended family members and friends.

TRIBUTE TO ROY B. KEPPY

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. LEACH. Mr. Speaker, this weekend was marked by the passing of Roy B. Keppy.

Roy Keppy was a symbol of Iowa. No family farmer has ever been held in higher esteem. No hog producer has won more honors or been more revered.

Roy's concerns were always for quality. Whether raising hogs, corn, soy beans or children, his work ethic was the same. Every moment of every day he worked to the best of his ability, and then some more.

While Roy's formal education ended at J.B. Young Middle School in Davenport, he earned a Ph.D. in life. He was a leader: on the farm, in his community, for his country. At various points in time, he coaxed more corn and beans per acre from his wonderful Scott County soil than anyone in the state, and he raised hogs which won more state and national blue ribbons than anyone in the history of hog competitions.

At the community level, he led, it seemed, every farm organization; at the national level, he headed Farmers for Ford and played a key agricultural role in the election of two presidents named Bush. As for Congress, there is no individual whose advice I respected more; no one to whom I am more indebted.

Two anecdotes stand out. One was a comment the former Secretary of Agriculture Earle Butz made to me. He said one day that the finest agricultural speech he ever heard was given by Roy Keppy when it was announced he would lead President Ford's agricultural team. What was so impressive about this comment was the fact that Earle Butz was generally considered the best public speaker on agriculture in his generation. But he deferred to Roy Keppy.

The second is about the time Roy manipulated a cord in his barn so that when his guest, George W. Bush, was speaking, gentle pieces of corn would fall on his slightly balding pate. The Secret Service never understood what a mischievous host the candidate they were assigned to protect had.

Roy's passing symbolizes the end of an era in Iowa life.

As we his friends contemplate and, in effect, celebrate, the meaning of his time on earth, we too are obligated to work hard to insure that Roy's death does not mark the end of a breed. Roy will always stand out, but our country will be diminished if he is the last of the hands-on farmers who by second nature serve their community and then by acclamation of their peers, unrelated to gall or personal ambition, are asked to provide leadership to their country.

Roy Keppy will be much missed. Most poignantly by this Member of Congress.

HONORING SANDRA G. SANDERSON RECIPIENT OF THE COMMONWEALTH'S ACADEMY RECOGNITION FOR EDUCATORS AWARD

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Sandra G. Sanderson of Vienna, Virginia, upon receiving the Commonwealth's Academy Recognition for Educators (CARE) Award.

The CARE award honors outstanding educators from New York, Ohio and Virginia who work to enhance the lives of their students. This year's honorees are recognized for their unrelenting work to enhance the lives of the students they serve. It is presented by the Commonwealth Academy located in Alexandria, Virginia, and honors those committed to diverse learning throughout the nation. Sandra Sanderson, a 6th grade teacher at Wolftrap Elementary, is honored for her work in promoting diverse learners in the spirit of the "No Child Left Behind Act."

Ms. Sanderson was born in Fredonia, New York and was raised in Plantation, Florida. She received a Bachelor's of Arts in elementary education from Stetson University, and she received her Master's of Arts in special education from Peabody College. She is a resident of Vienna, Virginia, and has taught in Virginia for fourteen years. Prior to serving in the Commonwealth, Ms. Sanderson enriched students' lives teaching in various locations including in the states of Texas, Colorado and New York.

As a teacher at Wolftrap Elementary she has brought enjoyment to her sixth grade students teaching various subjects and activities including novel groups, math problem solving, writing skills, and photography. In her own words, she tries to bring "enthusiasm, a sense of humor, and a joy in life and learning" to her students and colleagues each day.

Ms. Sanderson has a genuine dedication to ensure that each of her students is given the opportunity to achieve success. Over the past 34 years she has made a lasting impact on thousands of students.

I ask my colleagues to join me in applauding Sandra Sanderson and congratulating her on this distinguished achievement.

RECOGNIZING ACCOMPLISHMENTS OF THE MOTIVATING YOUTH TO ACHIEVEMENT PROGRAM

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. CROWLEY. Mr. Speaker, I rise to recognize the accomplishments of The Motivating Youth to Achievement (My2A) Program and particularly its leader, John Ryu. Based in New York City, My2A was created to serve the needs of young people of New York who happen to be part of the foster care system. Young people in the foster care system routinely face challenges as they age and move onto their lives outside of foster care. Fortunately people have come together to encourage these young people to move confidently forward toward their futures, with access to job training, education, and professional employment. Fortunately, for these young people and the communities they serve, we have My2A. My2A has had tremendous success not only in training and encouraging its participants, but in creating well-qualified, thriving employees.

How does such a success story come about? It was through the shared vision of the My2A founder, John Ryu, the Consortium for Worker Education (CWE), the Catholic Home Bureau, and the Central Labor Council. Working together—each with their unique and critical understanding of youth, service, and work—this vision was carried out to fruition. The result is the program that we celebrate here today.

Of course, these results are dependent on the groups and individuals that come together to serve My2A, both through its initial development and through its continual day-to-day efforts. While John Ryu and his partner organizations have been tireless and committed in their efforts, there are other individuals that have also been instrumental. Some of these include Youth Ambassadors of My2A, Sung Eun Baek and Patricia Ji Young Jung, and Kyu Bong Sung, Business Manager of the ACE Printing Company. Overall, the Korean and Korean-American communities have been particularly supportive of My2A. Of course, this program's success is also dependent on the numerous My2A participants who take advantage of this wonderful opportunity that is made possible by inspirational people like John Ryu and those he works with, protecting the strength and goodwill of our community and this nation in countless ways.

IN MEMORY OF EMERSON BATDORFF

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise to remember Emerson Batdorff, a friend and colleague from my early career in journalism at the Cleveland Plain Dealer. "Bat" was a reporter, columnist, and entertainment editor who started the Plain Dealer's Friday magazine.

Fellow Plain Dealer reporter Bill Hickey called him "the ultimate newspaperman. "And he was right. Batdorff, who was inducted into the Cleveland Hall of Fame Press Club, covered police, courts, and other city beats before becoming a fixture in the features department. Bat started his career in journalism before serving in World War II. After the war, he started with the Plain Dealer's Akron bureau in 1946 before transferring to the Cleveland newsroom in the 1950s.

Computers came easily to him. He was known for waving a red flag to alert editors and reporters when the system was about to crash so that they could save their work. When he became entertainment editor, he had a lot of young writers working for him. He always made the effort to point out their mistakes in a friendly and constructive way. Bat retired from the Plain Dealer in 1984.

Emerson Batdorff served in the Army in World War II where he was a platoon leader with the Third Infantry Division, a liaison officer in the 30th Infantry Regiment, and historian with the XV Corps Headquarters in Europe. He received the Bronze Star Medal for valor and a Purple Heart. Bat remained in the Army Reserve and was recalled for duty as a military historian during the Korean War.

In 1977, while in his late 50s, a would-be robber mistook Bat for an easy mark one late night after work. But Bat, who held a black belt in karate, scared off the attacker with a few deftly executed self defense moves.

Bat was a past president of the local chapter of the Newspaper Guild. He was also a past president of the Mensa Cleveland chapter.

Mr. Speaker and Colleagues, please join me in offering condolence to Bat's wife Judith, his son Lee, his daughter Ilo, his brother, and his grandchildren.

TRIBUTE TO MR. CHAPIN W. COOK

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to Mr. Chapin W. Cook, who will retire after 33 years of dedicated service to the Genesee County Planning Commission. Friends and family will join civic and community leaders on May 25 to honor his dedication and his many accomplishments.

Chapin Cook joined the Planning Commission in November 1972, operating as Associate Planner. In August 1973, he was promoted to Senior Planner, and in November 1975, he became Principal Planner. Chapin held this position until October 1986, when he was appointed Assistant Director of the Commission, and in July 1990, he became Director, the position he holds to this day.

As Director, Chapin faithfully upheld the Planning Commission's mission statement: "To provide a framework and encourage development that enhances the quality of life in Genesee County through government and community partnerships." He also served as a bridge and guiding force for the Commission's eleven-member board, helping them fulfill their duties efficiently and effectively.

Mr. Speaker, I ask that all of my colleagues in the House of Representatives join me today in recognizing Chapin W. Cook for his exceptional leadership, and wishing him all the best in retirement and all his future endeavors.

TRIBUTE TO JOHN MATHWIN

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. VAN HOLLEN. Mr. Speaker, I rise today to pay tribute to Mr. John Mathwin, a teacher at Montgomery Blair High School in my Congressional District, who is retiring after a long and distinguished career.

Though Mr. Mathwin will leave Montgomery Blair when this school year closes, his spirit

and legacy of dedication, hard work, and service will remain.

Mr. Mathwin began his career at Montgomery Blair as an English teacher, but found a more satisfying calling as a journalism instructor. Eventually he became the faculty advisor for Blair's student newspaper Silver Chips.

Under Mathwin's guidance, the student staffers of Silver Chips enjoyed tremendous success. During his tenure, Silver Chips earned countless awards at the local, state, and national level, including the Pacemaker Award as the nation's top newspaper.

Mr. Speaker, on behalf of the students, parents, faculty, and administration of Montgomery Blair High School, I say to Mr. John Mathwin: thank you for your service to our community and our children. You will be missed!

PERSONAL EXPLANATION

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. STRICKLAND. Mr. Speaker, Thursday, May 19, 2005 I was in Mingo Junction, Ohio and missed rollcall votes No. 190–199. Had I been present, I would have voted ''yea'' on rollcall votes No. 191, 194, 196, 198 and 199. I would have voted ''no'' on rollcall votes No. 190, 192, 193, 195 and 197.

BYRNE GRANT FUNDING

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. WALDEN of Oregon. Mr. Speaker, I rise today with my colleagues from Nebraska and around the country on a most important matter—Byrne Grant funding. I appreciate the leadership of Mr. TERRY and Chairman SOUDER on this issue as well as the work done by my fellow members of the House Meth Caucus to ensure that the needs of state and local communities are being met.

Byrne grants provide necessary federal resources that make possible enforcement and treatment programs undertaken by state and local governments to combat the illegal drug epidemic that is rampant throughout the nation, a plague that I've seen firsthand in communities throughout eastern, central and southern Oregon. Nowhere is the need for federal anti-drug resources more pronounced than in rural areas like Oregon's Second Congressional District, where entire communities struggle to cope with the proliferation of illegal substances and their devastating effects on families and communities.

According to an assessment conducted earlier this year by the Oregon HIDTA office, reducing funding for these programs would reduce interagency cooperation and intelligence sharing between local, state and federal law enforcement agencies. The assessment also found that operations by local taskforces on the front lines in the fight against illegal drugs would decrease by 25 to 75 percent. Without the federal funds received many local drug taskforces in Oregon would have to severely curtail operations, reduce staffing levels or even cease operations completely. Given the threat posed to children, families and communities by illegal drugs, these efforts to control the drug problem must continue.

I want to again state my belief that Byrne Grant funding should be maintained at its current level as the House Appropriations Committee prepares to allocate funds to this and other critical anti-drug programs in the coming year.

The state of Oregon has historically received over $6 million in Byrne grants, a significant portion of which has been allocated to programs and projects in the Second District. Local task forces like the Klamath Interagency Narcotics Team, the Mid-Columbia Interagency Narcotics Task Force, the Central Oregon Drug Enforcement team, the Jackson County Narcotics Enforcement Team, and the Blue Mountain Narcotics Enforcement Team, which receives about one-third of its budget from Byrne Grants, would be devastated without continued support from federal anti-drug programs.

Mr. Speaker, earlier this year I conducted a series of seven town hall forums focused on production, distribution and abuse of illegal drugs, particularly the runaway problem of methamphetamine. While traveling throughout the Second District I heard again and again about the importance of federal resources to the outstanding efforts being conducted by state and local enforcement agencies and treatment and prevention providers. While I realize that we are in a time of strict budget constraint I strongly support these efforts and I will continue to do all I can to ensure that the federal government honors its commitment to fight the scourge of illegal drugs in our communities.

PERSONAL EXPLANATION

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. GERLACH. Mr. Speaker, on May 19, 2005, during consideration of H.R. 2361, I was absent during rollcall number 196. Unfortunately, the vote occurred earlier in the evening than was expected and I was unable to make it to the floor in time to vote. Had I been present, I would have voted ''yea'' for the Rahall-Whitfield amendment.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 24, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 25

Time to be announced
Homeland Security and Governmental Affairs
Business meeting to consider the nominations of Philip J. Perry, of Virginia, to be General Counsel, Department of Homeland Security, and Carolyn L. Gallagher, of Texas, and Louis J. Giuliano, of New York, each to be a Governor of the United States Postal Service.
Room to be announced

9:30 a.m.
Energy and Natural Resources
Business meeting to consider comprehensive energy legislation, focusing on provisions relating to renewable energy, nuclear matters, and studies.
SD–366

Environment and Public Works
To hold an oversight hearing to examine permitting of energy projects.
SD–406

Foreign Relations
To hold hearings to examine the nominations of David Horton Wilkins, of South Carolina, to be Ambassador to Canada, William Alan Eaton, of Virginia, to be Ambassador to Panama, James M. Derham, of Virginia, to be Ambassador to Guatemala, and Robert Johann Dieter, of Colorado, to be Ambassador to Belize, Paul A. Trivelli, of Virginia, to be Ambassador to Nicaragua, and Linda Jewell, of the District of Columbia, to be Ambassador to Ecuador.
SD–419

Homeland Security and Governmental Affairs
To hold hearings to examine how counterfeit goods provide easy cash for criminals and terrorists.
SD–562

Judiciary
Business meeting to consider pending calendar business.
SD–226

Intelligence
To hold closed hearings to examine certain intelligence matters.
SH–219

9:50 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider proposed Head Start Improvements For School Readiness Act, S. 518, to provide for the establishment of a controlled substance monitoring program in each State, and pending nominations.
SD–430

10 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the U.S. Grain Standards Act.
SR–328A

Banking, Housing, and Urban Affairs
To hold hearings to examine the nominations of Ben S. Bernanke, of New Jersey, to be a Member of the Council of Economic Advisers, and Brian D. Montgomery, of Texas, to be Assistant Secretary of Housing, Federal Housing Commissioner, Department of Housing and Urban Development.
SD–538

Commerce, Science, and Transportation
To hold hearings to examine S. 360, to amend the Coastal Zone Management Act.
SR–253

Indian Affairs
To hold hearings to examine S.J. Res. 15, to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.
SR–485

11 a.m.
Commission on Security and Cooperation in Europe
To hold hearings to examine human rights concerns in Kosovo.
SD–124

2:30 p.m.
Homeland Security and Governmental Affairs
To hold hearings to examine the nomination of Linda Morrison Combs, of North Carolina, to be Controller, Office of Federal Financial Management, Office of Management and Budget.
SD–562

Judiciary
Intellectual Property Subcommittee
To hold hearings to examine piracy of intellectual property.
SD–226

MAY 26

9 a.m.
Homeland Security and Governmental Affairs
Investigations Subcommittee
To hold hearings to examine the container security initiative and the customs-trade partnership against terrorism, focusing on how Customs utilizes container security initiative and customs trade partnership against terrorism in connection with its other enforcement programs and review the requirements for and challenges involved in transitioning these from promising risk management concepts to effective and sustained enforcement operations.
SD–562

Intelligence
Closed business meeting to consider certain intelligence matters.
SH–219

9:30 a.m.
Environment and Public Works
Clean Air, Climate Change, and Nuclear Safety Subcommittee
To hold an oversight hearing to examine the Nuclear Regulatory Commission.
SD–406

Energy and Natural Resources
Business meeting to consider comprehensive energy legislation, focusing on provisions relating to oil and gas, and incentives for innovative technology, and other related issues.
SD–366

Judiciary
Business meeting to consider pending calendar business.
SD–226

10 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine aviation capacity and congestion challenges regarding summer 2005 and future demand.
SR–253

Banking, Housing, and Urban Affairs
To hold hearings to examine the report to Congress on international economic and exchange rate policies.
SH–216

Health, Education, Labor, and Pensions
To hold hearings to examine issues relating to the 21st century workplace.
SD–430

10:30 a.m.
Foreign Relations
To hold hearings to examine the nominations of Sean Ian McCormack, of the District of Columbia, to be an Assistant Secretary of State for Public Affairs, and Dina Habib Powell, of Texas, to be an Assistant Secretary of State for Educational and Cultural Affairs.
SD–419

2 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Commerce.
S–146, Capitol

Veterans' Affairs
To hold hearings to examine challenges facing the VA claims adjudication and appeal process.
SR–418

2:30 p.m.
Homeland Security and Governmental Affairs
Federal Financial Management, Government Information, and International Security Subcommittee
To hold hearings to examine federal funding for private research and development, focusing on effectiveness of federal financing of private research and development, and whether some of these programs result in the development of new technologies or displace private investment.
SD–562

Foreign Relations
To hold hearings to examine the nominations of Rodolphe M. Vallee, of Vermont, to be Ambassador to the Slovak Republic, Molly Hering Bordonaro, of Oregon, to be Ambassador to the Republic of Malta, and Ann Louise Wagner, of Missouri, to be Ambassador to Luxembourg.
SD–419

Judiciary
Immigration, Border Security and Citizenship Subcommittee
To hold hearings to examine the need for comprehensive immigration reform relating to the national economy.
SD–226

Appropriations
State, Foreign Operations, and Related Programs Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2006 for

the U.S. Agency for International Development.

SD–138

JUNE 7

2:30 p.m.

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold hearings to examine the emergence of China throughout Asia relating to security and economic consequences for the U.S.

SD–419

JUNE 9

2:30 p.m.

Foreign Relations

Western Hemisphere, Peace Corps and Narcotics Affairs Subcommittee

To hold hearings to examine the Western Hemisphere Initiative regarding safety and convenience in cross-border travel.

SD–419

SEPTEMBER 20

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.

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CORRECTION

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S5715–S5813

Measures Introduced: Twelve bills and four resolutions were introduced, as follows: S. 1096–1107, S. Res. 152–153, and S. Con. Res. 36–37. **Page S5778**

Measures Reported: Report to accompany S. Res. 50, authorizing expenditures by committees of the Senate for the periods March 1, 2005, through September 30, 2005, October 1, 2005, through September 30, 2006, and October 1, 2006, through February 28, 2007. (S. Rept. No. 109–70)

Page S5778

Measures Passed:

Welcoming President of Afghanistan: Senate agreed to S. Res. 152, welcoming His Excellency Hamid Karzai, the President of Afghanistan, and expressing support for a strong and enduring strategic partnership between the United States and Afghanistan. **Page S5743**

State Criminal Alien Assistance Program Reauthorization Act: Senate passed S. 188, to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011 to carry out the State Criminal Alien Assistance Program, after agreeing to the following amendment proposed thereto: **Page S5743**

Burns (for Feinstein) Amendment No. 763, to require that certain funds are used for correctional purposes. **Page S5743**

Nomination Considered: Senate resumed consideration of the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit. **Pages S5715–43, S5744–75**

A unanimous-consent-time agreement was reached providing for further consideration of the nomination at 9:45 a.m., on Tuesday, May 24, 2005; provided further, that at 12 noon, Senate vote on the motion to invoke cloture on the nomination. **Page S5807**

During consideration of this nomination today, Senate also took the following action:

By 90 yeas to 1 nay (Vote No. 126), Senate agreed to the motion to instruct the Sergeant at Arms to request the attendance of absent Senators. **Page S5747**

Appointments:

NATO Parliamentary Assembly: The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appointed the following Senator as Acting Vice Chairman to the NATO Parliamentary Assembly for the spring meeting in Ljubljana, Slovenia, May 2005: Senator Leahy. **Page S5743**

Nominations Received: Senate received the following nominations:

Tome Luce, of Texas, to be Assistant Secretary for Planning, Evaluation, and Policy Development, Department of Education.

Arlene Holen, of the District of Columbia, to be a Member of the Federal Mine Safety and Health Review Commission for a term expiring August 30, 2010.

Rod J. Rosenstein, of Maryland, to be United States Attorney for the District of Maryland for the term of four years.

1 Army nomination in the rank of general.

Page S5813

Measures Read First Time: **Page S5778**

Additional Cosponsors: **Pages S5778–80**

Statements on Introduced Bills/Resolutions: **Pages S5780–S5807**

Additional Statements: **Pages S5776–77**

Amendments Submitted: **Page S5807**

Quorum Calls: One quorum call was taken today. (Total—3) **Page S5747**

Record Votes: One record vote was taken today. (Total—126) **Page S5747**

Adjournment: Senate convened at 11:30 a.m. and adjourned at 10:13 p.m. until 9:45 a.m., on Tuesday, May 24, 2005. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S5807.)

Committee Meetings

(Committees not listed did not meet)

INDIVIDUAL ALTERNATIVE MINIMUM TAX

Committee on Finance: Subcommittee on Taxation and IRS Oversight held a hearing to examine the impact of the individual Alternative Minimum Tax (AMT), the separate tax system within the individual income tax system that applies lower tax rates to a broader base of income and a proposal to repeal the AMT, receiving testimony from Robert J. Carroll, Deputy Assistant Secretary of the Treasury for Tax Analysis; Douglas Holtz-Eakin, Director, Congressional Budget Office; Carol C. Markman, Feldman, Meinberg and Company, LLP, Syosset, New York, on behalf of the National Conference of CPA Practitioners; Nina E. Olson, National Taxpayer Service, Leonard E. Berman, The Urban Institute Tax Policy Center, and Kevin A. Hassett, American Enterprise Institute, all of Washington, D.C.

Hearing recessed subject to the call.

House of Representatives

Chamber Action

Measures Introduced: 42 public bills, H.R. 2518–2559; and 4 resolutions, H.J. Res. 51; H. Con. Res. 163–164; and H. Res. 292, were introduced. **Pages H3767–69**

Additional Cosponsors: **Page H3769**

Reports Filed: Reports were filed today as follows:

Filed on May 20, 2005: H.R. 742, to amend the Occupational Safety and Health Act of 1970 to provide for the award of attorneys' fees and costs to small employers when such employers prevail in litigation prompted by the issuance of a citation by the Occupational Safety and Health Administration (H. Rept. 109–61, Pt. 2);

Filed on May 20, 2005: H.R. 1815, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2006, amended (H. Rept. 109–89);

H. Res. 243, recognizing the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts to promote National Safe Boating Week (H. Rept. 109–90);

H.R. 2066, to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, amended (H. Rept. 109–91);

H.R. 250, to establish an interagency committee to coordinate Federal manufacturing research and development efforts in manufacturing, strengthen existing programs to assist manufacturing innovation and education, and expand outreach programs for small and medium-sized manufacturers, amended (H. Rept. 109–92);

H.R. 744, to amend title 18, United States Code, to discourage spyware (H. Rept. 109–93);

H. Res. 291, providing for consideration of H.R. 2419, making appropriations for energy and water development for the fiscal year ending September 30, 2006 (H. Rept. 109–94); and

H.R. 2528, making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006 (H. Rept. 109–95). **Page H3767**

Speaker: Read a letter from the Speaker wherein he appointed Representative Petri to act as Speaker pro tempore for today. **Page H3697**

Recess: The House recessed at 12:43 p.m. and reconvened at 2 p.m. **Page H3698**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Stop Counterfeiting in Manufactured Goods Act: H.R. 32, amended, to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks; **Pages H3699–H3703**

Internet Spyware (I–SPY) Prevention Act of 2005: H.R. 744, amended, to amend title 18, United States Code, to discourage spyware, by a ⅔ yea-and-nay vote of 395 yeas to 1 nay, Roll No. 200; **Pages H3703–05, H3744**

Securely Protect Yourself Against Cyber Trespass Act: H.R. 29, amended, to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, by a ⅔ yea-and-nay vote of 393 yeas to 4 nays, Roll No. 201; **Pages H3705–12, H3744–45**

Heroes Earned Retirement Opportunities Act: H.R. 1499, amended, to amend the Internal Revenue Code of 1986 to allow a deduction to members of the Armed Forces serving in a combat zone for contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income;

Pages H3712–14

Agreed to amend the title so as to read: to amend the Internal Revenue Code of 1986 to allow members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income.

Page H3714

Angel Island Immigration Station Restoration and Preservation Act: H.R. 606, to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California; **Pages H3714–16**

Providing for the conveyance of public land in Clark County, Nevada: H.R. 849, to provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport; **Pages H3716–17**

Revoking a Public Land Order regarding Cibola National Wildlife Refuge: H.R. 1101, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California; **Page H3718**

General Services Administration Modernization Act: H.R. 2066, amended, to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund; **Pages H3720–22**

Celebrating Asian Pacific American Heritage Month: H. Res. 280, amended, celebrating Asian Pacific American Heritage Month; **Pages H3722–24**

Recognizing the 57th anniversary of the independence of the State of Israel: H. Con. Res. 149, amended, recognizing the 57th anniversary of the independence of the State of Israel, by a ⅔ yea-and-nay vote of 397 yeas with none voting ''nay'', Roll No. 202; **Pages H3724–28, H3745–46**

Honoring the life of Sister Dorothy Stang: H. Con. Res. 89, honoring the life of Sister Dorothy Stang; **Pages H3728–29**

Urging the Government of Romania to provide fair restitution to religious communities for property confiscated by the former Communist government: H. Res. 191, amended, urging the Government of Romania to recognize its responsibilities to provide equitable, prompt, and fair restitution to all religious communities for property confiscated by the former Communist government in Romania;

Pages H3729–32

Urging the withdrawal of Syrian forces from Lebanon and support for fair democratic elections and rule in Lebanon: H. Res. 273, amended, urging the withdrawal of all Syrian forces from Lebanon, support for free and fair democratic elections in Lebanon, and the development of democratic institutions and safeguards to foster sovereign democratic rule in Lebanon; **Pages H3732–35**

Welcoming His Excellency Hamid Karzai, the President of Afghanistan: H. Con. Res. 153, welcoming His Excellency Hamid Karzai, the President of Afghanistan, on the occasion of his visit to the United States in May 2005 and expressing support for a strong and enduring strategic partnership between the United States and Afghanistan;

Pages H3735–37

Recognizing the promotion of National Safe Boating Week: H. Res. 243, recognizing the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts to promote National Safe Boating Week; and **Pages H3737–38**

Servicemembers Health Insurance Protection Act of 2005: H.R. 2046, amended, to amend the Servicemembers Civil Relief Act to limit premium increases on reinstated health insurance on servicemembers who are released from active military service. **Pages H3740–43**

Suspension—Proceedings Postponed: The House completed debate on the following measure under suspension of the rules. Further consideration will continue tomorrow, May 24.

Business Checking Freedom Act of 2005: H.R. 1224, amended, to repeal the prohibition on the payment of interest on demand deposits.

Pages H3839–40

Recess: The House recessed at 5:32 p.m. and reconvened at 6:31 p.m. **Page H3743**

Stem Cell Research Enhancement Act of 2005—Order of Business: The House agreed that (1) it shall be in order at any time without intervention of any point of order to consider H.R. 810, to amend the Public Health Service Act to provide for human embryonic stem cell research; (2) the bill shall be considered as read; (3) the previous question shall be considered as ordered without intervening motion except three hours of debate equally divided, and one motion to recommit; and (4) during consideration of the bill, notwithstanding the operation of

the previous question, the Chair may postpone further consideration to a time designated by the Speaker. Page H3746

Senate Message: Message received from the Senate today appears on pages H3698–99.

Senate Referrals: S. Con. Res. 35 was referred to the Committee on International Relations. Page H3765

Quorum Calls—Votes: Three yea-and-nay votes developed during the proceedings today and appear on pages H3744, H3744–45, and H3745–46. There were no quorum calls.

Adjournment: The House met at 12:30 p.m. and adjourned at 10:30 p.m.

Committee Meetings

MISCELLANEOUS APPROPRIATIONS

Committee on Appropriations: Held a hearing on the following: the House of Representatives, GAO, GPO, the Library of Congress and the Open World Leadership Center. Testimony was heard from Jay M. Eagen III, Chief Administrative Officer, House of Representatives; David M. Walker, Comptroller General, GAO; Bruce R. James, Public Printer, GPO, and James H. Billington, Librarian of Congress and Chairman, Open World Leadership Center.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS FOR FISCAL YEAR 2006

Committee on Rules: Granted, by voice vote, an open rule providing 1 hour of general debate on H.R. 2419, making appropriations for energy and water development for the fiscal year ending September 30, 2006, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. Under the rules of the House the bill shall be read for amendment by paragraph. The rule waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI (prohibiting unauthorized appropriations or legislative provisions in an appropriations bill), except as specified in the resolution. The rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments in the Congressional Record. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives Hobson and Visclosky.

COMMITTEE MEETINGS FOR TUESDAY, MAY 24, 2005

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Commerce, Justice, State, and the Judiciary, to hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Justice, 10 a.m., SD–192.

Committee on Commerce, Science, and Transportation: to hold hearings to examine S. 529, to designate a United States Anti-Doping Agency and to examine the competitive pressures that lead amateur athletes to use drugs, the sources of such drugs, and the science of doping, 10 a.m., SR–253.

Committee on Foreign Relations: to hold hearings to examine the nominations of Eduardo Aguirre, Jr., of Texas, to be Ambassador to Spain and Andorra, Julie Finley, of the District of Columbia, to be U.S. Representative to the Organization for Security and Cooperation in Europe, with the rank of Ambassador, Victoria Nuland, of Connecticut, to be Permanent Representative of the United States of America on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador, and John F. Tefft, of Virginia, to be Ambassador to Georgia, and Craig Roberts Stapleton, of Connecticut, to be Ambassador to France, 9:30 a.m., SD–419.

Committee on Homeland Security and Governmental Affairs: Oversight of Government Management, the Federal Workforce, and the District of Columbia, to hold an oversight hearing to examine a review of the U.S. Office of Special Counsel, focusing on safeguarding the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing, 10 a.m., SD–562.

Subcommittee on Federal Financial Management, Government Information, and International Security, to hold an oversight hearing to examine the competitive effects of specialty hospitals, 2 p.m., SD–562.

Select Committee on Intelligence: to resume hearings to examine the USA Patriot Act (P.L. 107–56), 9:30 a.m., SD–106.

House

Committee on Agriculture, Subcommittee on General Farm Commodities and Risk Management, hearing to Review the U.S. Grain Standards Act, 10 a.m., 1300 Longworth.

Committee on Appropriations, Subcommittee on Defense, executive, to mark up the Fiscal Year 2006 appropriations, 2 p.m., H–140 Capitol.

Subcommittee on Science, the Departments of State, Justice, and Commerce, and Related Agencies, to mark up the Fiscal Year 2006 appropriations, 9:30 a.m., H–309 Capitol.

Committee on Education and the Workforce, Subcommittee on Select Education, hearing entitled "An Examination of the Older Americans Act," 10 a.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, hearing on Reducing the Threat of Nuclear Terrorism: A Review of the Department of Energy's Global Threat Reduction Initiative, 2 p.m., 2322 Rayburn.

Committee on Financial Services, Subcommittee on Housing and Community Opportunity and the Subcommittee on Financial Institutions and Consumer Credit, joint hearing entitled ''Legislative Solutions to Abusive Mortgage Lending Practices,'' 10 a.m., 2128 Rayburn.

Committee on Government Reform, Subcommittee on Federalism and the Census, hearing entitled ''Bringing Community Development Block Grant Program (CDBG) Spending into the 21st Century: Introducing Accountability and Meaningful Performance Measures into the Decades-Old CDBG Program,'' 10 a.m., 2154 Rayburn.

Committee on Homeland Security, Subcommittee on Management, Integration, and Oversight, hearing entitled ''Training More Border Patrol Agents: How the Department of Homeland Security Can Increase Training Capacity Most Effectively,'' 2 p.m., 210 Cannon.

Committee on the Judiciary, Subcommittee on the Constitution and the Subcommittee on Commercial and Administrative Law, joint oversight hearing on Economic Development and the Dormant Commerce Clause: The Lessons of *Curo* v. *Daimler Chrysler* and Its Effect on State Taxation Affecting Interstate Commerce,'' 10 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Fisheries and Oceans, oversight hearing on the Federal Fish Hatchery System, 10 a.m., 1324 Longworth.

Subcommittee on Forests and Forest Health, oversight hearing on Current Obstacles in Biomass Utilization: A GAO Report on Problems Agencies Face in the utilization of Woody Biomass, and the extent to which they are addressing these problems, 3:30 p.m., 1324 Longworth.

Subcommittee on Water and Power, hearing on H.R. 1071, Desalination Drought Protection Act of 2005, and a hearing entitled ''Reducing Power and other Costs of the Desalination Process,'' 10 a.m., 1334 Longworth.

Committee on Rules, to consider H.R. 1815, National Defense Authorization Act for Fiscal Year 2006, 2:30 p.m., H–313 Capitol.

Committee on Small Business, Subcommittee on Workforce, Empowerment, and Government Programs and the Subcommittee on Economic Opportunity of the Committee on Veterans' Affairs, joint hearing entitled ''How Are Our Veteran-Owned Small Business Owners Being Served?'' 10 a.m., 311 Cannon.

Committee on Ways and Means, to mark up H.J. Res. 27, Withdrawing the approval of the United States from the Agreement establishing the World Trade Organization, 10 a.m., 1100 Longworth.

Subcommittee on Select Revenue Measures, hearing on Tax Credits for Electricity Production from Renewable Sources, 2 p.m., 1100 Longworth.

Subcommittee on Social Security, to continue hearings on Protecting and Strengthening Social Security, 2 p.m., B–318 Rayburn.

Permanent Select Committee on Intelligence, executive, to mark up H.R. 2475, Intelligence Authorization Act for Fiscal Year 2006, 12:30 p.m., H–405 Capitol.

Next Meeting of the **SENATE**

9:45 a.m., Tuesday, May 24

Senate Chamber

Program for Tuesday: Senate will continue consideration of the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit, with a vote on the motion to invoke cloture on the nomination to occur at 12 noon.

(Senate will recess from 12:30 p.m. until 2:15 p.m., for their respective party conferences.)

Next Meeting of the **HOUSE OF REPRESENTATIVES**

9 a.m., Tuesday, May 24

House Chamber

Program for Tuesday: Consideration of Suspensions: H.R. ____, Stem Cell Therapeutic and Research Act of 2005. Consideration of H.R. 810, Stem Cell Research Enhancement Act of 2005 (subject to a rule). Consideration of H.R. 2419, Energy and Water Development and Related Agencies Appropriations Act for FY 2006 (open rule, one hour of debate):

Extensions of Remarks, as inserted in this issue

HOUSE

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