SENATE—*Monday, January 29, 2001*

The Senate met at 12 noon and was called to order by the Honorable GEORGE ALLEN, a Senator from the State of Virginia.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray.

Dear God, You constantly are seeking us. Our desire to pray arises in our hearts because You want to love, guide, inspire, and empower us. The greatest gift we can receive in this time of prayer is more of You. Whatever else You give or withhold is to draw us closer to You.

In our world of politics, so often the question is, ''Who gets the glory?'' We confess that often we become obsessed by concern over whether we have been recognized for our abilities or rewarded for our accomplishments. Your admonition to us through Jeremiah helps us order our priorities. ''Let not the wise man glory in his wisdom, let not the mighty man glory in his might, nor let the rich man glory in his riches, but let him who glories glory in this, that he understands and knows Me, that I am the Lord, exercising loving kindness, judgment, and righteousness in the earth. For in these I delight.''—Jeremiah 9:23–24.

We dedicate this new week to delight in what delights You. You are the only One we want to please. You are our heart's delight! Amen.

PLEDGE OF ALLEGIANCE

The Honorable GEORGE ALLEN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 29, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GEORGE ALLEN, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. ALLEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader, the Senator from Mississippi, Mr. LOTT.

Mr. LOTT. Mr. President, are there any other proceedings or announcements that need to be made at this time?

The PRESIDENT pro tempore. Not at this time.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will be in a period of morning business until 2 p.m., with the two leaders or their designees in control of that time. Following morning business, the Senate will begin consideration of Gale Norton's nomination to be Secretary of the Interior. Under the previous order that was entered into last week, there will be up to 4 hours of debate on the Norton nomination during today's session. Tomorrow the Senate will complete debate on the Norton nomination as well as consider the nominations of Governor Whitman to be the Environmental Protection Agency Administrator and Elaine Chao to be Secretary of Labor. Those confirmation votes are scheduled to occur at 2:45 p.m. tomorrow. Following those votes, the Senate will begin consideration of the nomination of John Ashcroft to be Attorney General. A vote on that nomination is expected prior to the Senate adjourning this week.

I should say that while the vote in the Judiciary Committee on Senator Ashcroft was delayed until this week, I believe there will be a vote on it either Tuesday or Wednesday morning. I hope we can begin the debate on his nomination as early as tomorrow afternoon and continue, if necessary, into the night and Wednesday and into the night and into Thursday—all if necessary.

I had a brief conversation with Senator DASCHLE this morning about the schedule for the next month or so, but we did not get into a deep discussion about exactly how to proceed after the votes that are now scheduled at 2:45 tomorrow afternoon. We expect to meet later on today, and as we get an agreement of how we can proceed, certainly we will notify our Members to that effect.

I do want to say also, I firmly believe that Senators should have every opportunity to question the nominees to the President's Cabinet, and to make statements on the floor if they choose so there can be a full reading of the record and a discussion of their record. But I also think it is important that we do come to a conclusion and reach a vote.

There has been good cooperation on both sides of the aisle, and from committees, over the past month when they were chaired by Democrats and last week as it continued under Republican leadership. We will have completed all the nominations but one by tomorrow afternoon. I hope we can move to that nomination expeditiously also.

Again, I am sure we will have a full debate, but I think after a reasonable period of time we should come to a vote so the Justice Department can have an Attorney General in place and can begin to do the very important job that he will have to carry forward.

I thank my colleagues for their attention and look forward to the debate this week and working with the leadership on the schedule.

Mr. LEAHY. Mr. President, if the distinguished Senator will yield for a comment?

Mr. LOTT. I will be glad to yield.

Mr. LEAHY. On the nomination of Senator Ashcroft to be Attorney General, I understand the White House actually sent the nomination up this morning. But even though they had not sent it until today, to try to accommodate the new President, we held hearings prior to the inauguration of the new President. I think we had an equal number of witnesses on both sides. There may have been one more for Senator Ashcroft than against, but anyway, it was completed during that time. Answers that were submitted came in this weekend.

I know the distinguished chairman of the committee, Senator HATCH, is out of the country, but I am perfectly willing, certainly on this side, to go forward with the committee vote on him as soon as he comes in, especially now that the papers have come up from the White House today. I notified the President's office this morning—speaking about Senator Ashcroft—I will not take part in any filibuster, nor do I expect there to be any filibuster on this nomination. I assure the distinguished majority leader we moved as rapidly as we could. We now actually have the nomination and the schedule is now in the hands of my friend from Mississippi.

Mr. LOTT. I thank the Senator from Vermont for that information. I think it is appropriate we actually receive the nomination before we vote—a little small detail but that has been taken care of.

Mr. LEAHY. It always helps.

Mr. LOTT. I will be talking further to your leadership about how we schedule it this week, and I look forward to getting it completed as soon as possible.

I yield the floor, Mr. President.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m. Under the previous order, the time until 1 p.m. shall be under the control of the Democratic leader, or his designee.

The Senator from Nevada, Mr. REID.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent the time for morning business on the Democratic side be extended until the hour of 1:10 and then the Republicans would, of course, have the next hour.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. The Senator from Nevada.

NOMINATION

Mr. REID. Mr. President, as the majority leader indicated, we have done really a good job of approving the nominations of the new President. By tomorrow afternoon, 12 of the 13—I think that is the right number—will have been approved. Anyway, all but one will have been approved.

While the Senator from Vermont is on the floor, I extend to him the appreciation of the entire Democratic caucus for the way the hearings have been conducted.

First, as Senator LEAHY was chairman of the committee, and then following that, working as the ranking member, this is a lot of heavy lifting.

I talked to someone today, and they asked me: Why is it taking so long? I indicated that it is taking a long time because—let's assume Vice President Gore had been elected President, and I just pick a name. Let's assume Senator KENNEDY had been selected to be the Attorney General for the United States rather than John Ashcroft, two people who have served this Senate on different sides of the political spectrum. I think the Republicans would have taken a lot of time to go over all the things Senator KENNEDY had said in speeches and things he had said on the Senate floor.

That is what we are doing. We are looking at the record of the designate for Attorney General, what he said when he was attorney general, what he did when he was attorney general, what he did when he was Governor, and what he did in the Senate.

I extend my appreciation to the Senator from Vermont for the job that has been done. Senator LEAHY, prior to coming here, was a prosecutor. He had to prepare his cases to make sure all the evidence was brought before the jury and/or the court. That is in effect what he is doing, but in this instance the jury is the 100 Members of the Senate. Without a good record, we cannot make a good decision.

I have not had the benefit of sitting through all of these hearings as has the Senator from Vermont. Therefore, he must provide us, through the committee procedures, all he believes is important to be brought to the floor of the Senate. To this point he has, as usual, done an outstanding job. For the third time this morning, I extend the appreciation of the entire Democratic Conference for giving us information upon which we can make a decision regarding the Attorney General-designate that has been sent to us by the President.

I personally have not made up my mind as to what I am going to do. Therefore, I am depending on the Senator from Vermont to give me his direction, his leadership. I think it is so important that we all take what has gone on in that committee to heart.

I have said publicly on other occasions that this is not a decision only Democrats will have to make. I hope the Republicans will also keep an open mind before rushing to a decision. I have been very disappointed in some of my friends on the other side of the aisle who, prior to a single witness testifying, said they were going to vote for Senator Ashcroft. I think they should also keep an open mind and base their decision on what has transpired before the Judiciary Committee.

I also take what the Senator from Vermont has said to heart. People have things to say. I do not know who wants to speak. We will certainly know before this debate takes place, but this is not a time to restrict—and I know the majority leader has not suggested that—restrict how much time people can take. We want to make sure there is full opportunity for people to say what they want to say.

I have been contacted by a number of my colleagues who are voting for and voting against Senator Ashcroft and who want to spend some time on the Senate floor explaining that position. The floor activities will be, of course, under the direction of the Senator from Vermont who is the ranking member on the Judiciary Committee. I look forward to a good debate. It should be a high point for the Senate.

The ACTING PRESIDENT pro tempore. The Senator from Vermont, Mr. LEAHY.

Mr. LEAHY. Mr. President, I thank my dear friend, the senior Senator from Nevada, for his kind words. As always, we rely on his leadership here, too. I appreciate what he said.

NOMINATION OF JOHN ASHCROFT

Mr. LEAHY. The President of the United States sent to the Senate the nomination of John Ashcroft to be the Attorney General of the United States. In advance of him sending it, to accommodate the new President and expedite the consideration of the nomination, I convened 3 days of hearings on this nomination over the 4-day period from January 16 to January 19.

The Republican leadership had announced weeks ago that all 50 Republican Senators would be voting in favor of this nomination, but I declined to prejudge the matter.

The Committee on the Judiciary has done the best it could to handle this nomination fairly and fully, and we did it through hearings of which all members of the committee, on both sides of the aisle, and all Members of the Senate I believe can be proud.

Having reviewed the hearing record and the nominee's responses to written follow-up questions from the Judiciary Committee, I come today to announce and explain my opposition to the nomination of John Ashcroft to be the Attorney General of the United States.

I take no pleasure in having reached this decision. I have voted or will be voting to confirm nearly all of the President's Cabinet nominees. No one in this Chamber more than I would have wanted a nomination for Attorney General that the Senate could have approved unanimously. As the ranking member of the Senate Judiciary Committee, I am going to be working closely with the new Attorney General, often on a daily basis. I would have wanted to begin that relationship with enthusiastic support for whomever the President chose.

I also had the privilege of working with John Ashcroft during the 6 years he served as a Senator, and I consider it a privilege. Most of us know him and like him. I admire his personal devotion to his family and to his religion. While we are not always in agreement, I respect his commitment to the principles he firmly holds, and I respect his right to act on those principles.

The fact that many of us served with Senator Ashcroft and know and like him does not mean we should not faithfully carry out our constitutional responsibility in acting on this nomination. No one nominated to be Attorney General of the United States should be treated in any special way, either favorably or unfavorably, by this body because he or she once served in the

Senate. Our guide must be constitutional duty, not friendship.

Most of us believe that a President has a right to nominate to executive branch positions those men and women whom he believes are going to carry out his agenda and his policies, but it is only with the consent of the Senate that the President may proceed to appoint.

The Constitution, interestingly enough, is silent on the standard Senators should use in exercising this responsibility. Every Senator has the task of discerning what that standard should be, and then each Senator has to decide how it applies in the case of any nomination, especially a controversial nomination such as that of Senator Ashcroft.

The Senate's constitutional duty is to advise and consent; it is not to advise and rubber stamp. Fundamentally, the question before us is whether Senator Ashcroft is the right person at this moment for the critical position of Attorney General of the United States.

This is an especially sensitive time in our Nation's history. Many seeds of disunity have been carried aloft by winds that often come in gusts, most recently out of Florida. The Presidential election, the margin of victory, the way in which the vote counting was halted by the U.S. Supreme Court remain sources of public concern and even of alienation. Deep divisions within our country have infected the body politic. We experienced the closest Presidential election in the last 130 years, possibly in our history.

For the first time, a candidate who received half a million more votes lost. The person who received half a million fewer popular votes was declared the victor of the Presidential election by 1 electoral vote.

The Senate, for the first time in our history, is made up of 50 Democrats and 50 Republicans. Although this session of Congress is less than 1 month old, each political party has already had its leader serve as majority leader. Both Senator DASCHLE and Senator LOTT have served as majority leader.

Senate committees have already operated under both Democratic and Republican chairs. I suspect Ph.D. dissertations will be written about this for years to come.

Much has been made of what has come to be known as the Ashcroft evolution, where activist positions he has held and valiantly advanced appear now to be suddenly dormant in deference, as he said, to settled law, at least during the confirmation hearings.

But leaving Senator Ashcroft aside for a moment, it must not be left unremarked that he is not the only politician who has sent conflicting signals about his view of Government. We have already seen two distinct sides of the new President since he was declared the victor after the November election. One side is the optimistic face of bipartisanship—a sincere and knowledgeable President determined to work with like-minded Democrats and Republicans to overhaul the way we educate our children. This is a side of hope, cooperation, and compromise. In fact, in his encouraging inaugural address barely 10 days ago, President Bush acknowledged the difficulties of these times and the very special needs of a divided nation. He said: ''While many of our citizens prosper, others doubt the promise, even the justice, of our own country.'' He recognized that deep differences divide us and pledged ''to work to build a single nation of justice and opportunity.'' I applaud President Bush for those words. At the luncheon after the inauguration, I told him how much those words meant to me.

These crucial weeks and months after the divisive election are an especially sensitive time, when hope and healing are waiting to emerge. But they are also fragile, like the first buds of the sugar maple in the spring in my own State of Vermont.

On the other side of the ledger, though, is the President's decision to send to the Senate the nomination of John Ashcroft. Senator Ashcroft is a man we know and respect, but a man we also know held some of the most extreme positions on a variety of the most volatile social and political issues of our time: Civil rights, women's rights, gun violence, discrimination against gay Americans, and the role of the judiciary itself.

Appointing the top law enforcement officer in the land is the place to begin, if the goal is to bring the country together. I wish the President had sent us a nomination for Attorney General who would unite us rather than divide us. But that did not happen. This is a nomination that had controversy written all over it from the moment it was announced. It should surprise no one that today we find ourselves in the middle of this battle. It should surprise no one that the polls in this country show the American people are deeply divided on this nomination.

It was, I believe, a crucial miscalculation from the President and his advisers to believe this nomination would have brought all of us together. Or perhaps, as some have suggested, it is an instance where consensus was not the objective.

Many organizations and their members have weighed in on either side of this debate. Some advocates for the nominee have been especially critical of the membership groups that oppose this nomination. It must be said that the only political pressure groups that have had a decisive role in this nomination are the far right wing elements of the Republican Party who insisted on this particular nominee and even bragged to the press that they vetoed other, more moderate, candidates—Republican candidates—for this job.

What is crystal clear to me is that the nomination of John Ashcroft does not meet the standard the President himself has set. In those who doubt the promise of American justice—and there are those—it does not inspire confidence in the U.S. Department of Justice.

The Senate can help mend these divisions, it can give voice to the disaffected, it can help to restore confidence in our Government, but only if it remains true to its own constitutional responsibilities. At a time of intense political frustration and division, it is especially important for the Senate to fulfill its duty.

One of the abiding strengths of our democracy is that the American people have opportunities to participate in the political process, to be heard, and to believe that their views are being taken into account. When the American people vote, every vote is important, every vote should be counted. Then when we hold hearings, and when we vote, we have to be cognizant that each of us has sworn an oath to uphold the Constitution. Each action we take as Senators has to be consistent with that oath.

There are 280 million Americans in this wonderful and great country of ours. Of those 280 million Americans, there are only 100 people who have the license and the obligation to vote on this nomination: 100 Members of the Senate, a body that should be the conscience of the Nation, and sometimes is. Two hundred eighty million Americans expect us to make up our minds on this.

There is a reason many of us believe that the job and role of Attorney General is the most important job in the Cabinet. Why? Because it is not simply a job where you carry out what the President tells you to do; it is far more than that. The extensive authority and discretion to act in ways that go beyond Presidential orders are part of the important role of the Attorney General and require that our Attorney General have the trust and confidence of all the people. Democrats, Republicans, moderates, conservatives, liberals, white, black, no matter who, rich, poor, they must all have confidence in this one Cabinet position above all others, because the Attorney General is a lawyer for all the people. He is the chief law enforcement officer of the country.

The Attorney General is not the lawyer for the President. The President has a White House counsel for that. The Attorney General is the lawyer for all of us, no matter where we are from, no matter what party we belong to. We all look to the Attorney General to ensure evenhanded law enforcement. And we look to the Attorney General for the protection of our constitutional rights—including freedom of speech,

the right to privacy, a woman's right to choose, freedom from Government oppression, and equal protection of the laws. The Attorney General plays a critical role in bringing the country together, bridging racial divisions, and inspiring people's confidence in their own Government.

Senator Ashcroft has often taken aggressively activist positions on a number of issues that deeply divide the American people. He had a right to take these activist positions. But we have a duty to evaluate how these positions would affect his conduct as Attorney General.

John Ashcroft's unyielding and intemperate positions on many issues raise grave doubts, both about how he will interpret the oath he would take as Attorney General to enforce the laws and uphold the Constitution and also about how he will exercise the enormous power of that office.

Let me be very clear on this. I am not objecting to this nominee simply because I disagree with him on ideological grounds. I have voted for many nominees with whom I have disagreed on ideological grounds. I am not applying the ''Ashcroft standard'' as he applied it to Bill Lann Lee and other Presidential nominees over the last 6 years. My conclusion is based upon a review of John Ashcroft's record as the attorney general and then Governor of Missouri, as a Senator, and also on his testimony before the Judiciary Committee. It is based on how he has conducted himself and what positions he has taken while serving in high public office while sworn to uphold the Constitution, basically the same oath one would take as Attorney General.

President Kennedy observed that to govern is to choose. What choices the next Attorney General makes about resources and priorities will have a dramatic impact on almost every aspect of the society in which we live. The American people are entitled to be sure not just that this nominee says he will enforce the laws on the books but also to be sure what those priorities are going to be, what choices he is likely to make, what changes he will seek in the law. Most importantly, we are entitled to know what changes he will seek in the constitutional rights that all Americans currently enjoy—that includes, of course, what positions he will urge upon the Supreme Court—in particular, whether he is going to ask the Supreme Court to overturn Roe v. Wade or to impose more burdensome restrictions on a woman's ability to secure legal and safe contraceptives.

On several of these issues, such as his lifelong opposition to a woman's right to choose, his support for measures to criminalize abortion even in cases of rape and incest, and his efforts to limit access to widely used contraceptives, Senator Ashcroft has moved far outside the mainstream. The controversial positions taken by this nominee and his record require us to reject this nomination as the wrong one for the critical position of Attorney General of the United States at this time in our history.

It is in part because I know John Ashcroft to be a person of strong convictions and consistency that I am concerned that he could not disregard those long-held convictions if he is confirmed by this body. It troubles me that he took essentially the same oath of office as attorney general of Missouri that he would take as Attorney General of the United States, but he acted differently than what he tells us he would do now. Senator Ashcroft assumed a dramatically different tone and posture on several matters during the course of his hearing.

The new John Ashcroft did not oppose the nomination of James Hormel because of his sexual orientation. The new John Ashcroft is now a supporter of the assault weapons ban. The new John Ashcroft is an ardent believer in civil rights, women's rights, and gay rights. The new John Ashcroft now believes Roe v. Wade is settled law. In fact, the more I heard him refer to matters he has consistently opposed, laws he consistently tried to rewrite, the more he referred to them as settled law, the more unsettling that became.

Occasionally, we would get a peek behind the confirmation curtain. What we saw was deeply disturbing. Senator Ashcroft was unrepentant in the way he torpedoed the nomination of Judge Ronnie White to the Federal district court, despite calls from some Republican Senators who personally apologized to Judge White for the shabby treatment he received. Senator Ashcroft, on the one hand, denied that sexual orientation had anything to do with his opposition to the Hormel nomination, then left the distinct, gratuitous impression that there was something unspoken, unreported, yet unacceptable about Mr. Hormel that somehow disqualified him from serving the United States as Ambassador to Luxembourg, even though Luxembourg said they would welcome his appointment as Ambassador.

Senator Ashcroft repeatedly declined to show the slightest remorse for his appearance at Bob Jones University, for the enthusiastically supportive interview he gave with a pro-confederate magazine, Southern Partisan, and for some of the most inflammatory language I have heard about the Federal judiciary since the bitter and violent days of the civil rights movement.

Most of us in this body have known the old John Ashcroft, but during the hearings we met a new John Ashcroft. Our challenge has been to reconcile the new John Ashcroft with the old John Ashcroft, to find the real John Ashcroft who would sit in the Attorney General's office. Were the demurrals of his testimony real, or were they delicate bubbles that would burst and evaporate a year or a month or a day from now under the reassertion of his long-held beliefs.

So we come back again to why all this matters. Why would we treat this position differently than, say, Secretary of Commerce or Transportation? Obviously, if he had been nominated to either of those, we would not have the controversy we now have. We treat it differently because of this: The position of Attorney General is of extraordinary importance. The judgments and priorities of the person who serves as Attorney General affect the lives of all Americans.

We Americans live under the rule of law. The law touches us all every day in ways that affect our safety and our health and our very rights as citizens. Our Attorney General is our touchstone in the fair and full application of our laws. The Attorney General not only needs the full confidence of the President, he or she also needs the full confidence of the American people.

The Attorney General controls a budget of more than $20 billion, directs the activities of more than 123,000 attorneys, investigators, Border Patrol agents, deputy marshals, correctional officers, other employees, in more than 2,700 Justice Department facilities around the country, actually more than 124 in foreign cities. The Attorney General supervises the selection and the actions of 93 U.S. attorneys and their assistants and the U.S. Marshals Service and its offices in each State. The Attorney General supervises the FBI and its activities around the world and in this country, as well as the INS, the DEA, the Bureau of Prisons, and a whole lot of other Federal law enforcement departments.

The Attorney General evaluates judicial candidates, recommends judicial nominees to the President, advises on the constitutionality of bills and laws. The Attorney General determines when the Federal Government is going to sue an individual or a business or even a local government. The Attorney General decides what statutes to defend in court, what arguments to make to the Supreme Court or other Federal courts, even State courts, on behalf of the U.S. Government.

As I said at the confirmation hearings for Edwin Meese to be Attorney General, while the Supreme Court has the last word in what our laws means, the Attorney General, more importantly, has the first word.

The Attorney General exercises broad discretion—in fact, most of that discretion is not even reviewed by the courts; one might say it is very rarely and then only sparingly reviewed by the Congress—over how to allocate that $20 billion budget, then how to distribute billions of dollars a year in law enforcement assistance to State

and local governments, and coordinate task forces on important law enforcement priorities. These are the priorities the Attorney General sets.

The Attorney General makes the decision when not to bring prosecution as well as when to bring prosecution, when to settle a case and when to go forward with a case. Having been a prosecutor, I know these are the decisions that can set policy more than anything that a Governor or a President or Member of Congress might do. A willingness to settle appropriate cases once the public interest has been served rather than to pursue endless and divisive and expensive appeals, as John Ashcroft did in the Missouri desegregation cases, is a critical qualification for the job.

There is no appointed position within the Federal Government that can affect more lives in more ways than the Attorney General. No position in the Cabinet is more vulnerable to politicization by one who puts ideology and politics above the law. We should expect —all of us, not just 100 Senators but 280 million Americans—to have an Attorney General who will ensure evenhanded law enforcement and equal justice for all, protection of our basic constitutional rights to privacy, including a woman's right to choose and our rights to free speech and to freedom from government oppression. We look to the Attorney General to safeguard our marketplace from predatory and monopolistic activities and to protect our air and our water and our environment.

The Attorney General, among all the members of the President's Cabinet, is the officer who must be most removed from politics, if he is going to be effective and if he is going to fulfill the duties of that office.

Now, I have a deep and abiding respect for the Senate and its vital role in our democratic government. Twenty-six years in the Senate have given me the privilege to know and work with hundreds of others in this body. I cherish those friendships, and not only the friendships of the other 99 Senators here today, but the others I have served with over two-and-a-half decades. But far beyond friendship, my first duty as a U.S. Senator from Vermont is to the Constitution. I have sworn to uphold the Constitution.

In the aftermath of the national election in November, I have gone back to that Constitution many times. This weekend, I re-read the appointments clause.

I cannot give consent to the nomination of John Ashcroft to be Attorney General and thus be true to my oath of office. I do not have the necessary confidence that John Ashcroft can carry on the great tradition and fulfill the important role of Attorney General of the United States.

The American people certainly are not united in any such confidence. This nomination does not help President Bush to fulfill his pledge to unite the Nation.

I will vote no when the Senate is asked to give its advice and consent to the nomination of John Ashcroft to be Attorney General of the United States.

To further elaborate, Mr. President, the week before the Inauguration of the new President, the Senate Judiciary Committee conducted three days of hearings over four days on the nomination of former Senator John Ashcroft to be the next Attorney General of the United States. We heard not only from the nominee but also from thirteen witnesses called on his behalf and thirteen witnesses who opposed his nomination. While a number of my colleagues, most notably the entire Republican caucus, expressed support for this nomination before the hearing, I declined to pre-judge the nominee until I had heard his testimony and that of other witnesses, and reviewed their responses to follow-up written questions. I rise today to express my opposition to this nomination.

The Appointments Clause of the Constitution gives the Senate the duty and responsibility of providing its advice and consent. The Constitution is silent on the standard that Senators should use in exercising this responsibility. This leaves to each Senator the task of figuring out what standard to apply and, most significantly, leaves to the American people the ultimate decision whether they approve of how a Senator has fulfilled this constitutional duty.

Many of us believe that the President has a right to appoint to executive branch positions those men and women whom he believes will help carry out his agenda and policies. Yet, the President is not the sole voice in selecting and appointing officers of the United States. The Senate has an important role in this process. It is advise and consent, not advise and rubberstamp. The Senate has a duty to take this constitutional function seriously.

There was a time, of course, when ''senatorial courtesy'' meant cursory attention to former members of this body. Senators nominated to important government positions did not even appear before Committees for hearings. Certainly, the Senate was and should continue to be courteous to all nominees, but we should not use a double standard for members who have not been re-elected to the Senate. No one nominated to be Attorney General should be treated specially either favorably or unfavorably just because he once served in the Senate. The fact that many of us served with, know and like John Ashcroft does not excuse the Senate from faithfully carrying out its constitutional responsibility with regard to this nomination. Our constitutional duty rather than any friendship for Senator Ashcroft must guide us in the course of these proceedings and on the final vote on his nomination.

This is especially the case in these times when the new President is emerging from a disputed election that was decided after vote counting in Florida was ordered to stop through the intervention of the U.S. Supreme Court. The resolution of this election remains a source of public concern and sharp division in our country, reflected in a deeply divided electorate and demands from all sides for bipartisan leadership.

These are not auspicious beginnings for a new Administration and this nomination has been a troubling signal. John Ashcroft has taken aggressively activist positions on a number of issues on which the American people feel strongly and on which they are deeply divided. On several of those issues, such as his lifelong opposition to a woman's right to choose and support for measures to criminalize abortion, even in cases of rape and incest, and to limit access to widely-used contraceptives, he is far outside the mainstream.

The President has said his choice is based on finding someone who will enforce the law, but we need more than airy promises on this score to vest the extensive authority and important role of the Attorney General in John Ashcroft. His assurances that he would enforce the law cannot be the end of our inquiry, as some would urge. The heart of the Attorney General's job is to exercise discretion in deciding how and to what extent the law should be enforced, and what the Government will say it means.

The essence of prosecutorial discretion is that some laws get enforced more aggressively than others, some missions receive priority attention and some do not. No prosecutor's office—unless you are an independent counsel—has the resources to investigate every lead and prosecute every infraction. A prosecutor may choose to enforce those laws that promote a narrow agenda or ones that protect people's lives and neighborhoods. We need an Attorney General who has the full trust and confidence of the people that the laws will be enforced fairly and across the board, and that any changes the Attorney General will seek legislatively or in defining critical constitutional rights before the U.S. Supreme Court will be for the benefit of all Americans and reflect the mainstream of our values.

John Ashcroft's unyielding and intemperate positions on many issues raise grave doubts in my mind both about how he will interpret the oath he would take as Attorney General to enforce the laws and uphold the Constitution, and about how he will exercise the enormous discretionary power of that office. Let me be clear: I am not objecting to this nominee simply because I disagree with him on ideological grounds.

My conclusion is based upon a review of John Ashcroft's record as the Attorney General of Missouri and then Governor, as a United States Senator, and his testimony before the Judiciary Committee. That is to say, it is based on how he has conducted himself, and what positions he has taken, while serving in high public office and while sworn to uphold the Constitution. Let me give some specific examples.

As Governor, John Ashcroft vetoed two bipartisan bills that would have made it easier to register voters in the City of St. Louis, a city with a very substantial African-American population. These bills would have directed election authorities to allow outside groups, such as the League of Women Voters, to register voters. They were designed to rectify an imbalance between St. Louis County, a predominantly white area where outside groups were allowed to register voters, and St. Louis City, whose election commissioners (appointed by John Ashcroft) forbade the practice. Due in large part to that imbalance, only 73 percent of St. Louis City residents were registered to vote, while 81 percent of County residents were registered. (St. Louis Post-Dispatch, February 2, 1989). Faced with an opportunity to correct that imbalance, however, Governor Ashcroft refused. He vetoed one bill that dealt specifically with the St. Louis City Election Board, claiming it was unfair to single out one region for this requirement. The following year, the legislature addressed that criticism and passed a bill that pertained to the entire state. Nonetheless, Governor Ashcroft vetoed it again. (New York Times, January 14, 2001).

This opposition to legislation that would have ensured that black and white voters were treated equally in Missouri is all the more disturbing in light of the serious charges that have arisen in the wake of the Florida vote in the presidential election. It is critical that our new Attorney General have a sterling record on voting rights issues.

Neither Senator Ashcroft's handling of this matter as Governor nor his response to the Committee's questions about it inspire confidence. Indeed, it was distressing that Senator Ashcroft, when given the chance to explain his actions, chose to engage in an apparent ''filibuster'' by reading his entire veto messages, which were neither concise nor responsive to the questions he was asked. As a result, the time of his questioner expired and Senator Ashcroft was able to avoid confronting this issue fairly and completely.

Set against John Ashcroft's questionable record on voting rights issues, his record while he served as Attorney General and Governor of Missouri on fighting a voluntary desegregation plan for the St. Louis school system is particularly troublesome. My concern is not merely that he fought a voluntary desegregation plan, since I can well appreciate the volatility of using busing to achieve equal educational opportunity. My concern is over the manner in which he aggressively fought this voluntary plan, the defiance he showed to the courts in those proceedings and his use of that highly-charged issue for political advantage rather than for constructive action. Most significantly, on at least four crucial points, the testimony he gave to the Committee about this difficult era in Missouri's history was incomplete and misleading, which he essentially conceded when I corrected the record on the second day of the hearing.

First, Senator Ashcroft repeatedly claimed during the first day of his testimony that the state was not a party to the lawsuit brought to desegregate the schools in St. Louis. He testified, in response to my questions that ''the state had never been a party to the litigation.'' (1/16/01 Tr., at p. 101). He repeated this assertion that the state was not a party to the litigation, stating, ''if the state hadn't been made a party to the litigation and the state is being asked to do things to remedy the situation, I think it's important to ask the opportunity for the state to have a, kind of, due process, and the protection of the law that an individual would expect,'' (Id., at p. 101).

Yet, Missouri was, indeed, made a party to the St. Louis lawsuit in 1977, the year after Ashcroft took over as the state's Attorney General. See Adams v. United States, 620 F.2d 1277,1285 (8th Cir.), cert. denied, 449 U.S. 826 (1980). I pointed out this fact at the outset of the second day of the hearings. (1/17/01 Tr., at p. 2–3), and Senator Ashcroft thanked me for the opportunity to clarify the record. (Id., at 2–3).

Second, Senator Ashcroft also repeatedly claimed in his testimony that the state was not liable. He testified that ''I opposed a mandate by the federal government that the state, which had done nothing wrong, found guilty of no wrong, that they should be asked to pay . . .'' (1/16/01 Tr., at p. 100). Again, he testified ''the state had not been found really guilty of anything.'' (Id.). He explained that ''I argued on behalf of the state of Missouri that it could not be found legally liable for segregation in St. Louis schools because the state had never been party to the litigation.'' (Id.). He further explained, ''Frankly, I thought the ruling by the court that the state would have to pay when there was not showing of a state violation to be unfair.'' (Id. at p. 101). He maintained this position in response to questions by Senator KENNEDY and testified that segregation in St. Louis ''was not a consequence of any state activity.'' (Id., at p. 123).

In fact, however, the state was found directly liable for illegal school segregation in St. Louis. In March 1980, the Eighth Circuit ruled that both the state and the city school board were liable for segregation. Adams v. United States, 620 F.2d 1277, 1280, 1291, 1294–95 (8th Cir.), cert. denied, 449 U.S. 826 (1980). The state's improper conduct included previously mandating, over a period of years, the inter-district transfer of black students into segregated city schools to maintain segregation. Id. at 1280. In other words, when Senator Ashcroft testified that the State ''had not been found really guilty of anything,'' the fact was that it had been found guilty of imposing forced busing on African-Americans in order to segregate them. And the ''mandate by the federal government'' that he opposed was a mandate to remedy the State's own flagrant violation of Brown v. Board of Education.

In June 1980, the district court made clear the state's liability, explaining that ''the State defendants stand before the Court as primary constitutional wrongdoers who have abdicated their remedial duty. Their efforts to pass the buck among themselves and other state instrumentalities must be rejected.'' Liddell et al. v. Bd. of Ed. of City of St. Louis, 491 F. Supp. 351, 357, 359 (E.D. Mo. 1980), aff'd 667 F.2d 643 (8th Cir.), cert. denied, 454 U.S. 1081 (1981). Attorney General Ashcroft appealed this liability finding, but the Eighth Circuit rejected his argument as ''wholly without merit.'' Liddell, supra, 667 F.2d at 655. The U.S. Supreme Court denied the state's attempt to appeal the decision. 454 U.S. 1081, 1091 (1981).

Again, in 1982, the Eighth Circuit reiterated that the state defendants were ''primary constitutional wrongdoers'' that could be ordered to take remedial action. Liddell, 677 F.2d 626, 628–29, (8th Cir.), cert. denied 459 U.S. 877 (1982). The U.S. Supreme Court again denied the state's attempted appeal.

Yet again, as his attorney general term was ending in 1984, the Eighth Circuit rejected the state's arguments against voluntary city-suburb desegregation, and the Supreme Court again denied review. Liddell, 731 F.2d 1294, 1305–9 (8th Cir.), cert. denied, 469 U.S. 816 (1984).

I pointed out the multiple findings of state liability by the federal courts at the outset of the second day of the hearing, and Senator Ashcroft conceded the accuracy of that correction. (1/17/01 Tr., at p. 2–3). It is a shame, indeed, that he only acknowledged the settled law of the case 20 years after the courts decided it.

Third, Senator Ashcroft testified that in the St. Louis case, ''[i]n all of the cases where the court made an order, I followed the order, both as attorney general and as governor.'' (1/16/01 Tr., at p. 125–126). He repeated this claim in response to questions from

Senator HATCH, stating that ''we complied with the orders of the federal district court and of the Eighth Circuit court of appeals and of the United States Supreme Court.'' (1/17/01 Tr., at p. 197).

While as attorney general, John Ashcroft may have complied with the technical terms of the court orders, his vigorous and repeated appeals show that he did so reluctantly and the scathing criticism he received from the courts shows that they lacked confidence in how he was fulfilling his obligations as an officer of the court. This is troubling. In 1981, the federal district court ordered the state and the city board to submit voluntary desegregation plans, but attorney general Ashcroft failed to comply. Consequently, the court threatened in March 1981 to hold the state in contempt if it did not meet the latest deadline and explicitly criticized the state's ''continual delay and failure to comply'' with court orders. (AP 3/5/81). The court also stated the following: ''The court can draw only one conclusion—the state has, as a matter of deliberate policy, decided to defy the authority of the court.''(St. Louis Post-Dispatch 3/5/81). The district court also stated in a 1984 order, ''if it were not for the state of Missouri and its feckless appeals, perhaps none of us would be here today'' (St. Louis Post-Dispatch, December 30, 1984).

Fourth, Senator Ashcroft denied that he ''opposed voluntary desegregation of the schools'' and said ''nothing could be farther from the truth.'' (1/16/01 Tr., at p. 99). He asserted that ''I don't oppose desegregation'' and that ''I am in favor of integration,'' and only opposed the State being asked to pay this very substantial sum of money over a long course of years.'' (Id., at p. 101).

I take Senator Ashcroft at his word that he supports integration. This only makes more disturbing his public statements made in the heat of political campaigns that exacerbated an already difficult situation over desegregation in Missouri schools. In 1981, he opposed a plan by the Reagan administration for voluntary desegregation, based not just on cost but also because it would allegedly attract ''the most motivated'' black city students, even though the city school board itself disagreed. (Newsweek, May 18, 1981). I cannot understand how John Ashcroft, leading advocate of vouchers to facilitate ''parental choice'' for those motivated to leave the public school system, could at the same time oppose the parental choice involved in voluntary school desegregation for ''motivated'' African-Americans. In 1984, he assailed the St. Louis desegregation plan as an ''outrage against human decency.'' (St. Louis Post-Dispatch, June 15, 1984). In his 1984 gubernatorial campaign, he proudly stated that he had done ''everything in his power legally'' to fight the plan and suggested that listeners should ''[a]sk Judge (William) Hungate who threatened me with contempt.'' (UPI, February 12, 1984).

Commentators at the time were critical of John Ashcroft's use for political gain of the difficult challenges of desegregating the schools. For example, the Post-Dispatch commented that Ashcroft and his Republican gubernatorial primary opponent in 1984 were ''trying to outdo each other as the most outspoken enemy of school integration in St. Louis,'' and were ''exploiting and encouraging the worst racist sentiments that exist in the state.'' (St. Louis Post-Dispatch, March 11, 1984). An African-American newspaper, the St. Louis American, had even harsher words for Ashcroft. ''Here is a man who has no compunction whatsoever to standing on the necks of our young people merely for the sake of winning political favor,'' it wrote. ''Ashcroft implies at every news conference, radio and television interview that he couldn't care less what happens to black school children.'' (St. Louis Post-Dispatch, February 29, 1984).

Finally, during the course of the hearing, Senator Ashcroft tried to deflect any criticism of his own actions over desegregation by trying to blame others. Specifically, he twice cited in his oral testimony and again in his responses to written questions, an incident ''when the state treasurer balked at writing the checks'' and ''it became necessary to send a special delegation from my office to him to indicate to him that we believed compliance with the law was the inescapable responsibility . . . fortunately, the state treasurer at the time made the decision to abandon plans for a separate counsel and to go ahead and make the payments.'' (1/17/01 Tr., at p. 196; see also 1/16/01 Tr., at p. 100–103).

The treasurer to whom Senator Ashcroft referred was the late Mel Carnahan. As I clarified on the record, treasurer Carnahan faced personal liability for making a payment without the warrant of the commissioner of administration of the state of Missouri and properly issued the check as soon as he had the appropriate legal authority to do so. (1/18/01 Tr., at p. 130). In other words, Mel Carnahan did not, as Senator Ashcroft implied, seek to defy the court's order; he merely made sure that legally mandated procedures for complying with that order were followed. The insinuation that Mel Carnahan was the obstacle to desegregating Missouri's schools is false and reprehensible. Governor Carnahan is rightly credited with bringing this lengthy litigation to a close and fashioning progressive, bipartisan legislation to appropriate funds sufficient for a remedy and allowing the court to withdraw from active supervision of the case.

In my view, Senator Ashcroft's thinly-veiled disparaging testimony about his deceased political opponent were mean and offensive.

In his written response to questions from Senator KENNEDY, Senator Ashcroft presents his role in the desegregation case as simply an attempt to oppose interdistrict remedies, not intradistrict remedies. This is the same argument he made as Attorney General to justify bringing appeals from desegregation orders in 1981, 1982, and 1984. As explained above, the courts repeatedly rejected this argument. It should be noted in this regard that John Ashcroft did not merely appeal those orders that imposed interdistrict remedies—he also appealed orders mandating that the State aid in making improvements within St. Louis itself, and orders that simply told the State to enter into discussions concerning the possibility of interdistrict cooperation. See, e.g., Liddell v. Board of Education, 667 F.2d 643. It should also be noted that the courts found that Missouri was constitutionally responsible for segregation in St. Louis in part because it mandated the transfer of black suburban students into segregated city schools to enforce segregation. Liddell v. Bd. of Educ., 491 F. Supp. 351, 359 (E.D. Mo. 1980).

Ignorance Is His Defense—Southern Partisan and Bob Jones University. Senator Ashcroft's record on the racially-charged issues of voting rights and desegregation make more worrisome his explanations for and associations with Southern Partisan magazine and Bob Jones University. In short, his explanation is ignorance.

In 1998, Senator Ashcroft gave an interview to the Southern Partisan, a magazine which has gained a reputation for espousing racist views due to its praise in past articles of such figures as former KKK leader David Duke and its defense of slave-holders. At the hearing, Senator BIDEN asked Senator Ashcroft about this interview and his association with this publication. Senator Ashcroft disavowed any knowledge about the publication or its reputation. He said, ''On the magazine, frankly, I can't say that I knew very much at all about the magazine. I've given magazine interviews to lots of people. . . . I don't know if I've ever read the magazine or seen it'' (1/17/01 Tr., p. 146). He told Senator FEINGOLD that he thought the magazine was ''a history journal.'' (Id., at 219).

Yet, it is difficult to square Senator Ashcroft's quoted remarks in the Southern Partisan interview with his purported ignorance about the publication. He praised the magazine, saying ''Your magazine also helps to set the record straight'' on what he called ''attacks the [historical] revisionists have brought against our founders.'' He added even more praise, saying, ''You've got a heritage of doing that, of defending Southern patriots like Lee,

Jackson and Davis.'' Southern Partisan, at 28 (2d Quarter, 1998). It is difficult to reconcile Senator Ashcroft's testimony not to have known ''very much at all'' about the magazine with his own statements in the interview praising its ''heritage.'' Indeed, he subsequently admitted that ''I know they've been accused of being racist.'' (1/17/01 Tr., p. 152).

Putting that aside, however, I find it more troubling that despite the multiple opportunities he was given to distance himself from this magazine and evidence regret for giving the interview, he refused to do so. Instead, he responded with a platitude saying, ''I condemn those things which are condemnable.'' (Id., at 147). We need more than platitudes from the next Attorney General. He made clear that what he mostly regretted is that this interview became an issue, saying: ''And I regret that speaking to them is being used to imply that I agree with their views.'' (1/17/01 Tr., p. 146). Would it really hurt him to say, ''I made a mistake. It's an obnoxious publication and its positions are offensive''? It troubles me to see a public official going around applauding racially offensive institutions, and it troubles me even more to see him refusing to admit his mistakes and try to heal the offense.

The same claim of ignorance was Senator Ashcroft's excuse for accepting a speaking engagement and an honorary degree from Bob Jones University. This school is not accredited. It did not admit African American students until 1971. Then, from 1971 to May 1975, the University accepted no applications from unmarried African American students, but did accept applications from African Americans ''married within their race.'' Bob Jones University v. U.S., 461 U.S. 574 (1983). Even after it lost its tax exempt status in the mid-1970's, Bob Jones University maintained a ban on interracial dating. This policy changed on March 3, 2000, when Bob Jones announced on Larry King Live that the policy was dropped after an outcry over the visit to the University by then candidate, now President Bush.

The school, however, continues to discourage interracial dating. After announcing that the school would drop the interracial dating ban, Bob Jones told the student body at their daily chapel service the following day that they must tell their parents if they became involved in an interracial relationship and parents must send a letter to the dean of men or women approving the relationship before the university would allow it. Two days later, he announced that the school would drop the parental permission requirement but that students who wanted to engage in ''serious dating relationships'' against their parents' approval would be referred to counseling by the university. That is mandatory special ''counseling'' for adults engaged in interracial dating in the year 2001. That is a disgrace to our nation and all that we stand for.

As recently as March 2000, Bob Jones, the leader of the school, made clear on national TV that he views the Pope as the ''anti-Christ'' and both Catholicism and Mormonism as ''cults.'' Senator Ashcroft claimed that he did not know about the school's beliefs at the time he spoke. (St. Louis Post-Dispatch, March 3, 2000). Yet, when he spoke to the students at Bob Jones University, he appeared to condone the policies of the school from which they were graduating by thanking each of them ''for preparing themselves in the way that you have.''

His assertion of ignorance was once again met with some skepticism, as even the press pointed out that ''he was attorney general [of Missouri] when the U.S. Supreme Court denied the university's tax exempt status, and was governor when a state Supreme Court candidate ignited a controversy with pro-Bob Jones statements in 1992.'' (Id.). Specifically, in 1992, then Governor Ashcroft considered appointing Carl Esbeck to fill, at the time, the seventh and last open seat on the Missouri Supreme Court, but this proposed nomination proved controversial due to Esbeck's criticism of the U.S. Supreme Court's ruling that Bob Jones University was not entitled to tax-exempt status due to its discriminatory practices. (St. Louis Post-Dispatch, August 6, 1992). Having seen the offense caused by his own efforts to appoint a judge who had been supportive of Bob Jones University in 1992, one might have expected Senator Ashcroft to be more sensitive, and more cautious about accepting an honorary degree from the same institution seven years later.

Again, as with the Southern Partisan interview, Senator Ashcroft has never apologized for accepting an honorary degree from this school or for associating with it. Instead, during his unsuccessful Senatorial campaign, in response to his opponent's challenge to take this action, Senator Ashcroft ''fired a puzzling return volley, saying he will give back all his degrees if Mr. Carnahan will return campaign contributions from pro-choice groups.'' (St. Louis Post-Dispatch, March 3, 2000). If Senator Ashcroft believes that support for Roe v. Wade is on a moral, legal, or political par with racial bigotry and the demonization of the Catholic and Mormon Churches, he is further out of the mainstream than I thought. If not, he missed a major opportunity to heal an offense for a great many Americans with an evasive and irrelevant response.

By contrast, after then candidate, now President Bush spoke at Bob Jones University in February 2000, he expressed regret for the appearance, in recognition of the ''anti-Catholic and racially divisive views'' associated with that school. Another Republican colleague, who also received an honorary degree from Bob Jones University, Representative ASA HUTCHINSON, later took a public step to disassociate himself from the school, calling the school's policies ''indefensible.'' (New York Times, March 1, 2000).

Senator Ashcroft apparently has no regrets about accepting an honorary degree from Bob Jones University. On the contrary, Senator Ashcroft made clear in response to questions from both Senator DURBIN and Senator FEINSTEIN that he would consider a repeat visit to Bob Jones University as U.S. Attorney General. (1/17/01 Tr., pp. 237, 243). Senator DURBIN asked, ''you would not rule out, as attorney general of the United States, appearing at that same school?'' Senator Ashcroft responded, ''Well, let me just say this, I'll speak at places where I believe I can unite people and move them in the right direction.'' (Id. at p. 237). Senator FEINSTEIN asked ''In six months, you receive an invitation from Bob Jones University. You now know about Bob Jones University. Do you accept that invitation?'' Senator Ashcroft indicated that, ''it depends on what the position of the university is; what the reason for the invitation is,'' but the short answer is ''I don't want to rule out that I would ever accept any invitation there.'' (Id., at p. 243).

This response was dismaying for a man who seeks the post of lawyer and advocate for all the people of this country. During the hearing, I suggested that he ''put that honorary degree in an envelope and send it back and say this is your strongest statement about what you feel about the policies.'' (Id., at p. 262). Maybe at a minimum he could send it back with a statement that he will consider associating with Bob Jones University again if and when the school publicly disavows all of its racially and religiously offensive positions. That, at least, would be better than hanging a degree from an infamous bastion of discrimination on the walls of the Attorney General's office. Ignorance is a weak defense for associating with institutions that notoriously espouse racially insensitive and discriminatory philosophies and policies. An inability to recognize one's mistakes, and to acknowledge the sensitivities of others, is a serious flaw in a man who would be the Attorney General of all the people.

Finally, despite the deep concern about his judgment in appearing at Bob Jones University, Senator Ashcroft has been less than forthright with the Committee. During my short tenure as Chairman of the Committee, I asked him personally for a copy of his commencement address, in whatever form it was in, at a meeting on January 4, 2001. I then wrote to Vice President CHENEY, as head of the transition office, twice requesting copies of any

tape recordings or transcriptions of that speech. In my January 11 letter, I reported that Bob Jones University advised my staff a tape was available but would not be released without Senator Ashcroft's permission and specifically requested ''a tape of the commencement ceremony in May, 1999, in which Senator Ashcroft participated.'' The next day, Senator Ashcroft furnished the Committee with a transcription of the speech, on the same day the videotape of Senator Ashcroft's speech was broadcast on Larry King Live. This videotape has never been provided to the Committee. Moreover, the Committee's request for the videotape of the entire commencement proceeding remains unanswered.

Senator Ashcroft proudly told Southern Partisan magazine that ''I have been as critical of the courts as any other individual, probably more than any other individual in the Senate. I have stopped judges . . . and I will continue to do so.'' In fact, he led the Senate in the politics of personal destruction by distorting the records of presidential nominees whose political ideologies or ''lifestyles'' he disliked.

Let me start with a review of how Senator Ashcroft worked to block the nomination of James C. Hormel to be the Ambassador to Luxembourg, and then how he explained his actions before the Committee on January 17, 2001.

Ambassador Hormel had a distinguished career as a lawyer, a businessman, educator, and philanthropist. He had diplomatic experience as well. He was eminently qualified for the job of U.S. Ambassador to Luxembourg, Luxembourg's ambassador to the U.S. said the people of his country would welcome him, and a clear majority of Senators supported his confirmation.

Yet he was denied a Senate debate and vote. Senator Ashcroft and Senator HELMS were the only two members of the Foreign Relations Committee who voted against favorably reporting the nomination of James Hormel to serve as U.S. Ambassador to Luxembourg.

In June 1998, at a luncheon with reporters, Senator Ashcroft is reported to have said:

> People who are nominated to represent this country have to be evaluated for whether they represent the country well and fairly. His conduct and the way in which he would represent the United States is probably not up to the standard that I would expect. He has been a leader in promoting a lifestyle. And the kind of leadership he's exhibited there is likely to be offensive to . . . individuals in the setting to which he will be assigned. Boston Globe (June 24, 1998).

Senator Ashcroft also said that a person's sexual conduct ''is within what could be considered and what is eligible for consideration'' for ambassadorial nominees. (San Diego Union-Tribune June 19, 1998). The implication of these remarks seems clear to me. But do not rely on my judgment. Listen instead to one of Senator Ashcroft's Republican colleagues of the time, Senator Alphonse D'Amato. Senator D'Amato wrote, in a letter to Majority Leader TRENT LOTT, that he was ''embarrassed'' that Hormel's nomination had been held up by other Republican Senators. He wrote, ''I fear that Mr. Hormel's nomination is being obstructed for one reason, and one reason only: the fact that he is gay.'' (Id.)

When I questioned him at the hearing about his remarks at the 1998 luncheon, Senator Ashcroft did not deny making them. Instead, he asked us to ignore their clear import. I asked him directly: ''Did you block his nomination from coming to a vote because he is gay?'' Senator Ashcroft answered, ''I did not.'' I then asked ''Why did you vote against him? And why were you involved in an effort to block his nomination from ever coming to a vote?'' Senator Ashcroft implicitly acknowledged that he did engage in blocking the nomination from coming to a vote, saying,

> Well, frankly, I had known Mr. Hormel for a long time. He had recruited me, when I was student in college, to go to the University of Chicago Law School. . . . But I did know him. I made a judgment that it would be ill-advised to make him ambassador based on the totality of the record. I did not believe that he would effectively represent the United States in that particular post. (1/17/01 Tr., p.191).

Senator Ashcroft then proceeded to claim, without directly addressing the Hormel nomination, that ''[s]exual orientation has never been something that I've used in hiring in any of the jobs, in any of the offices I've held. It will not be a consideration in hiring at the Department of Justice. It hasn't been for me.'' (Id, at 192).

I brought Senator Ashcroft back to the question of why he had opposed James Hormel's nomination. I said: ''I'm not talking about hiring at the department, I'm talking about this one case, James Hormel. If he had not been gay, would you have at least talked to him before you voted against him? Would you have at least gone to the hearing? Would you have at least submitted a question?'' (Id.) When evasion did not work, Senator Ashcroft simply flatly refused to answer, stating, ''I'm not prepared to redebate that nomination here today,'' and repeated his claim that his opposition to the Hormel nomination was based on ''the totality of his record.'' (Id, at 192–193). Three Senators asked the nominee in written questions to specify the factors that led to his opposition to James Hormel, but he continued to refuse to do so, citing again ''the totality of Mr. Hormel's record'' as the basis for his opposition.

The story does not end there. The implication of Senator Ashcroft's remarks what some have called ''creepy'' about being ''recruited'' by and ''knowing'' Mr. Hormel was that some personal experience with that nominee played a role in his decision to block it. (New York Times, January 20, 2001). Yet, by letter dated January 18, 2001, Mr. Hormel expressed ''very deep concern'' about this implication since he could not recall ''ever having a personal conversation with Mr. Ashcroft,'' ''no contact with him of any type since . . . nearly thirty-four years ago, in 1967.'' Mr. Hormel also clarified that he did not personally ''recruit'' John Ashcroft to law school; he had simply admitted him, along with hundreds of other students, in his capacity as Dean of Students. Mr. Hormel concluded, ''For Mr. Ashcroft to state that he was able to assess my qualifications to serve as Ambassador based upon his personal long-time relationship with me is misleading, erroneous, and disingenuous.''

I am forced to agree with Mr. Hormel's assessment. There certainly still has not been any forthright explanation from Senator Ashcroft for his insistence that, contrary to the views of the President, the Ambassador from Luxembourg, and the vast majority of his Senate colleagues, Mr. Hormel would not ''effectively represent the U.S.'' in Luxembourg. Indeed, given another chance to explain his position through responses to written questions, Senator Ashcroft has simply repeated his boilerplate language about the ''totality'' of Mr. Hormel's record, adding no specificity beyond the fact that Luxembourg is ''the most Roman Catholic country in all of Europe.'' He does not explain the significance of this fact.

At the hearing, Senator FEINGOLD asked Senator Ashcroft whether, as Attorney General, he would permit employment discrimination against gay men and lesbians, pointing in particular to Senator Ashcroft's public statement that ''I believe the Bible calls [homosexuality] a sin, and that's what defines sin for me.'' Senator FEINGOLD stated that ''Attorney General Reno clarified that sexual orientation should not be a factor for FBI clearances.'' Then he asked Ashcroft, ''As attorney general would you continue and enforce this policy?'' Again, Senator Ashcroft did not answer the question directly with a clear statement against discrimination based on sexual orientation at the FBI, saying, ''I have not had a chance to review the basis for the FBI standard and I am not familiar with it. I would evaluate it based upon conferring with the officials in the bureau.'' In my view, the American people are entitled to expect from their Attorney General more forthright and decisive leadership on the simple question of whether the FBI will be permitted to discriminate on the basis of sexual orientation. The correct answer to that question is not ''maybe,'' it is ''no.''

This is troubling. Senator Ashcroft's answers raise serious question about whether he would adopt a policy as Attorney General that a person's sexual orientation could be a basis for denying a security clearance. If sexual orientation can be used to deny a security clearance for a government job, gay men and lesbians would be barred from numerous government positions, including in the Justice Department, as surely as if John Ashcroft, as Attorney General, were to exclude them personally.

In October 1999, Senator Ashcroft spearheaded a campaign to defeat the nomination of Missouri Supreme Court Judge Ronnie White to serve as a federal district court judge. Like many Senators, I was deeply troubled by Senator Ashcroft's sneak attack on Judge White, who was the first nominee to a federal district court to be rejected on the floor of the Senate in over 50 years. Senator Ashcroft's testimony to the Committee did nothing to allay my concerns.

There can be no serious question that Senator Ashcroft distorted Judge White's record. To give just one example, in one of the three opinions that Senator Ashcroft cited as supposed evidence of a ''procriminal jurisprudence,'' Judge White took a narrower view of the Fourth Amendment—and a broader view of the powers of the police—than the U.S. Supreme Court took a few years later. That is to say, Senator Ashcroft characterized Judge White as ''procriminal'' for taking a position that was more pro-law enforcement than the position of a majority of the conservative Rehnquist Court.

Senator Ashcroft has told us that he based his opposition to James Hormel and other nominees on ''the totality of the record.'' In the case of Judge White, the totality of the record was very different than what Senator Ashcroft led his colleagues to believe. While I state again and unequivocally that I do not charge Senator Ashcroft with racism, I cannot help but think that he was willing to play politics with Judge White's reputation in a manner that casts serious doubt on his ability to serve all Americans as our next Attorney General. In my mind, and in the minds of many Americans, he engineered a party-line vote to reject Judge White not because Judge White was unqualified, but because he wanted to persuade the voters of Missouri that John Ashcroft was tougher on crime and more pro-death penalty than his Democratic opponent. The voters saw through this ploy, and Senators should consider it carefully in deciding whether to give their consent to this nomination. In doing so, Senators may ask themselves whether a man who used his public office to besmirch a respected judge for crass political ends is the sort of man the American people deserve as their Attorney General.

I want to discuss a few of the circumstances surrounding the White nomination that cause me particular concern.

As an initial matter, I am disturbed by Senator Ashcroft's repeated claims that he torpedoed Judge White at the urging of law enforcement groups that had come forward to oppose the nomination. On the Senate floor, Senator Ashcroft told his colleagues that law enforcement officials in Missouri had ''decided to call our attention to Judge White's record in the criminal law.'' (CONGRESSIONAL RECORD, October 4, 1999, at S11872). But after the Senate voted to reject the nomination, the press reported that Senator Ashcroft had actually solicited opposition to Judge White from at least some law enforcement officials. (St. Louis Post-Dispatch, October 8, 1999). This detail—who contacted whom came up at the hearing, and was at the center of more attempts by Senator Ashcroft to shade the facts.

At the hearing, Senator DURBIN noted while questioning Senator Ashcroft that the Missouri Chiefs of Police had refused to accept his invitation to oppose Judge White. Senator Ashcroft responded, ''I need to clarify some of the things that you have said. I wasn't inviting people to be part of a campaign.'' Senator DURBIN followed up by asking, ''Your campaign did not contact these organizations?'' The nominee tried to side-step the issue by making a general statement rather than responding directly to the question he was asked. He said, ''My office frequently contacts interest groups related to matters in the Senate. We don't find it unusual. It's not without precedent that we would make such a request to see if someone wants to make a comment about such an issue.''

According to the St. Louis Post-Dispatch, Senator Ashcroft's office contacted at least two police groups with respect to Judge White 's nomination, and the contacts went well beyond a mere ''request to see if someone wants to make a comment.'' The president of the Missouri Police Chiefs Association—one of Missouri's largest police groups—said that he was contacted by Senator Ashcroft's office and asked whether the Association would work against the nomination. The Association declined. Its president said that he knew Judge White personally and had always known him to be ''an upright, fine individual.'' (St. Louis Post-Dispatch, October 8, 1999.)

According to the same article, Senator Ashcroft's office also solicited opposition to Judge White from the Missouri Federation of Police Chiefs. Vice President Bryan Kunze said the group got involved after Senator Ashcroft's office sent them information about the nomination. Kunze is quoted as saying ''I never heard of Judge White until that day.'' (Id.)

What does this mean? It means that there was a simpler, and more direct answer to Senator DURBIN's question: ''yes.'' Senator Ashcroft's office did contact law enforcement organizations. And it did so not just to ''see if'' they wanted ''to make a comment,'' but to solicit their opposition to Judge White. At a minimum, Senator Ashcroft shaded the truth when he suggested that his opposition to Judge White was prompted by the concerns of Missouri's law enforcement community. While some law enforcement officials eventually came to oppose Judge White's nomination, some of that opposition was instigated and orchestrated by Senator Ashcroft himself.

Moreover, although Senator Ashcroft did not acknowledge the fact, many law enforcement officials strongly supported Judge White. At the hearing, I put into the record a strong letter of support and endorsement from the chief of police of the St. Louis Metropolitan Police Department for Judge White, which Senator Ashcroft received before the vote on Judge White's nomination. I also put into the record another letter from the Missouri State Lodge of the Fraternal Order of Police from shortly after the vote, stating on behalf of 4,500 law enforcement officers in Missouri that they viewed Judge White's record as, ''one of the judges whose record on the death penalty has been far more supportive of the rights of victims than the rights of criminals.'' Yet when Senator Ashcroft went to the floor of the Senate in October 1999 to disparage Judge White's record as ''procriminal,'' he gave a one-sided account, ignoring the law enforcement officials who had come out in support of Judge White's nomination or declined Senator Ashcroft's invitations to work against him.

It is worth reviewing the history that led up to Senator Ashcroft's denouncement of Judge White on the floor, because that history sheds some light on the genesis of the supposed ''procriminal'' concerns. President Clinton first nominated Judge White in June 1997. Like many other judicial nominations during the Clinton Administration, the nomination was held in limbo for more than two years before the Senate finally voted on it in October 1999. During most of that time, there was no mention of Judge White's judicial record. Senator Ashcroft has said that he began to review Judge White's opinions ''upon his nomination'' (CONGRESSIONAL RECORD, October 4, 1999, at S11871), yet he did not elaborate on his reasons for opposing Judge White until August 1999, when he told reporters that Judge White had ''a very serious bias against the death penalty.'' At the time, the death penalty was a hot issue in Senator Ashcroft's re-election campaign against the late

Governor Carnahan, who had recently commuted the sentence of a death row inmate at the request of Pope John Paul II. It was Governor Carnahan who, in 1995, appointed Judge White to the Missouri Supreme Court.

When Judge White came before the Judiciary Committee in May 1998, he was introduced by two members of Missouri's congressional delegation, Senator BOND and Congressman CLAY. Both urged Judge White's confirmation. Congressman CLAY also stated that he had discussed the nomination with Senator Ashcroft, and that Senator Ashcroft had polled Judge White's colleagues on the Missouri Supreme Court—all Ashcroft appointees—and they all spoke highly of Judge White and said he would make an outstanding federal judge. That was yet another set of endorsements for Ronnie White that Senator Ashcroft did not himself acknowledge when he spoke out on the nomination.

After the hearing, Senator Ashcroft submitted 21 written questions to Judge White, 15 more than were submitted to the other nominees at the same hearing. Among those questions were two concerning an action—neither an unlawful nor an unethical one—that Judge White had taken as a State legislator in 1992 that contributed to the defeat of an anti-abortion bill supported by then-Governor Ashcroft. There was also one question about a death penalty case in which Judge White had written a lone dissent.

When Senator Ashcroft joined a handful of Senators and voted against Judge White in Committee, he inserted a short statement in the Committee records on May 21, 1998, to explain his vote. Making reference to the anti-abortion bill that was the subject of those written questions, he said: ''I have been contacted by constituents who are injured by the nominee's manipulation of legislative procedures while a member of the Missouri General Assembly. This contributes to my decision to vote against the nomination.'' He made no mention of concern about any other issue, including the death penalty case about which he had also asked Judge White a written question. Apparently then, as of May 1998, Senator Ashcroft's investigations into Judge White's judicial record had not unearthed any ''procriminal'' concerns.

Senator Ashcroft's testimony and answer to written questions that reproductive rights played no part in his opposition to Judge White is flatly contradicted by both the questions he asked about the judge as a state legislator calling ''an unscheduled vote that resulted in the defeat of a measure designed to limit abortions,'' and the statement Senator Ashcroft put in the Judiciary Committee mark up record in May 1998, in which he referred to Judge White's ''manipulation of legislative procedures while he was a member of the Missouri General Assembly'' and expressly stating that ''contribute[d] to my decision.''

This dissembling is disingenuous, but explains the troubling fact that Senator Ashcroft did not fully question Judge White about his death penalty decisions or law enforcement concerns at his hearings before the Judiciary Committee. That is the purpose of nomination hearings, as Senator Ashcroft well knows. At his own hearings, Senator Ashcroft was afforded a full and fair opportunity to answer questions and address concerns. Judge White did not have that opportunity. He was ambushed on the floor of the Senate, with no opportunity to explain his decisions or defend his reputation.

Judge White finally got that opportunity during the hearings on this nominee, and I urge all Senators to read his testimony. He was gracious, he was dignified, and he set the record straight. This is what that record shows.

Ronnie White grew up in a poor, segregated neighborhood in St. Louis. He worked his way through high school, college, and law school. He had a distinguished legal career in private practice and as city counselor for the City of St. Louis and lawyer for the St. Louis Police Department. In 1989 he was elected to the Missouri legislature, where he was twice selected to serve as chairman of the judiciary committee. In 1995, he became the first African-American to serve on the Missouri Supreme Court.

The Facts on Judge White's Capital Cases. At the hearing last week, Senator Ashcroft admitted that he had characterized Judge White's record as being ''pro-criminal,'' but claimed that he ''did not derogate his background.'' I believe that Senator Ashcroft's attacks on Judge White on the Senate floor went well beyond simply characterizing his record. Senator Ashcroft suggested that Judge White had ''a tremendous bent toward criminal activity'' (CONGRESSIONAL. RECORD, October 5, 1999, at S11933) and ''a serious bias against a willingness to impose the death penalty'' (CONGRESSIONAL RECORD, October 4, 1999, at S11872), and argued that, if confirmed, ''he will use his lifetime appointment to push law in a procriminal direction, consistent with his own personal political agenda'' (Id.). In my 26 years in the Senate, I have never heard an attack like that on the Senate floor against a sitting judge. I can scarcely imagine anything more derogatory that could be said about a judge than that he uses his office to pursue a personal procriminal agenda. Such accusations should not be lightly made. The facts show that they were baseless.

Fact one: Judge White voted to uphold the death penalty 40 times in 58 death penalty cases. In other words, he voted to uphold the death penalty in about 70 percent of the capital cases that came before him. One of Senator Ashcroft's own appointees to the Missouri Supreme Court, the late Ellwood Thomas, had a much higher percentage of votes for reversal of death sentences.

Fact two: In 55 out of 58 capital cases that came before Judge White—that is 95 percent of the time—he ruled the same way as at least one of his Ashcroft-appointed colleagues. Judge White dissented in only seven out of 58 death penalty cases, and he was the sole dissenter in only three of those cases. The other four times, one or more of the Ashcroft judges agreed with Judge White that the defendant was entitled to a new trial or a new sentencing hearing.

Fact three: In leading the campaign to defeat Judge White, Senator Ashcroft specifically criticized just three cases in which Judge White filed a lone dissent. In each case, Judge White's dissents were well-reasoned and entirely defensible. The first was a 1996 case called State v. Damask (936 S.W.2d 565), which raised the issue of the constitutionality of drug interdiction checkpoints in two Missouri counties. Police officers dressed in camouflage were stopping motorists in the dark of night at the end of a lonely highway exit ramp and looking for evidence to allow them to search their vehicles for drugs. These stops were challenged by some motorists as a violation of the Fourth Amendment's prohibition against unreasonable search and seizure, but the Missouri Supreme Court decided that these were constitutional law enforcement procedures.

Judge White filed a reasoned and respectful dissent. He agreed with his colleagues that ''trafficking in illegal drugs is a national problem of the most severe kind.'' He also agreed that traffic stops such as these could be lawful, if conducted in a reasonable way. However, he found, based on the specific facts of the case, that the checkpoint operations at issue were unduly intrusive and therefore unconstitutional.

Just a few months ago, a case with facts similar to the Missouri case made its way to the U.S. Supreme Court. In City of Indianapolis v. Edmond, 121 S. Ct. 447 (2000), a six-justice majority of the Court found that drug interdiction checkpoints like the ones that were upheld by the Missouri Supreme Court are unconstitutional per se. Indeed, the Court went much farther in protecting the rights of motorists than Judge White went in his dissent.

Judge White testified last week that the U.S. Supreme Court had vindicated his decision to dissent in the Damask case. That is clear to any competent lawyer reading the two cases. Yet before the Supreme Court's ruling, Senator Ashcroft said that Judge White's dissent in Damask revealed a ''tendency . . . to rule in favor of criminal defendants and the accused in a . . .

procriminal manner.'' (CONGRESSIONAL RECORD, October 4, 1999, at S11872). A fairer characterization would be that Judge White faithfully followed the law in striking a reasonable balance between the freedoms that we all enjoy as motorists and the interests of law enforcement.

Senator Ashcroft has stubbornly refused to retract his criticism of Judge White's dissent in Damask, notwithstanding the subsequent decision by the U.S. Supreme Court vindicating Judge White's position. Instead, Senator Ashcroft in his responses to written questions mischaracterized the facts of Damask, claiming that ''the police had created a checkpoint designed to stop only those who behaved in a way to justify individualized suspicion.'' As is clear from the majority decision, however, the police in Damask stopped all motorists who approached the checkpoint, without any individualized suspicion of wrongdoing, virtually identical to the fact in the Missouri case in which Judge White dissented.

One would think that any Senator who characterized as ''procriminal'' a position taken by Justices O'Connor and Kennedy, among others, would be embarrassed and quick to apologize. Yet we have yet to hear an apology or even a retraction by Senator Ashcroft on this point.

The other two dissents that Senator Ashcroft cited as evidence of Judge White's ''procriminal'' tendencies were filed in death penalty cases: State v. Johnson, 968 S.W.2d 123 (Mo. 1998), and State v. Kinder, 942 S.W.2d 313 (Mo. 1996). Both cases involved brutal and shocking murders, and we heard a lot about those murders at the hearings. While my heart goes out to the victims, I am troubled by the implication of many of my Republican colleagues that those accused of particularly egregious crimes are somehow undeserving of the fair trial and due process rights guaranteed to all Americans. As Senator Ashcroft's own models of conservative jurisprudence have written, ''the more reprehensible the charge, the more the defendant is in need of all constitutionally guaranteed protection for his defense.'' (Danner v. Kentucky, 525 U.S. 1010 (1998) (Scalia, J., joined by Thomas, J., dissenting from the denial of certiorari)). Focusing on the egregious facts of (rather than the legal analysis underlying) a death penalty case is a disingenuous and inappropriate way of evaluating the qualifications of sitting judges.

Judge White's dissents in Johnson and Kinder properly turned on the legal issues in those cases. In Johnson, the key legal issue was whether or not the defendant received constitutionally sufficient assistance from his lawyer. In Kinder, the issue was whether the defendant was entitled to a new trial with an unbiased judge. These were difficult issues, and as many of my Republican colleagues have acknowledged, reasonable minds could differ on how they should have been resolved. Some respected legal commentators have reviewed the facts in these cases and the relevant legal precedents and concluded that Judge White was right to dissent. I especially urge all Senators to read Stuart Taylor's thoughtful and thorough analyses of these cases in the National Journal on October 16, 1999, and January 13, 2001.

It is of course the right and duty of all Senators to familiarize themselves with a nominee's record before voting on his nomination. I respect Senator Ashcroft's diligence in undertaking a review of Judge White's decisions. What I do not understand are the apparent distortions of Judge White's record, the intemperate attacks, and the implication that judges should apply a lower standard of review in capital cases. When Senator Ashcroft began his campaign against Judge White, retired Missouri Supreme Court Judge Charles Blackmar—a Republican appointee—said that Judge White's votes in capital cases were ''not a significant diversion from the mainstream,'' and added this strong criticism of Senator Ashcroft: ''The senator seems to take the attitude that any deviation is suspect, liberal, activist and I call this tampering with the judiciary because of the effect it might have in other states that have the death penalty where judges, who might hope to be federal judges, feel a pressure to conform and to vote to sustain the death penalty.'' (St. Louis Post-Dispatch, August 21, 1999). As a strong believer in judicial independence, I share Judge Blackmar's concern.

To conclude on this point, Senator Ashcroft's words and actions with respect to the Ronnie White nomination raise serious concerns about his sense of fair play, his willingness to demonize those with whom he disagrees, and his respect for judicial independence. In my view, what America needs is an Attorney General who examines the facts and the law carefully and impartially and then articulates his positions respectfully, not one who distorts the facts and plays politics with the law.

In his first day of testimony, Senator Ashcroft stated, in response to my questions, that he had opposed Bill Lann Lee, President Clinton's nominee for Assistant Attorney General for Civil Rights, because he had ''serious concerns about his willingness to enforce the Adarand decision, which was a recent decision of the United States Supreme Court. . . . Mr. Lee did not indicate a clear willingness to enforce the law based on that decision.'' (1/16/01 Tr., at p. 96). When I tried to explore what Senator Ashcroft perceived to be Mr. Lee's failure in this regard, Senator Ashcroft explained that when Mr. Lee was asked at his confirmation hearing what the Adarand standard was, ''he did not repeat the strict scrutiny standard of 'narrowly tailored and directly related. . . . He stated another standard.'' (Id, at 97). This is simply not true.

When Bill Lann Lee testified before the Senate Judiciary Committee on October 22, 1997, he had the following colloquy with Chairman HATCH:

Chairman HATCH: These cases [Croson and Adarand] would also stand for the proposition, wouldn't they, that strict scrutiny would be required in all governmental racial classification matters?

Mr. LEE: Yes, that is correct, that strict scrutiny is required and that properly designed and properly implemented affirmative action programs are consistent with the strict scrutiny test under the Fourteenth and Fifth Amendment.

Chairman HATCH: Would you agree that Adarand stands for the proposition—the Supreme Court case of Adarand—stands for the proposition that State-imposed racial distinctions are presumptively unconstitutional, that that presumption can be overcome only by a strong basis in evidence of a compelling interest and should be narrowly tailored? Have I stated that pretty correctly?

Mr. LEE: Yes, and I agree with that.

Chairman HATCH: All right . . . .

(Bill Lann Lee Confirmation Hearing, Senate Judiciary Committee, October 22, 1997, Transcript of Proceedings, pages 41–42).

Moreover, when I asked Senator Ashcroft about Bill Lann Lee, he referred to the District Court's decision on remand in the Adarand case, which found unconstitutional the contracting affirmative action program that is the subject of that litigation. He failed to note, however, that the Tenth Circuit has since reversed that decision, finding that the contracting program did in fact meet strict scrutiny. Adarand Constructors v. Slater, 228 F.3d 1147 (10th Cir. 2000).

To this day, I do not understand Senator Ashcroft's opposition to the nomination of Bill Lann Lee, but I do know that the purported reason he gave at his own nomination hearing is simply not supported by the record.

At the hearing, Senator Ashcroft and the witnesses called on his behalf made claims about the diversity of his appointments to the state courts and his cabinet while he was Governor. These claims were clearly designed to rebut any inference that his actions and record with regard to presidential nominees such as Judge Ronnie White, Bill Lann Lee, and others, or his associations with Southern Partisan magazine or Bob Jones University, reflected any fundamental insensitivities on his part. Unfortunately, the claims made at the hearing about the diversity of Governor Ashcroft's appointments do not withstand scrutiny when compared to either his Republican predecessor in the Governor's office, Senator KIT BOND, or his successor, Governor Mel Carnahan.

At the first day of the hearing, Senator Ashcroft stated: ''I took special care to expand racial and gender diversity in Missouri's courts. I appointed more African-American judges to the bench than any governor in Missouri history, including appointing the first African-American on the Western District Court of Appeals and the first African-American woman to the St. Louis County Circuit Court.'' (1/16/01 Tr., at p. 89). He repeated these claims the next day. (1/17/01 Tr., at p. 57).

The claim of appointing more African American judges than any governor in Missouri history is deliberately deceptive. While Governor from 1985 through 1992, John Ashcroft set a record at the time with eight African American appointments to the bench, but this is only when compared to his predecessors, who had appointed far fewer. His successor, the late Governor Mel Carnahan, appointed twenty. (St. Louis Post-Dispatch, 1/11/01).

Also, while technically correct that Governor Ashcroft appointed the first African-American on the Western District Court of Appeals, this was not the first African American appointed to the appellate court in Missouri, as might be implied. Judge Ted McMillian was appointed by Warren Hearnes more than ten years earlier to the Eastern District Court of Appeals. (See The Honorable Donald P. Lay, ''The Significant Cases of the Honorable Theodore McMillian During His Tenure on the U.S. Court of Appeals for the Eighth Circuit,'' 43 St. Louis U. L.J. 1269, 1270 (1999)). I point this out not to minimize Senator Ashcroft's appointment of minority candidates, but simply to ensure that the record is not exaggerated.

Jerry Hunter, former Missouri Labor Secretary, and Missouri Circuit Judge David Mason, both of whom had been appointed by Governor Ashcroft, testified in support of the nominee and applauded his record of appointments of African-Americans while he was Governor. Mr. Hunter was the only African-American or minority to serve in John Ashcroft's cabinet, which is made up of fifteen department directors, during his first four years. (1/18/01 Tr., at pp.179–180). In addition, although the Mound City Bar Association, which Mr. Hunter described as ''one of the oldest black bar associations in this country,'' commended Governor Ashcroft in 1991 upon his appointment to the bench of an African-American female judge, this same organization, by letter dated January 12, 2001, has made clear that ''this is not a nomination that we can support.'' (Id., at p. 180).

Senator Ashcroft as Governor of Missouri claims to have taken ''special care'' of gender diversity as well, yet his record of appointments of women to the judiciary is ''abysmal.'' (1/18/01 Tr., at p. 60). He carefully testified that he named two women to the appellate court, the first in 1988; the other to fill the same position when the first woman moved up to the Supreme Court. He does not mention that this did not happen until nearly three years after he took office and only after front-page stories in local newspapers made clear that ''Missouri lags behind most other states in the selection of women for judgeships,'' (St. Louis Post-Dispatch, October 22, 1986), and a national survey by the National Women's Political Caucus ranked Governor Ashcroft ''near the bottom among state executives in appointment of women to Cabinet-level posts. . .'' (St. Louis Post-Dispatch, October 24, 1986). By contrast, the same survey put Governors Madeleine Kunin of Vermont and Bill Clinton of Arkansas among the top ten states for the percentages of women in their cabinets. (Id.).

A study on the number of women appointed to the judiciary published in 1986 found that Missouri was one of only five states with intermediate appellate courts that had never had a female jurist above the trial court level. (Karen Tokarz, ''Women Judges and Merit Selection under the Missouri Plan,'' 4 Washington Univ. Law Quarterly, 903, 916 (1986)). This study suggests that ''the attitude of the chief executive may affect women's access to the judiciary,'' and cites as examples that the ''explicit affirmative efforts by Governor CHRISTOPHER BOND and President Jimmy Carter to recruit women applicants correlate with increased numbers of women judicial appointees during their tenures.'' (Id., at 942). By comparison, the study notes that at the time the article was written, then Governor Ashcroft had selected no women for the 19 judicial appointments he had made ''nor has Ashcroft appointed any women for the nine interim appointments.'' (Id.).

John Ashcroft's low numbers of women appointments to the judiciary were not due simply to a failure to have women's names recommended by nominating commissions. Press accounts report that women candidates appeared on panels presented to then-Governor Ashcroft, but in the incidents reported, he appointed men. (St. Louis Post-Dispatch, March 20, 1988). Moreover, as Governor, John Ashcroft did even more poorly with so-called ''interim appointments'' of judges outside the merit selection plan, where governors have free rein and are not limited by the recommendations of a selection panel. In two terms, Governor BOND had named eight women out of 77 interim appointments. Governor Ashcroft named only two women out of 51 interim appointments. (''Report on the Missouri Task Force on Gender and Justice,'' 58 Missouri Law Rev. 485, 688 n. 746 (1993)).

In short, Senator Ashcroft deserves credit for appointing women to judicial posts, but the amount of credit he should be given depends on the context. John Ashcroft named only eleven women out of 121 judicial appointments during his eight years as governor. Id. at 702, Table 1. Not only did his successor appoint nearly three times that number in the equivalent time period but this number was even surpassed by his predecessor, Governor BOND, who appointed twelve women during two terms. (58 Mo. Law Rev. at 702, Table 1).

Governor Ashcroft's testimony on the diversity of his appointments is technically accurate, but in my view was misleadingly framed to portray him as a leader on diversity. In truth, the record shows little evidence of urgency or strong advocacy for diversity. Both his actual record and the manner in which he portrayed it to the Committee are troubling.

John Ashcroft has engaged in a pattern of using inflammatory and intemperate language to question the authority and legitimacy of the United States Supreme Court and lower federal courts in a way that raises serious concern in my mind about his suitability for the job of Attorney General and whether he is the appropriate role model for the job of the Nation's chief law enforcer. Worse, while sworn to uphold the Constitution, he has backed up his words and disrespect for Supreme Court precedent by sponsoring legislation both in Missouri and in the U.S. Senate that is patently unconstitutional.

John Ashcroft has taken many opportunities to bash the federal judiciary. In several public speaking engagements he has chosen to attack the decisions of federal courts. (Speech to the Claremont Institute, Los Angeles, California, October 13, 1997, available through *www.claremont.org;* Appearance on ''Jay Sekulow Live'' Radio Show, July 24, 1998, available through *www.jaylive.com.*) The most extreme example of Senator Ashcroft's rhetorical attacks on the Supreme Court is the speech he gave in March 1997 to both the annual meeting of the Conservative Political Action Conference and to the Heritage Foundation. In ''Courting Disaster: On Judicial Despotism In the Age of Russell Clark,'' he characterized the Supreme Court's landmark abortion decisions in Roe v. Wade and Casey as ''illegitimate.'' He called the Justices who struck down an Arkansas congressional term limit law ''five ruffians in robes,'' and said that they ''stole the right of self-determination from the people.'' He asked, ''have people's lives and fortunes been relinquished to renegade judges, a robed, contemptuous intellectual elite fulfilling Patrick Henry's prophecy, that of turning the courts into, quote, 'nurser[ies] of vice and the bane of liberty?' '' He also said ''We should enlist the American people in an effort to rein in an out-of-control Court.''

The ''five ruffians in robes'' to whom Senator Ashcroft referred are members

of the Rehnquist Supreme Court, which is a most conservative court—sometimes activist but decidedly conservative. I have heard Justice Anthony Kennedy and Justice Ruth Bader Ginsburg called many things but never ''ruffians.''

I find this sort of rhetoric deeply troubling. I certainly understand disagreeing with a Supreme Court decision. Lately, I have found myself strongly disagreeing with a number of decisions by the Court. I took strong exception to the Court's intervention in Bush v. Gore, but having noted my disagreement in respectful terms, I said that I accepted the Court's decision, and believed that all Americans should do the same.

When I asked Senator Ashcroft about these comments, he did not disavow them but simply noted that ''I don't think it'll appear in any briefs.'' (1/17/01 Tr., at p. 263). I should hope not. But I would also hope that a public official sworn to uphold the Constitution would not go running around denying the legitimacy of Supreme Court decisions that, in our constitutional system, are the ultimate authority on what the Constitution means.

These comments raise serious issues about a fundamental qualification for the job of Attorney General: Senator Ashcroft's ability and readiness to discharge the obligatory oath to uphold the Constitution.

Senator Ashcroft's legislative career is not reassuring in this regard. While it is true, as Senator Ashcroft stressed, that a Senator's legislative role is different from an Attorney General's law enforcement role, both take the same oath to uphold the Constitution, so the one is not irrelevant to the other.

As a Senator, John Ashcroft displayed little reverence for the Constitution as written and as interpreted by the Supreme Court. It is, of course, the privilege of Senators to propose constitutional amendments, but in his one six-year term here, Senator Ashcroft stood out among his colleagues in his eagerness to amend the Constitution whenever its terms dictated a result he did not like. He did not like Roe v. Wade, so he sponsored a Human Life Amendment, which would have banned all abortions except where necessary to protect the life of the mother. He did not like the way the ''five ruffians in robes'' interpreted the Constitution in the Term Limits case, so he sponsored Term Limits Amendments. In total, Senator Ashcroft sponsored or supported constitutional amendments on no less than eight different topics in his six years in the Senate.

That is a distinctly un-Madisonian record. James Madison told posterity that constitutional amendments should be limited to ''certain great and extraordinary occasions.'' Madison's wise counsel, like the Constitution itself, has stood the test of time: the Constitution has only been amended 17 times in the past 200 years. But John Ashcroft disagrees with James Madison on the spirit of Article V, the Article governing the amendment process. Indeed, he even introduced a proposed amendment, supported by no other Senator, to change Article V itself. In a Dallas Morning News article dated January 17, 1995, he was quoted as saying that he wanted to ''swing wide open the door'' to let the States decide on new amendments. His proposed amendment would have done so. Even more than the other amendments he supported, Senator Ashcroft's amendment to Article V would have severely cut back on the constitutional role of Congress, by allowing bare majorities in three-quarters of the States to amend the Constitution even if a majority of Congress disagreed. This radical proposal sits in stark contrast to the claim Senator Ashcroft makes today—in his response to my written question he says that his efforts to amend the Constitution as a Senator ''reflect a fundamental respect for the Constitution and for the mechanism that that documents for altering the text.''

More troublesome is Senator Ashcroft's record of introducing unconstitutional legislation, particularly in the area of reproductive rights. In both Missouri and in the U.S. Senate, Senator Ashcroft has been an unabashed advocate of banning abortion in all circumstances, except to save the life of the mother, even though this position runs directly counter to the fundamental rights set forth in Roe v. Wade. He has also been an unabashed critic of this seminal decision, stating as recently as 1998 that, ''[c]learly, the Supreme Court, unguided by any constitutional text, has written themselves into a position that is legally, medically and morally incoherent.'' (CONGRESSIONAL RECORD, June 5, 1998, at S5697).

In 1981, when he served as Attorney General of Missouri, he testified before the Senate Judiciary Subcommittee on Separation of Powers on a bill sponsored by Senator HELMS and Representative HYDE. The bill stated ''the life of each human being begins at conception,'' and would have allowed each state to outlaw and criminalize abortion, without any exception for victims of rape or incest or even to save the life of the mother. (Hearings on S. 158 Before the Subcomm. on Separation of Powers, Senate Comm. on the Judiciary, 97th Cong. 1105–1109 (1981)). John Ashcroft made clear his view of both Roe v. Wade and the workings of the Supreme Court in his introductory remarks, stating:

> I have devoted considerable time and significant resources to defending the right of the State to limit the dangerous impacts of Roe v. Wade, a case in which a handful of men on the Supreme Court arbitrarily amended the Constitution and overturned the laws of 50 States relating to abortions. (Id.).

In a chilling reminder of stringent State anti-abortion laws in effect before Roe v. Wade, Missouri Attorney General Ashcroft reminisced that:

> We had a law which specified that aborting a child subjected a person to a manslaughter charge, but there was a clearly maintained exception for cases in which the mother's life was in danger.

True to his 1981 testimony, he was actively involved in anti-abortion efforts as Missouri's Attorney General. He defended a state statute that, among other restrictions, would have required all abortions after 12 weeks to be performed in a hospital. The Supreme Court recognized that such a requirement would effectively increase the cost of such abortions dramatically and make them all but impossible to obtain for anyone but the wealthy, and therefore ruled that this requirement was unconstitutional. *Planned Parenthood* v. *Ashcroft*, 462 U.S. 476, 482 (1983). In a brief he submitted to the U.S. Supreme Court in defense of that law, John Ashcroft argued that, in establishing the in-hospital requirement, ''Missouri has acted precisely within the parameters of Roe v. Wade.'' (Brief for the Cross-Petitioners).

While defending the constitutionality of a state law is the appropriate role of the attorney general, he has also aggressively tested the limits of Roe v. Wade as a legislator. In 1986, as Governor of Missouri, John Ashcroft signed a sweeping anti-abortion bill that stated, among other things, that ''life begins at conception.'' The Supreme Court declined to assess the constitutionality of that provision, while upholding other parts of the law. *Webster* v. *Reproductive Health Services*, 492 U.S. 490 (1989).

His legal success in *Webster* prompted Governor Ashcroft to appoint a state task force to consider additional measures the state could enact to restrict reproductive rights. Despite the complexity and volatility of this issue, he made no effort to develop a consensus but instead indicated that the group should not have ''drawn-out hearings'' and he only appointed members who shared his ardent anti-abortion views. This was a polarizing action. Indeed, legislative leaders reportedly ''declined to nominate members to the task force, saying it was going to end up stacked anyway in favor of one side of the issue.'' (St. Louis Post-Dispatch, August 9, 1989). Harriett Woods confirmed at the nomination hearing that ''the leaders of the legislature were so outraged that they said they wouldn't participate.'' (1/18/01 Tr., at p. 63). Not surprisingly, the preordained conclusions of the Task Force on Unborn Life report, issued in January 1990, were that ''the ultimate goal of legislation and policy-making in the State of Missouri should be . . . the imposing of

legal restrictions to reduce the number of abortions.''

Shortly after release of that report, Governor Ashcroft announced his support for legislation, to become known as Missouri Senate bill 339, that would have criminalized abortions performed for eighteen different reasons, including ''to prevent multiple births from the same pregnancy,'' ''the failure of a method of birth control,'' and ''to prevent having a child not deemed to be wanted by the mother or father.'' No exception for rape or incest was allowed. To add to the burdens on a woman seeking an abortion, this legislation would have required a pregnant woman to file an affidavit stating the reasons for the abortion, apparently subjecting her to criminal liability for perjury if she did not fully disclose in a document to be filed with the abortion facility her most personal, confidential reasons for exercising her right to choose. Furthermore, the bill would also have allowed the spouse or father of the ''unborn child'' and the state Attorney General to intervene in court to stop the abortion. This extreme legislation failed in the state legislature because it lacked an exception for cases of rape and incest. (St. Louis Post-Dispatch, March 28, 1991).

When I consider the moral, ethical and religious dilemma that parents face when they learn that a pregnancy is multiple and that the best chance for normal, healthy births may be to have selective fetal reduction, I shudder at proposed legislation that would make such a difficult decision a criminal one.

More disturbing is Senator Ashcroft's effort, as part of his confirmation evolution, to distance himself from this legislation. He acknowledges in response to my written questions that Missouri Senate Bill 339 might not be constitutional, but asserts that (1) he had ''no specific recollection'' of the bill; (2) ''it appears from press reports that representatives from my office may have expressed interest in seeing the bill passed out of committee''; (3) ''[w]hile I was governor, it was my policy to refrain from opining on whether I would sign a bill until after a bill actually passed the legislature'' and (4) ''this bill did not prevent abortions attributable to rape, incest or a ''bona fide, diagnosed health problem''. (Emphasis in original). Each of these assertions are belied by the public record.

First, Senator Ashcroft's failure of recollection about this legislation is difficult to credit. In his State of the State Address on January 9, 1990, he said: ''within the next week, I will announce my support for concepts that would enhance our capacity to protect unborn children.'' Shortly thereafter, on January 19, 1990, he issued a statement saying, ''Today I am proposing that Missouri ban abortions for birth control, sex selection, and racial discrimination. Missourians reject multiple, birth control abortions. . . I am grateful for these proposals and I would welcome an opportunity to sign their protections for unborn children and mothers into law as an alternative to the continuation of abortions.'' These specific reasons for banning abortion were part of Missouri Senate bill 339. Senator Ashcroft failed to provide the Committee with these speeches, but they are documented in contemporaneous press reports. (See St. Louis Post-Dispatch, January 10, 1990 and January 20, 1990).

Second, Senator Ashcroft is wrong when he says only his ''representatives . . . expressed interest.'' In addition to the speeches cited above, in which he expressly supported the terms of this legislation, when the bill was being debated in the Missouri Senate, then-Governor Ashcroft reportedly got personally involved in pressuring a swing vote. ''Gov. John Ashcroft had telephoned Singleton to urge his support for a bill barring virtually all abortions'' [referring to Senate Bill 339]. St. Louis Post-Dispatch, March 28, 1991.

Third, Senator Ashcroft is wrong when he says he refrained from opining about signing the bill. Contemporaneous press reports note that ''[t]he governor's proposal would join two bills that would outlaw most abortions in Missouri. Ashcroft said he would sign those measures into law 'as an alternative to the continuation of abortions.' '' (St. Louis Post-Dispatch, January 20, 1990).

Finally, Senator Ashcroft is wrong when he says the bill did ''not prevent abortion attributable to rape, incest''. The bill itself provides no such exceptions and, in fact, the bill failed because in the view of the ''swing vote'' ''the proposal went too far. . . it failed to assure the continued legality of abortions in cases involving rape or incest.'' (St. Louis Post-Dispatch, March 28, 1991).

We are all aware that during his time in the Senate, John Ashcroft was among the most avid of anti-abortion legislators. He has cosponsored the so-called ''Human Life Act,'' which states that ''the life of each human being begins at fertilization.'' This legislation would not only ban all abortions, but also have the effect of outlawing the most common forms of contraception, including the birth control pill and the IUD.

At the nomination hearing, I asked a panel of witnesses that included both supporters and opponents of this nomination, and was composed largely of experts on reproductive rights issues, whether anyone disagreed that the Human Life Act was patently unconstitutional on its face. No one expressed disagreement, or disputed me when I said: ''I'll take it by your answers, everybody feels it's unconstitutional.'' (1/18/01 Tr., at p. 80).

In response to my written questions, Senator Ashcroft has now conceded, as part of his confirmation evolution, that, as introduced, the Human Life Act of 1998 was ''not constitutional under *Roe* and *Casey*,'' thus acknowledging that while sworn to uphold the Constitution, he knowingly proposed unconstitutional legislation. His explanation—''I thought that [the legislation] had the potential to promote a discussion that could have led to the passage of legislation that would have been constitutional under *Roe* and *Casey*''—is inconsistent with his statement on introduction of the bill: ''I believe that our proposed Human Life Act is a legitimate exercise of Congressional power under Section Five of the Fourteenth Amendment'' (CONGRESSIONAL RECORD. 6/5/98, S5697).

There is no doubt that John Ashcroft's support for unconstitutional legislation limiting reproductive rights stems from his genuine and heart-felt antipathy for the woman's right to choose—her right to choose not only whether to be pregnant but also the form of contraceptive which works best for her. Limiting access to contraceptives is, for me, a significantly troubling aspect of John Ashcroft's record.

For example, when he testified before the Senate in 1981, opponents of the Helms-Hyde bill at issue made clear that an important consequence of a law mandating that life begins at conception would be to permit states to ban multiple forms of popular contraceptives. One expert physician explained, ''[t]his bill, if enacted into law, will prohibit the use of such commonly employed contraceptives as certain birth control pills and intrauterine devices because these forms of birth control prevent implantation into the uterus of the fertilized ovum that has, by legal decree, been made a person.'' (Hearings on S. 158 Before the Subcomm. on Separation of Powers, Senate Comm. on the Judiciary, 97th Cong., supra, at p. 51, testimony of Dr. Leon Rosenberg).

Short of federal legislation, John Ashcroft took other steps to limit access to contraceptives at the local level. In 1980, as Missouri's Attorney General, he issued a legal opinion designed to undermine the state's nursing practices law. He opined that the giving of information about and dispensing of condoms, IUDs and oral contraceptives, and other basic gynecological services by nurses constituted the criminal act of the unauthorized practice of medicine, even though these services were at the time routine health practices provided by Missouri nurses, including within the State's own county health departments. As a result, the State Board of Registration for the Healing Arts threatened certain physicians and nurses with a show cause order as to why criminal charges should not be brought against them. The attorney who represented these

nurses and physicians, Frank Susman, testified at the nomination hearing that:

Implementation of the nominee's Opinion would have eliminated the cost-effective and readily available delivery of these essential services to indigent women, who often utilize county health departments as their primary health care provider, and would have shut and bolted the door to poor women who relied upon these services as their only means to control their fertility. (1/18/01 Tr., at p. 75).

In a lawsuit designed to resolve this matter, Attorney General Ashcroft intervened to block the nurses from providing these family planning services, but a unanimous Missouri Supreme Court struck down the nominee's interpretation of the Nursing Practice Act. *Sermchief* v. *Gonzales*, 660 S.W.2d 683 (1983).

Mr. Susman testified that the nominee has ''at every opportunity . . . sought to limit access to and to require parental consent for not only abortion, but for contraception as well.'' (1/18/01 Tr., at p. 76). Indeed, in the Senate, Senator Ashcroft was the sole sponsor of legislation that would require parental consent before ''an abortifacient'' or ''contraceptive drugs or devices'' are dispensed to a minor through federally-subsidized programs. (S. 2380, in 105th Congress; S. 3102 in 106th Congress).

Set against this record, John Ashcroft's testimony that he accept[s] *Roe* and *Casey* as the settled law of the land and that he will follow the law in this area'' seems, at a minimum, implausible. (1/16/01 Tr., at p. 91).

Religious organizations perform wonderful acts of compassion and charity and play a critical role in helping those most needy in our country and in filling gaps left by government programs. Yet, our Constitution obligates us to ensure that church and state remain separate, to protect the religious beliefs of all of our citizens from government interference, and to protect the rights of those who do not believe. This obligation means that any use of religious organizations to provide social services must be structured with extraordinary care, and that there be separation between proselytizing and charity. John Ashcroft has been a leading proponent of the most extreme ''charitable choice'' policies, under which religious organizations would not even have to avoid religious proselytizing while distributing federal benefits.

His deference to religious groups is such that, as Governor, he even opposed laws aimed at ensuring that church-run day care centers met the same basic health and safety requirements (e.g., smoke detectors and fire exits) that applied to all other day care centers because, as he put it in his response to my written questions, of ''the need to protect religious institutions from excessive entanglements with government.'' Missouri was one of a small group of States that did not apply ordinary health and safety requirements to day care centers run by religious organizations. (St. Louis Post-Dispatch, June 13, 1985). Nevertheless, John Ashcroft threatened to veto bills aiming to apply these requirements. (UPI, December 3, 1984). The extremeness of this position was demonstrated by the testimony of James Dunn, who recounted how a move to apply safety regulations to religiously-run child care centers in Texas were opposed by only three out of 600 such centers (1/19/01 Tr., at p. 73).

Senator Ashcroft has also not been forthcoming in response to straightforward questioning concerning his views of the Supreme Court's First Amendment jurisprudence. He told the Christian Coalition in 1998 that ''a robed elite have taken the wall of separation built to protect the church and made it a wall of religious oppression.'' But when I asked him in writing to specify which court decisions he was referring to, he offered no response. Similarly, I asked him about his attitude toward the Supreme Court's 1987 decision in *Edwards* v. *Aguillard*, which held that States may not forbid the teaching of evolution when ''creation science'' is not also taught. He would not say whether he agreed with the decision or not, and he would not provide any examples to support his 1997 claim that ''over the last half century, the federal courts have usurped from school boards the power to determine what a child can learn.''

John Ashcroft presents himself as a man of great certitude—we did not hear any regret from him during his testimony about his appearance at Bob Jones University, his interview with Southern Partisan magazine, or his reference to former Reagan Administration press secretary Jim Brady as the ''leading enemy'' of responsible gun owners. In his written responses to questions from members of the Committee, he bypassed further opportunities to reflect on his controversial statements and actions. He can be fairly characterized as seeing issues as sharp contests between right and wrong, and I am sure that he believes he chooses the right. But I am concerned that his certitude may make him insensitive to the actual impact of his actions on individual American families and citizens. I think in particular of the story of Pete Busalacchi, who submitted written testimony to the Judiciary Committee.

Pete Busalacchi is a Missouri man and was one of John Ashcroft's constituents. Almost 15 years ago, his teenage daughter, Chris Busalacchi, was grievously wounded in a car crash. According to Mr. Busalacchi, his daughter's doctors told him that she would remain in a persistent vegetative state for the remainder of her life. (Busalacchi testimony, p. 1). After more than three years had passed since the accident, during which time Chris Busalacchi never recovered from her injuries, Mr. Busalacchi sought to move his daughter to Minnesota. He planned to seek further medical opinions and consider removing her feeding tube if the medical consensus continued to be that she had no hope of recovery. (Id. at p. 2). Instead, the Ashcroft Administration obtained a restraining order preventing Mr. Busalacchi from removing her from the state, launching a two-year battle seeking to prevent Mr. Busalacchi from making determinations about his daughter's medical treatment. (Id.) Pete Busalacchi testified that John Ashcroft, through his administration, injected his ''political and religious views into [the Busalacchi] family's tragedy.'' (Id. at p. 1). When informed of the way Mr. Busalacchi felt and asked in writing whether his administration had shown the proper respect for the Busalacchi family in such a difficult time, John Ashcroft simply said, ''Yes.'' He made no acknowledgment that this tragedy even presented a difficult case, nor did he express compassion for the family.

President Bush announced that John Ashcroft would be his nominee for Attorney General on December 22, 2000. The choice of a controversial nominee was his alone. Despite the controversy surrounding this nomination, we proceeded expeditiously to schedule nomination hearings, as requested by then President-Elect Bush, even before we had received the formal nomination, a complete FBI background report or Senator Ashcroft's complete response to the standard Committee questionnaire.

As the Chairman of the Judiciary Committee for the three-week period from the beginning of the new 107th Congress until the Inauguration, I pledged to conduct the nomination hearing for John Ashcroft in a full, fair, and thorough manner. I believe this pledge was amply fulfilled. I conferred regularly with Senator HATCH to ensure that every single witness from whom the nominee and his supporters wished to hear were called as witnesses. I also provided a fair amount of time and opportunity for the American people, through their elected representatives, to ask the nominee about fundamental issues and the direction of federal law enforcement and constitutional policy that affect all of our lives.

At a time of political frustration and division, it is important for the Senate to listen. One of the abiding strengths of our democracy is that the American people have opportunities to participate in the political process, to be heard and to feel that their views are being taken into account. Just as when the American people vote, every vote is important and should be counted so,

too, when we hold hearings we ought to do our best to take competing views into account. Being thorough, and giving a fair hearing to supporters and opponents of the nomination, is also what fairness to the nominee requires. I and others put tough questions to John Ashcroft so that he would have a fair opportunity to respond to our concerns, instead of being ambushed on the Senate floor without an opportunity to respond, as had happened to Ronnie White.

Over the last 200 years the confirmation process has evolved. The first Congress established the office of the Attorney General in 1789 but confirmations were handled by the full Senate or special committees. It was not until 1816 that the Senate established the Judiciary Committee as one of the earliest standing Committees, chaired initially by Senator Dudley Chase of Vermont. It was not until 1868 that the Senate began regularly referring nominations for Attorney General to this Committee. In the 26 years that I have been privileged to serve in the United States Senate, these confirmation hearings have become an increasingly important part of the work of the Committee.

Of the 15 cabinet nominees not to be confirmed over time, nine were rejected by the Senate after a floor vote. Of those, one was a former Senator, John Tower, in 1989. Two were nominees to serve as Attorney General. One of those rejected Attorney General nominees was Charles Warren, an ultraconservative Detroit lawyer and politician nominated by President Coolidge who was voted down by a Senate controlled by the President's own party due to concern that Warren's prior associations raised questions about his suitability to be Attorney General.

Progressive Republicans, recalling that Warren had aided the sugar trust in extending its monopolistic control over that industry believed this appointment was a further example of the President's policy of turning over government regulatory agencies to individuals sympathetic to the interest they were charged with regulating. . . . [T]he progressive Republicans combined with the Democrats in March 1925 to defeat the nomination narrowly. Richard Allen Baker, ''Legislative Power Over Appointments and Confirmations,'' Encyclopedia of the American Legislative System, at p. 1616.

After the Senate rejected the nomination of Charles Warren, President Coolidge nominated John Sargent, a distinguished lawyer from Ludlow, Vermont, who was immediately confirmed and was the only Vermonter ever to serve as the Attorney General of the United States.

It has been more than 25 years since a Senator was nominated to be Attorney General. Senator William Saxbe of Ohio resigned his Senate seat in 1974 to pick up the reins of the Justice Department in the aftermath of Watergate, at a time that saw two prior Attorneys General indicted toward the end of the Nixon Administration. It has been more than 130 years since a President has chosen to nominate a former Senator after he lost his bid for reelection to the United States Senate to be Attorney General. It is not since President Grant nominated George Williams to be Attorney General in 1871 that we have had a former Senator nominated to this important post after being rejected by the people of his home State.

The position of Attorney General is of extraordinary importance, and the judgment and priorities of the person who serves as Attorney General affect the lives of all Americans. The Attorney General is the lawyer for all the people and the chief law enforcement officer in the country. Thus, the Attorney General not only needs the full confidence of the President, he or she needs the confidence and trust of the American people. All Americans need to feel that the Attorney General is looking out for them and protecting their rights.

The Attorney General is not just a ceremonial position, and his or her duties are not just administrative or mechanical. Rather he or she controls a budget of over $20 billion and directs the activities of more than 123,000 attorneys, investigators, Border Patrol agents, deputy marshals, correctional officers and other employees in over 2,700 Justice Department facilities around the country and in over 120 foreign cities. Specifically, the Attorney General supervises the selection and actions of the 93 United States Attorneys and their assistants and the U.S. Marshals Service and its offices in each State. The Attorney General supervises the FBI and its activities in this country and around the world, the INS, the DEA, the Bureau of Prisons and many other federal law enforcement components.

The Attorney General evaluates judicial candidates and recommends judicial nominees to the President, advises on the constitutionality of bills and laws, determines when the Federal Government will sue an individual, business or local government, decides what statutes to defend in court and what arguments to make to the Supreme Court, other federal courts and State courts on behalf of the United States Government. The Attorney General exercises broad discretion, largely unreviewed by the courts and only sparingly reviewed by Congress, over how to allocate that $20 billion budget and how to distribute billions of dollars a year in law enforcement assistance to State and local government, and coordinates task forces on important law enforcement priorities. The Attorney General must also set those priorities, and make tough decisions about which cases to compromise or settle. A willingness to settle appropriate cases once the public interest has been served rather than pursue endless, divisive, and expensive appeals, as John Ashcroft did in the Missouri desegregation cases, is a critical qualification for the job.

There is no appointed position within the Federal Government that can affect more lives in more ways than the Attorney General, and no position in the cabinet more vulnerable to politicization by one who puts ideology and politics above the law. We all have a stake in who serves in this uniquely powerful position and how that power is exercised.

We all look to the Attorney General to ensure even-handed law enforcement; equal justice for all; protection of our basic constitutional rights to privacy, including a woman's right to choose, to free speech, to freedom from government oppression; and to safeguard our marketplace from predatory and monopolistic activities, and safeguard our air, water and environment.

As I said at the confirmation hearings for Edwin Meese to be Attorney General, ''[w]hile the Supreme Court has the last word on what our laws mean, the Attorney General has often more importantly the first word.''

In addition, the Attorney General has come to personify fairness and justice to people all across the United States. Over the past 50 years, Attorneys General like William Rogers and Robert Kennedy helped lead the effort against racial discrimination and the fight for equal opportunity. The Attorney General has historically been called upon to lead the Nation in critical civil rights issues, to unite the Nation in the pursuit of justice, and to heal divisions in our society. America needs an Attorney General who will fight for equal justice for all and win the confidence of all the people, not one with a record of missed opportunities to bring people together.

I do not have the necessary confidence that John Ashcroft can carry on this great tradition and fulfill this important role. Therefore, I cannot support his nomination.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. VOINOVICH. 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. VOINOVICH. Mr. President, I ask unanimous consent I be permitted to speak in morning business for up to 15 minutes.

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

SOUTHEASTERN EUROPE, THE MIDDLE EAST AND OUR FLAWED ENERGY POLICY

Mr. VOINOVICH. Mr. President, several weeks ago, Senator SPECTER and I had the unique privilege to represent our nation and this body during a visit to Germany, the Federal Republic of Yugoslavia, Bosnia, Egypt and Israel.

While in these nations, we were able to meet with a number of government and non-governmental leaders who familiarized us with the current situation in southeastern Europe and the Middle East.

I found our discussions with these leaders to be extraordinarily educational and highly productive, and their insight helped us assess the broad spectrum of issues that shapes both of these volatile regions of our globe.

Our first stop was in Munich, Germany where Senator SPECTER and I spoke with members of the U.S. Embassy about trade, security and foreign policy issues facing the United States and Germany.

We also met with a number of leaders of the Munich business community to talk about trade issues affecting the United States and the European Union, (EU). Specifically, we discussed steel, bananas, and genetically-modified beef—all issues currently dominating our trade relations.

We further spoke about the deployment of the National Missile Defense system, our commitment to the ABM Treaty and the concern in the U.S. that the Europeans are moving away from their commitments to NATO.

Our second stop was in Belgrade, Yugoslavia. It was my first trip to Yugoslavia in many years; since before Milosevic came to power. I had been asked to go many times—even by the Patriarch himself—but I said that I would not go until Milosevic was no longer in power. I had taken the same view with regards to Croatia; I would not go there until Tudjman was gone.

The fact that in the last year I've visited both Croatia and Yugoslavia says that a lot about the change that has happened.

And I am proud of the fact that I was the first member of the House or Senate to visit Croatia's new president, Stipe Mesic, and that Senator SPECTER and I were the first U.S. elected officials to fly into Yugoslavia and congratulate President Kostunica.

I think it's important for the American people to know that our efforts in southeastern Europe are paying dividends for the cause of democracy, the rule of law, human rights and a market economy.

However, a part of me often wonders if we had taken as much of an interest in southeastern Europe in the early 1990's as we do today, perhaps we wouldn't have to have U.S. troops in Bosnia and Kosovo.

Still, we are making progress in restoring order and building peace, and though some may not agree, it is in our national interest to be involved in the Balkans.

I was impressed with the leadership of Yugoslavia's President Kostunica. He has surrounded himself with bright, capable individuals who share their President's eagerness to bring their nation back into the fold of the international community.

Our discussion focused on a number of issues, including reintegrating Yugoslavia into the international community after Milosevic's downfall, the country's continuing economic challenges, the humanitarian issues facing the people—including a lack of power, medicine and medical equipment—and the situation in Kosovo, the Presevo Valley and relations with Montenegro.

I was also impressed with Zoran Djindjic, the Serbian government's prime minister. Our meeting largely focused on the same subject matters discussed with President Kostunica.

We also discussed in detail the war crimes issue and America's strong interest in seeing progress in this area. I reminded him that Congress had laid out conditions in the FY 2001 Foreign Operations Appropriations bill in order for U.S support to continue.

From Serbia, we traveled to Bosnia to visit our American troops. We were met by Major General Smart who gave us an overview of the situation in Bosnia. He informed us that the men and women under his command understand the importance of their mission, have high morale and are performing beyond expectations.

After lunching with some of our men and women in uniform from Ohio and Pennsylvania, Senator SPECTER and I rode along with some of our troops on a Humvee patrol through the area.

I asked a couple of the young soldiers with whom we were patrolling what they thought would happen if the United States were to pull out of the region. They answered without hesitation that the ethnic hostilities between the Serbs, the Croat's and the Muslim's would almost immediately resume.

Their assessment—these two young men who are right in the thick of it—made it clear how important it is to maintain an ongoing international military presence in Southeastern Europe for at least the immediate future. In my view, Bosnia's government structure which was created in Dayton is fundamentally unworkable, and it must be reassessed if there is ever to be a lasting peace in Bosnia.

After a return to Belgrade for more meetings, we flew to Egypt, where we met with President Mubarak.

We had a detailed discussion about the latest peace plan put forward by President Clinton, Egypt's role in the peace process, and the comparative positions of the Israelis and Palestinians.

During the meeting, we encouraged President Mubarak to support President Clinton's peace initiative, and requested he urge other Arab leaders to support the peace initiative in Israel.

From Cairo, we went to Israel to meet with Shimon Peres, Ehud Barak and Ariel Sharon and other leaders to discuss the fragile peace process.

Mr. Peres felt that economic cooperation is a key to conflict resolution, believing that if people have something to lose in war or violence, they will be less likely to fight. We also discussed the issues of the day in the negotiations—the Temple Mount and refugee returns.

Mr. Barak expressed his disappointment at the failure of various peace initiatives, and concern that the Palestinians may be learning the wrong lesson: that continued violence strengthens their negotiating position.

He stressed the opposite: that violence is slowing the peace process and strengthening the negotiating position of the Israelis. Mr. Barak was hopeful that negotiations would continue throughout the American presidential transition and the Israeli elections. Thank God they have.

We then met with Ariel Sharon, and immediately discussed his controversial visit to the Temple Mount last September and the impact it had on the peace process. I indicated that many Americans felt it was inflammatory.

Mr. Sharon explained that his visit was a normal event and that every Israeli citizen has the right to visit the Temple Mount because of its religious significance. Evoking images of Richard Nixon, he further stated that he was the only candidate for Prime Minister who could reach a true peace agreement with the Palestinians.

After my meeting with Mr. Sharon, I joined U.S. Consul General Ron Schlicher for a dinner discussion with Faisal Husseini. Husseini is a leading figure in the Palestinian community. We had a lengthy discussion regarding the ongoing violence and tensions in Israel, prospects for peace, and the Palestinian perspective on the last 50 years.

The next day, I also met with Mr. Jawdat Ibrahim, a young Palestinian businessman who was deeply interested in the peace negotiations. I was interested in his view—and through him, the Palestinian view—on current events. Our discussion was interesting and it added an important perspective to my trip.

Mr. President, at this time, I ask unanimous consent that a longer statement outlining many of the observations that I was able to make over the course of our trip be printed in the RECORD following my remarks.

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

(See Exhibit 1.)

Mr. VOINOVICH. Mr. President, one of the true benefits of traveling overseas is it gives lawmakers an opportunity to see first hand the political,

social and economic conditions of nations that many of us only read about in the papers or see on the nightly news.

It also allows us to see how these conditions in one part of the world can have a profound impact on an entirely different part of the world.

So it was with my trip to the Middle East, where I was able to see how events there have a direct effect on events in the United States. Many people in our nation do not realize this, but there actually is an ''interconnectedness'' of issues between nations that sometimes we don't think about.

One thing that I have thought a lot about since my visit is just how much the ''on-again/off-again'' peace process in the Middle East affects our nation's energy policy, particularly as it relates to our national security.

While I was in Israel, I met with Richard Shotenstein, the Managing Director of the Ohio Department of Development's Eastern Mediterranean Regional Office, an office I created as Governor of Ohio.

He told me that the tensions surrounding the ongoing Middle East crisis have dramatically lessened the interest of Ohio companies in business opportunities in the region.

He also indicated that there is a growing anti-Americanism, largely seen in boycotts, spreading throughout the Arab world, where many view the U.S. and Israel as intimately linked. Thus, anti-Israel trends become anti-American trends.

This should be a concern of every American given the fact that today, the United States is more dependent on foreign oil than at any other time in history.

In 1973, at the time of the Arab oil embargo, we imported 35 percent of our oil to meet our domestic needs. Today, that number averages 58 percent and it is estimated that we could be importing 65 percent of our oil by 2020.

Unless we address our own domestic energy needs and become less dependent on foreign oil, we may be held to the whims of the OPEC nations, and indirectly, to the vagaries of the Arab world—particularly in Iraq, arguably our nation's biggest enemy.

On January 17, the New York Times reported that the OPEC nations were going to reduce oil production by 1.5 million barrels per day. Although this will likely drive up prices, the real problem to watch for is what Iraq will do.

According to the article:

If Iraq indeed keeps exports to a trickle, Saudi Arabia—as the largest producer in OPEC and its de facto leader—may feel compelled, as it has intermittently over the last year, to increase its own output to make up for the Iraqi supplies. But the Saudis might be able to replace only part of the oil that Iraq took off the market.

I shudder to think how Iraq would use its influence should they gain a more dominant role in the production of crude oil in the Middle East.

It is one of the major reasons why a lack of a reliable supply of energy should be of great concern to all Americans.

Consider the rolling electricity blackouts that California is now experiencing. Consider also natural gas prices which are expected to skyrocket 70 percent by the end of winter according to predictions by the Department of Energy.

Add in the fact that home heating oil prices have already jumped by 40 percent and more, not to mention high gasoline prices, and it should become crystal clear that our country's lack of a comprehensive energy policy must be addressed.

Since at least the mid-1970's, Congress and presidential administrations of both parties have been unwilling, unable and unmotivated to implement a long-term energy policy.

As I have stated, the United States relies on more foreign sources of oil than at any other time in history. However, even if we wanted to increase the production of crude oil in this country, there has not been a new refinery constructed in 25 years due, in part, to changes in U.S. environmental policies.

Additionally, 36 refineries have closed since the beginning of the Clinton administration, in part, because of strict environmental standards.

Last year, the existing refineries were running at 95 percent capacity or higher for much of the year. With our refineries running at these levels, even if a greater oil supply was available, there would be no capability for refineries to turn it into useful products.

As a result, we must currently rely on overseas supplies at an astronomical cost from a region fraught with instability. Until new refining capacity is available, even minor supply disruptions will continue to lead to drastic increases in fuel prices. No one has dared contemplate what would happen should major disruptions occur.

In addition, natural gas heats 56 million American homes and provides 15 percent of the nation's electric power, for nearly one-quarter of our energy supply.

Because natural gas burns so cleanly, it is easier to obtain the environmental permits necessary to build natural gas-run energy plants. Thus, it is easy to see why virtually all new electric generation plants that are currently being built will use natural gas for fuel.

The popularity of natural gas is good for the air we breathe, but the high demand for it is beginning to pinch the pocketbook, resulting in soaring costs. We should not forget that other energy resources are available which can provide additional sources of clean, low-cost power.

New technologies are making coal an increasingly cleaner source of electricity. We should not forget this valuable, abundant natural resource—with an estimated domestic supply of 250 years—as we move forward with an energy policy that not only protects our environment, but also continues to meet consumer's needs for power.

I support efforts such as those in the National Electricity and Environmental Technology Act, introduced last week by Senator BYRD. His bill creates research and development programs that provide incentives for developing clean-coal technologies in the U.S.

As my colleagues know, if we are to decrease our dependence on foreign energy sources, research and development will be important to ensure that coal can remain a viable energy option in the future.

During this energy crisis, it is critical that we restructure our country's disjointed energy policy into a national plan that is comprehensive, cohesive and cost-efficient.

Last year, the Majority Leader and Senator MURKOWSKI introduced legislation to address many of these problems. I was proud to be an original cosponsor of that legislation in the 106th Congress, and I will cosponsor Senator MURKOWSKI's bill when he introduces it this year.

In addition, Senator MURKOWSKI and I sat down last week to discuss the role that environmental regulations play in our nation's energy policy. We agreed that it is imperative that we work to harmonize our environmental and energy policies so that clean, affordable and reliable energy can be made available to all consumers.

To help accomplish this goal, we both agreed that the key to a comprehensive energy policy will rely on environmental regulations that, while protecting public health and the ecosystem, are based on cost-benefit analysis and sound science. As Chairman of the Senate's Clean Air Subcommittee, it is something that I will work towards in the 107th Congress.

Finally, with the extreme cold weather we have experienced so far this winter compounding our current energy crisis, we need to encourage the President to provide more funding for the Low Income Home Energy Assistance Program—LIHEAP—to meet the pressing needs of those who are most vulnerable to skyrocketing energy prices. Certainly if we have a supplemental this is an emergency that needs to be addressed in that.

Under LIHEAP, states are required to use the Federal funds they receive to provide the greatest level of benefit to the greatest need.

That means in my State of Ohio, some 220,000 households are expected to be helped this year—10 percent more than last year—with each household receiving payments between $150 and $400 to cover energy costs.

Last week, along with a number of my colleagues, I asked the President to provide $300 million in emergency LIHEAP funds. Should he allocate these funds, it will help hundreds of thousands of low income families, seniors and the disabled get through our current energy crisis.

Our national security depends on our ability to guarantee a reliable energy supply. To do this, we must lessen our dependence on foreign oil, investigate alternative fuels and energy sources and ensure an adequate delivery and supply infrastructure.

At the same time we are developing this energy policy, we must insist that it does not result in diminishing our environment or public health. We cannot allow that to happen. We must continue to improve the environment and public health. It is a complex task, but one I know that we can accomplish if we work together on a bipartisan basis. We need to get the environmentalists, industry, and consumers—all of us in the same room talking to each other, so we can come up with a policy that is fair to everyone.

EXHIBIT 1

OBSERVATIONS IN SOUTHEASTERN EUROPE AND THE MIDDLE EAST, JANUARY 29, 2001

(By Senator George Voinovich)

On the morning of December 28, 2000, Senator Specter and I left Andrews Air Force Base for a 7 day assessment of the situation in Southeastern Europe and the Middle East and the prospect for peace in either region. The first leg of our journey consisted of an approximately nine hour flight to Munich, Germany where we were scheduled for an overnight stay. Arriving late that evening, we were met by Consul General Robert W. Boehme and John McCaslin, a U.S. Foreign Commercial Service officer. We had an interesting discussion about a variety of trade, security and foreign policy issues facing the United States and Germany.

The next morning, (December 29), Senator Specter and I met with a number of leaders of the local business community. We had an interesting conversation about a variety of trade concerns facing the United States and the European Union, EU. Specifically, we discussed the steel, banana, and genetically-modified beef issues currently dominating our trade relations.

When the conversation turned to technology, I was surprised to learn that the Germans are facing the same shortage of highly-trained information technology workers that our nation has been struggling with in recent years. This problem has been exacerbated by the growing number of entrepreneurs funneling venture capital into the high-technology sectors of the economy.

We also had an interesting discussion about National Missile Defense, NMD. The business leaders we met with explained their deep concern that the United States' commitment to an NMD system may create another Cold War with Russia and China. They were also concerned with our continued commitment to the Anti-Ballistic Missile Treaty, ABM Treaty, and indicated that their views largely reflected those of the German people.

Finally, we discussed the European Union's, EU, European Security and Defense Policy, ESDP. Senator Specter and I made it clear that many Members of Congress are concerned that our European allies are moving away from their commitments to the North Atlantic Treaty Organization, NATO. The group responded by explaining that the Europeans will continue to view NATO as the foundation of the trans-Atlantic relationship.

After the meeting in Munich, Senator Specter and I flew to Belgrade in the Federal Republic of Yugoslavia, FRY. Ours was the first American plane to land in Serbia since the Kosovo bombing campaign in early 1999.

While a number of the buildings in the central section of the city were abandoned due to bomb damage, I was generally impressed with the city's landscape. It was clear that Belgrade was once the economic, political and cultural heart of Tito's Yugoslavia.

We immediately met with Vojislav Kostunica, the recently elected President of the Federal Republic of Yugoslavia at the Federation Palace, and it was not lost on me that we were the first federally-elected officials from the U.S. to meet the man who toppled Slobodan Milosevic. He reminded us that it took Yugoslavia less time to elect their new president than it did for us to elect the President of the United States.

The President sat down with us after completing a meeting with Boris Trikosky, the President of the Former Yugoslav Republic of Macedonia, whom I personally had met last February during a visit I made to Croatia, Macedonia and Kosovo. The discussion President Kostunica had with Senator Specter and me focused on the progress that has been made in reintegrating the FRY into the international community after Milosevic's downfall, the country's continuing economic challenges, the humanitarian issues facing the people (including a lack of power, medicine and medical equipment), and the situation in Kosovo, the Presevo Valley and relations with Montenegro.

We spent a great deal of time stressing to President Kostunica the importance of cooperation with the United Nations' International Criminal Tribunal for the Former Yugoslavia, ICTY or the Hague. We made it clear that Congress will demand significant progress in this area in order for economic assistance to continue to be made available to the FRY. We also highlighted the view of many in the U.S. that Milosevic must be brought to justice for the crimes he committed against humanity in Bosnia and Kosovo; specifically, that he be brought to the Hague.

In response, the President indicated that he was very aware of American concern over the war crimes issue, and that he shared our concern but for very different reasons. Milosevic is thought to have stolen over $1 billion from the people of Serbia during his rule, ordered the murder of many of his political opponents and manipulated the results of several elections, among other crimes.

President Kostunica made it clear that the Serb people want him to be held accountable for his crimes against the Serb people before he faces any international court or charges for war crimes. He also indicated that a domestic trial would begin to show to the people of the FRY what horrors were committed on their behalf over the last ten years.

He explained that Milosevic's control of the media prevented the vast majority of people from the truth about Bosnia and Kosovo. A trial would begin to present these ugly realities. He pointed out that the International Criminal Tribunal for the Former Yugoslavia is expected to open an office in Belgrade as a sign of growing cooperation and understanding between The Hague and the FRY.

The next meeting we held was with Miroljub Labus, the Federal Deputy Prime Minister responsible for economic policy, and his senior team. I was very impressed by his understanding of the various problems dragging down the Serbian economy. He made a point to stress the humanitarian crisis the country is facing.

He also made it clear that their efforts to reinvigorate the economy, attract foreign investment and begin to address the nation's debilitated infrastructure would not likely have an effect for several months. He explained that Milosevic's rule had left the economy in such a shambles that they were only now beginning to pick up the pieces.

I stressed the importance of resisting the traditional Balkans temptation to fill key jobs in the new government with family, friends and political allies. Given the troubles before them, now is not the time to bring in political hacks. Labus must assemble a clean, well-qualified team, and from what I saw, he has done so thus far.

I was very impressed by Deputy Prime Minister Labus and his team. The future Serbian Minister for Finance, Bozidar Djelic, and the FRY's Stability Pact Coordinator, Milan Pajevic, attended the meeting as well. It was clear that they understood the importance of addressing their people's needs in the short-term.

We then met with Zoran Djindjic at his campaign headquarters. Mr. Djindjic ran Mr. Kostunica's presidential campaign and has been active in the opposition movement in Serbia for years. It was widely reported that he would soon be installed as the Serbian government's prime minister, and in fact, on January 25, he was sworn in as prime minister. As my colleagues may not be aware, under the FRY's constitution, the prime minister of Serbia is given a great deal of power, thus, Mr. Djindjic will be intimately involved in finding solutions to the various problems facing his country.

The discussion largely focused on the same subject matters discussed with President Kostunica—reintegrating the FRY into the international community after Milosevic's downfall, the country's continuing economic challenges, the humanitarian issues facing the people (including a lack of power, medicine and medical equipment), and the situation in Kosovo, the Presevo Valley and relations with Montenegro. We also discussed in detail the war crimes issue and America's strong interest in seeing some progress in this area. I found Mr. Djindjic to be well-versed in all of these matters and largely aware of the official American position on them.

Of the various matters covered, the issue of Montenegro's relationship with Serbia was discussed in the most detail. Mr. Djindjic's passion for retaining the existing structure/relationship with Montenegro was clear. As some of my colleagues may know, President Djukanovic of Montenegro has indicated that, in response to the popular will of his citizens, he may be forced to hold a referendum on Montenegrin independence in the next few months. Mr. Djindjic indicated that such a move would create a crisis between Serbia and Montenegro which would have the potential to have a broader regional impact.

I then traveled to the Ministry of Foreign Affairs for a meeting with Foreign Minister Goran Svilanovic. Again, in an effort to be consistent in my message to the new government, I explained in detail the importance of

cooperation with the International Criminal Tribunal, (The Hague). The Foreign Minister's response echoed that of the President and Mr. Djindjic.

I was pleased to know that Mr. Svilanovic is pushing EU membership as a long-term goal for the FRY. To that end, he plans on traveling extensively in the near future to explain the various issues facing his country, their plans to address them, and their long-term agenda. I am hopeful that he will be successful in this effort. I believe that a focus on EU membership will encourage changes within the FRY that will further instill a commitment to democracy, the rule of law and human rights.

For dinner that evening, I was pleased to join U.S. Ambassador to the Federal Republic of Yugoslavia, William Montgomery, Foreign Minister Svilanovic, Professor Vojin Dimitrijevic, who is head of the Belgrade Human Rights Committee, and Milan St. Protic, the Mayor of Belgrade. It was widely expected at that time that Mayor Protic would be named as the FRY's Ambassador to the U.S. and since we've been back in the United States, it has actually occurred. As a matter of fact, just last week, I met with Ambassador Protic to discuss a variety of issues of concern to his nation.

The dinner we had in Yugoslavia included a frank, wide-ranging, off-the-record discussion, where we exchanged views on the opposition movement in Serbia during the Milosevic years, the Bosnia tragedy and Kosovo. It was a dinner that I am not likely to forget soon.

The morning of December 30, Senator Specter and I met with His Holiness Paul, the Patriarch of the Serbian Orthodox Church, at the Patriarchate. The Patriarch discussed the importance of reconciliation between the various peoples of southeast Europe to the future of the region.

He pointed out that cooperation and mutual respect between the various ethnic groups in the region, between the Serbs and Albanians in Kosovo, for example, is impossible while violence continues. He expressed his deep concern and remorse that nearly 100 Serbian Orthodox religious sites, included centuries-old churches, had been destroyed in Kosovo since the completion of the 1999 NATO bombing campaign.

The Patriarch gave me a copy of a booklet that the Serbian Orthodox Church prepared on the number of churches gutted, damaged and destroyed. I told the Patriarch I had read it and had shared copies that I had been given by Father Irini Dobrevich with some of my colleagues.

I reminded the Patriarch that I met with Bishop Artemiie on his visit to the UN and the United States last year and indicated that he is an effective voice for the Serbian Orthodox Church in Kosovo. I stated that because of the efforts of people like Bishop Artemjie, the U.S. State Department is a little more focused in terms of their involvement and concern with Yugoslavia.

Further, the Patriarch Senator Specter and I discussed the terrible ethnic cleansing that had happened and was continuing to happen in Kosovo, and I asked him to keep me updated on the ongoing situation in Kosovo.

Finally, I thanked him for the leadership role the Orthodox Church played in the removal of Slobodan Milosevic and their push for free and fair elections, and for establishing a Serbian Orthodox Church office in Washington, led by Father Irini Dobrevich. I have gotten to know Father Dobrevich and find him to be a breath of fresh air in Washington. He has worked hard on behalf of Serbs in diaspora and continues to respond to the many ongoing humanitarian needs in the FRY.

Senator Specter and I then flew to Tuzla, Bosnia where we were met and briefed by Major General Walter M. Sharp. Major General Sharp commands Multi-National Division, a force of some 7,000 soldiers. He was happy to report that the men and women under his command understand the importance of their mission, have high morale and are performing beyond expectations.

After the overview, we traveled to Camp Dobol where we shared lunch with a number of Ohioans and Pennsylvanians serving their nation in Bosnia. And I have to say that we as a nation should be very proud of all of our young men and women who serve their country, not just in Southeastern Europe, but all over the world.

Senator Specter and I then rode along with some of our troops on a mounted patrol through area. It quickly became clear to me that General Sharp's comments about the morale and performance of his people were accurate.

Although some of the scenery looked very peaceful, it belied incredible tension in the area. I asked a couple of the young soldiers with whom we were patrolling what they thought would happen if the United States were to pull out of the region. They answered without hesitation that the ethnic hostilities between the Serbs, the Croats and the Muslims would almost immediately resume.

Their assessment made it clear how important it is to maintain an ongoing international military presence in Southeastern Europe for at least the immediate future.

After our tour, we returned to Belgrade for more meetings.

We met with Momcilo Grubac, the Federal Minister of Justice at the Federation Palace. Mr. Grubac stressed his government's commitment to the rule of law. He explained that his first task will be to modernize the legal framework within the FRY to bring it into compliance with international standards. He was quick to point out that the years under Milosevic had set the country and its people behind in this area.

Again, we discussed in great detail the importance of cooperation with the international community on war crimes. As expected, his comments largely reflected those of President Kostunica. However, he did indicate that the FRY will no longer harbor indicted war criminals. He added that an internal criminal proceeding to deal with Milosevic would be important to further establishing democracy in the FRY.

We then traveled to the Federal Parliament Building where we met with Dragoljub Micunovic, the President of the Chamber of Citizens, and a number of other leading parliamentarians. On the war crimes issue, Mr. Micunovic agreed that accountability must be established to remove the sense of collective guilt that is beginning to become more and more prevalent in the FRY. On Milosevic specifically, he indicated his strong belief that Milosevic would be tried domestically and by the international community if there were evidence to support charges.

Senator Specter and I then joined Mr. Micunovic at a press conference to discuss our meeting and our general impressions from our visit to Belgrade.

I explained my position about the bombing campaign, that I really believed that other diplomatic routes should have been pursued in dealing with Milosevic. I also explained that had the U.S. not legitimized Milosevic's leadership at Dayton, and not refused to support the resistant movement in 1997, the situation could have been a lot different in Serbia. There could have been an earlier removal of Milosevic from office and avoidance of the whole war, and the death, destruction and human suffering that accompanied it.

One of the questions I was asked was whether the U.S. and/or NATO leaders should appear before a war crimes tribunal for the air war conducted over Kosovo. I made it very clear that the responsibility for the bombing rest solely with Milosevic—not the United States or any of her officials, nor NATO. To those in NATO and the U.S., Milosevic and his thugs were a cancer that had to be removed from Serbia for the crimes he has committed. With Milosevic out of power, it is now possible to stabilize southeastern Europe, integrate Serbia into the EU and improve the standard of living and quality of life of all the Serbian people.

That evening, I joined a number of OTPOR activists for dinner. As my colleagues may know, it was the demonstrations by OTPOR members against Slobodan Milosevic's attempt to steal last autumn's election from Mr. Kostunica that hastened the downfall of Milosevic. I was heartened by the youthful spirit of the people I met and I suggested some new roles that they could play now that Milosevic has been removed from leadership.

I was thoroughly impressed with the quality of this group of leaders in Yugoslavia, men and women who were able to mobilize a nearly 70 percent youth vote turnout in the election that toppled Milosevic. I am sure that they will continue to be a significant force for democracy in the years ahead.

The next day (December 31), we traveled to Cairo, Egypt where we met with U.S. Ambassador Daniel C. Kurtzer. He explained that President Mubarak, with whom we were planning on meeting the next day, was consumed with the Middle East peace process.

With that in mind, we discussed the political environment among the Arab and Israeli peoples, Prime Minister Barak's political position in light of the upcoming elections in Israel and Arafat's negotiating positions in the discussions.

The morning of New Year's day (January 1, 2001), we met with President Hosni Mubarak at his presidential complex in downtown Cairo. We had a detailed discussion about the latest peace plan put forward by President Clinton, Egypt's role in the peace process, and the comparative positions of the Israelis and Palestinians. During the meeting, we encouraged President Mubarak to support President Clinton's peace initiative, and that he should urge other Arab leaders to support the peace initiative in Israel.

After meeting with President Mubarak, Senator Specter and I had a news conference where we indicated that we would send out a telegram encouraging other Arab leaders to come out publicly in favor of the initiative. We also announced that we would be urging President Clinton to meet with Chairman Arafat for the purpose of clarifying the details of the proposal and to keep the parties talking to one another rather than seeing the peace discussions end precipitously. Later that day, we sent a telegram encouraging other Arab leaders to come out publicly in favor of the initiative and continuing the negotiations. We were pleased that ultimately the President did meet with Arafat and that the Arab leaders came out and said that they were supportive of the initiative.

I found President Mubarak to be an engaging, affable man, committed to peace yet struggling to maintain a very difficult political position. Given Egypt's crucial role in maintaining relative peace in the region since the Camp David Accords, it was an honor to meet him. I believe his role will be crucial in the coming weeks, months, and years if peace is to truly be reached in the Middle East.

After the meeting and press conference, we flew to Tel Aviv and then drove to Jerusalem for a series of meetings. Our time in Israel began with a discussion with U.S. Ambassador Martin Indyk who updated us on the American perspective on the peace negotiations. We examined the right of return and Temple Mount issues in some depth which quickly confirmed my impression that the issues facing the negotiators are incredibly complex.

We then traveled to the Knesset building where we had a series of meetings. We first saw Shimon Peres, a friend I have known for years. He indicated that he did not believe that the schedule imposed on the ongoing peace talks, considering the U.S. presidential transition and the upcoming election for prime minister in Israel, was realistic. I agreed.

I believe that it was a mistake and is a mistake to set deadlines on the discussions because they create unnecessary pressure. I believe that it is best to continue an active, open dialogue for as long as necessary, even if it appears that little progress is being made.

Mr. Peres commented how advances in information technology had fundamentally altered the worlds of diplomacy and warfare. He also explained that one of the keys to peace in the region that has not been properly addressed is economic cooperation.

He believes that if people have something to lose in conflict or violence, they will be less likely to fight. This is a message I had received from him several years ago and was crucial in my decision when I was Governor of Ohio to open a Middle East trade office, the Eastern Mediterranean Regional Office, in Israel.

We then discussed the issues of the day in the negotiations—the Temple Mount and refugee returns. As always, I found his analysis to be insightful.

Senator Specter and I then visited with Prime Minister Ehud Barak. As my colleagues would expect, the peace process was the only matter discussed.

Mr. Barak expressed his disappointment at Camp David's failure and the various peace initiatives attempted since then. He also expressed his concern that the Palestinians may be learning the wrong lesson in recent months—that continued violence strengthens their negotiating position. Rather, he made it clear that violence is slowing the peace process and strengthening the negotiating position of the Israelis.

Mr. Barak was hopeful that negotiations would continue throughout the American presidential transition and the Israeli elections. It was clear, however, that the continued violence was putting a great deal of pressure on him.

We then met with Ariel Sharon who is widely expected to defeat Mr. Barak in the upcoming elections for prime minister. We immediately turned to his controversial visit to the Temple Mount last September and the impact it had on the peace process. I pointed out to him that many of us felt that his visit was inflammatory, that it did nothing to aid the peace process and that if elected Prime Minister of Israel, he would have to make it very clear that he was for peace. Mr. Sharon explained that his visit was a completely normal event and that every Israeli citizen has the right to visit the Temple Mount because of its religious significance. I also expressed my opinion that in visiting Israel for the sixth time in twenty years, the situation there was more critical and explosive than I'd ever seen.

We then discussed his plans for the peace process, should he be elected prime minister. He made a number of strong statements regarding his commitment to the process. He argued that since only President Nixon could open the door to China, only he could come to a peace agreement with the Palestinians given his military background.

After the Sharon meeting, Senator Specter traveled on to Jordan to continue examining issues in the Middle East. I remained in Jerusalem to continue to examine the situation in Israel.

That evening, I joined U.S. Consul General Ron Schlicher for a dinner discussion with Faisal Husseini. Husseini is a leading figure in the Palestinian community. We had a lengthy discussion regarding the ongoing violence and tensions in Israel, prospects for peace, and the Palestinian perspective on the last 50 years.

I thought it was important that I have a balanced understanding of the current situation in Israel and was pleased to have the opportunity to meet with Mr. Husseini.

The next day (January 2), I met with Ehud Olmert, the Mayor of Jerusalem. I met Mr. Olmert on my fourth trip to Israel in 1993. He indicated how important it was to retain Jerusalem's integrity during the course of the peace negotiations.

He also argued that the various plans being considered, including President Clinton's proposal, were fundamentally flawed on this point. He strongly believes that the people of Jerusalem, his constituents, will never agree to a divided capital city. Richard Shotenstein, the Managing Director of the Ohio Department of Development's Eastern Mediterranean Regional Office, attended the meeting with Mayor Olmert.

Afterwards, I spoke with Mr. Shotenstein regarding the Office's recent activities. While there have been some great successes, he explained that the tensions surrounding the ongoing Middle East crisis have dramatically lessened the interest of Ohio companies in business opportunities in the region.

He also indicated that there is a growing anti-Americanism, largely seen in boycotts, spreading throughout the Arab world. This trend has especially impacted consumer products. Mr. Shotenstein explained that to many in the Arab world, the U.S. and Israel are intimately linked. Thus, anti-Israel trends become anti-American trends.

I then met with Mr. Jawdat Ibrahim, a young Palestinian businessman who was deeply interested in the peace negotiations. I was interested to see his view—and through him, the Palestinian view—on current events. Our discussion was interesting and it added an important perspective to my trip.

Later that day, I met with a group of Ohioans now living in Israel. After meetings with various political leaders, I wanted to have an opportunity to discuss the issues of the day with people whose lives are affected by the ongoing violence. The group made it very clear that there was a very real sense of fear living in Israel.

Some described risking their life simply driving to and from work. Others feared that their car would explode when they started it every morning. Still others recounted phone calls from relatives living in America expressing concern about the safety of their grandchildren. I cannot imagine living with this kind of fear.

The last day of the trip (January 3), I had a telephone conversation with Benjamin Netanyahu. While I was disappointed that scheduling conflicts prevented our meeting in person, I found his analysis of the situation in the region to be very insightful. I hope to have the opportunity to meet him on my next visit to the region, although he indicated that he would make it a point to meet with me the next time he visited the United States.

Following my phone conversation, I had another meeting with Ambassador Indyk to discuss the various things I had learned during my visit to the region.

I was pleased to travel with my colleague, Senator Specter, to two of the most important regions to our national security at such a crucial time. I gained valuable insight as to the fragility of peace, and came away with a new and deeper appreciation for our American democracy.

Mr. President, as we welcome a new administration to the White House, I am hopeful that President Bush and his foreign policy team will be successful in promoting peace, stability and prosperity in these areas. We must never forget that both southeastern Europe and the Middle East are important to our national security and our nation's future.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

EXECUTIVE SESSION

NOMINATION OF ELAINE LAN CHAO, OF KENTUCKY, TO BE THE SECRETARY OF LABOR

Mr. THOMAS. Mr. President, I now ask unanimous consent the Senate proceed to executive session to consider the nomination of Elaine Lan Chao, of Kentucky, to be Secretary of Labor, notwithstanding the consent of January 24, 2001, that the time of the nomination be yielded back, and the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume the pending business.

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I want to bring to the attention of all Senators that this will mean we have approved in such a short period of time 12 of President Bush's 15 nominations and that tomorrow afternoon we will approve two more, leaving only one. I want the record to be spread with the fact that that is pretty good work of the U.S. Senate. We look forward to completing all 15 in the near future.

I withdraw any objection that I have.

The PRESIDING OFFICER. Is there objection? If not, the nomination is confirmed.

Mr. THOMAS. Thank you, Mr. President. Certainly all of us are pleased

with the progress that has been made here and that it allows the administration to get into place and begin to move. I thank the Senator from Nevada.

Mr. REID. Mr. President, if I could say to my friend from Wyoming——

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Also we have had experience working with Mrs. Chao before. She is a good administrator. She has been good to the State of Nevada in the past. I look forward to working with her as Secretary of Labor. I am sure she will do a good job.

Mr. KENNEDY. Mr. President, I welcome this opportunity to express my support for Elaine Chao's nomination to be Secretary of Labor. Ms. Chao is a woman of impressive talents who has achieved a great deal in her career, both in and out of government. She is an accomplished manager and a graceful leader, and she has distinguished herself and her family by her strong commitment to public service.

She knows first hand the experience of minorities growing up in the America of the 1950's and 60's. Her career is a vivid example of the triumph of the American dream. She decided to attend both college and graduate school in Massachusetts, and our state is proud of her, too.

As we all know, the Secretary of Labor has the profound responsibility for enforcing the basic federal laws and federal programs that protect workers' fundamental rights, especially in areas such as fair wages, fair benefits, reasonable work hours, safe and healthy workplaces, and non-discrimination and equal opportunity in employment. The Department's statutory mission is specifically, and I quote, ''to foster, promote and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment.''

Ms. Chao is committed to these goals. As she stated forcefully at her confirmation hearing, ''all work is worthy of respect and virtually all workers need appropriate protection.'' She recognizes that ''the labor struggles of the early part of the last century and the laws that grew out of them are a critical part of this nation's historic commitment to justice for all.'' She has promised to ''fully, fairly and evenly enforce the labor laws of this country.'' Many challenges will face Ms. Chao in her new position, and I look forward to working with her to meet them.

This Congress, once again, will have an opportunity to increase the minimum wage. Many of us have long fought for raising the minimum wage, and we plan to introduce new legislation soon to grant a long overdue increase. Eleven million workers have already waited for over three years for Congress to act.

The real value of the minimum wage has fallen dramatically in the past generation. To have the purchasing power it had in 1968, the minimum wage would have to be at least $8.05 an hour today, not the current level of $5.15. Minimum wage families today fail to earn enough to rise above the poverty level. No one who works for a living should have to live in poverty. So, I hope that a fair increase in the minimum wage will be a top priority for both Congress and the Administration early this year.

I also hope that President Bush and Secretary Chao will reconsider their support of proposals that would enable states or local communities to ''opt out'' of a minimum wage increase. In some states today, the state minimum wage is as low as $1.50 an hour. In others, it is $2.65 and $3.35. The vast majority of workers are covered by the federal minimum wage, so these state rates apply to relatively few workers. Clearly, allowing states to opt out of the federal minimum wage would violate our commitment to the principle, which Congress has stood by for over sixty years, that working men and women are entitled to a fair minimum wage. Ms. Chao has said that she supports and will maintain the current federal minimum wage of $5.15 an hour nationwide, but that level today is not sufficient to provide the economic security that every working family deserves.

Another vital labor priority is training the nation's workforce to meet the demands of the new economy. I welcome Ms. Chao's assurance that ''training, developing and modernizing America's work force is one of [her] highest priorities,'' and I look forward to working with her to strengthen programs to address the needs of those in the workforce who are not adequately prepared. The bipartisan Workforce Investment Act, which Congress passed in 1998, reformed federal job training by creating a streamlined, one-stop approach to job training, and it was an important first step. But as more and more workers face mid-life career changes, and as even traditional occupations grow in complexity, better training for all workers—adults, dislocated workers and youth—is a necessity.

I was also encouraged by Ms. Chao's desire to see that ''parents have an easier time balancing the responsibilities of home and work.'' Today's employees are working longer and longer hours to make ends meet. The result is significant new problems for businesses and families. I welcome Ms. Chao's recognition that the Family and Medical Leave Act ''has brought about a great deal of benefit for working families that need flexibility.'' But we can and should do more to deal with these problems, and I am pleased by Ms. Chao's commitment to ''keep an open mind'' and to be ''a real good listener'' on further expansions in the law.

We must also guarantee strong and effective enforcement of the federal laws against job discrimination. Current laws require non-discrimination and affirmative action. The landmark Executive Order issued by President Johnson in 1965 has been in effect for more than 35 years, under both Republican and Democratic administrations, and strong enforcement is still needed. In her opening statement at her confirmation hearing, Ms. Chao eloquently testified to her understanding that barriers based on gender, race, national origin and disability have prevented many of America's workers from achieving their true potential. She emphasized that she is ''against discrimination of any sort, and will enforce the law as it is enacted.'' I hope this is an area where the Department and Congress can continue to make progress together.

Many of us have also long been committed to vigorous enforcement of laws and programs to protect workers' health. A particular contemporary concern is the prevalence of ergonomic injuries in the workplace. These injuries are the most significant workplace safety and health issue we face today. About 1.8 million workers report that they suffer ergonomic injuries every year. Another 1.8 million workers suffer such injuries that they do not report. These injuries are painful and often debilitating, and disrupt and sometimes end workers' careers. In the vast majority of cases, these injuries are preventable. The OSHA ergonomics rule went into effect at long last earlier this month. It offers vital protections to American workers, and it benefits employers too. Recent studies should lay to rest the suggestion by special interest groups that we should wait for additional scientific evidence to deal with this serious problem.

Ms. Chao has called the ergonomics rule ''the most visible issue'' facing the Department of Labor, and she said she would give the issue the ''greatest thought and effort and study.'' I commend her recognition that ''any change in our labor laws or in their interpretation must be carefully and solemnly considered, giving respectful and full attention to the views of every participant in the labor-management equation.'' I know that she will apply this understanding to the ergonomics rule, as well as to all of the other issues before the Department of Labor.

Finally, as we know, from equal pay for women and people of color, to pension plans and health plans, to the Family and Medical Leave Act, employees depend on the Department of Labor to ensure that the nation's labor laws are fully and fairly enforced. We in Congress have our own responsibility in this area—to see that the Department has adequate resources to carry out these missions successfully.

I congratulate Ms. Chao on her nomination, and I look forward to working

with her on issues of vital importance to workers and their families. I hope that under her able leadership, the Department of Labor will be at the forefront of improving the lives of the nation's workers and their families, by ensuring that they have good jobs, good wages and safe and healthy places to work.

Mr. ENZI. Mr. President, I am thrilled that we are today confirming Elaine Chao as Secretary of Labor. As Chairman of the Subcommittee on Employment, Safety and Training and a member of the Small Business Committee, I am very concerned about making sure all businesses in this country, even the very smallest, are able to understand the thousands of regulations they must follow and get the help they need to follow them. I know Secretary Chao shares these concerns and I look forward to working with her on these issues.

I am also extremely excited about the managerial and administrative experience Ms. Chao brings to the Department. It is so important that we have good administrative processes in the Department of Labor. The decisions of this Department deeply affect both our nations' workers and the businesses that provide jobs and incomes and help our economy grow. It is absolutely critical that both workers and employers feel that these decisions are not arbitrary and are reached in a fair and impartial manner.

I firmly believe Secretary Chao has the experience and skills to inspire confidence in the fairness of the Department's actions, regardless of their popularity. This is a crucial responsibility of the Secretary of Labor, and I believe Secretary Chao has been well trained to fulfill this responsibility. I look forward to helping Secretary Chao with this task, and I welcome my fellow members from both sides of the aisle to join us in this effort. I hope that together during this Congress we can take a careful and close look at some of the existing regulatory and enforcement procedures that Secretary Chao will inherit. We must ensure that good procedures are followed properly, and we must change procedures that are not working.

I also look forward to working with Secretary designate Chao to bring the Department of Labor into the 21st Century. We are in a very exciting time of more positive relationships between employees and employers. In this period of record unemployment, employers have learned the lesson that it makes good business sense to keep employees healthy and happy. In order to encourage this progress, we must ensure that our Department of Labor does not thwart the development of workplace arrangements and initiatives that benefit both employee and employer. This will take modern, innovative thinking and I am confident that Secretary Chao is such a thinker.

I think the President made a wonderful choice when he nominated Elaine Chao to be Labor Secretary, and I am so glad the Senate has demonstrated equal wisdom by confirming her quickly. I look forward to working closely with Secretary Chao and the Department on all the many challenging workplace issues.

Mr. WARNER. Mr. President, I rise today to express my support for Ms. Elaine Chao to be Secretary of Labor.

This Nation can be no stronger than the men and women who get up everyday and accept the challenges to go out into the workplace and return home to care for their families, themselves, and their neighborhoods. The Secretary of Labor's responsibility is to look out for the welfare of these men and women across our country. I am confident that Ms. Chao will be a great champion of these individuals, and I commend President Bush on selecting such an excellent nominee.

Ms. Chao brings to this important position a record of accomplishment both in the private and public sectors. Among other positions, Ms. Chao has served as president of the United Way, Director of the Peace Corps, Deputy Secretary of the Department of Transportation, and Chairman of the Federal Maritime Administration. Her experience as an executive and experience in finding solutions to complex problems with limited budgets, gives her a solid foundation to lead the Labor Department.

I have personally known Ms. Chao for a number of years. I was honored to be present at her confirmation hearing before the Senate's Health, Education, Labor, and Pensions Committee, of which I am now once again a member. Throughout her career, Ms. Chao has accepted the challenges that have confronted her and pursued her responsibilities with firmness, fairness, and always with a quiet dignity.

Ms. Chao will be a great leader at the Department of Labor, and I look forward to voting in support of her nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

Mr. THOMAS. Mr. President, I would like to proceed, if I may, under the order. I believe this time is allotted to us.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

NOMINATION OF GALE NORTON

Mr. THOMAS. Mr. President, we were talking about confirmation of appointments. Among the next ones that will take place tomorrow will be the Secretary of the Interior, Gale Norton. I want to spend a little time talking about the Secretary, but perhaps more as a preliminary matter, I want to talk about the importance of Federal lands and the impact they have on the West in particular. Of course, they are national lands.

First of all, I am very hopeful and confident that Gale Norton will be confirmed. I think she has done an excellent job in responding to the legitimate questions she has been asked. That is the role of the Senate: to inquire, ask questions of these aspiring nominees. She has done, I believe, an excellent job of responding.

She is a superb candidate for this job. She has experience. She has experience as attorney general of the State of Colorado, during which time, of course, she had to deal with a good many land, water, and air quality issues and I think dealt with them professionally.

She is knowledgeable, certainly, about the West. The West is unique—I will talk about that in a moment—where, in many cases, more than half of a State belongs to the Federal Government. It is very important to all of us.

Gale Norton has a background in land use and park use, not only from her experience in Colorado but also her experience in the Interior Department as an associate solicitor for the Fish and Wildlife Service, as well as the Park Service. I have had some occasions to talk with her as chairman of the parks subcommittee.

I certainly have an interest in this job in that this Secretary has jurisdiction over the National Park System. She is certainly a conservative conservationist. We have sometimes gotten into the position where those things seem to be an oxymoron; they seem to be conflicting. Indeed, it seems to me they are not.

She is a conservative and I am a conservative, but we are conservationists in that we want to protect the resources so they will be there in the future for our kids and future youngsters. These two things are not incompatible. Under most definitions, they would be quite compatible. I would substitute conservationist—at least to some we have to be an environmentalist. That perhaps is another step.

In any event, I do believe Gale Norton will be confirmed as Secretary, and I certainly support her nomination. I do want to talk about public lands, since we have some time today.

In my State of Wyoming, nearly 50 percent of the land belongs to the Federal Government in various categories. Some was set aside for national parks. We have two of the most famous national parks, Yellowstone and Grand Tetons. We also have Devils Tower and other facilities as well. Some of the land was set aside for U.S. forests. Much of the land, on the other hand, is BLM land, which really was remaining

land after the Homestead Act was finished and lands were taken for private ownership. These were the lands that remained and stayed in Federal ownership.

This map shows the holdings throughout the country. They represent millions of acres—a great deal of public land. In Alaska, 68 percent of the land belongs to the Federal Government. In Nevada—Senator REID was just here—they believe theirs is closer to 87 percent federally owned lands. It goes all the way to New Mexico, the Presiding Officer's State, with about 26 percent.

They are very important. Not only are they important because they are public lands and they are great treasures that we want to preserve, but of course they have a great deal to do with the way we live. They have a great deal to do with our economy. They have a great deal to do with our culture.

Those who live there often talk about public lands, and I understand people in Maryland or people in Connecticut often are not quite as familiar with the fact that we have millions of acres that are either mountains or high plains.

When we talk about those things, there is not much recognition of what the problems are. I suppose we are guilty of the same thing with regard to coastal lines. We do not have coastal lines in Wyoming. We need to talk about some of these things so we will better understand them.

I am very interested, of course, in the parks. I grew up right outside Yellowstone Park in Cody, WY. The park is one of the real treasures of this country. It seems to me the purpose of the park is to protect those treasures. The second purpose is to allow the owners, the American people, to enjoy them, and, from time to time, how we do that becomes somewhat controversial.

These places are unique, and some are managed for a single purpose: wilderness areas. I support wilderness areas. They are set aside and restricted as to how they can be used.

I hope we do not change the old sign of the Forest Service which said ''Land of many uses,'' to what some would like to change it to: ''Land of no uses.'' I do not believe that is where we ought to be headed, and I do not believe that is where our Secretary of the Interior will be heading.

There are many uses for which the land should be made available, not all economic. There is hiking and camping. You would be surprised by the number of letters I receive, when we talk about the roadless areas, from veterans organizations. Some of our disabled veterans are not going to have access to these lands if we do not provide it. Not only are there resources there such as grazing and timbering, but also recreational access, of course, is most important.

We also need to understand that these resources do need to be managed. We had this year probably the most devastating series of forest fires on public lands in the West. Managing those forests more in terms of access if there is a fire, in terms of thinning to prevent fires, is a very important issue.

We have a unique relationship with the Federal Government because of this involvement. Generally, it is a pretty good relationship. Interestingly enough, often the relationship with regard to the forest and BLM lands is pretty good on the local level with the staffs that are doing the actual work, but when you get to the policy level, the regional level, the national level, that coordination and cooperation seems to become more and more difficult.

We need to find some ways to make the Government a better neighbor to the people of the West so that we can work together. There has been a promise on the part of this administration, and particularly on the part of Gale Norton, to work more closely to involve local people and local governments in management of these lands.

One of the things that has happened, and needs to happen more, and at least be done more effectively and efficiently, is what is called a cooperating agency agreement where, when you have an EIS or study on a particular change of a regulation, why, the surrounding States, the surrounding counties, officials can be brought in as cooperating members and cooperating agencies to help make these decisions. It is true they are Federal lands and the final decision rests with those agencies, but the people who live there ought to have some input, and we hope that can be the case.

Throughout this past administration, it was more difficult. I understand the Secretary of the Interior and the last President were seeking to make some history for themselves, some legend in terms of setting aside public lands. Much of that was done without any commitment or involvement of local people at all.

On the contrary, Escalante Staircase, in Utah, was announced in Arizona when the Governor and the delegation had not been consulted about setting aside millions of acres in the State of Utah. That is not the kind of thing that makes for a good arrangement for managing these resources well or providing an opportunity for local people to participate that each of us thinks they ought to have.

Also, of course, there are a number of agencies that are involved. It isn't just the Department of the Interior. Certainly, in terms of access, we have the EPA, which has a great deal to do with some of the things that are involved with the endangered species and that sort of business. We have the whole access question, which has to do with Transportation, and other agencies. So we hope there will be an effort to bring together agencies that have sometimes conflicting jurisdictions in the Interior Department.

Certainly, I hope, for the most part, these lands, other than those that are set aside for special purposes, can be used for multiple use. And ''multiple use,'' I am afraid, is sometimes interpreted as being very detrimental to the environment. It does not necessarily need to be that way. There can be these uses, if they are managed well—renewable resources, such as grazing, for example. Grazing can be, if it is managed properly. It is certainly not detrimental to these lands. It harvests a crop that is there and will be there again next year.

So multiple use is very important to our States and to the economy there. This, of course, is not to say in the least that we in the West are not as interested in preserving the resources as anyone else in the country. One of the real problems, however, is the decisions with respect to that have generally been made from the top down, where the whole system really was designed in the NEPA arrangements that are in place, and so on, to start at the bottom and move up. And we have had, in our case in Wyoming recently, several instances of changes that were to be made, the most recent one being the use of snow machines in Yellowstone Park, where we had a 2-year winter-use study. They went all through this thing. They came up toward the end with some preferred decisions, and the Assistant Secretary—the very person we are talking about here—came there and said: Wait a minute. We are going to change that. And that was after all the people had participation in it.

In Jack Morrow Hills, which is in the Red Desert in Wyoming, the very same thing happened recently with the Secretary. You go through this process and you talk about partnerships and participation, and then somebody from the administration, at the top level, comes out and says: All right, we are going to change all that.

That is not really what is intended for participatory government. Hopefully, we can do some things that will help to change that.

I emphasize, however, again, that when we talk about preserving resources, I think you will find the people who live there are as adamant and emotional about preserving the resources—more so—than most people because that is where they live. That is where they are. Those are the things that are very important.

So we need to have a little better understanding of the plan and process. Frankly, more recently, it has been my experience, that when people from Washington went out to talk about a proposed roadless plan they were not certain what the plan was when they

got to the meeting. And there would not be a lot of support for it among the people who were actually managing the process.

We have a process for a forest plan that comes up for renewal about every 10 years. That is where the decisions ought to be made for the Medicine Bow Forest, not here in Washington. So I hope that is what we can do; that there can be public involvement.

So, Mr. President, I am very excited about the opportunity to support Gale Norton. Certainly, the appointments of the other officials in the Department will be equally as important—when you appoint the Director of the Park Service, when you appoint the Director of the Fish and Wildlife Service, or in the Department of Agriculture, where you have a Secretary who is over the Forest Service and the Forest Service management, as well as, of course, the Chief of the Forest Service, who does not happen to be one who is confirmed by the Senate.

But those are very important items. I hope we can help build some understanding that people who are interested in having multiple use of the lands are not interested in destroying those lands. We sometimes get that view promoted by some of the environmental groups in New York City and other places, that if you are going to use it, it destroys it. That does not need to be the case. Indeed, it should not be the case.

In fact, of course, in the parks we work very hard to provide facilities so that people can come and enjoy them. They have to be managed. I mentioned the sled issue. The parks said: We are going to do away with them because they are too noisy and have too much exhaust. They do. The difference is, there has been no management effort made over the last 20 years to separate the snow machines from the cross-country skiers. There has been no effort made to have standards so that the manufacturers of the sleds would reduce the noise and the exhaust. They were willing and able to do that, if they had some standards that would ensure that the investment they made could then be legitimate.

So I think these are the things we are looking for, to have a little different way of managing these kinds of resources. I am excited about the prospects that Secretary Norton will bring to this agency.

Mr. President, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I join my colleague, Senator THOMAS, in supporting the nomination of Gale Norton as Secretary of the Interior. She will, indeed, provide the kind of consultation that has been lacking in this past administration on important issues such as the designation of lands for conservation areas, or monuments, and some of the other issues on which there has been little consultation with the stakeholders, the people who are really most affected by the decisions of the Department of the Interior. Because so much of that Department's role recently has been the recommendation to the President of unilateral executive decisions on his part, that kind of consultation is going to be critical. Gale Norton is the kind of person who throughout her public career has brought people together and has reached solutions to problems that were primarily acceptable to all sides.

I have known Gale Norton for over 20 years. First of all, she is one of the smartest people I know. She actually scored 100 percent on her law school admissions test, the so-called LSAT. She graduated magna cum laude from the University of Denver. She attended the University of Denver Law School, where she was a member of the school's honor society.

She has held a variety of positions in her career, including chairing the Republican National Lawyers Association. She served under the previous President Bush on the Western Water Policy Commission. She served as chair of the Environmental Committee for the National Association of Attorneys General when she was attorney general of the State of Colorado.

As a matter of fact, when she was at the Department of the Interior, in her earlier career, serving as Associate Solicitor for Conservation and Wildlife, she was the primary legal adviser for the National Park Service and the Fish and Wildlife Service. She also played a key role in something—the Presiding Officer has, I think, perhaps been to my office. There is a very large painting in my office of the Vermilion Cliffs in northern Arizona, which is the area where the California condors were brought—this endangered species—to try to rejuvenate the species. This is an area where they thought the condor could survive. They are having a fairly tough time of it, but we hope they will survive. In any event, she was instrumental in protecting the condor.

She was instrumental in negotiating an agreement to deal with the noise from overflights over the Grand Canyon. There are a whole variety of things that Gale Norton did while at the Department of the Interior, and then as the attorney general of Colorado. For example, she was successful in persuading the Federal Government to accelerate the cleanup of a hazardous waste area near Rocky Flats in Colorado, which is the former nuclear weapons production site there, and at the Rocky Mountain Arsenal, a chemical weapons manufacturing site. There are a whole variety of things that one could mention in her record. I think most of them have been pretty well discussed in connection with her confirmation hearings.

But the point is to illustrate, first of all, the fact that she is an extraordinarily capable person, a lawyer with great experience in this Department of the Interior, as well as an attorney general, and other positions, all of which qualify her now to become the Secretary of the Interior.

She has experience in a wide variety of areas with which she will have to deal, including environmental protection—as I mentioned, hazardous waste cleanup, and other things.

As the Presiding Officer is well aware, one of the things the Department of the Interior, of course, has to deal with is giving great care and commitment to be the primary trustee for our Native Americans.

Because the United States has that trust responsibility and it reposes primarily in the Secretary of Interior, it is a critical position.

I ask unanimous consent to print in the RECORD a letter from Kelsey Begaye, President of the Navajo Nation, in support of Gale Norton for the position of Secretary of Interior.

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

THE NAVAJO NATION,
Window Rock, AZ, January 16, 2001.

Hon. JOHN KYL,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR KYL: On behalf of the Navajo Nation, I convey our support for Ms. Gale Norton, nominee for Secretary of the Department of the Interior. The Navajo Nation, in its government-to-government relationships, works with the Department of the Interior on myriad issues affecting the Nation. Although there are times when we disagree with one another we continue to work together for the benefit of the Navajo People. We wish to continue the working relationship with the new administration and we look forward to working with Ms. Norton.

The Navajo Nation's past experience with Gale Norton involved issues with the Southern Ute Tribe during her term as Attorney General for the State of Colorado. During that time Ms. Norton approached the tribes and asked how she could help. She provided testimony to the House (Natural Resources) Committee on the Animas-LaPlata project which benefitted the tribes. Her willingness to support the tribes demonstrates her knowledge of Indian nations and their position within the federal system.

The Navajo Nation does have its concerns with regard to Indian country policies and initiatives. We advise the new administration to follow the basic goals and principles of affirmation of the commitment to tribal sovereignty and self-determination, protecting and sustaining treaty rights and the federal trust responsibilities, and supporting initiatives which promote sustainable economic development in Indian country.

The Navajo Nation supports the nomination of Gale Norton for Secretary of the Interior and we trust she will continue to work with Indian country as she has done in the past. We look forward to working with her in advancing Indian country policies and Indian initiative for the Bush/Cheney Administration.

Sincerely,

KELSEY A. BEGAYE,
President.

Mr. KYL. In this letter he notes that Gale Norton has in the past exhibited an understanding of the needs of Native Americans. She worked on one of the settlements when she was attorney general of Colorado that involved water and other issues relating to the Colorado Ute tribe.

On other areas as well, President Begaye notes that she has an understanding of Indian issues which will make her a fine trustee. In all of these regards, it is clear that Gale Norton is well positioned to be a fine Secretary of Interior.

I conclude with what I began—namely, she is the kind of person who is able to bring people together to work on solutions to problems that have been somewhat contentious. Because we are dealing with so many different needs and different groups of people with our western lands and resources, it is important to bring these groups together. She will do that and will make a strong Secretary of Interior.

NOMINATION OF JOHN ASHCROFT

Mr. KYL. Mr. President, I rise briefly to discuss the nomination of another Cabinet official, the Attorney General, John Ashcroft. Hopefully, we will be able, on the Judiciary Committee, to have the vote on Attorney General designate Ashcroft tomorrow. We hope to have that meeting on Tuesday, at the very latest Wednesday. We are hoping to consider his nomination on the floor of the Senate and get that done by Thursday afternoon prior to the time that the Senate recesses for the week.

It is important that this nomination be confirmed. There are a lot of things pending. The Attorney General is one of the officers of the Cabinet who is always on watch. There are all of the assistant attorneys general, U.S. attorneys around the country who are looking for guidance from Washington on a wide variety of matters. We have more terrorist issues that demand the attention of the Attorney General. My colleagues on both the Democratic and Republican side are interested in commencing the process of judicial nominations to fill so many vacancies that exist. All of these and many more issues require an Attorney General who is active and in place. The sooner we can get the President's nominee for Attorney General confirmed, the better for the Nation.

I will comment briefly on some comments that have been made. One of my colleagues this morning spoke, as a matter of fact. The charges are pretty much the same. Let me summarize three or four things that have been said with regard to John Ashcroft and try to put them in proper context.

One of my colleagues this morning commented on the floor that there is a new John Ashcroft. I would have thought that since they didn't particularly like the old John Ashcroft, this would be good news, but it turns out not to be. What they are basically saying is, they don't know which one to trust. You have the old John Ashcroft who, as a Member of the Senate, was pushing legislation to do this and legislation to do that. Now as Attorney General, he says he will abide by the law. Well, which is it? The fact is, John Ashcroft has served in different capacities in his life, and they are not always the same.

As Members of the Senate, we put ideas forth. They are partisan ideas, they are philosophical ideas, and we debate them. In the crucible of this institution, those ideas are put to tests. They are molded, and they are amended. And consensus develops around solutions that we eventually will pass. None of us get our way on any of this legislation, but we all put it forth. We have our debates and then we move on.

That is a very different position than the position of a judge or Attorney General. There you have to take the law as it is, and you have to apply it. You have to interpret it. You have to argue it to the court and so on. I, for the life me, cannot understand why some of my colleagues are not able to make this distinction. Perhaps they are able to and choose not to because it is an unfair criticism of John Ashcroft that he will not apply the law as he is required to do as Attorney General simply because, as a Member of the Senate, he argued for other positions.

We can all walk and chew gum. We can all do different things at different times. There is nothing to suggest that John Ashcroft won't do exactly what he swears he will do when he puts his hand on the Bible and swears to uphold the Constitution and the laws. He did that as attorney general of the State of Missouri. One should not expect that it would change if he is Attorney General of the United States.

Secondly, there is this question of whether he would enforce laws with which he disagrees. Two thoughts about that: First, everyone is assuming he disagrees with certain laws that he doesn't disagree with. The so-called FACE law, the freedom of access to clinics entrances law, he supports that law. He opposes abortion. Some of his opponents say if he opposes abortion, he therefore must oppose that law, and therefore he probably won't enforce it. Wrong on two counts. You can oppose abortion and still support the law, as I do, as Senator Ashcroft does, which says that people should not be harassed when they want to lawfully go into a place which is a lawful place of business. There is nothing inconsistent with opposing what goes on inside that office but upholding the law that says people have a right to enter. He has said he would do that. That is the second point.

I don't know why people don't believe that. There is nothing in his record to suggest he would not uphold that law. He supports the law. He says he will uphold it. I don't understand why people, therefore, in effect question his motivation or his commitment to abide by the oath he will take. That bothers me because it suggests they don't trust John Ashcroft. Yet there isn't a single Senator who has served with John Ashcroft who hasn't, when asked to remark upon this, confirmed that, no, they understand his integrity and it is not that they don't trust John Ashcroft. There is something else.

I think it has to do with the fact that there are so many liberal special interest groups that have a reason to oppose John Ashcroft because his views are not the same as theirs that it is forcing our colleagues then to say things that are inappropriate. Because to suggest that John Ashcroft is not a man of integrity and that he won't keep his commitments is quite unfair to this fine and decent man.

That finally brings me to the third point. My colleague, Senator LEAHY, ranking member of the Judiciary Committee on which I sit, made a very important point this morning with which I agree. He said the office of Attorney General is a little different than the other Cabinet positions in that there is a special kind of responsibility there. With most of the other Cabinet positions, there are policy issues and administration involved, but there is not the necessity of upholding the rule of law. In that, Senator LEAHY was absolutely correct. One could argue that there are a couple other Cabinet positions that also have a unique responsibility.

The Secretary of Defense, I am sure, would fall into that, protecting the American people, not just being interested in policy. But certainly he is right that the office of Attorney General is something special.

We expect the Attorney General to care first and foremost about the rule of law and to represent all Americans as well as the President in upholding that rule of law. As a matter of fact, Senator LEAHY said—paraphrasing here—no position in the Cabinet is as important for evenhanded justice. I didn't do him justice in paraphrasing, but I agree with that sentiment.

It seems to me that people who focus on that issue now with respect to John Ashcroft would have a lot more credibility in making their case against John Ashcroft if they had demonstrated an equal concern for the rule of law in a whole variety of issues that involved the Clinton administration for the last 8 years. On this, many of his opponents have been relatively silent. Every single one of the Democrats in this body voted against the punishment that the House of Representatives offered forth with respect to the impeachment of President Clinton. That was all about the rule of law. As

it has transpired, the President has admitted to making knowingly false statements to officers of the court. This is not something which enhances the rule of law. Yet I heard all manner of excuses about the President's conduct at that time.

Nor have we heard much about the rule of law as to the current Attorney General's refusal time after time after time to appoint special counsel or otherwise look into what were clear violations of the law and very questionable conduct with respect to campaign contributions, among other things. When her special counsel Charles LaBella recommended the appointment of a special prosecutor to look into this, when Louis Freeh, head of the FBI recommended the same, time after time Attorney General Reno said no.

When we talk about politicizing the office of Attorney General, I think it is important for our Democratic friends to understand that Republicans have been concerned about the rule of law and the politicization of the Department of Justice for a long time. We are anxious for an Attorney General to go into that office and, frankly, clean it up so that there isn't the politics that has characterized it for the last 8 years.

It is hard for me to give much credence to those on the outside who question whether John Ashcroft can do this and who question his commitment to the rule of law when, for 8 years, they have been silent about repeated matters involving very strong charges that the rule of law is violated by various people and an unwillingness on the part of the Attorney General to do very much, if anything, about it.

Even the last act of President Clinton in pardoning a whole group of people has drawn very little criticism from our friends who are critical of John Ashcroft and are now very concerned about the rule of law. One of these was the pardoning of Marc Rich. A few of my Democratic Senate colleagues have been coached to come out with mild statements, or expressions of concern, about that pardon. I think that is appropriate. There ought to be expressions of concern about it.

My point is that if we are going to talk about concern over the rule of law and how John Ashcroft as Attorney General will protect and preserve the rule of law in this country, then I think it behooves us to be consistent in our concern for the rule of law and apply it equally in the situation of the immediate past Attorney General.

This is an example where I suspect many Americans look at this and say, well, I guess where you stand depends on where you sit. It is easy to criticize somebody on the other side. You don't want to criticize somebody on your own side. That is a natural characteristic of politics. But when we are talking about actually voting against John Ashcroft to be Attorney General of the United States, it seems to me that at last my colleagues who will have an opportunity to vote on that—and I now separate them from the special interest groups about which I have been speaking—need to look at this carefully, look at what they have said about the rule of law over the last 8 years, before they raise concerns about John Ashcroft and the rule of law.

There has never been a more qualified nominee for Attorney General than John Ashcroft and I doubt many with greater integrity. I know many Attorneys General have served with great integrity. Neither his integrity nor qualifications has been questioned. All it boils down to is that some people object to his conservative ideology.

The President of the United States is elected, and I believe he has an opportunity to serve the American people and ability to do so in following through on his campaign commitments, following through on his ideas of how we ought to proceed with public policymaking. The Attorney General will have something to say about that. But mostly, as Senator LEAHY said today, the Attorney General's job is to administer the law. About that, there is no question where the President stands and where John Ashcroft stands.

I urge my colleagues to think very carefully how a ''no'' vote on John Ashcroft would look perhaps 2 years from now, 5 years from now, 10 years from now. Will it look like a good call or will it look petty? Will it look like an act of statesmanship or will it look like an act of partisanship? I urge my colleagues to think very carefully about this vote before they cast it.

EXECUTIVE SESSION

NOMINATION OF GALE ANN NORTON TO BE SECRETARY OF THE INTERIOR

The PRESIDING OFFICER (Mr. BYRD). Under the previous order, the hour of 2:04 having arrived, the Senate will now go into executive session and will proceed to the Norton nomination, which the clerk will report.

The legislative clerk read the nomination of Gale Ann Norton, of Colorado, to be Secretary of the Interior.

The PRESIDING OFFICER. The Senator from Utah, Mr. BENNETT, is recognized.

Mr. BENNETT. Mr. President, I understand there is to be 3 hours of debate on this nomination to be equally divided, and my request is that I be allowed such time as I may consume and to make it clear to my colleagues that I have no intention of coming close to the hour and a half that is allocated for our side.

The PRESIDING OFFICER. The Chair should state that under the previous order there will be 3 hours of debate equally divided between the chairman and the ranking member of the Energy and Natural Resources Committee.

Under the previous order, there will now be 60 minutes to be equally divided between the two leaders, or their designees. The distinguished Senator from Utah is recognized during the period which is equally divided between the two leaders.

Mr. BENNETT. I thank the Chair for the clarification.

Mr. President, when I decided that I would run for the Senate, I had been out of any active kind of political involvement for close to 18 years.

I left Washington in 1974, the same year Richard Nixon, the President in whose administration I served, left Washington. I remember being in a taxicab in Burbank, CA, on my way to an airport to come back to Washington to pick up my family when on the radio playing in the taxicab Mr. Nixon announced his resignation from the Presidency. At that time, I thought I would never return to anything connected with public life or politics and settled into a career as a businessman.

But life has a way of changing things that we think are set in our lives. I found myself in 1991 contemplating a return to the political arena for the first time as a candidate for a serious office. I discovered in the 18-year hiatus since I had been gone that there were a number of issues I had not paid any attention to which were burning issues in the political arena of that time. One of them was clearly the question of the environment and the use of public lands.

In Utah, we have a tremendous number of public lands. Indeed, two-thirds of our State is owned by the Federal Government, and a large percentage of that which is owned by the State government is given over to State parks and other State land uses. One of the most inspiring of those State parks is known as Dead Horse Point. It is a place where you can go out and look over a huge vista way down below and, for reasons which I don't understand, is named after a dead horse.

As you stand on that point—Dead Horse Point—you get a picture of the grandeur that is available in southeastern Utah. As I went down in that area to look for votes, I discovered that one of the biggest controversies there was the question of an oil well built in an area that could be seen from Dead Horse Point. I went down there absolutely determined that I would do whatever I could to see to it that there would be no oil exploration anywhere in an area that might despoil or damage the glorious views of Dead Horse Point.

When I got there, I found that the local Republican leaders were involved in the oil well. Indeed, the woman,

whom I had not met before, who took me around and introduced me into that area, said her husband worked on the oil well and outlined for me what it meant to their family economically if something were to happen to close oil wells. I thought, Well, here I am caught between the economic impact that is benefiting their family and other families and the aesthetic impact of seeing to it that things must be done properly as well as to protect the environment. What am I going to do about it? Then she said something that was very appropriate and, frankly, rare among politicians. She said: Why don't we go look at it? Why don't you see firsthand what this is all about? I said: Fine. That was a good way to delay the issue and not have to announce my position while I would let her take me out and show me where the oil well was.

The gentleman who had driven me down into that part of the State and I got into her pickup truck and we went out looking for the oil well. I say ''looking'' because you couldn't find it. If you didn't have a guide who knew her way very well, you couldn't find the oil well. You couldn't see it.

To further complicate things, on that particular day it was a little bit overcast and there was not necessarily fog but some confusion in the atmosphere making it difficult for us to get our bearings from surrounding mountains. She was a native of the area, knew it very well, but got lost nonetheless. We made a wrong turn. We wandered around. She tried to get her bearings and finally, retracing our steps, she took us to the place where there was the oil well. We got out of the truck and walked out into an area maybe twice the size of the Senate Chamber.

It had been bermed up around the area, possibly by a bulldozer, but the result was that the oil well was in the bottom of what you might consider a very shallow basin. That is why you couldn't see it. It was not the great derrick we think of when we think of the movie ''Giant'' and Some of the other visual depictions of drilling for oil. It was what is called a Christmas tree, a series of valves that come together. I had my picture taken standing on it, and the Christmas tree was no higher than I could reach. I could put my hand out on the top of this and stand there. This was the total visual impact of this oil well. It was painted in such a way as to blend into the surrounding flora, and it was at the bottom of a shallow basin. If you were more than 100 feet away from it, you couldn't see it. I realized that the idea it could be seen from Dead Horse Point maybe was true if you had a very high-powered set of binoculars and knew exactly where to look and maybe had some sort of laser device to help you aim, but that no one in the normal course of enjoying the outdoor experience of Dead Horse Point would ever see this oil well.

I went away from the experience determined that I would support the oil well and the pumping of oil in that area to see to it that the people of that area would get some economic stability to their lives, knowing it could be done in an environmentally sensitive way that would see to it that visitors to Dead Horse Point would have no diminution of their outdoor experience in southeast Utah.

I described this experience in this kind of detail for this reason: We are going to discuss the nomination of Gale Norton to be Secretary of the Interior. The opposition to Gale Norton as Secretary of the Interior comes from those who insist that her attitude toward the wise use of our natural resources in this country is so inimical to the idea of wilderness, environmental enjoyment, and environmental protection that she must be defeated.

I suggest we need to, as a nation, go through the same kind of experience that I as an individual went through when I was trying to make up my mind on which side of this divide I would come down. I discovered that you can, in fact, if you are willing to look at the facts, come down on both sides simultaneously; they are not mutually exclusive.

The wise exploitation of our natural resources in an environmentally sensitive way can and should go forward, and it need not—indeed, should not—impinge upon our national commitment to preserve that which is wonderful about the American environment, and particularly the American West where I come from. Those two can and should work closely together.

I learned another thing out of that experience and out of my time in the Senate: The greatest environmental degradation comes in the areas that are the poorest. I was talking to a friend of mine who travels widely around the world for his jobs. He said: The worst pollution I have ever seen in my entire life in all the places I have visited is in Katmandu. It is one of the poorest places on the planet. The reason they have such tremendous pollution is that they don't have the money necessary to clean it up.

We in America have the money, and we have spent the money, and we are continuing to spend the money to see to it that we can have this combination of what I have spoken: Sound economic activity, along with proper reverence for and preservation of our environment. The aspect of that balancing act is this: If we do things in the name of preserving the environment that has the effect of destroying our economic strength, paradoxically, that will come back to hurt the environment. Environmental protection of the kind we have embarked on as a nation costs money. Environmental preservation of the kind to which we have dedicated ourselves as a people is expensive. And the most pollution-free and the most scenically preserved areas in the world are those in the areas where people are the most economically strong.

I say to those who view the nomination of Gale Norton with hostility, recognize that if you are so pure in your determination that nothing whatever can be done of an economic nature on public lands, you run the risk of damaging those public lands. If you do things that damage the American economy, you undercut the American ability to pay for environmental protection, just as the people in southeastern Utah, if they say absolutely no to any kind of oil exploration or pumping, run the risk of degrading the economy in that part of the State to the point where there can be no money for environmental protection. The two must go hand in hand. Not only can they go hand in hand, they must go hand in hand for the benefit of the environment.

The Senator from Alaska has invited me and every other Member of this body to go with him to the Alaskan wildlife preserve, not to be sold a bill of goods, not to go up there with any predetermination. He is willing for us to come up under whatever sponsorship and attitude we might have and see for ourselves what drilling at ANWR really would mean. In other words, he has asked Members to do what I did in southern Utah: Look at it on the ground. See for yourself what it would mean. I intend to take him up on that, by the way, Mr. President. I believe when we do that, we can make a wise decision without going up determined, either for drilling or against drilling, prior to our visit.

One other personal comment about all of these debates. I served in the Nixon administration when the question arose as to whether or not to build the Alaskan pipeline. We had all of the same debates then that we are having now. One that I heard over and over again was the statement that the building of the Alaskan pipeline would not only disturb but would ultimately destroy the caribou herd in Alaska because the pipeline went right through the caribou's traditional mating grounds: We must not allow this; the caribou are too important; the caribou are too vital to our heritage to allow anything to go forward.

That argument did not prevail back in the 1970s. The pipeline was built, and now we can look back at it with nearly 30 years of experience and discover that the amorous urges of the caribou were not affected by the presence of a pipeline. Indeed, the caribou herd is now larger than it was when the pipeline was built, and caribou that have been born since the pipeline was built see it as part of their natural environment, having not been told in advance they

were going to be against it, and enjoy the pipeline as their mating grounds. They rub up against the pipeline because it is warm and it is a opportunity for them to get warm in a hostile environment. And the caribou, as I say not being educated to the contrary, think this is a good thing.

I think we can learn a lesson from that experience, the same lesson, again, that we can have proper preservation of the environment and economic development side by side. We need not have this wide schism.

Finally, one last story that frames my approach to this nomination, this seems to be my day to go down memory lane. I go way back this time, to the time when my father served in the Senate and the issue before the Senate was the building of the Glen Canyon Dam, the creation of Lake Powell. There were those who opposed the building of the Glen Canyon Dam, just as there are those now who want it dynamited and taken down. One of the arguments for the Glen Canyon Dam was the need for electric power. There were those who said: This is ridiculous. We will never as a nation need that much electric power. We have plenty of power. The building of the Glen Canyon Dam with its hydroelectric facility will only depress prices because it will produce so much extra power that we will never, ever need.

We can look back on that, with 40 years of experience, and realize that their projections of this Nation's power needs were wrong and that we clearly do need the power. But the interesting footnote of that debate was this: During that debate, people said: If we should be wrong and somehow, some way, the country should need that much extra power, we do not need Glen Canyon Dam and hydroelectric power. There is all that coal in the Kaparowitz Plateau, right next door, that could be burned to provide the power that we need. So let us not build the dam. If we should, by some strange circumstance, need that power, we can always burn the coal.

That was the argument made while my father was a Senator, trying to get the Glen Canyon Dam built. By coincidence, when I became a Senator, President Clinton used the Antiquities Act to create a national monument on the Kaparowitz Plateau for the sole purpose of preventing us from burning that coal.

In today's circumstance it is interesting to note that the coal in Kaparowitz represents enough power to heat and light the city of San Francisco for the next 100 years. Given where we are right now in the California energy crisis, that is an interesting circumstance.

So I have given this history of my own involvement to make it clear why I am an enthusiastic supporter of Gale Norton. She understands that we can do both, we must do both, and we should do both—protect the environment and support the economy. I say to those who say no, no, no, she is too extreme, on one side or the other: Do what I did. Go to the ground. Look at it yourself and try to take a long view of the next 20 or 30 years and see what would be the result of Gale Norton's stewardship, for both the economy and the environment in that circumstance.

Mr. President, I endorse her nomination. I will vote enthusiastically for it. I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator from Alaska, Mr. MURKOWSKI.

Mr. MURKOWSKI. Mr. President, let me recognize the senior Senator from West Virginia, former President pro tempore of this body. It is certainly a privilege to have him in the Chair. I wish him a very good afternoon.

I make an inquiry relative to the time agreement pending. Am I correct in assuming we have 3 hours equally divided between my colleague, Senator BINGAMAN, who cochairs the Energy and Natural Resources Committee, and myself?

The PRESIDING OFFICER. The Senator is correct.

Mr. MURKOWSKI. Is there additional time, if necessary, to be divided between the leaders?

The PRESIDING OFFICER. The Senator is correct. There is an additional hour to be divided between the two leaders.

Mr. MURKOWSKI. For further clarification, it is my understanding that Tuesday at 10:30 there will be a number of Senators recognized to speak for roughly 2 hours?

The PRESIDING OFFICER. That is correct.

Mr. MURKOWSKI. It is the intention of the leadership to vote at 2:45 tomorrow, on the nominees, Whitman, Chao, and Norton?

The PRESIDING OFFICER. The Chao nomination has already been disposed of. The other two nominees will be voted on at 2:45 p.m. tomorrow.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, it is my intention to defer my extended opening statement and yield to Senator DOMENICI and then it will be Senator BINGAMAN's turn in sequence to speak at length.

Before I yield to Senator DOMENICI, let me point something out concerning the nomination of Gale Norton for Secretary of the Interior. The Committee on Energy and Natural Resources voted her out with a mandate, 18–2. I might add, for the benefit of Members, that she answered some 224 written questions. She answered all of them in detail.

It is my own view that the environmentalist's attacks on her have gone too far. I think they overstep the bounds of reasonableness. I think to some extent the environmental groups lost credibility with their overzealous attacks on her.

If I were a member of some of those environmental groups, I would want to know whose decision it was to spend the millions of dollars that have been spent in advertisements in newspapers that made false statements about her record. It seems to be the case, when the facts are not on your side the attack seems to be on the person. It is my view that that is what has happened here.

Finally, they have attempted to try to rub out the messenger, but they cannot rub out her message. Her message was that she will enforce the law if confirmed by this body.

I yield to the senior Senator from New Mexico.

The PRESIDING OFFICER. How much time is yielded to the Senator?

Mr. MURKOWSKI. I yield whatever time is necessary. Again, I recognize the junior Senator from New Mexico, and as we have agreed, we encourage other Senators who intend to speak to come to the floor and be heard this afternoon during the available time.

The PRESIDING OFFICER. The Senator from New Mexico, Mr. DOMENICI, is recognized for whatever time is necessary.

Mr. DOMENICI. Mr. President, for the Senators present and for my friend from New Mexico who might want to speak next, I do not think I will use more than 10 minutes.

First, let me say it is a pleasure seeing you in the Chair. For a number of years, obviously, when it was not 50/50 and we were in control, we did not see you there very often. Now we will and it is really a pleasure. I am hopeful that sometime when we have some difficult matters you might be there because your sense of parliamentary procedure is very good from what I can tell and it helps the whole Senate.

Mr. President, today on the floor is the Senator from West Virginia, the Senator from Alaska, and two Senators from New Mexico. It is rather interesting because I choose today to spend my time talking about a very serious crisis that Gale Norton can help us with.

The American people are just finding out that we have an energy crisis of serious proportions. We are on the Budget Committee and we will be talking about grave matters, such as Dr. Greenspan's statement about the surplus being so big and how we ought to start giving back to the people.

You, Mr. President, sat in attendance and listened for 4 hours when he testified, without a recess.

The most important thing in our society is the energy that moves every American's daily life. From the automobiles they drive, the houses they own, the ironing boards they use, the electric washing machines, and, yes, even the industry down the road, be it little or big, all use energy.

I was on this floor way back when we had a big natural gas crisis. The Senator might remember it. It was one of

the few times the Democrats told a Senator who was postcloture filibustering a natural gas bill to sit down. Even back then there was great fear that industries in America might not have enough natural gas for the 24-hour shift that they were on.

It was amazing. One of the Senators who objected most to deregulating natural gas—and for those hearing the word ''deregulation,'' this is not deregulation like California deregulating the energy industry. This was deregulation in the sense of the marketplace determining whether they drilled for natural gas and what price was received.

It was important back then. Today America has more coal than Saudi Arabia has oil. What is happening? We have not built a coal-burning powerplant in America for I do not know how long, yet the last five we built were all natural gas.

There are 20-some plants in California and almost all of them are natural gas. They do not make us work at trying to fix the Clean Air Act and expand technology in order to make exchanges that will permit us to use what energy we own.

We have become so frightened about nuclear power. Nuclear power does not have to be a nemesis to coal. America needs a diversity of energy.

In the area of clean coal, we tried to put money into it, we even advanced appropriated money for clean coal technology because it was so important. I was here when it was done. I shared with the Senator in the Chair when he said: Why don't we do that?

I said: Let's do that.

I was not the only one, but we all did that. Even with that, we are so timid matching up the environment with the energy needs of America, and we never come down on the side of energy. It is amazing: New rules, new regulations, new ideas about conservation, but never has one of those issues come down in the last decade on the basis of how much energy are we losing.

This energy crisis is so severe and this President will set about to solve it in a very extraordinary way. The Secretary of the Interior, whom we are about to confirm, will be part of solving that problem; not all of it, but part of it. Why? Because on the public domain lands owned by Americans is more of the resources for energy than on any other properties in America. The Senate ought to know that on the basic properties that we own in the West in the public domain, there is more natural gas than we ever thought existed. There are some who say we have 20, 30, 40 times more than we need. We know for sure that in the past 8 years, the Secretary of the Interior, a wonderful, nice man who got along well with all of us, succeeded in taking lands out of possible production. The potential of drilling a natural gas well, according to the experts, are enough to produce 20 times what we are using per year now. That is a lot.

What if it was 10 times as much? That would be great. It means that much is there and we ought to get it.

What is this Secretary going to be doing? She is going to be part of what I am sure this President is going to do, and that is to task more than one Department to be concerned about energy. He has to task the Interior Department to begin to make decisions based on our energy future. He is also going to task the energy Secretary to get on board as well. In my opinion, he will even task the Director of the Environmental Protection Agency to do the same. Nobody thinks of that as part of our energy solution, but it is a huge potential. They have not been making decisions because nobody has yet asked them to.

When you are making something and you are balancing pluses and minuses, you have to consider energy at each of these Departments in their major decisions. We need an energy policy quickly that will let us have the kind of energy supply that America needs to stay on the path of prosperity. This kind of prosperity will cease if our companies do not get the electricity they need, if those who travel the roads and sell their products do not get electricity, if those who are building new small businesses in the high-tech area which use a lot of electricity do not get what they need, from where is this prosperity going to come?

I am here today because I think it is the right time in history to change Secretaries of the Interior. The public had an election. They elected a Republican, and that means we are going to change the Secretary of the Interior from Mr. Babbitt, a nice man—I like him—to Gale Norton.

I hope she is confirmed. She is entitled to the job. We have probably never had a candidate for that job who is better educated or qualified in the areas of her jurisdiction than this lady. She is not going to be a fool. She is not going to do things in any extraordinary way to cause the people to say: She is forgetting about the environment. You count on it. She is just going to say some of the things we have been doing in the name of conservation are not needed for the environment. We can change them and produce more natural gas for America.

I am not talking only about ANWR because I do not think ANWR is a policy, it is part of a policy. It is part of looking at the public domain of America and asking, considering the nature of America's energy crisis now and for the next 25 or 30 years, can we preserve the environment? Can we produce energy and supply basic energy to help America continue to be the strongest nation on Earth militarily and economically?

It is interesting because I could say almost the same thing about Christine Todd Whitman, the Environmental Protection Agency Administrator nominee. I know that she is not going to be able to exclusively consider environmental matters with total disregard for any cost benefit as it pertains to reasonable costs of energy. That cannot continue. The heyday of that is gone as America tries to find a way to have energy so we can be powerful and prosper and have good jobs and good paychecks.

That is why I think Gale Norton should be confirmed overwhelmingly. There are some in this country who want to ''put another Secretary Babbitt in office,'' and they are angry because this is not another ''Secretary of the Interior Babbitt.'' As I said in confirmation hearings to Gale Norton: If you told the committee you would do everything like Secretary Babbitt, this Senator would not be voting for you because this is the time for a change.

Actually, we do not need more of the last 8 years. We need somebody who will bring balance so we will not have the kind of crisis that is occurring in California and all over America.

I want to close by saying I am very confident that our new President, together with these new Cabinet members will not hide from the facts. I know they will continue telling America that we must do some things differently if we want to have a vibrant country. We have a lot of energy sources in this country there at our disposal and we can preserve this country's magnificence—the beauty of our parks and the like—while still producing energy for the American people.

I was very proud, as I listened to Gale Norton answering some of the accusations made against her. I also read about other accusations, such as the Summitville mining disaster in Colorado. Actually, she had more to do with trying to solve the Summitville crisis. Yet, that was put up as some reason for us voting against her.

Some talked about the Rocky Mountain Arsenal and Rocky Flats cleanup in Colorado. Actually, when it is all boiled down and you look at her record, she did a lot to help move that along. Incidentally, it is the best project we have of the seven on-going in the United States in terms of nuclear cleanup. We still have two or three big ones in California and the Carolinas, and we are not sure when we will ever clean them up.

So I close today. I put all the details about her background in the RECORD. Today, I have just chosen to say a few words about why she is going to be the right person on a team that will help move us in the right direction on energy. I do not think within the next 6 months to a year we are going to be short of good, positive ideas from this administration. I think they will come.

I do not think we will be frightened by any of these ideas.

To reiterate, I support the nomination of Gale Norton as the new Secretary of Interior. She has extensive legal, regulatory, state and federal government experience which duly qualifies her to serve as Secretary of a department as diverse as Interior.

The Interior Department has a broad mission which includes responsibility for the internal development of the nation and the welfare of its people. It's broad coverage includes managing parks, water issues, basic responsibilities for American Indians, public lands management, and the rational exploration of our wilderness areas in balance with preserving our nation's resources.

Gale Norton has worked for over 20 years on environmental and federal land issues. She has demonstrated her commitment to a safe and clean environment by bringing all parties together in an effort to find solutions to these complex issues. She has proven herself as a negotiator, a skilled legal mind and a defender of the law. She exemplifies the qualities of a consensus builder, not a divider.

The issues arising in these areas are some of the most complex and contentious and require a leader who can balance the various competing interests. Gale Norton has repeatedly demonstrated that she is this type of leader.

One example of Gale Norton's consensus building leadership is exemplified in her handling of western water issues. She has led efforts to bring together state water users, federal agencies, and Indian tribes to settle water use disputes. In particular, during the Romer-Schoettler process that led to the development of the Colorado Ute Settlement Act Amendments of 2000, which recently passed Congress, Gale Norton worked to ensure that the water rights settlement with the two Colorado Ute Indian Tribes would be fulfilled in a way that would respect existing water uses and the social fabric of the area. This included balancing a variety of interests including that of current users and the Ute tribes while looking out for potential development and considering the needs of endangered species. Ms. Norton honored Colorado's commitments to both the Tribes and the non-Indians living and working in Southwest Colorado and Northwest New Mexico. She worked through a very contentious issue looking for consensus and reasonable solutions.

Ms. Norton has mentioned the priority the new administration intends to place on American Indian issues. I commend her on her past efforts related to these issues, such as her role in the Animas La-Plata project, and I look forward to working with the new administration on American Indian issues.

Ms. Norton has had other extensive experience with western water issues. She has actively participated in the negotiation, litigation, and settlement of multi-state compact claims and has dealt with other complex water issues including federal reservation rights, interstate water use, and the balance between water rights protection for states and preservation of endangered species.

Gale Norton has successfully balanced environmental concerns while being sensitive to businesses and other citizens whose interests are at stake. Ms. Norton created an environmental crimes task force to prosecute the most flagrant polluters. She played a leading role in the cleanup of numerous sites in Colorado to protect the environment and ensure its preservation for future generations.

Ms. Norton has always worked to find innovative ways to protect the environment. While at Stanford she researched ''emissions trading'' approaches, like those adopted in the Clean Air Act, that created market based incentives for businesses to reduce emissions. The Colorado ''audit law'' that Gale Norton supported achieved better environmental protection by encouraging early and full identification of environmental problems and, most importantly, long term solutions.

Ms. Norton is committed to enforcing the law and has a record of bipartisan cooperation and negotiation. Additionally, Ms. Norton understands the importance of the relationship between States and the federal government and has proven her ability to negotiate with both. She has worked towards finding innovative solutions to environmental problems, while at the same time working towards the goals advocated by interested parties. She understands that these issues are important to a variety of people and will work to ensure that all competing interests are balanced within existing laws.

I am convinced that Interior needs this type of balanced leadership, and needs that leadership today. I look forward to working with Gale Norton as the new Secretary of Interior and it is my strong recommendation that the Senate move quickly to approve her nomination.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico, Mr. BINGAMAN.

Mr. BINGAMAN. Mr. President, I will give a short statement that relates to the nomination of Gale Norton myself, and then I know there are three other Democratic Senators here who have indicated a desire to speak briefly. I know Senator MURKOWSKI wishes to speak, and there are others on his side as well.

As the principal steward of our public lands, the Secretary of the Interior is responsible for overseeing and protecting the natural and cultural treasures of our Nation, including all units of our National Park System, national wildlife refuges, most national monuments, national conservation areas, and many of our wilderness areas.

When the Energy and Natural Resources Committee, which Senator MURKOWSKI chairs, and which I serve on as the ranking Democrat, began its hearings on the nomination of Gale Norton to be Secretary of the Interior, I indicated that I had serious doubts about whether Ms. Norton's past views on the role of the Federal Government in enforcing environmental protection laws were consistent with the responsibilities of the Secretary of the Interior. In her many published articles, Ms. Norton had amassed a record that championed the rights of individuals over the public interest in many natural resource issues; she had argued that key environmental protection laws—including critical provisions of the Endangered Species Act and the Surface Mining Act—were unconstitutional; and she had often supported the interests of economic development over environmental protection.

During two days of hearings, however, Gale Norton presented a much different picture of her future actions as Secretary of the Interior, a different picture than her previous writings would have suggested. She testified that she was, as she put it, a ''passionate conservationist'' and that her ''top priority'' will be the ''conservation of America's natural resources.'' She recognized that—this is a quote from her testimony—''the great wild places and unspoiled landscapes of this country are the common heritage of all Americans'' and she pledged to work to conserve them for present and future generations.

She testified in support of laws she had previously opposed. She proposed the committee—this is a quote from her testimony—she ''will be fully committed to ensuring that our nation's environmental laws and laws for the protection of natural resources will be fully enforced.''

With respect to the Endangered Species Act, she testified that she supports not only the goals of the act, but also that she ''will apply the Act as it is written, and as the courts have interpreted it.'' When specifically asked whether she will support the protection of critical habitat for threatened and endangered speices—a provision she had previously opposed while attorney general of Colorado—Ms. Norton replied that ''the courts have decided that, in addition to things that affect the species directly, the Fish and Wildlife Service has the ability to regulate on private land, and I will enforce that provision.''

When questioned about another key environmental law she had earlier opposed, the Surface Mining Control and

Reclamation Act, Ms. Norton testified that ''I will certainly enforce the law in the way it has been interpreted by the U.S. Supreme Court.''

Contrary to some of her critics' past accusations, Ms. Norton testified that it will be her responsibility to enforce Federal environmental laws, and that she will ensure that all parties comply with those laws. She expressly refuted a previous statement written long ago suggesting that corporations had a ''right to pollute.''

She made it very clear that both President Bush and she support continuing the moratoriums on offshore oil and gas leasing off the coasts of California and Florida, and that she would work with other States opposing drilling activities off their coastlines.

Finally, she recognized the Secretary's special responsibility to Native Americans, and promised to improve Indian education programs.

In addition to answering two days of questions before our committee, she responded in writing to another 227 questions that were submitted to her by committee members and other Senators.

It is clear that the Gale Norton who testified before our committee presented different views about the Federal Government and its role in protecting the environment than the Gale Norton who authored controversial articles challenging that same Federal authority previously. Frankly, reconciling some of her past views with her current testimony is not that easy.

However, I take Gale Norton at her word when she testified under oath in front of our committee that she will uphold our Nation's environmental laws, and that she will be a strong defender of our natural and cultural heritage. I listened to all of her testimony and have reviewed all of her written responses to our questions. Based on her testimony and those written responses, to our questions, and because of the promises she made at the hearing, I am supporting her nomination.

While I will vote to confirm her nomination tomorrow, I still do have reservations about some issues that Ms. Norton declined to provide specific answers for. For example, she did not take a position on whether she would work to ensure the protection of those areas designated as national monuments by President Clinton, or whether she would support efforts to modify or repeal the Antiquities Act. She did not give us specifics as to how she will balance the Secretary of the Interior's resource protection responsibilities against the need to ensure continued energy resources from public lands. She avoided answering questions on whether she will support and enforce Federal reserved water rights for wilderness areas or endangered species.

In the final analysis, Gale Norton's actions on these and other issues as Secretary of the Interior will ultimately speak louder than any statements made during her confirmation hearing. While I am willing to give her the benefit of the doubt, I know that other Senators—and some who will speak here—still have reservations about whether she will be able to set aside her past policy positions and be a strong advocate for protecting the critical Federal resources under her domain.

But, based on the assurances she gave our committee, I will support her confirmation. I expect her to honor the commitments she has made to me and to other Senators to justify the trust that the Senate is going to place in her when she is confirmed tomorrow.

I yield the floor.

Mr. MURKOWSKI. Mr. President, in order to accommodate Members who have been waiting, I wonder if Senator BINGAMAN and I could agree to allowing time off each side by various Senators. I will ask Senators in the order in which they appear. We would like to go back and forth.

Mr. BINGAMAN. Mr. President, I believe the order Senators appeared was Senator WYDEN, then Senator FEINSTEIN from California, then Senator BREAUX from Louisiana, and I believe Senator STEVENS from Alaska. That is the order they appeared.

Mr. MURKOWSKI. I have no objection. I ask each Member how much time they might request. We want to run time equally. It is immaterial to me. We can run it equally.

Mr. BINGAMAN. How much time does the Senator from Oregon require?

Mr. WYDEN. I believe about 15 minutes.

Mr. BINGAMAN. I will be glad to yield 15 minutes off of my time.

Mr. MURKOWSKI. Then is it the understanding that we would go in that order; is that agreeable? It would be understood that after Senator WYDEN, Senator FEINSTEIN, Senator BREAUX, and then Senator STEVENS, and then we will perhaps start again and go back and forth after that.

The PRESIDING OFFICER. Would the Senator please state the names in sequence so the Chair will have a clear understanding?

Mr. MURKOWSKI. I thank the Chair. It is my understanding that Senator WYDEN would be recognized next, and the time would be 15 minutes, and it would be off the time of the minority, if that is agreeable; Senator FEINSTEIN, the time would be 10 minutes, and that would be off Senator BINGAMAN's time; Senator BREAUX, 5 minutes from Senator BINGAMAN's time; and then Senator STEVENS for 7 or 8 minutes from our time. That would be the proposal.

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

Mr. MURKOWSKI. Again, I recommend any Senators who intend to participate please come to the floor.

The PRESIDING OFFICER. The Senator from Oregon, Mr. WYDEN, is recognized for 15 minutes.

Mr. WYDEN. Mr. President, every day the Secretary of the Interior makes decisions that directly affect the quality of life in the West. This Department manages almost 500 million acres of public lands, and the debates that westerners have about the management of these lands are not for the fainthearted. To the people I represent, controversies about spotted owls, raging forest fires and mining waste are not intellectual abstractions. Almost invariably, discussions about these issues divide into two camps, with the environmental community on one side, and the affected industries on the other. Finding common ground between these two camps is extraordinarily difficult, but it is the premier challenge in the natural resources field.

Today—and I say this with reluctance—I rise to state that I will be voting no on this nomination. I still have reservations about the nominee's commitment to make, as the central focus of her office, the bringing together of these two camps, the environmental community and the affected industries, to find common ground. America wants and deserves this because it is the common ground where we can protect our treasures and be sensitive to local economic needs.

First, I do not necessarily share the views of those who believe that Gale Norton will throw open the doors at Interior, invite in powerful interest groups and say: Feel free to plunder our natural treasures and resources. In her testimony before the committee, Ms. Norton committed to not just enforce the Federal environmental laws as written but also as interpreted by the courts. In my opinion, she significantly changed her previous position on the Endangered Species Act, the so-called right to pollute, and global warming science.

The Gale Norton who testified this month before the Senate is certainly no James Watt, but at this unique time in our history, that distinction alone is not enough to warrant confirmation.

My reservations about this nominee fall into two major areas. First, Ms. Norton's desire to provide flexibility to private parties and the States to comply with our environmental laws has not been accompanied by a demonstrated commitment to watchdog those companies and the States to ensure that our national treasures are not exploited.

Ms. Norton is right—what works for the Bronx does not necessarily work for Prineville, Oregon. One size does not fit all. But her demonstrated record suggests that she did not come down with hobnail boots on private parties who abuse our national treasures in the name of exercising flexibility.

Look at what happened at Summitville in Colorado where a vast amount of cyanide spilled into the Alamosa River. Colorado was supposed to supervise that mine. It was the State's job and the State didn't do it.

When I asked Ms. Norton at the confirmation hearings how she would prevent future ''Summitvilles,'' she was unwilling to say that the key to preventing these environmental tragedies is leadership that steps in when private parties go over the line. After Summitville, Ms. Norton could have immediately pushed to extend the statute of limitations on environmental crimes, which would have allowed criminal prosecution in that case. But she didn't, and respected Colorado commentators took her to task for not doing so.

In another case involving heavy metal pollution at the Asarco plant in the Globeville neighborhood of Denver, Ms. Norton said she couldn't move quickly and aggressively because she could act only on referrals from the State health department. Every U.S. State senator knows that a State attorney general has more power than that. The State attorney general has the power to call in the officials from State agencies that are not doing their job and tell them to get on the stick and protect the public and the environment. Ms. Norton could have even taken her concerns about the State health department dragging its feet to the public, but she didn't. That absence of leadership led to a settlement from her agency that was so inadequate that a private citizens lawsuit recovered significantly more damages than Ms. Norton did.

The Secretary of the Interior has wide latitude under the law as to who gets the land for leases or how the land will be handled under those leases. The Secretary of the Interior has the right to say we will lease this land for oil and gas, but we will not lease this land for coal exploration or we will not lease it at all or we will lease it with the following requirements to protect the environment. For example, many new oil and gas leases require the lessee to take the special precautions to protect wildlife on public lands. By Secretarial order, Ms. Norton could direct the Bureau of Land Management to weaken protective requirements enclosed in oil and gas leases, and at the same time significantly harm the environment. The fact is, the power of this office could allow virtually any private interest to build in one of our national treasures. In addition, through this office, the Secretary of the Interior can do much to deep six the prosecution of egregious environmental disasters. The reality here is: whether lawyers for the Interior Department are handling a case or the Justice Department is handling it, the Secretary of the Interior will be consulted just as any client is consulted by a lawyer about important appeals. Should there be an appeal at all? What kind of settlement would be appropriate? Is this offer satisfactory? Given Ms. Norton's record, the evidence does not demonstrate that she will be tough with polluters. The fact is, as you try to find the common ground between the environmental community and the affected industries, when one of those parties goes over the line, you do have to have a Secretary of the Interior who is willing to be tough about using the enforcement capabilities of the office.

Finally, I am concerned about Ms. Norton's interest and willingness to do the heavy lifting, to bring parties together, to find creative solutions to vexing environmental problems.

I am proud to have been able to work with the Senator from Idaho, Mr. CRAIG, in an effort that was successful in the last session to resolve the question of how you pay for schools and roads in rural communities that have historically been tied to the harvest of timber. When Senator CRAIG and I started that effort, the two sides were 180 degrees apart, and virtually no one thought we could bring them together. But with good will and rolling up our sleeves, we were able to do it.

When Ms. Norton was kind enough to come visit me at my office, I asked her to bring to the committee specific examples of how she would try similar efforts on other longstanding conflicts, such as the Endangered Species Act. I thought for a long time that it was extremely important to relieve some of the redtape and bureaucratic requirements on small private landowners, for example, under the Endangered Species Act, and I believe that can be done without destroying the mission of that critical statute. That would be the kind of thing that I would like to see the Secretary of the Interior take on and bring together these rival camps in an effort to find common ground.

But she didn't give us those examples at the hearing that was scheduled. I asked—not just when she came to the office, but at the hearing—for specifics where she might work to try these common ground efforts that are so important, but none were furnished.

So I will be a reluctant vote on Ms. Norton. I strongly hope that her record proves me wrong. As I stated in the committee, it would not be the first time, nor the last time, that that was the case. I hope Ms. Norton goes on to lead the Interior Department and that she will, in fact, look for specific ways to do what the President of the United States is asking us in natural resources and other areas, and that is to unite, not divide. On that important objective articulately stated by the President of the United States, Ms. Norton will always have my assistance.

I yield the floor.

The PRESIDING OFFICER. The Senator from California, Mrs. FEINSTEIN, has 10 minutes.

Mrs. FEINSTEIN. I thank the Chair. Mr. President, I associate myself with the comments made by the ranking member, the distinguished Senator from New Mexico, Mr. BINGAMAN. My assessment of this nominee is approximately the same. I will vote for her, and I want to take a few moments to explain to this honorable body why I will vote for her.

I am a new member of the Senate Energy and Natural Resources Committee. As such, I had an opportunity to hear her answers to questions presented firsthand, and I also had an opportunity to talk with her in my office. I talked with her about specific California issues. The first was something called CALFED; second, the Colorado River decision; third, oil drilling off the coast of California; fourth, the land and water conservation fund.

I think virtually all Members of this body know about the energy or electricity crisis in California, but I think what perhaps many Members of this body might not understand is that water is close behind.

Beginning in 1993, I asked Interior Secretary Babbitt if he would sit down and meet with the so-called water constituencies in California—the agricultural farmers, the environmentalists, the urban water users, a group called stakeholders in California's water future. As often said, whiskey is for drinking but water is for fighting. Lawsuit after lawsuit had characterized the situation with respect to water.

The basic fact is that California has a water infrastructure for 16 million people. That is when it was built, when Pat Brown was Governor of the State. Today the State has 34 million people, and it will be 50 million people within 20 years—with the same water infrastructure. That is not good for the ecosystem, not good for the largest agricultural State in the Nation, and it is certainly not good for clean drinking water for the people of California.

To make a long story short, this CALFED venture culminated last year in an agreement between the Governor of the State and the Secretary of the Interior called ''A Plan For Action.'' That plan for action involved the State water project, which is the California water project, and the federally run, built, and operated project, the Central Valley Project. It is to be a $7 billion shared program over the next 7 years with some 700 individual projects. That program needs both an authorization this year and an appropriation this year as well. There was an attempt last year and it failed. So to have a Secretary of the Interior who would be willing, one, to put an appropriation,

which is a substantial one, in her budget to send up to the Office of Management and Budget this year is important to me. Secondly, to have a Secretary of the Interior who is willing to designate a high-level member of her Department, just as Secretary Babbitt designated the Under Secretary to oversee the development of this State-Federal program, is important to me as well.

Ms. Norton has agreed to do both. She has agreed to take a good look—I know she has called the Office of Management and Budget and advocated for the CALFED program because we were called by OMB and they said that she had done so. Secondly, she has assured us that she will appoint a high-level official to oversee the various meetings with the stakeholders.

So for me, my No. 1 environmental priority this year is the authorization and the appropriation of the first year of a new CALFED program. I believe she has an open mind. I think she understands the importance of water. I think she understands the outdated nature of the water infrastructure, the struggle to keep the salmon running, to keep high-quality water for people to drink, and enough water to be able to produce what is in excess of a $25 billion agricultural industry.

I also discussed with her the recent 15-year Colorado River agreement, which has been now agreed to by seven States, which will ensure that California will receive no more than its annual allowance of 4.4 million acre feet of water from the Colorado River.

The fact is, because of this water shortage, California has been overdrawing the Colorado River allotment by some 800,000 acre feet a year. Southern California, which uses water from the Colorado, has employed all sorts of additional water conservation methodology, water recycling and water transfer measures, to ensure that there will be enough water for the other States.

I am a strong supporter of this agreement. I would like to see it go forward. I believe this Secretary will do her due diligence on the agreement and also agree that it is a major and positive step forward for the seven affected States.

She has also categorically assured me that there will be no offshore oil drilling off the coast of California. That is something the people of California have very strong opposition to, and I believe she will keep her word.

We also spoke about the importance of the land and water conservation fund. I happen to believe it can be the most important environmental program. I think there is an accumulation of $13 billion in offshore oil revenues that can go for appropriation into the land and water conservation fund.

I supported a bill Senator MURKOWSKI and Senator LANDRIEU had put together, plus my own bill, which would assure the appropriation of some of this money on a regular basis—approximately $900 million of that money.

I see the chairman of the Appropriations Committee on which I am a lowly member, and I know appropriators don't necessarily like being told how to appropriate. However, I can say this: I think the Land & Water Conservation Fund offers this Senate and the House of Representatives an opportunity for major improvements in our environmental legacy. I am hopeful that issue might be settled. I know there has been some significant opposition to Gale Norton. As a former Colorado attorney general, she has taken some positions with which I disagree. However, she had every right to do so.

I, for example, was troubled by her 1997 op-ed when she said there was no consensus on global warming. And quite categorically, to our committee, she stated that times have changed—and indeed they have—and that she has had an opportunity to reconsider her point of view and does in fact believe that global warming is real. I think what came through to me the most clearly when I had an opportunity to talk with her was that this is a very talented woman. She has strong skills. She is flexible. She is trying very hard to maintain an open mind, and I think it is very possible that she is going to do an excellent job as Secretary of the Interior.

At the very least, she has convinced me that she is willing to work on issues in a bipartisan fashion. She is willing to address the difficult issues which will confront her, as I believe she is open minded and I feel as though I can pick up the phone and call her and that she will, A, either return that call, or, B, listen to my concerns and try to work them out. As a Senator from the largest State in the Nation, that means a great deal to me.

I want to say one thing. I returned last night from Switzerland where I attended the World Economic Forum. I cannot tell you how deeply troubled other nations are by the fact that, as they see it, the United States is unwilling to put forward a major environmental presence. They express concern that the United States, with 4 percent of the world's population, uses 25 percent of the energy. They are concerned about global warming—particularly nations that are low lying that see the sea rising and have the possibility, within decades, of some of their coastal cities being wiped out. They are concerned about deforestation of the rain forest and the loss of wetlands, and they are concerned about clean air and clean water. I share their concerns. I believe this new Secretary of the Interior will also share these concerns as the chief steward of land managed by the National Park Service, the Bureau of Land Management, the Fish and Wildlife Service, and the U.S. Geological Service.

In California alone, this includes the Mojave National Preserve, Yosemite, Joshua Tree, and Death Valley National Parks.

She has a tremendous responsibility.

I end my remarks by saying, once again, that she is a talented woman. She is flexible. She is committed, I believe, and she has the opportunity to be a very positive Secretary of the Interior. I will be very happy to cast my vote for Gale Norton.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from Louisiana was ahead of me. I will be pleased to wait for him, if Senator BINGAMAN would like me to do so.

Mr. BINGAMAN. Mr. President, I don't know where he is. I suggest the Senator from Alaska go right ahead.

Mr. STEVENS. Thank you.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am very pleased to come to the floor to support the nominations of Gale Norton to be Secretary of the Department of the Interior. She has a proven record as a public servant and the credentials, experience, and character to be a great Secretary of the Interior. I know a little bit about this Department. I was at the Interior Department during the days of President Eisenhower first as a legislative counsel, then as Assistant to the Secretary of the Interior, Fred Seaton, and then as the Solicitor of the Interior Department. I recall that in those days we had informal meetings with Members of Congress to discuss the real issues facing Federal land managers and the people living and working near those lands. Those were nonpartisan talks that assured the success of later more formal administrative and legislative initiatives during the Eisenhower administration.

In Alaska, one-third of the lands are managed by the Bureau of Land Management, two-thirds of the lands managed by the National park Service, and almost 90 percent of the lands managed by the Fish and Wildlife Service. All agencies of the Department of the Interior, and one-quarter of all the lands under the management of the Interior Department have been declared to be wilderness by the U.S. Congress and not available for our use.

Many of Alaska's Native people, as well as other Alaskans, live within the boundaries of these Federal conservation areas that have been withdrawn. They make their livelihood off of the land, and many times there are conflicts between our people and the Department of the Interior.

As an Alaskan, I am very pleased to support Gale Norton because of her background, and as a Senator, I say to my colleagues that we are most fortunate to have this brilliant young

woman as a guardian of our Nation's lands and native people. As a lawyer, she will look beyond rhetoric. As a former Interior Department official, she will understand the duty and stewardship and traditions of that Department. As a former attorney general of a Western State, she will remember the communities and the people who neighbor Federal lands under her jurisdiction. I shall vote for her nomination and welcome the opportunity to do so.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, I see the Senator from Idaho seeking time. May I ask how much he might require at this time? I yield 12 minutes, and I think Senator BINGAMAN and I agree that when Senator BREAUX returns, he will be recognized. I also am under the impression that Senator WARNER will be coming to the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank my colleague, the chairman of the Energy and Natural Resources Committee for yielding me time to speak on behalf of the nomination of Gale Norton as Secretary of the Interior. As someone who knows Ms. Norton, I commend her to my colleagues as an Interior Secretary who will cooperate with Congress and collaborate with States and local governments and communities of interest affected by her Department's decisions.

I also commend her to my colleagues as a person who demonstrated in her two days of testimony before the Committee on Energy and Natural Resources that she possesses the balanced views and judgment and personality required to be a Secretary of the Interior. That was perhaps somewhat of a surprise, I think, to some of our committee members who had heard about Ms. Norton only through the advertisements of a $2 million media campaign waged against her nomination by national environmental groups. I don't believe it has been since Jackie Gleason—and we remember Jackie Gleason, fist doubled up, face flushed—railing against his Honeymooner's neighbor by the name of Norton. We kept hearing ''Norton, Norton.'' I don't think we have heard that name Norton, spoken with so much venom since the days of Jackie Gleason. Unfortunately, national environmental groups literally have become the Ralph Cramden of the advocacy community—overbearing, overwrought, and overstuffed—in their case, with foundation money that could have been so much better spent on on-the-ground conservation priorities.

The Senate confirmation process is also a bit of an acronym in this era of 24/7 news coverage—that is, round the clock news coverage and continuous campaigning. Every elected official knows, as we all must understand, the peril of letting an attack against a candidate or a legislative proposal go unanswered within a 24-hour news cycle. And yet, to protect our prerogatives as Senators in this process that we are talking about today, we insist that nominees for public office remain silent until they appear before us for their confirmation hearings.

At those hearings on January 18 and 19, Ms. Norton finally was able to speak about what she believes and who she is. The contrast with what was falsely portrayed in 3 weeks of intensified interest group advertising was stark and it was vivid. It contributed, I think, to the overwhelming vote by the committee in favor of her confirmation.

Two themes, in particular, that emerged from her testimony, deserve the close attention of all of our colleagues. First, this is an Interior Secretary who is committed to working with Congress. That is a refreshing and important concept. Both in her opening statement, as well as in several thoughtful responses to questions, Ms. Norton expressed her commitment to working with Members of Congress from both sides of the aisle to develop bipartisan solutions to difficult natural resource problems. This is a sharp contrast to her predecessor who made no secret of his disdain for the congressional authorizing committees as little more than ''highly partisan debating societies'' that were staffed by ''munchkins'' and that do nothing more than ''wrangle a lot'' about the issues of the day. I also doubt that we will see Ms. Norton walk off camera during a ''20/20'' interview, swearing under her breath.

Second, this is an Interior Secretary who is committed to listening and working with the people affected by her decisions. She said:

> I am firmly committed to a process of consultation and collaboration. We should listen to all voices and involve all citizens. That is fair. It is also wise. People are magnificent resources for ideas, for knowledge, for insight. I have lived and worked here in Washington. I have also lived and worked in the great American West. Those of us in Washington need to be good partners with Americans living in other parts of the country and in our territories. America is a strong nation because of the diversity of its people. These people hold many different views in different perspectives. We need to work with them, to involve them, to benefit from their creativity and their capacity to innovate.

What a refreshing statement compared with the Secretary of the Interior who has now just left this city.

I submit to my colleagues that, whatever our differences with one another over the contentious issues and whatever differences some or all of us may ultimately have with the new administration, starting off with the Secretary of the Interior who is committed to being a listener is a very good place to begin. As she so eloquently said at her confirmation hearing, ''Using consultation and collaboration, forging partnerships with interested citizens, together we can all succeed in our effort to conserve America's most precious resources.''

I urge my colleagues to vote favorably for the nomination of Gale Norton to be Secretary of the Interior of the United States. Our environment, our public land resources, and the Nation as a whole depend upon it.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the quorum call be rescinded.

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

Mr. MURKOWSKI. To clarify, prior to my colleague from Colorado coming to the floor, we had an agreement that Senator BREAUX would be the next recognized speaker, and Senator BREAUX did show up, so I guess we will have to live with that.

Mr. ALLARD. That will be fine. I am happy to wait until the Senator finishes.

Mr. MURKOWSKI. I think Senator BREAUX wanted about 8 minutes.

Mr. BREAUX. More or less.

Mr. MURKOWSKI. The Senator from Colorado will be recognized.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. It is BREAUX by a nose.

Mr. President, I thank my colleagues for making time available on this very important nomination as to who is going to be the new Secretary of the Interior, a very important position for all Americans. We as a nation have a major interest in knowing that the person who is to be in charge of the managing of all of our public lands and much of our public resources is going to be a person who brings a balanced philosophy to that task. It is an immense task for which I imagine no one who would be nominated would ever be considered the perfect nominee.

What I mean by that is it seems to me there will be some, and I think a minority of people in both camps, who would say they would perhaps like to have a Secretary of the Interior who would bring almost no management responsibilities to that task, who would basically say we should let the private sector develop the resources of this country in whatever way they saw fit. There is probably another group of people in the country—again a very small number—who would say no, when it is public lands, they cannot be utilized for private purposes ever; that it should be micromanaged by the Federal Government out of Washington;

you can limit activity to only what is absolutely needed.

I think the better philosophy for this very important job is to bring a balance. In my conversations with Gale Norton, I have come to the conclusion that she is a person who can bring a management-type philosophy to this job.

Neither of the two extremes that I describe will probably be very happy with the approach she uses. Some will say in many cases she is being far too restrictive and limits to too much detail what can be done on our public lands. Others will say she is not being aggressive enough in allowing for development on these resources.

The answers to these questions, simply stated, are that we want a balanced person for the job. We want someone who brings commonsense policies to this important task, and commonsense policies is a phrase I have heard used in describing Gale Norton.

In addition, I think she will be a person who will consider multiple use of these valuable properties. What do I mean by that? What I mean is that Federal lands owned by our Government can be used for more than just one purpose; yes, there are lands that are particularly set aside as wildlife refuges and conservation areas and wilderness areas. My argument is that these areas can be subject to multiple use in a fashion that preserves the intent of why this area was set aside in the first place and at the same time allows for balanced development which is compatible with that purpose.

There has been a great deal made about the new administration's consideration of opening up the Arctic National Wildlife Refuge in the State of Alaska. I happen to think that is something that can be done. It is not without risk. Nothing we do as a society is without some risk, some adverse consequences, but history tells us that we can have a wildlife refuge in an area of the country where ANWR is located and find there are uses that are compatible to that refuge that make sense from a public policy standpoint.

That is where the question of whether it is going to be balanced comes into play. I note that when I met with Ms. Norton in my office, we talked about that, and I suggested she look at the record in Louisiana where we have had exploration and development on wildlife refuges for over 60 years. We have almost 1,700 wells that have been drilled on wildlife refuges, both Federal and State refuges, including property owned by environmental groups, that has been done successfully. Because we have been doing it since the 1940s, we have made mistakes that would not be made in the year 2001 and beyond because we, in fact, have learned from those mistakes.

I argue that an area such as ANWR, which is covered over in the winter months with solid sheets of ice, an area where there would be no necessity for dredging canals to get to the property, where there is already a major pipeline running from Prudhoe Bay down to Valdez, is an ecosystem that can allow for exploration and production in a manner that would be compatible with the purpose of the refuge.

I argue the refuges in Louisiana where we have that type of production are much more complicated. We have much greater abundance of wildlife than they do in ANWR. We have everything from alligators to fur-bearing animals, to waterfowl, ducks, geese, shrimp, oysters, and fin fish, all within the same ecosystem in a very fragile wetland area. If we are able to do it under those circumstances, I argue that certainly ANWR can also allow for the compatible exploration and production in their area if it is done carefully in a managed fashion.

As far as what is potentially available in that area, they tell me the latest estimates are that it could produce up to 1.5 million barrels a day of oil for at least 25 years, a sum that is equal to nearly 25 percent of our daily oil consumption.

Some people say: That is not that much. Yes, it is. It is a considerable amount, and if you look at California, which is experiencing blackouts and operations which are being curtailed because of either unavailability of energy or because of the high cost of energy, how can we say that we are going to just build a fence around an area which will potentially be the second largest energy-producing region of all of North America?

We have to take a balanced approach, look at it carefully, look at what we have done in other areas, and then make a decision not based on emotion but based on the facts of the situation. When I spoke with Ms. Norton and listened to what she was thinking of doing, that was a balanced position she would bring to this job. I am pleased to stand and urge my colleagues to support her. This Congress will watch carefully how she conducts the affairs of the Department of the Interior because this is something that affects all Americans, whether you are a Westerner, a Southerner, or someone in an urbanized area in New England. I think she can do a good job, will do a good job, and I look forward to working with her.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I see my colleague from Montana seeking recognition, to be followed by Senator ALLARD from Colorado. Senator WARNER indicated an interest in speaking.

How much time does the Senator from Montana require?

Mr. BURNS. Mr. President, I will try my best to keep it under 10 minutes.

Mr. MURKOWSKI. I appreciate that and leave it up to the clerk to monitor the clock.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I am very glad to stand today and voice my support for Gale Norton as this country's next Secretary of the Interior. After meeting with Ms. Norton and sitting in on her confirmation hearings, I am convinced she is the right person for the job. Not only am I impressed with her good ideas and her willingness to listen, but I am impressed with the balance of thought she will be bringing to the Department. She knows that the challenges in that Department are probably larger than any other department in Washington, DC. She also has an idea about how she wants to deal with them.

As a member of the Energy and Natural Resources Committee and also a member of the Subcommittee on Interior Appropriations, I look forward to working with Ms. Norton. If confirmed as the next Secretary of the Interior, she will be called upon to appear in front of these committees, and she will ultimately be held responsible for the workings of the agencies under her supervision.

When we have questions or concerns about the National Park Service or the Bureau of Land Management, the Bureau of Indian Affairs, and the U.S. Fish and Wildlife Service, just to name a few, we will come to her. I am grateful for that because I think what we are looking for, more than anything else, is balance instead of activism.

Like most Western States, Montana has a lot of public land, and we are affected every day by some of the decisions that are made regarding Federal land because they determine whether we will make a living or not in our State. Sometimes Government is a very good neighbor; sometimes it is not. I think Ms. Norton understands that, coming from a public lands State.

One thing in particular: Last year, the year 2000, we know how the fires swept across the West. No State was more affected than New Mexico or the State of Montana. In fact, Congress appropriated $1.6 billion to help fix the damage from the summer of 2000 and also to make sure we will be prepared should another catastrophe such as that happen again. We would rather that not be repeated.

In the year 2000, almost 1 million acres burned in Montana, some of it public. Plenty of the land was private, however, because private lands lay next to those forest lands—forest land, grassland, pasture land, homes, businesses, and everything in between. It was a dark, dark summer for us in Montana.

We are approaching spring again, and the work is just beginning. We need to reseed the burned areas to keep the soil

from eroding. We need to make sure the watersheds stay clean. One of the most important things we can do is to make sure the noxious weeds do not take our newly burned land. I know a lot of folks say everything has grown back. Nine times out of 10, it is a noxious weed. When they take hold, the native plants are crowded out, wildlife habitat is compromised, livestock-carrying capacity is reduced, and the condition of the land is jeopardized for years to come.

So we need to get after it and get this land cleaned up, making sure those lands that are remaining now are protected because we are again looking at a very difficult time. Our snow pack is low again this year. We have not had moisture since before Christmas. Again, we are looking at another year that could be another drought year in Montana. We will need people who are not afraid to make decisions, make them quickly, and make the right decision that protects the land.

You have to appreciate Ms. Norton for another area, too. Under the previous administration, we withdrew a lot of land from minerals management, resource management, and resource development. We have an energy crisis in this country. Maybe you are not affected by it now, but our friends from California are. The last time I looked around, California was still a part of this great country, which makes us concerned about what happens to our good friends in California.

It is just not a California problem. If you come from the Northwest, where we produce an abundance of electrical power, you see that power sucked away from our area, going to California. I do not begrudge Californians the power. But I also have to be a little bit nervous about having power for the people in the Northwest.

When they are in trouble, we are in trouble. We have built no new generating facilities. We just came from an administration that wanted to breach the dams that produce electricity for the West and the national grid. That is irresponsible. Conservation, yes. It is of vital importance to all our energy needs. But conservation will not do it alone.

We were very successful the last time we faced an energy crisis, when, way back in 1976, we did a lot of good through conservation. And we are still doing a lot of good through conservation. But we failed to build any more facilities to produce power, electricity.

I will tell you, electricity does not come Republican or Democrat. I will tell you where it comes from. The first time that finger hits that switch, and these lights do not go on, it becomes a national crisis.

I think Ms. Norton will be able to play a vital role in resource management when it comes to solving some of the power problems and energy crises that we are facing today.

When we look at public lands, energy development and access to public lands are vital issues. These things will be coming up again and again over the next few years because I truly believe the chairman of the Committee on Energy and Natural Resources probably has his hands as full as he wants in trying to deal with the energy crisis for all Americans. Because there is no doubt in my mind, if you want to pick one thing that is slowing down our economy, it is the tremendous increase in the cost of our energy. Access to those lands is very important.

But also another point that I think was brought up during the hearings is that, for the first time, we heard the Secretary of Energy say that he is not afraid to talk to the Secretary of Agriculture, and neither one of them are afraid to talk to the Secretary of the Interior to solve common problems. That is very important in this town because in this town we spend more time solving turf wars that we do anything else. But this time it is going to take an administration of Department heads and Secretaries working together, knowing what one is doing and the policy they are putting forward, and knowing how we can complete a national policy to deal with an energy crisis; the ability to work together.

So I am here today to offer Ms. Norton my wholehearted support in her nomination as Secretary of the Interior. She is the right person for this job. I cannot imagine how we would find anybody more qualified. She has a great mind and is very intelligent, understanding her job, which touches so many of our lives every day.

I heard some of the folks on the other side of the aisle saying she is too far to the right to go into the Department of the Interior. But I will tell you, when you look at those statements, they are just partisan arguments, and that is all because there is no other substance there.

Mr. President, I thank the chairman of the full committee and yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, under the previous agreement, the senior Senator from Virginia was to be recognized upon his return. I see the Senator from Virginia has returned to the floor.

Might I ask, how much time might the Senator desire?

Mr. WARNER. Mr. President, I would think 10 minutes would be adequate.

Mr. MURKOWSKI. I thank my friend from Virginia and yield him 10 minutes. And then after he speaks, I will yield to the Senator from Colorado who has been waiting.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I rise today with other colleagues to express my strong support for President Bush's nominee to be Secretary of the Interior, Gale Norton.

I have had a brief opportunity to visit with this distinguished American, and I heartily endorse the President's nomination. She has the qualifications, in my judgment, to serve in this important post.

As many of my colleagues have detailed, she is an effective litigator, with over 20 years of experience in environmental and natural resources law. Prior thereto, she was a law clerk to a judge. And I had the privilege in my lifetime to have that experience.

Her professional experiences and successes as Colorado attorney general, I believe, have given her a solid foundation and, indeed, the temperament—and it requires temperament because there will be a lot of heated issues in the course of her duties that she will have to resolve—necessary to be an outstanding Secretary.

She has served on, as we say, ''both sides of the fence''—in the Federal Government and State government. She is skilled in the law and knows that States can be effective partners in preserving our public lands and managing its valuable resources.

From her testimony before the committee, I was compelled by her recognition that the primary responsibility of Secretary of the Interior is one of protecting and fostering our public lands, our natural resources, and the treasures that make up our national park and wildlife refuge system.

Mr. President, I want to finish up my statement on a personal note. I have three wonderful children. All of them are very active in philanthropic activities to protect the very things that I have enumerated here: our natural resources, national parks, wildlife, and the like. Their philosophy extends a little further than their old man's philosophy on this. I tend to be a centrist, trying to strike a clean balance between the necessity for carefully expanding the protected areas of America, and husbanding of our resources, while at the same time giving the private sector and, indeed, the States the rights to which they are entitled.

My children have all communicated with me within the past few days about this nomination. I have told them very clearly, I am going to support this nominee. Their request to me was this: Father, that's fine, but keep a watchful eye.

So I made a commitment to my family that I shall keep a watchful eye. But I assured them that, in my judgment, this eminently qualified individual would pursue a balanced course of action between the many competing interests for the precious resources we have. And in the words of my children, once these resources are withdrawn, once they are developed, they are gone forever. And that is correct.

The Commonwealth of Virginia is home to some of our Nation's greatest natural and historic resources—from the Shenandoah National Park, our Civil War battlefields throughout the region, to the wildlife refuges on the eastern shore. The 20 national parks in Virginia have the fifth highest visitor rate in the Nation. It surprises people when I make that statement. We are No. 5 in the nation and located here in the East. That is why I am the first eastern Senator to speak on behalf of this distinguished nominee. I feel very strongly about it.

My State is very actively engaged with the national park system. In fact, I have just taken the initiative to create another wilderness area in my State. In my 23 years in the Senate, I have been involved with a number of these wilderness areas, and I shall continue to press for the establishment and the preservation of these national treasures. We cherish, as Virginians, these resources and welcome a strong partnership with the Department of the Interior. These sites provide an outdoor classroom to tell the story of the founding of our Nation and other significant events that have woven the fabric of our form of government and, indeed, of our great Nation.

I am drawn to the nominee's comments regarding the importance of partnerships between the Federal, State and local government, and private organizations. We have such partnerships in Virginia, and they work well. Partnerships with the Park Service and local governments have been tremendously successful in preserving historic battlefields, particularly in the Shenandoah Valley. These partnerships ensure that significant historic landmarks can be preserved without the expense of Federal ownership.

The amount of land of natural and historic valve that should be somehow preserved is enormous. The Federal taxpayer cannot begin to provide the funds necessary to purchase all this land. In Virginia, we have shown how a farmer can continue his or her operation and pass it down through successive generations of their families and yet preserve that farm, while allowing visitors to come and study where historic battles, in the Shenandoah Valley for instance, were fought. It makes little difference to that visitor whether he or she is standing on Federal land or land preserved by the family.

I urge our new Secretary to explore further opportunities in this area of public/private partnerships.

In addition to our historic battlefields, Virginia is blessed with critical habitat for migratory waterfowl in our coastal areas including the Eastern Shore. We are home to six major national wildlife refuges. These sites provide undisturbed lands for the American bald eagle, the peregrine falcon and hundreds of migratory ducks and songbirds.

Throughout my Senate career I have been pleased to work with local governments and local citizen organizations to expand our national park and our wildlife refuge system in Virginia. Permanent preservation of these lands ensures that future generations will have a ''hands on'' experience and that our wildlife will be able to flourish.

I fully endorse the nomination of Gale Norton to be Secretary of Interior and I look forward to working with her to strengthen our national parks and wildlife refuges across this country.

(The remarks of Mr. WARNER pertaining to the introduction of S. 201 and S. 202 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. MURKOWSKI. Madam President, I ask that the Senator from Colorado be recognized at this time. He asked for 10 or 12 minutes.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Colorado is recognized.

Mr. ALLARD. Madam President, I thank the chairman for giving me an opportunity to respond.

I rise to respond to the comments from my dear friend and colleague from Oregon and also reemphasize what my colleague from Idaho had talked about in regard to Gale Norton as Secretary of the Interior.

I agree with my colleague from Idaho that Gale Norton will be a listener. Even more than just listening, she is going to understand. The reason she is going to be able to understand is because she has a broad background of experience. She started out her career actually working here in Washington, DC. She worked in the Department of Agriculture. Then she went over to the Department of the Interior and worked there as associate solicitor. Then she went back to the State of Colorado and was elected attorney general of the State of Colorado. She has been able to see issues from the Federal perspective, and she understands the responsibility the Federal Government takes on many of these issues.

She understands many of these issues from a State perspective because she has had to be a spokesman for the State of Colorado, the citizens of Colorado, as various issues concerning the environment have come forward. Not only that, she has also served in the private sector. So as an American or as a Coloradan, she has had to deal with various laws that have been passed by the Congress, signed by the President, and she has had to live with those laws.

I have always believed that if you have walked in the shoes of somebody who has had to live with the laws of this country, you have a better, balanced understanding of what is needed.

Gale Norton has had a good record on the environment. It started early on when she was associate solicitor with the Department of the Interior—and she mentioned this in her testimony before the committee—where she pointed to helping prevent the California condor from becoming extinct as one of her greatest accomplishments. That was part of her responsibilities as associate solicitor.

She also worked in the State of Colorado to clean up a number of Superfund sites we have there. In Leadville, we had a Superfund site. She worked to clean that up. She worked hard to get started with cleanup of Rocky Flats, another Superfund site in Colorado. She worked hard to get things moving as far as the Rocky Mountain arsenal was concerned. She has a good record for cleaning up the environment.

Her record has been misrepresented as far as the Summitville mine. I will take a few moments to talk about that because my colleague from Oregon mentioned that in his comments. The problem at the Summitville mine in Colorado—I might add, this has been a real catastrophe on the environment, and I have been very concerned about the fact that the cleanup of the Summitville mine has not been progressing along satisfactorily—started in the 1980s.

At that time we had a Democrat Governor in the State of Colorado, and we had a Democrat who was attorney general for the State of Colorado when they first began to deal with the problem. Gale Norton, then, was elected as attorney general in the State of Colorado just as the problem of the Summitville mine began to bubble up in a public manner. Now, today, this Summitville mine problem is beginning to be resolved in a real, meaningful way. There has been a settlement, and the company has agreed to pay $30 million in cleanup of the site.

Those of us who have lived in the State of Colorado understand the hard work she has done in trying to clean up the Summitville mine. It is not only myself, but the Denver Post, for example, has written an article in support of Gale Norton and characterized the Summitville mine issue as a false blame toward Gale Norton. I ask unanimous consent that that editorial be printed in the RECORD.

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

[From the Denver Post, Jan. 11, 2001]

THE BLAME FOR SUMMITVILLE

Blame for the Summitville environmental fiasco oozes thick and wide through Colorado state government. Yet critics are using Summitville to singularly bash Gale Norton, the former Colorado attorney general whom President-elect George W. Bush nominated as U.S. interior secretary. Norton should not be slammed for other politicians' mistakes.

In fact, during her tenure as state AG, Norton struggled to protect the public's interest at Summitville, despite legislative mandates that ham-strung meaningful action.

In the late 1980s, the Colorado Legislature gutted the state agency responsible for supervising environmental compliance at hard-

rock mines, leaving far too few mine inspectors in the field. So when the Summitville gold mine installed the liner for its heap leach pond, state experts didn't take a close look at the design and implementation. State inspectors also weren't around to discover numerous other environmental goofs and lawbreaking at the site. The pond liner eventually failed, spewing mine poisons into the head-waters of the Rio Grande, one of our region's most important rivers. Only later did authorities discover the other mining law violations, too.

But Norton never was in charge of the state unit responsible for the omissions.

Meantine, state lawmakers had imposed a ridiculously short time frame in which authorities could bring charges when mine operators committed wrong-doing. In the Summitville case, the statute would have hogtied any Colorado AG, even the most radical environmentalist. So, although The Denver Post editorially bemoaned the state's inability to act, we were haranguing the foolishness of the Colorado Legislature, not Norton.

In fact, Norton barely had been in office a year when the Summitville crisis broke in 1992. The fiasco's roots instead had taken hold under the policies of a conservative Republican legislature, and on the watch of a moderate Democratic governor and attorney general, Roy Romer and Duane Woodard.

Moreover, Washington critics are linking Summitville to Colorado's self-audit law, which lets businesses review their own environmental compliance without risking regulatory wrath. The state has tangled with the U.S. Environmental Protection Agency over the law. But the statute was enacted in 1994, two years after the Summitville debacle.

EPA's own Summitville record isn't spotless, as the feds squandered enormous sums accomplishing very little.

Summitville shamed Colorado. This newspaper, with its active environmentalist agenda, repeatedly lambasted the state and EPA's handling of the matter.

But far from causing the problem, Norton was among the civil servants trying to fix the mess under nearly impossible circumstances.

Mr. ALLARD. This appeared in the Denver Post on January 11. The headline is ''The Blame for Summitville.'' It makes two cogent points that I want to bring to the attention of the Members of the Senate. One of the paragraphs says:

In fact, Norton barely had been in office a year when the Summitville crisis broke in 1992. The fiasco's roots instead had taken hold under the policies of a conservative Republican legislature, and on the watch of a moderate Democratic Governor and attorney general, Roy Romer and Duane Woodard.

The article points out that ''EPA's own record isn't spotless, as the Feds squandered enormous sums accomplishing very little.''

Gale Norton pursued this issue after getting into office. She reached in and tried to protect the assets of a company that was filing bankruptcy so as to get out of the responsibility of having to clean up that mine. She yanked them out of the bankruptcy proceedings and continued to hold them responsible.

The individual who followed Gale Norton as attorney general for the State of Colorado is Ken Salazar. He is a Democrat. Ken Salazar made a public statement in defense of the work of Gale Norton as attorney general for the State of Colorado as it applied to the Summitville mine. He starts out his public statement by saying:

I believe former Colorado Attorney General Gale Norton knows the environmental issues of Colorado and the West, is smart, and has a passion for public service. She should be given a chance to serve as Secretary of the Interior.

It goes on to say:

In the past few days, former Attorney General Norton has been unfairly criticized concerning two issues: Her support for the environmental self-audit laws of Colorado, and her role in the Summitville Mine environmental case in the Alamosa River watershed in southern Colorado.

I point out that Ken Salazar grew up in that area close to the Summitville mine. He is familiar with the area and also with the case because he had to follow up on the work that the attorney general, Gale Norton, had started, and now the present attorney general, Salazar, is wrapping that up. In his statement, he goes on:

Concerning the Summitville mine matter, the State of Colorado has been vigilant and aggressive in pursuing those responsible for the release of pollution from the Summitville Mine. Former Attorney General Gale Norton supported the efforts to recover the proceeds from bankruptcy, and in 1996 she also joined with the United States of America in the lawsuit to recover expenses and natural resource damages from those involved in the Summitville mine.

So it is definitely an unfair accusation, as viewed by many of us in Colorado, Democrats and Republicans.

I also ask unanimous consent that the statement by Attorney General Salazar be printed in the RECORD.

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

STATEMENT OF COLORADO ATTORNEY GENERAL KEN SALAZAR CONCERNING GALE NORTON'S NOMINATION AS SECRETARY OF THE INTERIOR

DENVER.—I believe former Colorado Attorney General Gale Norton knows the environmental issues of Colorado and the West, is smart, and has a passion for public service. She should be given a chance to serve as Secretary of the Interior.

I have worked with Gale Norton for more than a decade. In her role as Colorado Attorney General, she represented me while I served as Executive Director of the Colorado Department of Natural Resources. Though I certainly do not share all of former Attorney General Norton's views on the environment and other matters, I respect her legal and policy knowledge and constructive approach to difficult issues.

In the past few days, former Attorney General Norton has been unfairly criticized concerning two issues: (1) her support for the environmental self-audit laws of Colorado; and (2) her role in the Summitville Mine environmental case in the Alamosa River watershed in southern Colorado.

Gale Norton's position on Colorado's environmental self-audit law has enjoyed very significant bipartisan support here in Colorado. The original self-audit bill had a Democratic sponsor and was signed into law by a Democratic governor. As a Democrat, I supported the environmental self-audit law because the law, when properly implemented, creates incentives for businesses to protect the environment. I have worked to resolve outstanding issues with the Environmental Protection Agency and the Department of Justice on Colorado's law, and on April 14, 2000 I issued a formal opinion that sets forth the central legal principles of Colorado's environmental self-audit law.

Concerning the Summitville Mine matter, the State of Colorado has been vigilant and aggressive in pursuing those responsible for the releases of pollution from the Summitville Mine. Former Attorney General Gale Norton supported the efforts to recover the proceeds from bankruptcy and in 1996, she also joined with the United States of America in the lawsuit to recover expenses and natural resource damages from those involved in the Summitville Mine.

There are fair questions that should be asked in the course of the Senate confirmation proceedings. These matters are proper inquiries of any nominee for Secretary of the Interior.

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Mr. ALLARD. Madam President, I wanted to take a few moments to respond to the comments and accusations leveled against Gale Norton because I really believe she has a deep concern about our environment. She comes from the State of Colorado. We call it colorful Colorado. She wants to keep Colorado that way, and certainly I think she will be very responsible. She will do a good job as Secretary of the Interior. She has a great background and the intellect to do the right thing for America.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Madam President, I see no other Members seeking recognition at this time, although we have had an indication that one or two may come over. Senator BINGAMAN, who is the ranking member of the Energy and Natural Resources Committee, and I have agreed to share our time equally since we are both supporting the nominee, Gale Norton, for Secretary of the Interior. How much time remains total for either side, or both?

The PRESIDING OFFICER. The Senator from Alaska controls 9 remaining minutes, and the Senator from New Mexico has 43 minutes.

Mr. MURKOWSKI. It is my understanding that Senator BINGAMAN has agreed that we will try to accommodate those coming over and let the time run out. It is our understanding that tomorrow the Senate will take up, at 2:45, three nominations and that we have 90 minutes, I believe; is that correct—110 minutes, rather.

The PRESIDING OFFICER. The Senator is correct.

Mr. MURKOWSKI. Madam President, I have an extended statement, but I am sure the occupant of the Chair and others would be happy if I were a little briefer.

Madam President, I think it is fair to say that we have had a pretty unanimous consensus here of those speaking on behalf of Gale Norton for Secretary of the Interior. We only have one Member who opposes her, and I suspect we will have others tomorrow, inasmuch as time will allow for additional Members to speak. I won't try to prejudge the level of support. But I think it is fair to say, as chairman of The Energy and Natural Resources Committee, that we have had somewhat of a mandate within the committee makeup. We voted her out 18–2.

As I indicated earlier in my remarks, Ms. Norton has answered some 224 written questions, having sat through her 2 days of testimony. I found it rather humorous that, in spite of her willingness to answer the questions presented by the Members—as we all note the good work of our staff, and the staff to a large degree repeated many of those questions. Nevertheless, that is how it goes, and we all understand the procedure and the fact that the staff does keep busy supporting us.

In any event, I think, to some extent, some of the characterizations of this particular nominee are what I object to. I think it is fair to say that it is not a partisan issue. There was a cartoon in New York Daily News depicting Norton as a flack for the child poisoning industry. In a parody of our President's campaign promise to leave no child behind, it puts a slogan in her mouth: Leave no child alive. I don't know. But I think many of us are of the opinion that the environmental groups that support this kind of—well, it is hard for me to describe words of that nature. But I think they have lost somewhat of their credibility with these over-the-top attacks. I think a question of courtesy, a question of what is decent, and what is over the line has happened here, and I think that is, indeed, unfortunate.

If I were a member of some of these environmental groups, I would want to know who made the decision to spend thousands and in some cases millions of dollars on advertisements in major newspapers that make false, inaccurate, inappropriate, and downright discourteous statements about her record.

It seems to me, as I have indicated, that when the facts aren't on your side, you attack the person. That is what has happened here.

I was listening to the Sunday service at the little church I attend this Sunday. The priest made the comment: They can try to rub out the messenger, but they can't rub out the message.

I thought of Gale Norton and her commitment to enforce the law. She gave her committee the assurance that she will enforce the law. To some extent, some of the criticism seems to cover her position on an issue that involves my State of Alaska, and that is the Arctic National Wildlife Refuge. The criticism seems to be that somehow this area is in jeopardy by the Bush administration. And the experience we have had in the Arctic in drilling for oil and gas associated with Prudhoe Bay somehow has no parallel to the potential opening of this small area of the Arctic National Wildlife Refuge.

Few people consider that the area itself is about 19 million acres—about the size of the State of South Carolina. Even fewer recognize what has already taken place in that area. But out of that 19 million acres, 9 million acres has been set aside by Congress in a refuge in perpetuity. That means Congress isn't going to change it; that is it. And 8½ million acres have been set aside in wilderness in perpetuity. But Congress left 1½ million acres, called the 1002 area, for a determination to be made at a future date whether it should be explored for oil and gas. The Secretary's position on this is she happens to favor the opening, if it can be done safely and in compatibility with the environment and the ecology. That is the position that is taken by our President, President Bush, and our Vice President.

As a consequence, it should be pointed out that it is not her decision, nor will it be her decision as to whether or not this sliver of the Coastal Plain will be open. When I say ''sliver,'' I am referring to specifically the realization that there is only 1½ million acres in the 1002 area to be considered by Congress, and industry tells us that with their new technology and ice roads and the realization that there is only a short 60 miles of pipe that would have to be extended over to the existing infrastructure of the Trans-Alaska pipeline where the 800-mile pipeline has been for some 27 years, that the impact would be minimal.

That doesn't mean there won't be an impact, but it would be minimal. But the footprint is what is significant. It is estimated to be about 2,000 acres out of the million and half acres which is out of the 19 million acres. That is the perspective that our friends in the environmental community fail to recognize. They fail to recognize what we have learned in Prudhoe Bay for 27 years.

We have seen the habitat of the central Arctic herd during that timeframe, and those caribou increased dramatically from about 3,000 to 4,000 to the numbers currently of about 26,000 to 27,000. They are protected. The mild activity associated with that oil field does not threaten either the caribou, their lifestyle, or their reproduction as evidenced by the fact that the herd has increased dramatically. To suggest somehow that this same situation can't occur in the 1002 area of ANWR flies in the face of realism.

But it is appropriate that in the few minutes we have, since this has come up continually in her nomination, that some of the inaccuracies by some of the defenders of wildlife and others who are campaigning on this issue to generate membership and dollars—they are using fear tactics, they are using inaccuracies, and they are using irresponsibility. One of the statements that was made in the U.S. news wire of January 25 entitled ''Defenders of Wildlife Launch Campaign To Save The Arctic Refuge'' was ''We know Americans overwhelmingly favor protecting the Arctic range''. Of course. We all do. But they go further to suggest that the American public, as evidenced by public opinion polls, shows that two-thirds of Americans are against opening it. That is not related to any degree of accuracy.

The recent polling by the Christian Science Monitor on the issue was about 58 in favor of opening it and about 34 favor closing it. The Chicago Tribune had a poll limited to the Chicago area, which was about the same—about 52 to 53 percent favor. So public opinion, I think, is obviously an important factor in determining the eventual outcome. But to suggest that public opinion opposes it is simply not true.

Further, the statement is made by the U.S. news wire that only the remaining 5 percent of Alaska's North Slope is not already open to drilling. That is totally inaccurate, and not based on any fact. Factually, 14 percent of the 1,200-mile Coastal Plain is open. If you do not believe it, go to the Department of the Interior and try to get a lease there. Fourteen percent is open.

Further, Madam President, as we look at inaccuracies, we find that we are going to have on the web site an innovative computer animation on the issue narrated by an actor to tell the story of the polar bears and the cubs driven from their dens by the oil well on the refuge—the now pristine Coastal Plain. Of course, there is no oil well on the area. There is one well that has been driven. Further, if they had any degree of accuracy, they would recognize that the Coastal Plain is not the home of the polar bear. The polar bears actually den out on the Arctic ice.

Our information shows, scientists, and the State of Alaska, and other sources, that approximately 10 to 12 polar bears have been identified as denning on that Coastal Plain area of ANWR. They simply don't den there. So it is quite infrequent. Now there are polar bears that come into Point Barrow. There are polar bears that come into the Prudhoe Bay area. What they don't say is that the greatest benefactor of the polar bear is the non-natives. Non-natives cannot take them for trophy hunting. The law says that only the native people can take them for subsistence. If you want a polar bear, where do you go? Go to Canada.

I might add, some people in the Canadian government are opposed to opening this area. It could be because of the competitive posture as a supplier of energy to the United States. They look upon us as a potential competitor. That is all right. But the polar bear issue, keep it defined where it belongs. In Canada you can go out and shoot one. In Russia you can shoot one, but you can't shoot one in Alaska. That has a lot to do with the longevity of the polar bear.

We have a web site now, an innovative computer animation about the polar bear, but it doesn't tell the true story about the polar bear. It is going to suggest the polar bear abandon her cubs because of the oil activity. It is simply not true.

Further, they say this is opening this area, sticking oil wells right smack in the biological heart of the wildest place left in America. They don't state that there is an Eskimo village there with 220 people living there. There are radar sites. I encourage every Member of the Senate who wants to voice an opinion on this to come to Alaska and take a look for themselves. Many Members have. We are extending an invitation at the end of March and early April to take Members up there so they can see for themselves. To suggest it is the biological heart of the wildest place left if America, I argue that point.

They call it America's Serengeti. That is an understatement. It is an interesting, beautiful, harsh, rugged environment. It is winter 9 months of the year. It is not a place that is warm, fuzzy and cuddly. It is home of the polar bear, wolves, musk ox, millions of migratory birds, caribou, and hundreds of other species. That is partially true. The one area that Congress setaside is different. It is not the home of the wolves or the musk ox and the birds that come through into the wilderness and the refuge.

They further say there would be immense spills. They go one step further and suggest the greasy oil slick surrounding the Galapagos is somehow connected to the danger and exposure to this area.

It is paramount to recognize the connection between the nominee for the Secretary of the Interior and this particular issue. She will not be making the decision. She will simply be forwarding the facts to the Congress and to the administration surrounding whether or not it can be opened safely.

I implore those following this debate to recognize one significant issue that concerns California today. If one will look at what has happened to California as a consequence of a decision made some time ago to depend on outside energy sources, outside the State of California, for their gas and for their electricity, and the consequences of what has happened. Twenty- five percent of the energy of California comes outside that State. There hasn't been one new generating plant built there of any consequence in the last decade. California environmentalists made decisions and those decisions have come back today. Those California environmentalists have to bear the responsibility for those decisions. They are pretty hard to find right now. You don't see them around saying, maybe we did make a mistake, maybe we should have encouraged an energy supply within the State of California. They were very instrumental in saying we will buy the energy from Washington State, we will buy it from British Columbia where they have a lot of hydropower. We won't develop it within our State.

They are paying the price now. Their two major utilities are in bankruptcy. A bankruptcy judge may come in and say, all right, California consumer, this is what it will cost you for your energy. I am not prepared to go into this at this time but the Energy and Natural Resource Committee will be holding a hearing Wednesday and go into this matter at length.

I draw the parallel. We know what happened in California today by depending on outside energy sources. The parallel is, this Nation today, the United States of America, is 56 percent dependent on imported oil. Where is it coming from? It is coming from Saudi Arabia, it is coming from Mexico, it is coming from Venezuela. Where else is it coming from? It is coming from Iraq, our old friend Saddam Hussein. We are importing 750,000 barrels a day of oil from Iraq. We fought a war over there in 1992. We lost 147 American lives. We had over 400 wounded. How quickly we forget.

What is Saddam Hussein doing? We know he is developing a missile capability. We know he is developing a biological capability. Who is it aimed at in the Middle East? Israel. Iraq is the greatest threat to the peace process in the Middle East—Saddam Hussein. What are we doing about it? We are turning around and buying more oil, importing it to the extent that we are 56 percent dependent today. The Department of Energy suggests by the year 2004 we will be 64 percent dependent.

The parallel is there. California and their dependence on outside sources for their energy and the United States today dependent 56 percent on oil.

The energy bill we are proposing, we are committed to reduce our dependence to less than 50 percent by initiating exploration in the continental United States in the overthrust belt, Wyoming, Montana, New Mexico, Montana, and my State of Alaska, and part of that involves opening up the small area of the coastal plain, using science and technology, the winter roads, the icy roads, and the expense we have had for 30 years where there has never been a proven exposure to the caribou associated with exploration for oil and gas.

So, let's remember this parallel. You depend on outsiders, you lose your leverage, and you pay the price. It happened in California. It can happen today. As far as I'm concerned, it is happening.

Whether we want to reduce that risk associated with this issue which has become a part of the deliberation of Gale Norton is up to us. I think it is fair to say we can probably terminate the debate on the nomination.

Mr. BYRD. Madam President, I am pleased to join my colleagues today in supporting the president's nomination of Mrs. Gale Norton to be the next Secretary of the Department of the Interior.

As the ranking minority member on the appropriations subcommittee which provides funding for the Interior department, I have a particular interest in this Cabinet position. I know that effectively managing this department—an organization of 69,000 employees and an $8.4 billion budget—is not an easy task. The Interior Secretary is charged with overseeing the 379 parks of the National Park System, the 521 refuges and the 66 national fish hatcheries of the Fish and Wildlife Service, the 264 million acres of land managed by the Bureau of Land Management, and serving the needs of 1.4 million American Indians. Clearly, with a portfolio that broad, it is easy to see that the programs under the jurisdiction of the Secretary have a direct impact on every state in the union and nearly every American citizen.

I am aware of the controversy that has surrounded this nomination. I know that there are those who do not see Mrs. Norton as an ally. There have been many accusations made concerning the nominee's public policy positions, and she has been, in my opinion, unfairly derided as a result of certain past working relationships. Despite this, I remain confident that, as Secretary, Gale Norton will be responsive to the concerns of the American people, particularly those concerns expressed by the Congress.

I have personally talked with Mrs. Norton, and while I will not say that we had an in-depth discussion of all the issues which come before the Interior Department, I can say that, with respect to those subject matters we did discuss, I found Gale Norton to be well informed. More importantly, I found her willing to consider various points of view. Obviously, Senators cannot expect a Cabinet Secretary to agree with us on all things at all times. But what we should expect is to have an opportunity to present our views, or present the case of those we represent, and to have those views heard in a fair and unbiased manner. I believe Mrs. Norton will deliver quite well on that expectation.

Madam President, I wish Gale Norton well as she embarks on a difficult assignment, and she will work with the Congress to ensure that we fulfill our land management and trust responsibilities to the American people in a fair, economical, and efficient manner.

MORNING BUSINESS

Mr. MURKOWSKI. I ask unanimous consent the Senate now go into a period of morning business, with Senators permitted to speak up to 10 minutes each.

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

NOMINATIONS

SENATOR SPENCER ABRAHAM TO BE SECRETARY OF ENERGY

Mr. BYRD. Madam President, I supported the nomination of Senator Spencer Abraham as the next Secretary of Energy, and I look forward to working with him in his new position. While I know that Senator Abraham will be facing a host of new issues at the Department of Energy, I welcome his appointment.

I believe that Senator Abraham has a commitment to address the many complicated, intertwining energy, environmental, and economic questions that he will be faced with on a daily basis as Energy Secretary. In recent years, the Department of Energy has been rocked by high profile scandals and security breaches and criticism for failing to address compounding energy policy problems. The Department of Energy has longstanding internal problems regarding agency morale, a complicated system of laboratories, the cleanup of DOE's nuclear complex, and competition between fuel and industry interests. Secretary Abraham will have a defining role in determining the needs and priorities for our national security, energy policy, science and technology, and environmental management.

First and foremost, he will need to work with Congress in the development of a balanced, comprehensive national energy policy. If our ultimate national interests are ever to be achieved, we must address the overarching concerns witnessed by the current price hikes in gasoline, home heating oil, electricity, and natural gas. Though I am certain that, in time, these crises will pass as most crises do, I fear that, as a nation, we will sink back into energy somnolence. The alarm bells are ringing loudly today, and it is time to wake up and address our need for a serious comprehensive national energy strategy. At the same time, a comprehensive energy strategy must also incorporate a strong environmental policy and economic incentives to benefit our nation as a whole.

The new Energy Secretary agreed with me that coal is integral to any national energy strategy. When I met with him, we discussed Clean Coal Technologies and other research that can utilize many of our domestic energy resources in economically and environmentally sound ways. Since 1985, when I established the Clean Coal Technology initiative with a Congressional authorization of $750 million, more than $2.4 billion has been invested in this successful program. Secretary Abraham voiced Administration support for these efforts. By utilizing our nation's knowledge and resources, we can meet our energy demands while also improving the environment.

Additionally, I urged the new Energy Secretary to find ways to address the global climate change challenge. I hope he will continue to support longstanding initiatives that can address climate change as well as find more ways to deploy our advanced technologies in the market, both domestically and internationally. These new technologies and ideas have been paid for by the American people, tested in our laboratories, and demonstrated with the support and assistance of the private sector, and must be deployed if the global community is ever going to seriously tackle the problem of global climate change.

In the coming months, there certainly will be debate over how best to protect the environment, without risking the economic security of our own country. Adopting a commonsense national energy policy that takes advantage of our advanced technologies, while also utilizing our vast energy resources, can be a win-win situation for the environment and the economy.

ADDITIONAL STATEMENTS

COMMENDING THE SPECIAL OLYMPICS ATHLETES, COACHES, AND SUPPORTERS

● Mr. CRAPO. Mr. President, I rise today to commend the Idahoans who will participate in the 2001 Special Olympics World Winter Games in Anchorage, Alaska, this March 4th through 11th. The Special Olympics World Games is an event of Special Olympics, Inc. It is an international competition offered once every two years in Olympic tradition, alternating winter and summer games.

Chris Fonk of Burley and Wendy Newsom of Boise will compete in Alpine skiing. Eric Dille of Burley will be the Alpine skiing alternate. Chad Moe and Lacy Cummings, both of Lewiston, will compete in Nordic skiing. Janet Bush of Mountain Home and Jeff Frost of Pocatello will be the Nordic skiing alternates. April Empey of Blackfoot, Chris Blair of Burley and Dennis Knifong of Boise will compete in snowshoeing.

Snowshoe coach, Terry Kinkead of Burley, and Nordic coach, Manny Sheibany of Moscow, will also take part in the 2001 World Winter Games. The efforts of Terry, Manny, and so many other coaches, volunteers, and supporters has helped the Idaho Special Olympics program offer the opportunity to benefit through sports training and competition to thousands of people with mental retardation.

In turn, every Special Olympics competition leaves its spectators with a better understanding of people who have mental retardation. Through their spirited participation, we learn that these athletes appreciate challenges and benefit greatly from encouragement. We are shown that excellence is a matter of passion and determination. Most important, we are made to realize that the emotional and spiritual health of people with special needs is largely a reflection of the respect and acceptance they receive in their community at large.

I am very proud of these Idaho athletes, their coaches, and their supporters. Special Olympics enlighten us, and then leave our souls soaring.●

TRIBUTE TO JOHN A. VATTES

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor John A. Vattes, Staff Accountant for the New Hampshire Housing Finance Authority, upon his retirement.

John, who received two Associate Degrees from Hesser College, has faithfully served the New Hampshire Housing Finance Authority and the surrounding community for many years. In addition to holding the position of Staff Accountant at the New Hampshire Housing Finance Authority, he has also been the Supervisor of Large Power Billing for Public Service Company of New Hampshire for thirty years. I applaud his hard work and dedication in these positions.

In addition to giving to the New Hampshire Housing Finance Authority and Public Service Company of New Hampshire, John worked tirelessly on New Hampshire political campaigns for former U.S. Senator Gordon J. Humphrey. John has also been a trusted and longtime friend to me for my Congressional elections since the beginning of my political career. He has worked diligently on behalf of New Hampshire political candidates on the local, state and federal levels for over two decades.

A veteran of the Korean conflict, Vattes served New Hampshire and his country with honor as a member of the U.S. Marine Corps. He has worked selflessly within his local community for the South Little League in Manchester for 5 years as player agent and has served as a member of the Knights of Columbus.

John Vattes is truly an extraordinary individual and loyal friend. He has devoted countless hours as a volunteer in his community while still finding time for his family. He and Dotty,

his wife of 40 years, are the proud parents of four children: Wendy, Lori, Mark and Shane. John enjoys leisure time pursuing his personal hobbies which include politics, reading, chess, exercising and traveling.

I commend John Vattes and wish him the best upon his retirement. It has been a pleasure to work with him in the years past, and it is truly an honor to represent him in the U.S. Senate.●

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.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–418. A communication from the Trial Attorney of the Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Power Brake Regulations: Freight Power Brake Revisions'' (RIN2130–AB16) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–419. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, a report relating to smokeless tobacco health education for the years 1998 and 1999; to the Committee on Commerce, Science, and Transportation.

EC–420. A communication from the Chief Counsel of the National Telecommunications and Information Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Technology Opportunities Program'' (RIN0660–ZA06) received on January 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–421. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Removal of Groundfish Closure (to allow small-scale fixed-gear Pacific cod fisheries to continue for a limited time period)'' (RIN0648–AO44) received on January 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–422. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species Fisheries; Large Coastal, Pelagic, and Small Coastal Shark Species, Fishing Season Notification'' (I.D. 111400A) received on January 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–423. A communication from the Deputy Assistant Administrator of the National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Implementation of ICCAT Recommendations'' (RIN0648–AN52) received on January 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–424. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Adjustment to the 2000 Summer Flounder, Scup and Black Sea Bass Commercial Quotas'' received on January 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–425. A communication from the Trial Attorney for the National Highway Traffic Safety Administration, transmitting, pursuant to law, the report of a rule entitled ''Criminal Penalty Safe Harbor Provision'' (RIN2127–AI24) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–426. A communication from the Trial Attorney for the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Reporting the Sale or Lease of Defective of Noncompliant Tires'' (RIN2127–AI23) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–427. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Memorial Bridge, across the Intercostal Waterway, mile 830.6, Volusia County, Daytona Beach, FL (CGD07–00–135)'' ((RIN2115–AE47)(2001–0006)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–428. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Lower Grand River, LA (CGD08–00–032'' ((RIN2115–AE47)(2001–0005)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–429. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Mississippi River, Iowa and Illinois (CGD08–00–029'' ((RIN2115–AE47)(2001–0004)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–430. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Mississippi River, Iowa and Illinois (CGD08–00–033)'' ((RIN2115–AE47)(2001–0007)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–431. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; Hillsborough Bay, Tampa, Florida (CGD07–00–124)'' ((RIN2115–AE46)(2001–0002)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–432. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Great Egg Harbor Bay, New Jersey (CGD05–00–055)'' ((RIN2115–AE47)(2001–0008)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–433. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Allowing Alternative Source to Incandescent Light in Private Aids to Navigation (USG–2000–7466)'' ((RIN2115–AF98)(2001–0001)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–434. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Cortez Bridge (SR 684), across the Gulf Intracoastal Waterway, mile 87.4 Sarasota County, Cortez, FL (CGD07–00–132)'' ((RIN2115–AE47)(2001–0002)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–435. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Siesta Key Bridge, across the Gulf Intracoastal Waterway, mile 71.6, Sarasota County, Florida (CGD07–00–133)'' ((RIN2115–AE47)(2001–0003)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–436. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Iliamna, Alaska'' ((RIN2120–AA66)(2001–0023)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–437. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Albia, Iowa'' ((RIN2120–AA66)(2001–0021)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–438. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amend Legal Description of Jet Route J–501'' (RIN2120–AA66)(2001–0022)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–439. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Bloomfield, Iowa'' ((RIN2120–AA66)(2001–0019)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–440. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Washington, Missouri'' ((RIN2120–AA66)(2001–0020)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–441. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (52)'' ((RIN2120–AA65)(2001–0005)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–442. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Willits, California'' ((RIN2120–AA66)(2001–0027)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–443. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Legal Description of V–66 in the Vicinity of Dallas/Forth Worth, Texas; correction'' ((RIN2120–AA66)(2001–0026)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–444. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Colored Federal Airways; Alaska'' ((RIN2120–AA66)(2001–0025)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–445. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Gulkana, Alaska'' ((RIN2120–AA66)(2001–0024)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–446. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (42)'' ((RIN2120–AA65)(2001–0009)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–447. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (116)'' ((RIN2120–AA65)(2001–0008)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–448. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (61)'' ((RIN2120–AA65)(2001–0007)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–449. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (32)'' ((RIN2120–AA65)(2001–0006)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–450. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (38)'' ((RIN2120–AA65)(2001–0010)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–451. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Learjet Model 60 Airplane'' ((RIN2120–AA64)(2001–0076)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–452. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Walnut Ridge, Arkansas'' ((RIN2120–AA66)(2001–0016)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–453. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Wainwright, Arkansas'' ((RIN2120–AA66)(2001–0017)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–454. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Fayetteville, Arkansas'' ((RIN2120–AA66)(2001–0015)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–455. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Tulsa Oklahoma'' ((RIN2120–AA66)(2001–0018)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–456. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitudes; Miscellaneous Amendments (19)'' ((RIN2120–AA63)(2001–0001)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–457. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777–200 Series Airplanes'' ((RIN2120–AA64)(2001–0065)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–458. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Agusta SPA Model A109E Helicopters'' ((RIN2120–AA64)(2001–0064)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–459. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747, 757, 767, and 777 Series Airplanes'' ((RIN2120–AA64)(2001–0063)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–460. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Agusta SPA Model A109E Helicopters'' ((RIN2120–AA64)(2001–0062)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–461. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737, 747, 757, and 767 Series Airplanes'' ((RIN2120–AA64)(2001–0061)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–462. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney PW4164, 4168, and 4168A Series Turbofan Engines'' ((RIN2120–AA64)(2001–0070)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–463. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD–90–30 Series Airplanes'' ((RIN2120–AA64)(2001–0069)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–464. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC–8 Series Airplanes'' ((RIN2120–AA64)(2001–0068)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–465. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Schweizer Aircraft Corp Model 269A, 269A1, 269B, 269C, 269C1, 269D, and TH–55A Helicopters'' ((RIN2120–AA64)(2001–0066)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–466. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A330 Series Airplanes''

((RIN2120–AA64)(2001–0075)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–467. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 9–81, DC 9–82, DC 9–83, and DC 9–87, Model MD–88 Airplanes, and Model MD–90–30 Series Airplanes'' ((RIN2120–AA64)(2001–0074)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–468. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes Powered by Pratt and Whitney JT9D–3 and –7 Series Engines'' ((RIN2120–AA64)(2001–0073)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–469. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pilatus Aircraft Ltd. Models PC12 and PC12/45 Airplanes'' ((RIN2120–AA64)(2001–0072)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–470. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Agusta SPA Model A109A and A109A II Helicopters'' ((RIN2120–AA64)(2001–0071)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–471. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dornier Model 328–100 Series Airplanes'' ((RIN2120–AA64)(2001–0060)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–472. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Pella, Iowa'' ((RIN2120–AA66)(2001–0014)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–473. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E5 Airspace; Meridian, Mississippi'' ((RIN2120–AA66)(2001–0013)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–474. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Time of Use for Restricted Areas R–450A, B, C, D, and E; Fort Leonard Wood, Missouri'' ((RIN2120–AA66)(2001–0012)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–475. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes; and Model A300, B4600, A300, B4–600R, and A300 F4–600R Series Airplanes'' ((RIN2120–AA64)(2001–0053)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–476. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter Deutschland Model EC135P1 and T1 Helicopters'' ((RIN2120–AA64)(2001–0054)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–477. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747–400 Series Airplanes'' ((RIN2120–AA64)(2001–0055)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–478. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: S.N. Centrair Model 201B Gliders'' ((RIN2120–AA64)(2001–0056)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–479. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A319, 320, 321, Series Airplanes'' ((RIN2120–AA64)(2001–0049)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–480. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company Beech Models A36, B36TC, and 58 Airplanes'' ((RIN2120–AA64)(2001–0050)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–481. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: S.N. CENTRAIR 101 Series Gliders'' ((RIN2120–AA64)(2001–0051)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–482. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: The New Piper Aircraft, Inc. PA–31 Series Airplanes'' ((RIN2120–AA64)(2001–0052)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–483. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: SAAB Model 340B Series Airplanes'' ((RIN2120–AA64)(2001–0045)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–484. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD–11 and MD–11F Series Airplanes'' ((RIN2120–AA64)(2001–0046)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–485. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Aerospatiale Model ATR72 Series Airplanes'' ((RIN2120–AA64)(2001–0047)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–486. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Model Hawker 800A and Hawker 800XP Series Airplanes'' ((RIN2120–AA64)(2001–0041)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–487. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: SAAB Model SAAB 2000 Series Airplanes'' ((RIN2120–AA64)(2001–0042)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–488. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: British Aerospace Model BAC 1–11 401/AK and 410/AQ Airplanes'' ((RIN2120–AA64)(2001–0043)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–489. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Model Hawker 800KP and Hawker 800 Series Airplanes'' ((RIN2120–AA64)(2001–0044)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–490. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: SAAB Model SF340A and 340B Series Airplanes'' ((RIN2120–AA64)(2001–0038)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–491. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 9–19, 20, 30, 40, and 50 Series Airplanes; and C–9 Airplanes'' ((RIN2120–AA64)(2001–0039)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–492. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: P and W PW4000 Series Turbofan Engines'' ((RIN2120–AA64)(2001–0040)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–493. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A319, A320, and A321 Series Airplanes'' ((RIN2120–AA64)(2001–0037)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–494. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Vulcanair SpA models P 68 ''OBSERVER'', P68 ''OBSERVER 2'', and P68TC ''OBSERVER'' Airplanes'' ((RIN2120–AA64)(2001–0059)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–495. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model C1 600 1A11, CL 600 2A12, and CL 600 2B16, Series Airplanes'' ((RIN2120–AA64)(2001–0058)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–496. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bell Helicopter Textran Inc. Model 205A–1, 205–B, 212, 412, and 412CF Helicopters'' ((RIN2120–AA64)(2001–0057)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–497. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision to the Legal Description of the Laughlin/Bullhead International Airport Class D Airspace Area, AZ'' ((RIN2120–AA66)(2001–0011)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–498. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Service Difficulty Reports; final rule; delay of effective date'' ((RIN2120–AF10)(2000–0004)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–499. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD–11 Series Airplanes'' ((RIN2120–AA64)(2001–0028)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–500. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: P and W JT8D–200 Series Turbofan Engines'' ((RIN2120–AA64)(2000–0588)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–501. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747–100, –200, –747SP, and –747SR Series Airplanes Powered by P and W JT9D–3, and –7 Series Engines'' ((RIN2120–AA64)(2000–0592)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–502. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Short Brothers Model AD3–60 SHERPE Series Airplanes'' ((RIN2120–AA64)(2000–0591)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–503. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Cessna Aircraft Company Model 402C Airplanes'' ((RIN2120–AA64)(2000–0590)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–504. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: P and W JT8D Series Turbofan Engines'' ((RIN2120–AA64)(2000–0584)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–505. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bell Helicopter Textron Canada Model 430 Helicopters'' ((RIN2120–AA64)(2001–0067)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–506. A communication from the Program Analyst of the Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC–8–102, 103, and 301 Series Airplanes'' ((RIN2120–AA64)(2001–0048)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–507. A communication from the Special Assistant of the Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotment; FM Broadcast Stations. (Lewistown, Montana)'' (Docket No. 00–150) received on January 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–508. A communication from the Special Assistant of the Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Strattanville and Farmington Township, Pennsylvania)'' (Docket No. 99–58) received on January 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–509. A communication from the Special Assistant of the Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 730202(b), Table of Allotments, FM Broadcast Stations. (Indian Wells, Indio, California)'' (Docket No. 98–29, RM–9190, RM–9275) received on January 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–510. A communication from the Special Assistant of the Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Susquehanna and Hallstead, Pennsylvania'' (Docket No. 00–15) received on January 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–511. A communication from the Special Assistant of the Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations. (Richmond, Virginia)'' (Docket No. 00–97, RM–9865) received on January 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–512. A communication from the Special Assistant of the Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Florence and Comobabi, Arizona)'' (Docket No. 00–107, RM–9891) received on January 16, 2001; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted.

By Mr. THOMPSON, from the Committee on Governmental Affairs:

Special Report entitled ''Report of the Committee on Governmental Affairs United States Senate and its Subcommittees for the One Hundred Fifth Congress''.

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. BINGAMAN (for himself, Mr. CRAIG, Mr. SCHUMER, and Mrs. MURRAY):

S. 193. A bill to authorize funding for Advanced Scientific Research Computing Programs at the Department of Energy for fiscal years 2002 through 2006, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BIDEN:

S. 194. A bill to authorize funding for successful reentry of criminal offenders into local communities; to the Committee on the Judiciary.

By Mr. FRIST:

S. 195. A bill to amend the Elementary and Secondary Education Act of 1965 to establish programs to recruit, retain, and retrain teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 196. A bill to amend the Internal Revenue Code of 1986 to provide a refundable personal credit for energy conservation expenditures, and for other purposes; to the Committee on Finance.

By Mr. EDWARDS (for himself and Mr. HOLLINGS):

S. 197. A bill to provide for the disclosure of the collection of information through computer software, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRAIG (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. BURNS, Mr. CONRAD, Mr. CRAPO, Mr. DORGAN, Mr. JOHNSON, and Mr. SMITH of Oregon):

S. 198. A bill to require the Secretary of the Interior to establish a program to provide assistance through States to eligible

weed management entities to control or eradicate harmful, nonnative weeds on public and private land; to the Committee on Energy and Natural Resources.

By Mr. REID:

S. 199. A bill to amend title 49, United States Code, to authorize the Secretary of Transportation to oversee the competitive activities of air carriers following a concentration in the airline industry, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. REID:

S. 200. A bill to establish a national policy of basic consumer fair treatment for airline passengers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WARNER:

S. 201. A bill to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws, and for other purposes; to the Committee on Governmental Affairs.

By Mr. WARNER:

S. 202. A bill to rename Wolf Trap Farm Park for the Performing Arts as ''Wolf Trap National Park for the Performing Arts''; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. NICKLES (for himself, Mr. DURBIN, Mr. FITZGERALD, Mr. GRAHAM, Mr. HAGEL, Mr. KYL, Mr. INHOFE, and Mr. BINGAMAN):

S. Con. Res. 4. A concurrent resolution expressing the sense of Congress regarding housing affordability and ensuring a competitive North American market for softwood lumber; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. CRAIG, Mr. SCHUMER, and Mrs. MURRAY):

S. 193. A bill to authorize funding for Advanced Scientific Research Computing Programs at the Department of Energy for fiscal years 2002 through 2006, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill authorizing the Secretary of Energy to provide for the Office of Science to develop a robust scientific computing infrastructure to solve a number of grand challenges in scientific computing. This bipartisan bill, which is referred to as the ''Department of Energy Advanced Scientific Computing Act'' is co-sponsored by Senators CRAIG, SCHUMER, and MURRAY. Before discussing this program in detail, let me briefly frame the proposed effort. First, I will outline the tremendous advances made in the last decade for scientific computing. Second, I will give a few examples of the ''grand challenges'' in scientific computing. Third, I will discuss how the proposed program at the Office of Science will give our nation's scientists the tools to meet these grand challenges. I will conclude by demonstrating how this program integrates with defense related computing programs at the DOE and across the interagency.

Experts agree that scientific computing R&D is at a critical juncture. If the breakthroughs proceed as predicted, the information age could affect our everyday lives far beyond what we nonexperts currently grasp. It is terribly important that we, as a nation, ensure that the U.S. maintains a leadership role in scientific computing R&D. If we fall behind in this rapidly changing field, our nation could lose its ability to control the national security, economic and social consequences from these new information technologies.

What are the possible breakthroughs in scientific computing that merit such strong programmatic attention? Within the next five years we expect that advanced scientific computing machines will achieve peak performance speeds of 100 teraflops or 100 trillion arithmetic operations per second; that is 100 times faster than today's most advanced civilian computers. To put things in perspective, the fastest Pentium III available today can perform about 2 gigaflops (2 billion operations per second), so a 100 teraflops machine is about 50,000 times faster than today's fastest Pentium III. We call this new wave of computing ''terascale computing''. This new level of computing will allow scientists and engineers to explore problems at a level of accuracy and detail that was unimaginable ten years ago. I will discuss the scientific and engineering opportunities in more detail later. First, let me discuss some of the challenges in terascale computing.

The major advance that led to terascale computing is the use of highly parallel computer architectures. Parallel computers send out mathematical instructions to thousands of processors at once rather than waiting for each instruction to be sequentially completed on a single processor. The problem we face in moving to terascale computers is writing the computer software that utilizes their full performance capabilities. When we say ''peak'' speeds we mean the ability to use the full capability of the computer. This happens very rarely in parallel computers. For example, in 1990 on state-of-the-art Cray supercomputers with about eight processors, we could obtain, on the average, about 40–50 percent of the computer's ''peak'' speed. Today, with massively parallel machines using thousands of processors, we often obtain only 5–10 percent of the machine's ''peak'' speed. The issue is how to tailor our traditional scientific codes to run efficiently on these terascale parallel computers. This is the foremost challenge that must be overcome to realize the full potential of terascale computing.

Another problem we face as we move to terascale computing is the amount of data we generate. Consider the following. Your PC, if it is one of the latest models, has a hard drive that will hold about 10 gigabytes of data. If we successfully begin to implement terascale computing, we will be generating ''petabytes'' of data for each calculation. A petabyte of data is one million gigabytes or the equivalent of 100,000 hard drives like the one on your PC. A teraflop machine user will make many runs on these machines. But raw data isn't knowledge. To turn data into knowledge, we must be able to analyze it—to determine what it is telling us about the phenomena that we are studying. None of the data management methods that we have today can handle petabytes data sets. This is the second challenge that must be overcome.

And, many more challenges exist.

To make effective use of today's and the future's computing capability we need to establish a scientific program that is radically different from what researchers are used to today. Future scientific computing initiatives must be broad multi-disciplinary efforts. Tomorrow's scientific computing effort will employ not only the physicist who wishes to probe the minute details of solid matter in order to say, built a better magnet, it will include a computer scientist to help ensure that the physicist's software makes efficient use of the terascale computer. Terascale computing will also require mathematicians to develop specialized routines to adapt the solution of the physicist's mathematical equations to these parallel architectures. Finally, terascale computers will require specialists in data networking and visualization who understand how to manage and analyze the massive amounts of data.

I note these problems to highlight the complexities of tomorrow's scientific computing environment from the common information technologies that we employ today. However, because computing technology moves at such a rapid rate, elements of the issues that I have described will surely impact us in the near future. Given the impact information technologies have had only in ten years, it is important that we, as a nation, lead the initiative in these breakthroughs so that we can positively control the impact that the these revolutionary technologies will have on our economy and the social fabric of our Nation.

What are the important problems that we expect terascale computing to address? We call these problems ''Grand Challenges''. Terascle computing will enable climate researchers

to predict with greater certainty how our planet's climate will change in the future, allowing us to develop the best possible strategies and policy for addressing climate change. Terascale computing will help chemists understand the chemical processes involved in combustion, which will translate into more efficient, less polluting engines. Terascale computing will allow material scientists to design nanomaterials atom by atom, which will lead to stronger, yet lighter and hence more energy efficient materials. Terascale computing will assist nanoscience researchers by simulating atom manipulation before undertaking complex and expensive experiments. Nanotechnology will lead to whole new generations of computer chips, information systems, and stronger, yet lighter materials. Finally, terascale computing will enable biologists to understand the structure of the proteins encoded in the human genome, which will lead to better medicines and health for our citizens. These fundamental grand challenge problems are now addressable with the recent advances in scientific computing. Due to the impact the grand challenge problems will have on our lives, we as a nation, must take the lead in their investigation.

What are the elements of the proposed effort? The program I propose will build on the Department of Energy's decades of leadership in high performance computing and networks to ensure that terascale computing and petabyte data visualization becomes a positive force for the U.S. The proposed program has four parts. The first part is the establishment of core teams of researchers who specialize in the grand challenge problem itself. An example of a core team is one made up of geologists and geochemists allied with computer scientists and applied mathematicians to write large software programs associated with oil exploration or the diffusion of waste in the subsurface. The scientific simulation software created by these core teams will be the ''engines'' that drive the scientific discovery process. The second element of the program enhances the research efforts in computer science and computational mathematics that underlie this software development effort. These specialists will ensure that the core teams effectively use massively parallel computers—not at the current 5–10 percent but at 50 percent of the computer's peak running speed. These specialists will also develop the software to manage and visualize the petabytes of data that the core teams, as well as the next generation of experimental facilities, generate. Third, this program will fund specialists to develop the networking and electronic collaboration software that will allow researchers all across the U.S.—in national laboratories, universities, and industry to routinely use petabyte data sets. This new networking capability will translate quickly to the private sector in the areas of medicine, business transactions, and education over the internet. Fourth, this program will fund the unique computer hardware required for scientific investigations of the ''Grand Challenges'' on a continuing basis. Many of the grand challenge problems will benefit from specialized computers. This program will fund such specialized computers. For instance, IBM will build in the year 2004 or 2005 a unique 1000 teraflops (1000 trillion operations per second) computer called ''Blue Gene''. Blue Gene will be 500,000 times faster than your desk PC. This machine will be used by DNA researchers to predict the structure of proteins and in doing so allow drugs and medicines to be optimized before they are commercially produced. We propose to place these one-of-a-kind computers at national user facilities and make them available to U.S. researchers in national and government laboratories, universities, and industry.

In summary, we are proposing a program that will substantially advance our understanding of complex scientific phenomena that affect our daily lives. At the present we cannot fully understand these phenomena; it is critical that we master it in our national interest so to benefit our nation and its people.

Overall, this program will integrate into other DOE advanced computing efforts and into our national strategy for advanced scientific computing. In FY01, the DOE National Nuclear Security Agency, NNSA, funded the Accelerated Strategic Computing Initiative or ASCI at $477 million dollars. ASCI's mission—to develop the capability to simulate the safety and surety of the nuclear weapons in our stockpile—is critical to the security of our nation. The ASCI program is a focused and classified program with one primary user—the nuclear weapons community. Its problems revolve around materials and plasmas undergoing rapid changes from a nuclear explosion. The Advanced Scientific Computing Program I am proposing is unclassified and covers many other areas of science critical to the long term well being of the nation. This program will involve interaction between researchers at the nation's national and federal laboratories, universities, and industry. That is not to say that there will be no integration between these two worthy and important efforts. Both efforts involve terascale computers, so clearly we expect that many of the central tools common to both in terms of hardware design and underlying software for networks and visualization will be shared. Both programs will benefit by the two diverse communities working towards the common goal of terascale computing. And, the NNSA will be able to infuse fresh ideas from the universities and industry on parallel architectures and data visualization into their efforts in ensuring the surety of our nation's nuclear weapons stockpile.

Within the U.S. Government, this effort will fall under the purview of the National Coordinating Office for Computing, Information and Communications, ''NCO/CIC''. This Office is charged with coordinating government-sponsored information technology research programs across all of the government agencies. The NCO/CIC provides a forum for DOE to coordinate its scientific computing program with information technology programs in NSF, DOD, NASA, NIH, NOAA, and other government agencies interested in high-performance computing. Although the DOE program is focused on its energy, environmental, and scientific missions, many benefits will be derived by coordinating its activities with related computing activities in other agencies. Finally, I note that in our national implementation plan for ''Information for the Twenty First Century'', the NSF and the DOE were given the leadership for ''Advanced Scientific Computing for Science, Engineering and the Nation''. The program I have outlined supports that role.

In summary, I have outlined a scientific computing program that will advance our ability to understand complex but important physical, chemical, and biological phenomena. Advancing our understanding of global climate change will lead to a better understanding on the relationship between our energy consumption and the climate on our planet. Mastering materials and chemical processes at an atomic level will enhance U.S. industrial competitiveness in many areas such as energy efficient materials manufacturing and develop new computer chip technologies. Understanding the flow of contaminants in the groundwater will help develop better strategies for cleaning up DOE's sites and help commercial oil and gas extraction. Predicting the structure of proteins will lead to more effective drugs with minimal side effects. Beyond solution of the ''Grand Challenges'' are the advancements that will be made in advanced computing and networking technologies which will benefit users in areas as diverse as medicine and business. These problems are of national significance to the health of our citizens and our future economy in the 21st century.

By Mr. BIDEN:

S. 194. A bill to authorize funding for successful reentry of criminal offenders into local communities; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, today I am proud to introduce the ''Offender

Reentry and Community Safety Act of 2001,'' a bill I first introduced last July. The bill is also a part of S. 16, the Democrat's omnibus crime legislation.

Too often we have short-term solutions for long-term problems. All too often we think about today, but not tomorrow. It's time that we start looking forward. It's time that we face the dire situation of prisoners re-entering our communities with insufficient monitoring, little or no job skills, inadequate drug treatment, insufficient housing and deficient basic life skills.

According to the Department of Justice, 1.25 million offenders are now living in prisons and another 600,000 offenders are incarcerated in local jails. A record number of those inmates—approximately 585,400 will return to communities this year. Historically, two-thirds of returning prisoners have been rearrested for new crimes within three years.

The safety threat posed by this volume of prisoner returns has been exacerbated by the fact that states and communities can't possibly properly supervise all their returning offenders, parole systems have been abolished in thirteen states and policy shifts toward more determinate sentencing have reduced the courts' authority to impose supervisory conditions on offenders returning to their communities.

State systems have also reduced the numbers of transitional support programs aimed at facilitating the return to productive community life styles. Recent studies indicate that many returning prisoners receive no help in finding employment upon release and most offenders have low literacy and other basic educational skills that can impede successful reentry.

At least 55 percent of offenders are fathers of minor children, and therefore face a number of issues related to child support and other family responsibilities during incarceration and after release. Substance abuse and mental health problems also add to concerns over community safety. Approximately 70 percent of state prisoners and 57 percent of federal prisoners have a history of drug use or abuse. Research by the Department of Justice indicates that between 60 and 75 percent of inmates with heroin or cocaine problems return to drugs within three months when untreated. An estimated 187,000 state and federal prison inmates have self-reported mental health problems. Mentally ill inmates are more likely than other offenders to have committed a violent offense and be violent recidivists. Few states connect mental health treatment in prisons with treatment in the return community. Finally, offenders with contagious diseases such as HIV/AIDS and tuberculosis are released with no viable plan to continue their medical treatment so they present a significant danger to public health. And while the federal prison population and reentry system differs from the state prison population and reentry systems, there are nonetheless significant reentry challenges at the federal level.

We need to start thinking about what to do with these people. We need to start thinking in terms of helping these people make a transition to the community so that they don't go back to a life of crime and can be productive members of our society. We need to start thinking about the long-term impact of what we do after we send people to jail.

My legislation creates demonstration reentry programs for federal, state and local prisoners. The programs are designed to assist high-risk, high-need offenders who have served their prison sentences, but who pose the greatest risk of reoffending upon release because they lack the education, job skills, stable family or living arrangements, and the substance abuse treatment and other mental and medical health services they need to successfully reintegrate into society.

Innovative strategies and emerging technologies present new opportunities to improve reentry systems. This legislation creates federal and state demonstration projects that utilize these strategies and technologies. The projects share many core components, including a more seamless reentry system, reentry officials who are more directly involved with the offender and who can swiftly impose intermediate sanctions if the offender does not follow the designated reentry plan, and the combination of enhanced service delivery and enhanced monitoring. The different projects are targeted at different prisoner populations and each has some unique features. The promise of the legislation is to establish the demonstration projects and then to rigorously evaluate them to determine which measures and strategies most successfully reintegrate prisoners into the community as well as which measures and strategies can be promoted nationally to address the growing national problem of released prisoners.

There are currently 17 unfunded state pilot projects, including one in Delaware, which are being supported with technical assistance by the Department of Justice. My legislation will fund these pilot projects and will encourage states, territories, and Indian tribes to partner with units of local government and other non-profit organizations to establish adult offender reentry demonstration projects. The grants may be expended for implementing graduated sanctions and incentives, monitoring released prisoners, and providing, as appropriate, drug and alcohol abuse testing and treatment, mental and medical health services, victim impact educational classes, employment training, conflict resolution skills training, and other social services. My legislation also encourages state agencies, municipalities, public agencies, nonprofit organizations and tribes to make agreements with courts to establish ''reentry courts'' to monitor returning offenders, establish graduated sanctions and incentives, test and treat returning offenders for drug and alcohol abuse, and provide reentering offenders with mental and medical health services, victim impact educational classes, employment training, conflict resolution skills training, and other social services.

This legislation also re-authorizes the drug court program created by Congress in the 1994 Crime Law as a cost-effective, innovative way to deal with non-violent offenders in need of drug treatment. This is the same language as the ''Drug Court Re-authorization and Improvement Act'' that I introduced with Senator SPECTER last Congress.

Rather than just churning people through the revolving door of the criminal justice system, drug courts help these folks to get their acts together so they won't be back. When they graduate from drug court programs they are clean and sober and more prepared to participate in society. In order to graduate, they are required to finish high school or obtain a GED, hold down a job, and keep up with financial obligations including drug court fees and child support payments. They are also required to have a sponsor who will keep them on track.

This program works. And that is not just my opinion. Columbia University's National Center on Addiction and Substance Abuse (CASA) found that these courts are effective at taking offenders with little previous treatment history and keeping them in treatment; that they provide closer supervision than other community programs to which the offenders could be assigned; that they reduce crime; and that they are cost-effective.

According to the Department of Justice, drug courts save at least $5,000 per offender each year in prison costs alone. That says nothing of the cost savings associated with future crime prevention. Just as important, scarce prison beds are freed up for violent criminals.

I have saved what may be the most important statistic for last. Two-thirds of drug court participants are parents of young children. After getting sober through the coerced treatment mandated by the court, many of these individuals are able to be real parents again. More than 500 drug-free babies have been born to female drug court participants, a sizable victory for society and the budget alike.

This bill re-authorizes programs to provide for drug treatment in state and federal prisons. According to CASA, 80 percent of the men and women behind

bars in the United States today are there because of alcohol or drugs. They were either drunk or high when they committed their crime, broke an alcohol or drug law, stole to support their habit, or have a history of drug or alcohol abuse. The need for drug and alcohol treatment in our nations prisons and jails is clear.

Providing treatment to criminal offenders is not ''soft.'' It is a smart crime prevention policy. If we do not treat addicted offenders before they are released, they will be turned back onto our streets with the same addiction problem that got them in trouble in the first place and they will re-offend. Inmates who are addicted to drugs and alcohol are more likely to be incarcerated repeatedly than those without a substance abuse problem. This is not my opinion, it is fact. According to CASA, 81 percent of inmates with five or more prior convictions have been habitual drug users compared to 41 percent of first-time offenders. Re-authorizing prison-based treatment programs is a good investment and is an important crime prevention initiative.

This legislation is just a first step—but a necessary one. Someday, we will look back and wonder why we didn't think of this sooner. For now, we need to implement these pilot projects, help people make it in their communities and make our streets safer at the same time. I am certain that in the end we will revel in the results.

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. 194

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 ''Offender Reentry and Community Safety Act of 2001''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) There are now nearly 1,900,000 individuals in our country's prisons and jails, including over 140,000 individuals under the jurisdiction of the Federal Bureau of Prisons.

(2) Enforcement of offender violations of conditions of releases has sharply increased the number of offenders who return to prison—while revocations comprised 17 percent of State prison admissions in 1980, they rose to 36 percent in 1998.

(3) Although prisoners generally are serving longer sentences than they did a decade ago, most eventually reenter communities; for example, in 1999, approximately 538,000 State prisoners and over 50,000 Federal prisoners a record number were returned to American communities. Approximately 100,000 State offenders return to communities and received no supervision whatsoever.

(4) Historically, two-thirds of returning State prisoners have been rearrested for new crimes within 3 years, so these individuals pose a significant public safety risk and a continuing financial burden to society.

(5) A key element to effective post-incarceration supervision is an immediate, predetermined, and appropriate response to violations of the conditions of supervision.

(6) An estimated 187,000 State and Federal prison inmates have been diagnosed with mental health problems; about 70 percent of State prisoners and 57 percent of Federal prisoners have a history of drug use or abuse; and nearly 75 percent of released offenders with heroin or cocaine problems return to using drugs within 3 months if untreated; however, few States link prison mental health treatment programs with those in the return community.

(7) Between 1987 and 1997, the volume of juvenile adjudicated cases resulting in court-ordered residential placements rose 56 percent. In 1997 alone, there were a total of 163,200 juvenile court-ordered residential placements. The steady increase of youth exiting residential placement has strained the juvenile justice aftercare system, however, without adequate supervision and services, youth are likely to relapse, recidivate, and return to confinement at the public's expense.

(8) Emerging technologies and multidisciplinary community-based strategies present new opportunities to alleviate the public safety risk posed by released prisoners while helping offenders to reenter their communities successfully.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) establish demonstration projects in several Federal judicial districts, the District of Columbia, and in the Federal Bureau of Prisons, using new strategies and emerging technologies that alleviate the public safety risk posed by released prisoners by promoting their successful reintegration into the community;

(2) establish court-based programs to monitor the return of offenders into communities, using court sanctions to promote positive behavior;

(3) establish offender reentry demonstration projects in the states using government and community partnerships to coordinate cost efficient strategies that ensure public safety and enhance the successful reentry into communities of offenders who have completed their prison sentences;

(4) establish intensive aftercare demonstration projects that address public safety and ensure the special reentry needs of juvenile offenders by coordinating the resources of juvenile correctional agencies, juvenile courts, juvenile parole agencies, law enforcement agencies, social service providers, and local Workforce Investment Boards; and

(5) rigorously evaluate these reentry programs to determine their effectiveness in reducing recidivism and promoting successful offender reintegration.

TITLE I—FEDERAL REENTRY DEMONSTRATION PROJECTS

SEC. 101. FEDERAL REENTRY CENTER DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this Act, the Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, shall establish the Federal Reentry Center Demonstration project. The project shall involve appropriate prisoners from the Federal prison population and shall utilize community corrections facilities, home confinement, and a coordinated response by Federal agencies to assist participating prisoners, under close monitoring and more seamless supervision, in preparing for and adjusting to reentry into the community.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) a Reentry Review Team for each prisoner, consisting of representatives from the Bureau of Prisons, the United States Probation System, and the relevant community corrections facility, who shall initially meet with the prisoner to develop a reentry plan tailored to the needs of the prisoner and incorporating victim impact information, and will thereafter meet regularly to monitor the prisoner's progress toward reentry and coordinate access to appropriate reentry measures and resources;

(2) regular drug testing, as appropriate;

(3) a system of graduated levels of supervision within the community corrections facility to promote community safety, provide incentives for prisoners to complete the reentry plan, including victim restitution, and provide a reasonable method for imposing immediate sanctions for a prisoner's minor or technical violation of the conditions of participation in the project;

(4) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed;

(5) to the extent practicable, the recruitment and utilization of local citizen volunteers, including volunteers from the faith-based and business communities, to serve as advisers and mentors to prisoners being released into the community;

(6) a description of the methodology and outcome measures that will be used to evaluate the program; and

(7) notification to victims on the status and nature of offenders' reentry plan.

(c) PROBATION OFFICERS.—From funds made available to carry out this Act, the Director of the Administrative Office of the United States Courts shall assign one or more probation officers from each participating judicial district to the Reentry Demonstration project. Such officers shall be assigned to and stationed at the community corrections facility and shall serve on the Reentry Review Teams.

(d) PROJECT DURATION.—The Reentry Center Demonstration project shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Attorney General may extend the project for a period of up to 6 months to enable participant prisoners to complete their involvement in the project.

(e) SELECTION OF DISTRICTS.—The Attorney General, in consultation with the Judicial Conference of the United States, shall select an appropriate number of Federal judicial districts in which to carry out the Reentry Center Demonstration project.

(f) COORDINATION OF PROJECTS.—The Attorney General, may, if appropriate, include in the Reentry Center Demonstration project offenders who participated in the Enhanced In-Prison Vocational Assessment and Training Demonstration project established by section 105.

SEC. 102. FEDERAL HIGH-RISK OFFENDER REENTRY DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this Act, the Director of the Administrative Office of the United

States Courts, in consultation with the Attorney General, shall establish the Federal High-Risk Offender Reentry Demonstration project. The project shall involve Federal offenders under supervised release who have previously violated the terms of their release following a term of imprisonment and shall utilize, as appropriate and indicated, community corrections facilities, home confinement, appropriate monitoring technologies, and treatment and programming to promote more effective reentry into the community.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by Federal prisoners who have previously violated the terms of their release following a term of imprisonment;

(2) use of community corrections facilities and home confinement that, together with the technology referenced in paragraph (5), will be part of a system of graduated levels of supervision;

(3) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, and other programming to promote effective reintegration into the community as appropriate;

(4) involvement of a victim advocate and the family of the prisoner, if it is safe for the victim(s), especially in domestic violence cases, to be involved;

(5) the use of monitoring technologies, as appropriate and indicated, to monitor and supervise participating offenders in the community;

(6) a description of the methodology and outcome measures that will be used to evaluate the program; and

(7) notification to victims on the status and nature of a prisoner's reentry plan.

(c) MANDATORY CONDITION OF SUPERVISED RELEASE.—In each of the judicial districts in which the demonstration project is in effect, appropriate offenders who are found to have violated a previously imposed term of supervised release and who will be subject to some additional term of supervised release, shall be designated to participate in the demonstration project. With respect to these offenders, the court shall impose additional mandatory conditions of supervised release that each offender shall, as directed by the probation officer, reside at a community corrections facility or participate in a program of home confinement, or both, and submit to appropriate monitoring, and otherwise participate in the project.

(d) PROJECT DURATION.—The Federal High-Risk Offender Reentry Demonstration shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Director of the Administrative Office of the United States Courts may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

(e) SELECTION OF DISTRICTS.—The Judicial Conference of the United States, in consultation with the Attorney General, shall select an appropriate number of Federal judicial districts in which to carry out the Federal High-Risk Offender Reentry Demonstration project.

SEC. 103. DISTRICT OF COLUMBIA INTENSIVE SUPERVISION, TRACKING, AND REENTRY TRAINING (DC ISTART) DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this Act, the Trustee of the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self Government Improvement Act of 1997 (Public Law 105–33; 111 Stat. 712) shall establish the District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration (DC iSTART) project. The project shall involve high risk District of Columbia parolees who would otherwise be released into the community without a period of confinement in a community corrections facility and shall utilize intensive supervision, monitoring, and programming to promote such parolees' successful reentry into the community.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by appropriate high risk parolees;

(2) use of community corrections facilities and home confinement;

(3) a Reentry Review Team that includes a victim witness professional for each parolee which shall meet with the parolee—by video conference or other means as appropriate—before the parolee's release from the custody of the Federal Bureau of Prisons to develop a reentry plan that incorporates victim impact information and is tailored to the needs of the parolee and which will thereafter meet regularly to monitor the parolee's progress toward reentry and coordinate access to appropriate reentry measures and resources;

(4) regular drug testing, as appropriate;

(5) a system of graduated levels of supervision within the community corrections facility to promote community safety, encourage victim restitution, provide incentives for prisoners to complete the reentry plan, and provide a reasonable method for immediately sanctioning a prisoner's minor or technical violation of the conditions of participation in the project;

(6) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed and indicated;

(7) the use of monitoring technologies, as appropriate;

(8) to the extent practicable, the recruitment and utilization of local citizen volunteers, including volunteers from the faith-based communities, to serve as advisers and mentors to prisoners being released into the community; and

(9) notification to victims on the status and nature of a prisoner's reentry plan.

(c) MANDATORY CONDITION OF PAROLE.—For those offenders eligible to participate in the demonstration project, the United States Parole Commission shall impose additional mandatory conditions of parole such that the offender when on parole shall, as directed by the community supervision officer, reside at a community corrections facility or participate in a program of home confinement, or both, submit to electronic and other remote monitoring, and otherwise participate in the project.

(d) PROGRAM DURATION.—The District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Trustee of the Court Services and Offender Supervision Agency of the District of Columbia may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

SEC. 104. FEDERAL INTENSIVE SUPERVISION, TRACKING, AND REENTRY TRAINING (FED ISTART) DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Director of the Administrative Office of the United States Courts shall establish the Federal Intensive Supervision, Tracking and Reentry Training Demonstration (FED iSTART) project. The project shall involve appropriate high risk Federal offenders who are being released into the community without a period of confinement in a community corrections facility.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by appropriate high risk Federal offenders;

(2) significantly smaller caseloads for probation officers participating in the demonstration project;

(3) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed; and

(4) notification to victims on the status and nature of a prisoner's reentry plan.

(c) PROGRAM DURATION.—The Federal Intensive Supervision, Tracking and Reentry Training Demonstration shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Director of the Administrative Office of the United States Courts may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

(d) SELECTION OF DISTRICTS.—The Judicial Conference of the United States, in consultation with the Attorney General, shall select an appropriate number of Federal judicial districts in which to carry out the Federal Intensive Supervision, Tracking and Reentry Training Demonstration project.

SEC. 105. FEDERAL ENHANCED IN-PRISON VOCATIONAL ASSESSMENT AND TRAINING AND DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Attorney General shall establish the Federal Enhanced In-Prison Vocational Assessment and Training Demonstration project in selected institutions. The project shall provide in-prison assessments of prisoners' vocational needs and aptitudes, enhanced work skills development, enhanced release readiness programming, and other components as appropriate to prepare Federal prisoners for release and reentry into the community.

(b) PROGRAM DURATION.—The Enhanced In-Prison Vocational Assessment and Training Demonstration shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Attorney General may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

SEC. 106. RESEARCH AND REPORTS TO CONGRESS.

(a) ATTORNEY GENERAL.—Not later than 2 years after the enactment of this Act, the Attorney General shall report to Congress on the progress of the demonstration projects authorized by sections 101 and 105. Not later than 1 year after the end of the demonstration projects authorized by sections 101 and

105, the Director of the Federal Bureau of Prisons shall report to Congress on the effectiveness of the reentry projects authorized by sections 101 and 105 on post-release outcomes and recidivism. The report shall address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate.

(b) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Not later than 2 years after the enactment of this Act, Director of the Administrative Office of the United States Courts shall report to Congress on the progress of the demonstration projects authorized by sections 102 and 104. Not later than 180 days after the end of the demonstration projects authorized by sections 102 and 104, the Director of the Administrative Office of the United States Courts shall report to Congress on the effectiveness of the reentry projects authorized by sections 102 and 104 of this Act on post-release outcomes and recidivism. The report should address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate.

(c) DC ISTART.—Not later than 2 years after the enactment of this Act, the Executive Director of the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712) shall report to Congress on the progress of the demonstration project authorized by section 6 of this Act. Not later than 1 year after the end of the demonstration project authorized by section 103, the Executive Director of the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712) shall report to Congress on the effectiveness of the reentry project authorized by section 103 on post-release outcomes and recidivism. The report shall address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate. In the event that the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712) is not in operation 1 year after the enactment of this Act, the Director of National Institute of Justice shall prepare and submit the reports required by this section and may do so from funds made available to the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712) to carry out this Act.

SEC. 107. DEFINITIONS.

In this title—

(1) the term ''appropriate prisoner'' means a person who is considered by prison authorities—

(A) to pose a medium to high risk of committing a criminal act upon reentering the community, and

(B) to lack the skills and family support network that facilitate successful reintegration into the community; and

(2) the term ''appropriate high risk parolees'' means parolees considered by prison authorities—

(A) to pose a medium to high risk of committing a criminal act upon reentering the community; and

(B) to lack the skills and family support network that facilitate successful reintegration into the community.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

To carry out this Act, there are authorized to be appropriated, to remain available until expended, the following amounts:

(1) To the Federal Bureau of Prisons—

(A) $1,375,000 for fiscal year 2002;

(B) $1,110,000 for fiscal year 2003;

(C) $1,130,000 for fiscal year 2004;

(D) $1,155,000 for fiscal year 2005; and

(E) $1,230,000 for fiscal year 2006.

(2) To the Federal Judiciary—

(A) $3,380,000 for fiscal year 2002;

(B) $3,540,000 for fiscal year 2003;

(C) $3,720,000 for fiscal year 2004;

(D) $3,910,000 for fiscal year 2005; and

(E) $4,100,000 for fiscal year 2006.

(3) To the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712)—

(A) $4,860,000 for fiscal year 2002;

(B) $4,510,000 for fiscal year 2003;

(C) $4,620,000 for fiscal year 2004;

(D) $4,740,000 for fiscal year 2005; and

(E) $4,860,000 for fiscal year 2006.

TITLE II—STATE REENTRY GRANT PROGRAMS

SEC. 201. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting at the end the following:

''PART CC—OFFENDER REENTRY AND COMMUNITY SAFETY

''SEC. 2951. ADULT OFFENDER STATE AND LOCAL REENTRY PARTNERSHIPS.

''(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $1,000,000 to States, Territories, and Indian tribes, in partnership with units of local government and nonprofit organizations, for the purpose of establishing adult offender reentry demonstration projects. Funds may be expended by the projects for the following purposes:

''(1) oversight/monitoring of released offenders;

''(2) providing returning offenders with drug and alcohol testing and treatment and mental health assessment and services;

''(3) convening community impact panels, victim impact panels or victim impact educational classes;

''(4) providing and coordinating the delivery of other community services to offenders such as housing assistance, education, employment training, conflict resolution skills training, batterer intervention programs, and other social services as appropriate; and

''(5) establishing and implementing graduated sanctions and incentives.

''(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

''(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

''(2) identify the governmental and community agencies that will be coordinated by this project;

''(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies in the implementation of the program, including existing community corrections and parole; and

''(4) describe the methodology and outcome measures that will be used in evaluating the program.

''(c) APPLICANTS.—The applicants as designated under 2601(a)—

''(1) shall prepare the application as required under subsection 2601(b); and

''(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

''(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 25 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

''(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require that contains:

''(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

''(2) such other information as the Attorney General may require.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $40,000,000 in fiscal years 2002 and 2003; and such sums as may be necessary for each of the fiscal years 2004, 2005, and 2006.

''(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

''(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

''(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

''SEC. 2952. STATE AND LOCAL REENTRY COURTS.

''(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $500,000 to State and local courts or state agencies, municipalities, public agencies, nonprofit organizations, and tribes that have agreements with courts to take the lead in establishing a reentry court. Funds may be expended by the projects for the following purposes:

''(1) monitoring offenders returning to the community;

''(2) providing returning offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;

''(3) convening community impact panels, victim impact panels, or victim impact educational classes;

''(4) providing and coordinating the delivery of other community services to offenders, such as housing assistance, education, employment training, conflict resolution skills training, batterer intervention programs, and other social services as appropriate; and

''(5) establishing and implementing graduated sanctions and incentives.

''(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

''(1) describe a long-term strategy and detailed implementation plan, including how

the jurisdiction plans to pay for the program after the Federal funding ends;

''(2) identify the governmental and community agencies that will be coordinated by this project;

''(3) certify that there has been appropriate consultation with all affected agencies, including existing community corrections and parole, and there will be appropriate coordination with all affected agencies in the implementation of the program;

''(4) describe the methodology and outcome measures that will be used in evaluation of the program.

''(c) APPLICANTS.—The applicants as designated under 2602(a)—

''(1) shall prepare the application as required under subsection 2602(b); and

''(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

''(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 25 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

''(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require that contains:

''(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

''(2) such other information as the Attorney General may require.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 in fiscal years 2002 and 2003, and such sums as may be necessary for each of the fiscal years 2004, 2005, and 2006.

''(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

''(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

''(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

''SEC. 2953. JUVENILE OFFENDER STATE AND LOCAL REENTRY PROGRAMS.

''(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $250,000 to States, in partnership with local units of governments or nonprofit organizations, for the purpose of establishing juvenile offender reentry programs. Funds may be expended by the projects for the following purposes:

''(1) providing returning juvenile offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;

''(2) convening victim impact panels, restorative justice panels, or victim impact educational classes for juvenile offenders;

''(3) oversight/monitoring of released juvenile offenders; and

''(4) providing for the planning of reentry services when the youth is initially incarcerated and coordinating the delivery of community-based services, such as education, conflict resolution skills training, batterer intervention programs, employment training and placement, efforts to identify suitable living arrangements, family involvement and support, and other services.

''(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

''(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

''(2) identify the governmental and community agencies that will be coordinated by this project;

''(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies, including existing community corrections and parole, in the implementation of the program;

''(4) describe the methodology and outcome measures that will be used in evaluating the program.

''(c) APPLICANTS.—The applicants as designated under 2603(a)—

''(1) shall prepare the application as required under subsection 2603(b); and

''(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

''(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 25 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

''(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require that contains:

''(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

''(2) such other information as the Attorney General may require.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $5,000,000 in fiscal years 2002 and 2003, and such sums as are necessary for each of the fiscal years 2004, 2005, and 2006.

''(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

''(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

''(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

''SEC. 2954. STATE REENTRY PROGRAM RESEARCH, DEVELOPMENT, AND EVALUATION.

''(a) GRANT AUTHORIZATION.—The Attorney General shall make grants to conduct research on a range of issues pertinent to reentry programs, the development and testing of new reentry components and approaches, selected evaluation of projects authorized in the preceding sections, and dissemination of information to the field.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 in fiscal years 2002 and 2003, and such sums as are necessary to carry out this section in fiscal years 2004, 2005, and 2006.''.

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Street Act of 1968 (42 U.S.C. 3711 et seq.), as amended, is amended by striking the matter relating to part Z and inserting the following:

''PART CC—OFFENDER REENTRY AND COMMUNITY SAFETY ACT

''Sec. 2951. Adult Offender State and Local Reentry Partnerships.

''Sec. 2952. State and Local Reentry Courts.

''Sec. 2953. Juvenile Offender State and Local Reentry Programs.

''Sec. 2954. State Reentry Program Research and Evaluation.''.

TITLE III—SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS REAUTHORIZATION

SEC. 301. SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS REAUTHORIZATION.

Section 3621(e)(4) of title 18, United States Code, is amended by striking subparagraph (E) and inserting the following:

''(E) $31,000,000 for fiscal year 2002; and

''(F) $38,000,000 for fiscal year 2003.''.

TITLE IV—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS REAUTHORIZATION

SEC. 401. REAUTHORIZATION.

Paragraph (17) of section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(17)) is amended to read as follows:

''(17) There are authorized to be appropriated to carry out part S $100,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2007.''.

SEC. 402. USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE FOR SERVICES DURING AND AFTER INCARCERATION.

Section 1901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff) is amended by adding at the end the following:

''(c) ADDITIONAL USE OF FUNDS.—States that demonstrate that they have existing in-prison drug treatment programs that are in compliance with Federal requirements may use funds awarded under this part for treatment and sanctions both during incarceration and after release.''.

By Mr. FRIST:

S. 195. A bill to amend the Elementary and Secondary Act of 1965 to establish programs to recruit, retain, and retrain teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, today I am introducing the A Million Quality Teachers Act.

Thomas Jefferson once observed that of all the bills in the federal code, ''by far the most important is that for the diffusion of knowledge among the people. ''No surer foundation,'' he said, ''can be devised for the preservation of freedom and happiness.'' President Bush has reminded us of the importance of education as well. In his Inauguration Speech, he urged all of us to work together to rebuild our nation's education system: ''Together we will reclaim America's schools, before ignorance and apathy claim more young lives.''

As President Bush himself noted in that same speech, ''While many of our citizens prosper, others doubt the promise, even the justice, of our own country. The ambitions of some Americans are limited by failing schools, and hidden prejudice, and the circumstances of their birth.'' Our current foundation of elementary and secondary education is grossly inadequate to enable American children of all income levels and backgrounds to best realize the ''American dream'' and the economic freedoms that the ''American dream'' encapsulates.

Most companies dismiss the value of a high school diploma. Twelfth grade students in the United States rank near the very bottom on international comparisons in math and science. The Third International Math and Science Study, the most comprehensive and rigorous comparison of quantitative skills across nations, reveals that the longer our students stay in the elementary and public school system, the worse they perform on standardized tests.

High school graduates are twice as likely to be unemployed as college graduates (3.9% vs. 1.9%). Moreover, the value of a college degree over a high school degree is rising. In 1970, a college graduate made 136% more than a high school graduate. Today it is 176%. Even more ominous are labor participation rates for high school graduates in an information economy. While labor force participation for adults is at an all time high in the American economy, this boom has masked a 10% decline in participation rates for high school graduates since 1970 from 96.3% to 86.4%.

Our children cannot afford to be illiterate in mathematics and science. The rapidly changing technology revolution demands skills and proficiency in mathematics, science, and technology. IT, perhaps the fastest growing sector of our economy, relies on more than basic high school literacy in mathematics and science.

We have all heard about the impending teacher shortage. The Department of Education estimates that we will need over 2.2 million new teachers in the next decade to meet enrollment increases and to offset the large number of baby boomer teachers who will soon be retiring. Additionally, although America has many high-quality teachers already, we do not have enough, and with the impending retirement of the baby boomer generation of teachers, we will need even more.

Many want to continue to devote significant resources to reducing class size, and the concept to hire more teachers isn't a bad idea. Studies have shown that smaller class size may improve learning under certain circumstances. But class size is only a small piece in the bigger puzzle to improve America's education system, not the catapult that will launch us into education prosperity.

Unfortunately, there are too many teachers in America today who lack proper preparation in the subjects that they teach. My own state of Tennessee actually does a good job of ensuring that teachers have at least a major or minor in the subject that they teach—well enough to receive a grade of A in that category on the recent Thomas Fordham Foundation report on teacher quality in the states. Even in Tennessee, however, 64.5% of teachers teaching physical science do not even have a minor in the subject. Among history teachers, nearly 50% did not major or minor in history. Many other states do worse.

Additionally, there is consensus that we are not attracting enough of the best and the brightest to teaching, and not retaining enough of the best of those that we attract. According to Harvard economist Richard Murnane, ''College graduates with high test scores are less likely to become teachers, licensed teachers with high test scores are less likely to take jobs, employed teachers with high test scores are less likely to stay, and former teachers with high test scores are less likely to return.''

A Million Quality Teachers seeks to change that by recruiting, and helping states recruit into the teaching profession top-quality students who have majored in academic subjects. We want teachers teaching math who have majored in and who love math. We want teachers teaching science who have majored in and who love science. This bill helps draw those students into teaching for a few years at the very least, and studies have shown that new teachers are most effective in the first couple of years of teaching. This bill would attract new students, and different kinds of students, into teaching by offering significant loan repayment.

While teachers are one of our nation's most critical professions, it is often very difficult to attract highly skilled and marketable college students and graduates because of a profound lack of competitive salaries and the burden of student loans. In addition to the loan forgiveness and alternative certification stipends, the legislation will allow states to use up to $1.3 billion originally designated in a lump sum to hire more teachers to instead allow the states to use that money more creatively in programs to attract the kind of quality teachers they need but cannot afford. Using innovative tools already tested by many states, such as signing bonuses, loan forgiveness, payment of certification costs, and income tax credits, states will be able to once again make teaching an attractive and competitive career for our brightest college graduates. Additionally, the legislation does not limit states to these tools, but allows them to receive grants to continue testing other innovative and new programs for the same purposes.

There are two parts to the bill. Part I is a competitive grant program for States to enable them to run their own innovative quality teacher recruitment, retention and retraining programs. Part II is a loan forgiveness and alternative certification scholarship program to entice individuals with strong academic backgrounds into teaching.

The State grant program will help States focus on recruitment, retention and retraining in the way that best serves the individual State. Some states may decide to offer a teacher signing bonus program like the widely publicized and very successful program in Massachusetts. Other states may choose to institute teacher testing and merit pay, or to award performance bonuses to outstanding teachers. The program is very flexible, yet the State must be accountable for improving the quality of teachers in that State.

States who participate must submit a plan for how they intend to use funds under the program and how they expect teacher quality to increase as a result, including the expected increase in the number of teachers who majored in the academic subject in which they teach, and the number of teachers who received alternative certification, if the funds are used for recruitment activities. If the funds are used for retention or retraining, the State must focus on how the program will decrease teacher attrition and increase the effectiveness of existing teachers.

States must also report at the end of the three-year grant on how the program increased teacher quality and increased the number of teachers with academic majors in the subjects in which they teach and the number of teachers that received alternative certification and/or how the program decreased teacher attrition and increased the effectiveness of existing teachers.

The loan forgiveness provision is different than loan forgiveness already in current law in that it targets a different population: students in college or graduate school today who are excelling in an academic subject. The purpose is to attract students into teaching who might not otherwise choose to pursue a teaching career and who are majoring in an academic subject.

Any eligible student may take advantage of the loan forgiveness and deferral. An eligible student has majored in a core academic subject with at least a 3.0 GPA and has not been a full-time teacher previously. Loan payments are deferred for as long as the student is obtaining alternative certification or teaching in a public school.

The premise of the bill is that teaching is, or will soon be, like other professions where there is at least some

degree of transience. In fact, recent studies show that most new teachers leave within four years. But these studies also show that new teachers are most effective in the first few years of teaching. This bill would attract new students, and different kinds of students, into teaching by offering significant loan repayment.

Alternative certification stipends will provide a seamless transition for a student from school into teaching. The bill provides stipends to students who have received their academic degrees from a college or university in order to obtain certification through alternative means. Students who have received assistance under the loan forgiveness section get first priority, but any student who has received a bachelors or advanced degree in a core academic subject with a GPA of at least 3.0 and who has never taught full-time in a public school is eligible. Students would receive the lesser of $5,000 or the costs of the alternative certification program, in exchange for agreeing to teach in a public school for 2 years.

The job of every new generation is to meet civilization's new problems, improve its new opportunities, and explore its ever-expanding horizons, creating dreams not just for themselves, but for all who come after. Our job—the job of the current generation—is to help them do just that. Learning is the future. Education is the key. We must embark upon a national effort to bring it up to a standard demanded by the challenge, and improving teacher quality is the first step. I hope that my colleagues will concur.

By Mrs. BOXER:

S. 196. A bill to amend the Internal Revenue Code of 1986 to provide a refundable personal credit for energy conservation expenditures, and for other purposes; to the Committee on Finance.

Mrs. BOXER. Mr. President, today, I am introducing the Energy Conservation Tax Credit Act. As the electricity crisis in California continues, the entire nation needs to conserve electricity and improve energy efficiency. No solution to the energy problem is complete without addressing the need to improve the demand side of the equation.

The Energy Conservation Tax Credit Act would encourage efforts at energy conservation through a refundable tax credit, grants to schools to retrofit buildings, and increased information to consumers on their use of electricity.

The legislation would provide individuals with a refundable tax credit for the cost of energy conservation measures, such as ceiling insulation, weather stripping, water heater insulation blankets, low-flow showerheads, thermal doors and windows, clock thermostats, and external shading devices. The provisions eligible for the tax credit are passed on what was included in the California tax code from 1981 to 1986. The bill also includes a provision allowing this list to be expanded for other devices that the Secretary of Energy determines to be effective in conserving energy.

The bill would also provide grants to school districts to retrofit public school buildings to increase energy efficiency and conservation. Many school buildings are old and do not use energy efficiently. According to the California Energy Commission, making energy efficient improvements can reduce a school's annual utility bills by 20 percent. Unfortunately, particularly in low-income districts, other priorities—such as textbooks and teachers—often push the need to retrofit down on the priority list. My bill establishes a grand program to help local schools make these improvements.

Finally, for consumer information, the bill would require utility companies to provide information on electricity bills regarding the amount of electricity used during peak and nonpeak hours and how much the consumer is paying during each period.

This is not the complete answer to the energy situation in California. But, it is important, and would be helpful in reducing the nation's need for electricity.

By Mr. EDWARDS (for himself and Mr. HOLLINGS):

S. 197. A bill to provide for the disclosure of the collection of information through computer software, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. EDWARDS. Mr. President, how would you feel if someone was eavesdropping on your private phone conversations without your knowledge? Well, if it happened to me, I would be very disturbed. And I think that most Americans would be very disturbed to know that something similar may be happening every time they use their computers.

The shocking fact is that many software programs contain something called spyware. Spyware is computer code that surreptitiously uses our Internet connection to transmit information about things like our purchasing patterns and our health and financial status. This information is collected without our knowledge or explicit permission and the spyware programs run undetected while you surf the Internet.

Spyware has been found in Quicken software, which is manufactured by Intuit, Inc. So let me use this as an example. Imagine you purchase Quicken software or download it from the Internet. You install it on your computer to help you with your finances. However, unbeknownst to you, Quicken does more than install financial planning tools on your computer. It also installs a little piece of spyware. The spyware lies dormant until one day when you get on the Internet.

As you start surfing the Internet, the spyware sends back information to Intuit about what you buy and what you are interested in. And all of this happens without your knowledge. You could be on Amazon.com or researching health issues and at the very same time Intuit spyware is using your Internet connection, transmitting some of your most private data to someone you never heard of.

In the months since it was reported that Quicken contained spyware, the folks at Intuit may have decided to remove the spyware from Quicken. However, Quicken is not the only software program that may contain spyware. One computer expert recently found spyware programs in popular childrens' software that is designed to help them learn, such as Mattel Interactive's Reader Rabbit and Arthur's Thinking Games. And, according to another expert's assessment, spyware is present in four hundred software programs, including commonly used software such as RealNetworks RealDownload, Netscape/AOL Smart Download, and NetZip Download Demon. Spyware in these software programs can transmit information about every file you download from the Internet.

Mr. President, I rise today to re-introduce the Spyware Control and Privacy Protection Act. I first introduced this legislation during the 106th Congress. At that time, Congress was debating how to best address the Internet privacy issue. Unfortunately, Congress failed to enact meaningful Internet privacy legislation before the close of the Congress. I am hopeful that the story will end differently during the 107th Congress. I hope we will pass comprehensive legislation that enables Americans to regain control over their personal information, and that helps protect their privacy and the privacy of their families. I believe my spyware bill is essential to ensuring that these computer privacy protections are complete, and I will work to make sure it is incorporated into any Internet privacy legislation that moves in the Senate.

My proposal is common-sense and simple. It incorporates all four fair information practices of notice, choice, access and security practices that I believe are essential to effective computer privacy legislation.

First, the Act requires that any software that contains spyware must provide consumers with clear and conspicuous notice—at the time the software is installed—that the software contains spyware. The notice must also describe the information that the spyware will collect and indicate to whom it will be transmitted.

Another critical provision of my bill requires that software users must first

give their affirmative consent before the spyware is enabled and allowed to start obtaining and sharing users' personal information with third parties. In other words, software users must ''opt-in'' to the collection and transmission of their information. My bill gives software users a choice whether they will allow the spyware to collect and share their information.

The Spyware Control and Privacy Protection Act allows for some common-sense exceptions to the notice and opt-in requirements. Under my proposal, software users would not have to receive notice and give their permission to enable the spyware if the software user's information is gathered in order to provide technical support for use of the software. In addition, users' information may be collected if it is necessary to determine if they are licensed users of the software. And finally, the legislation would not apply to situations where employers are using spyware to monitor Internet usage by their employees. I believe that this last issue is a serious one and deserves to be addressed in separate legislation.

Another important aspect of the Spyware Control and Privacy Protection Act is that it would incorporate the fair information practice known as ''access.'' What this means is that an individual software user would have the ability to find out what information has been collected about them, and would be given a reasonable chance to correct any errors.

And finally, the fourth fair information practice guaranteed by my bill is ''security.'' Anyone that uses spyware to collect information about software users must establish procedures to keep that information confidential and safe from hackers.

Mr. President, spyware is a modern day Trojan horse. You install software on your computer thinking it's designed to help you, and it turns out that something else is hidden inside that may be quite harmful.

I have been closely following the privacy debate for some time now. And I am struck by how often I discover new ways in which our privacy is being eroded. Spyware is among the more startling examples of how this erosion is occurring.

Most people would agree that modern technology has been extraordinarily beneficial. It has enabled us to obtain information more quickly and easily than ever before. And companies have streamlined their processes for providing goods and services.

But these remarkable developments can have a startling downside. They have made it easier to track personal information such as medical and financial records, and buying habits. In turn, our ability to keep our personal information private is being eroded.

Even sophisticated computer software users are unlikely to be aware that information is being collected about their Internet surfing habits and is likely being fed into a growing personal profile maintained at a data warehouse. They don't know that companies can and do extract the information from the warehouse to create a so-called cyber-profile of what they are likely to buy, what the status of their health may be, what their family is like, and what their financial situation may be.

I believe that in the absence of government regulation, it is difficult, if not impossible for people to control the use of their own personal information. Consumers are not properly informed, and businesses are under no legal obligation to protect consumers' privacy.

I believe that the Spyware Control and Privacy Protection Act is a reasonable way to help Americans regain some of their privacy. My legislation does not prevent software providers from using their software to collect a consumer's online information. However, it gives back some control to the consumer by allowing him or her to decide whether their information may be gathered.

My bill protects consumer privacy, while enabling software companies and marketing firms to continue obtaining consumers' information if the consumer so chooses. Confidence in these companies will be enhanced if they are able to assure their customers that they will not collect their personal information without their permission.

Privacy protections should not stop with computer software. I am proud to have cosponsored the Consumer Privacy Protection Act, a much-needed measure offered by Senator HOLLINGS. This legislation would prevent Internet service providers, individual web sites, network advertisers, and other third parties from gathering information about our online surfing habits without our permission. I intend to be an original cosponsor of the bill when it is reintroduced.

And during the last Congress, I introduced the Telephone Call Privacy Act in order to prevent phone companies from disclosing consumers' private phone records without their permission. I will be re-introducing this bill soon.

Increasingly, technology is impacting our lives and the lives of our families. I believe that while it is important to encourage technological growth, we must also balance new developments with our fundamental right to privacy. Otherwise, we may wake up one day and realize that our privacy has been so thoroughly eroded that it is impossible to recover.

I urge my colleagues to support the Spyware Control and Privacy Protection Act and ask unanimous consent that it be printed in the RECORD.

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

S. 197

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 ''Spyware Control and Privacy Protection Act of 2001''.

SEC. 2. COLLECTION OF INFORMATION BY COMPUTER SOFTWARE.

(a) NOTICE AND CHOICE REQUIRED.—

(1) IN GENERAL.—Any computer software made available to the public, whether by sale or without charge, that includes a capability to collect information about the user of such computer software, the hardware on which such computer software is used, or the manner in which such computer software is used, and to disclose to such information to any person other than the user of such computer software, shall include—

(A) a clear and conspicuous written notice, on the first electronic page of the instructions for the installation of such computer software, that such computer software includes such capability;

(B) a description of the information subject to collection and the name and address of each person to whom such computer software will transmit or otherwise communicate such information; and

(C) a clear and conspicuous written electronic notice, in a manner reasonably calculated to provide the user of such computer software with easily understood instructions on how to disable such capability without affecting the performance or operation of such computer software for the purposes for which such computer software was intended.

(2) ENABLEMENT OF CAPABILITY.—A capability of computer software described in paragraph (1) may not be enabled unless the user of such computer software provides affirmative consent, in advance, to the enablement of the capability.

(3) EXCEPTION.—The requirements in paragraphs (1) and (2) shall not apply to any capability of computer software that is reasonably needed to—

(A) determine whether or not the user is a licensed or authorized user of such computer software;

(B) provide, upon request of the user, technical support of the use of such computer software by the user; or

(C) enable an employer to monitor computer usage by its employees while such employees are within the scope of employment as authorized by applicable Federal, State, or local law.

(4) USE OF INFORMATION COLLECTED THROUGH EXCEPTED CAPABILITY.—Any information collected through a capability described in paragraph (1) for a purpose referred to in paragraph (3) may be utilized only for the purpose for which such information is collected under paragraph (3).

(5) ACCESS TO INFORMATION COLLECTED THROUGH EXCEPTED CAPABILITY.—Any person collecting information about a user of computer software through a capability described in paragraph (1) shall—

(A) upon request of the user, provide reasonable access by user to information so collected;

(B) provide a reasonable opportunity for the user to correct, delete, or supplement such information; and

(C) make the correction or supplementary information a part of the information about the user for purposes of any future use of such information under this subsection.

(6) SECURITY OF INFORMATION COLLECTED THROUGH EXCEPTED CAPABILITY.—Any person collecting information through a capability

described in paragraph (1) shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of such information.

(b) PREINSTALLATION.—In the case of computer software described in subsection (a)(1) that is installed on a computer by someone other than the user of such computer software, whether through preinstallation by the provider of such computer or computer software, by installation by someone before delivery of such computer to the user, or otherwise, the notice and instructions under that subsection shall be provided in electronic form to the user before the first use of such computer software by the user.

(c) VIOLATIONS.—A violation of subsection (a) or (b) shall be treated as an unfair or deceptive act or practice proscribed by section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) DISCLOSURE TO LAW ENFORCEMENT OR UNDER COURT ORDER.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, a computer software provider that collects information about users of the computer software may disclose information about a user of the computer software—

(A) to a law enforcement agency in response to a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, or a court order issued in accordance with paragraph (3); or

(B) in response to a court order in a civil proceeding granted upon a showing of compelling need for the information that cannot be accommodated by any other means if—

(i) the user to whom the information relates is given reasonable notice by the person seeking the information of the court proceeding at which the order is requested; and

(ii) the user is afforded a reasonable opportunity to appear and contest the issuance of the requested order or to narrow its scope.

(2) SAFEGUARDS AGAINST FURTHER DISCLOSURE.—A court that issues an order described in paragraph (1) shall impose appropriate safeguards on the use of the information to protect against its unauthorized disclosure.

(3) COURT ORDERS.—A court order authorizing disclosure under paragraph (1)(A) may issue only with prior notice to the user and only if the law enforcement agency shows that there is probable cause to believe that the user has engaged, is engaging, or is about to engage in criminal activity and that the records or other information sought are material to the investigation of such activity. In the case of a State government authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this paragraph, on a motion made promptly by the computer software provider may quash or modify such order if the information or records requested are unreasonably voluminous in nature or if compliance with such order otherwise would cause an unreasonable burden on the provider.

(e) PRIVATE RIGHT OF ACTION.—

(1) ACTIONS AUTHORIZED.—A person may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate Federal court, if such laws or rules prohibit such actions, either or both of the actions as follows:

(A) An action based on a violation of subsection (a) or (b) to enjoin such violation.

(B) An action to recover actual monetary loss for a violation of subsection (a) or (b) in an amount equal to the greater of—

(i) the amount of such actual monetary loss; or

(ii) $2,500 for such violation, not to exceed a total amount of $500,000.

(2) ADDITIONAL REMEDY.—If the court in an action under paragraph (1) finds that the defendant willfully, knowingly, or repeatedly violated subsection (a) or (b), the court may, in its discretion, increase the amount of the award under paragraph (1)(B) to an amount not greater than three times the amount available under paragraph (1)(B)(ii).

(3) LITIGATION COSTS AND ATTORNEY FEES.—In any action under paragraph (1), the court may, in its discretion, require an undertaking for the payment of the costs of such action and assess reasonable costs, including reasonable attorney fees, against the defendant.

(4) VENUE.—In addition to any contractual provision otherwise, venue for an action under paragraph (1) shall lie where the computer software concerned was installed or used or where the person alleged to have committed the violation concerned is found.

(5) PROTECTION OF TRADE SECRETS.—At the request of any party to an action under paragraph (1), or any other participant in such action, the court may, in its discretion, issue a protective order and conduct proceedings in such action so as to protect the secrecy and security of the computer, computer network, computer data, computer program, and computer software involved in order to—

(A) prevent possible recurrence of the same or a similar act by another person; or

(B) protect any trade secrets of such party or participant.

(f) DEFINITIONS.—In this section:

(1) COLLECT.—The term ''collect'' means the gathering of information about a computer or a user of computer software by any means, whether direct or indirect and whether active or passive.

(2) COMPUTER.—The term ''computer'' means a programmable electronic device that can store, retrieve, and process data.

(3) COMPUTER SOFTWARE.—(A) Except as provided in subparagraph (B), the term ''computer software'' means any program designed to cause a computer to perform a desired function or functions.

(B) The term does not include a text file, or cookie, placed on a person's computer system by an Internet service provider, interactive computer service, or commercial Internet website to return information to the Internet service provider, interactive computer service, commercial Internet website, or third party if the person subsequently uses the Internet service provider or interactive computer service, or accesses the commercial Internet website.

(4) INFORMATION.—The term ''information'' means information that personally identifies a user of computer software, including the following:

(A) A first and last name, whether given at birth or adoption, assumed, or legally changed.

(B) A home or other physical address including street name and name of a city or town.

(C) An electronic mail address.

(D) A telephone number.

(E) A social security number.

(F) A credit card number, any access code associated with the credit card, or both.

(G) A birth date, birth certificate number, or place of birth.

(H) Any other unique information identifying an individual that a computer software provider, Internet service provider, interactive computer service, or operator of a commercial Internet website collects and combines with information described in subparagraphs (A) through (G) of this paragraph.

(5) PERSON.—The term ''person'' has the meaning given that term in section 3(32) of the Communications Act of 1934 (47 U.S.C. 153(32)).

(6) USER.—The term ''user'' means an individual who acquires, through purchase or otherwise, computer software for purposes other than resale.

(g) EFFECTIVE DATE.—This section shall take effect 180 days after the date of the enactment of this Act.

By Mr. CRAIG (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. BURNS, Mr. CONRAD, Mr. CRAPO, Mr. DORGAN, Mr. JOHNSON, and Mr. SMITH of Oregon):

S. 198. A bill to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, non-native weeds on public and private land; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I rise today with Senator DASCHLE to introduce the Harmful Non-native Weed Control Act of 2000—to provide assistance to eligible weed management entities to control or eradicate harmful, non-native weeds on public and private land. I am pleased that Senators BAUCUS, BURNS, CONRAD, CRAPO, DORGAN, JOHNSON, and GORDON SMITH are joining us as original cosponsors.

I have stood before Congress for the past three years pushing legislation and speaking on the issue of noxious weeds. I know some members tire of hearing me bring up this issue, but I have seen the destruction caused when non-native weeds are not treated and are left to over take native species.

Non-native weeds threaten fully two-thirds of all endangered species and are now considered by some experts to be the second most important threat to bio-diversity. In some areas, spotted knapweed grows so thick that big game like deer will move out of the area to find edible plants. Noxious weeds also increase soil erosion, and prevent recreationists from accessing land that is infested with poisonous plants.

Because of these problems, during the 106th Congress I introduced and worked to pass the Plant Protection Act. As you may recall, that bill primarily dealt with Animal Plant Health Inspection Service's authority to block or regulate the importation or movement of a noxious weed and plant pest, and it also provides authority for inspection and enforcement of the regulations. Basically the bill focused on stopping the weeds at the border.

Stopping the spread of noxious weeds requires a two pronged effort. First, we must prevent new non-native weed species from becoming established in the United States, which was the focus of the Plant Protection Act. Second, we must stop or slow the spread of the non-native weeds we already have,

which is the focus of the Harmful Non-native Weed Control Act.

I have been working with the National Cattlemen's Beef Association, Public Lands Council, and the Nature Conservancy to develop the Harmful Non-native Weed Control Act. This legislation will provide a mechanism to get funding to the local level where weeds can be fought in a collaborative way. Working together is what the entire initiative is about.

Specifically, this bill establishes, in the Office of Secretary of the Interior, a program to provide assistance through States to eligible weed management entities. The Secretary of the Interior appoints an Advisory Committee of ten individuals to make recommendations to the Secretary regarding the annual allocation to funds. The Secretary, in consultation with the Advisory Committee, will allocate funds to States to provide funding to eligible weed management entities to carry out projects approved by States to control or eradicate harmful, non-native weeds on public and private lands. Funds will be allocated based on several factors, including but not limited to: the seriousness of the problem in the State; the extent to which the federal funds will be used to leverage non-federal funds to address the problem; and the extent to which the State has already made progress in addressing the problems.

The bill directs that the States use 25 percent of their allocation to make base payments and 75 percent for financial awards to eligible weed management entities for carrying out projects relating to the control or eradication of harmful, non-native weeds on public or private lands. To be eligible to obtain a base payment, a weed management entity must be established by local stakeholders for weed management or public education purposes, provide the State a description of its purpose and proposed projects, and fulfill any other requirements set by the State. Weed management entities are also eligible for financial awards—funds awarded by the State on a competitive basis to carry out projects which can not be funded within the base payment. Projects will be evaluated, giving equal consideration to economic and natural values, and selected for funding based on factors such as the seriousness of the problem, the likelihood that the project will address the problem, and how comprehensive the project's approach is to the harmful, non-native weed problem within the state. A 50 percent non-federal match is required to receive the funds.

The Department of Agriculture in Idaho (ISDA) has developed a Strategic Plan for Managing Noxious Weeds through a collaborative effort involving private landowners, state and federal land managers, state and local governmental entities, and other interested parties. Cooperative Weed Management Areas (CWMAs) are the centerpiece of the strategic plan. CWMAs cross jurisdictional boundaries to bring together all landowners, land managers, and interested parties to identify and prioritize noxious weed strategies within the CWMA in a collaborative manner. The primary responsibilities of the ISDA are to provide coordination, administrative support, facilitation, and project cost-share funding for this collaborative effort. Idaho already has a record of working in a collaborative way on this issue—my legislation will build on the progress we have had, and establish the same formula for success in other states.

As I have said before, non-native weeds are a serious problem on both public and private lands across the nation. They are particularly troublesome in the West where much of our land is entrusted to the management of the federal government. Like a ''slow burning wildfire,'' noxious weeds take land out of production, force native species off the land, and interrupt the commerce and activities of all those who rely on the land for their livelihoods—including farmers, ranchers, recreationists, and others.

I believe we must focus our efforts to rid our lands of these non-native weeds. Noxious weeds are not only a problem for farmers and ranchers, but a hazard to our environment, economy, and communities in Idaho, the West, and for the country as a whole. We must reclaim the rangeland for natural species. Noxious weeds do not recognize property boundaries, so if we want to win this war on weeds, we must be fighting at the federal, state, local, and individual levels. The Harmful Non-native Weed Control Act is an important step to ensure we are diligent in stopping the spread of these weeds. I am confident that if we work together at all levels of government and throughout our communities, we can protect our land, livelihood, and environment.

Mr. President, 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. 198

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 ''Harmful Nonnative Weed Control Act of 2000''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) public and private land in the United States faces unprecedented and severe stress from harmful, nonnative weeds;

(2) the economic and resource value of the land is being destroyed as harmful nonnative weeds overtake native vegetation, making the land unusable for forage and for diverse plant and animal communities;

(3) damage caused by harmful nonnative weeds has been estimated to run in the hundreds of millions of dollars annually;

(4) successfully fighting this scourge will require coordinated action by all affected stakeholders, including Federal, State, and local governments, private landowners, and nongovernmental organizations;

(5) the fight must begin at the local level, since it is at the local level that persons feel the loss caused by harmful nonnative weeds and will therefore have the greatest motivation to take effective action; and

(6) to date, effective action has been hampered by inadequate funding at all levels of government and by inadequate coordination.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide assistance to eligible weed management entities in carrying out projects to control or eradicate harmful, nonnative weeds on public and private land;

(2) to coordinate the projects with existing weed management areas and districts;

(3) in locations in which no weed management entity, area, or district exists, to stimulate the formation of additional local or regional cooperative weed management entities, such as entities for weed management areas or districts, that organize locally affected stakeholders to control or eradicate weeds;

(4) to leverage additional funds from a variety of public and private sources to control or eradicate weeds through local stakeholders; and

(5) to promote healthy, diverse, and desirable plant communities by abating through a variety of measures the threat posed by harmful, nonnative weeds.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the advisory committee established under section 5.

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

(3) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 4. ESTABLISHMENT OF PROGRAM.

The Secretary shall establish in the Office of the Secretary a program to provide financial assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land.

SEC. 5. ADVISORY COMMITTEE.

(a) IN GENERAL.—The Secretary shall establish in the Department of the Interior an advisory committee to make recommendations to the Secretary regarding the annual allocation of funds to States under section 6 and other issues related to funding under this Act.

(b) COMPOSITION.—The Advisory Committee shall be composed of not more than 10 individuals appointed by the Secretary who—

(1) have knowledge and experience in harmful, nonnative weed management; and

(2) represent the range of economic, conservation, geographic, and social interests affected by harmful, nonnative weeds.

(c) TERM.—The term of a member of the Advisory Committee shall be 4 years.

(d) COMPENSATION.—

(1) IN GENERAL.—A member of the Advisory Committee shall receive no compensation for the service of the member on the Advisory Committee.

(2) TRAVEL EXPENSES.—A member of the Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee

of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Advisory Committee.

(e) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee.

SEC. 6. ALLOCATION OF FUNDS TO STATES.

(a) IN GENERAL.—In consultation with the Advisory Committee, the Secretary shall allocate funds made available for each fiscal year under section 8 to States to provide funding in accordance with section 7 to eligible weed management entities to carry out projects approved by States to control or eradicate harmful, nonnative weeds on public and private land.

(b) AMOUNT.—The Secretary shall determine the amount of funds allocated to a State for a fiscal year under this section on the basis of—

(1) the seriousness of the harmful, nonnative weed problem or potential problem in the State, or a portion of the State;

(2) the extent to which the Federal funds will be used to leverage non-Federal funds to address the harmful, nonnative weed problems in the State;

(3) the extent to which the State has made progress in addressing harmful, nonnative weed problems in the State;

(4) the extent to which weed management entities in a State are eligible for base payments under section 7; and

(5) other factors recommended by the Advisory Committee and approved by the Secretary.

SEC. 7. USE OF FUNDS ALLOCATED TO STATES.

(a) IN GENERAL.—A State that receives an allocation of funds under section 6 for a fiscal year shall use—

(1) not more than 25 percent of the allocation to make a base payment to each weed management entity in accordance with subsection (b); and

(2) not less than 75 percent of the allocation to make financial awards to weed management entities in accordance with subsection (c).

(b) BASE PAYMENTS.—

(1) USE BY WEED MANAGEMENT ENTITIES.—

(A) IN GENERAL.—Base payments under subsection (a)(1) shall be used by weed management entities—

(i) to pay the Federal share of the cost of carrying out projects described in subsection (d) that are selected by the State in accordance with subsection (d); or

(ii) for any other purpose relating to the activities of the weed management entities, subject to guidelines established by the State.

(B) FEDERAL SHARE.—Under subparagraph (A), the Federal share of the cost of carrying out a project described in subsection (d) shall not exceed 50 percent.

(2) ELIGIBILITY OF WEED MANAGEMENT ENTITIES.—To be eligible to obtain a base payment under paragraph (1) for a fiscal year, a weed management entity in a State shall—

(A) be established by local stakeholders—

(i) to control or eradicate harmful, nonnative weeds on public or private land; or

(ii) to increase public knowledge and education concerning the need to control or eradicate harmful, nonnative weeds on public or private land;

(B)(i) for the first fiscal year for which the entity receives a base payment, provide to the State a description of—

(I) the purposes for which the entity was established; and

(II) any projects carried out to accomplish those purposes; and

(ii) for any subsequent fiscal year for which the entity receives a base payment, provide to the State—

(I) a description of the activities carried out by the entity in the previous fiscal year—

(aa) to control or eradicate harmful, nonnative weeds on public or private land; or

(bb) to increase public knowledge and education concerning the need to control or eradicate harmful, nonnative weeds on public or private land; and

(II) the results of each such activity; and

(C) meet such additional eligibility requirements, and conform to such process for determining eligibility, as the State may establish.

(c) FINANCIAL AWARDS.—

(1) USE BY WEED MANAGEMENT ENTITIES.—

(A) IN GENERAL.—Financial awards under subsection (a)(2) shall be used by weed management entities to pay the Federal share of the cost of carrying out projects described in subsection (d) that are selected by the State in accordance with subsection (d).

(B) FEDERAL SHARE.—Under subparagraph (A), the Federal share of the cost of carrying out a project described in subsection (d) shall not exceed 50 percent.

(2) ELIGIBILITY OF WEED MANAGEMENT ENTITIES.—To be eligible to obtain a financial award under paragraph (1) for a fiscal year, a weed management entity in a State shall—

(A) meet the requirements for eligibility for a base payment under subsection (b)(2); and

(B) submit to the State a description of the project for which the financial award is sought.

(d) PROJECTS.—

(1) IN GENERAL.—An eligible weed management entity may use a base payment or financial award received under this section to carry out a project relating to the control or eradication of harmful, nonnative weeds on public or private land, including—

(A) education, inventories and mapping, management, monitoring, and similar activities, including the payment of the cost of personnel and equipment; and

(B) innovative projects, with results that are disseminated to the public.

(2) SELECTION OF PROJECTS.—A State shall select projects for funding under this section on a competitive basis, taking into consideration (with equal consideration given to economic and natural values)—

(A) the seriousness of the harmful, nonnative weed problem or potential problem addressed by the project;

(B) the likelihood that the project will prevent or resolve the problem, or increase knowledge about resolving similar problems in the future;

(C) the extent to which the payment will leverage non-Federal funds to address the harmful, nonnative weed problem addressed by the project;

(D) the extent to which the entity has made progress in addressing harmful, nonnative weed problems;

(E) the extent to which the project will provide a comprehensive approach to the control or eradication of harmful, nonnative weeds;

(F) the extent to which the project will reduce the total population of a harmful, nonnative weed within the State; and

(G) other factors that the State determines to be relevant.

(3) SCOPE OF PROJECTS.—

(A) IN GENERAL.—A weed management entity shall determine the geographic scope of the harmful, nonnative weed problem to be addressed through a project using a base payment or financial award received under this section.

(B) MULTIPLE STATES.—A weed management entity may use the base payment or financial award to carry out a project to address the harmful, nonnative weed problem of more than 1 State if the entity meets the requirements of applicable State laws.

(4) LAND.—A weed management entity may use a base payment or financial award received under this section to carry out a project to control or eradicate weeds on any public or private land with the approval of the owner or operator of the land, other than land that is devoted to the cultivation of row crops, fruits, or vegetables.

(5) PROHIBITION ON PROJECTS TO CONTROL AQUATIC NOXIOUS WEEDS OR ANIMAL PESTS.—A base payment or financial award under this section may not be used to carry out a project to control or eradicate aquatic noxious weeds or animal pests.

(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds made available under section 8 for a fiscal year may be used by the States or the Federal Government to pay the administrative costs of the program established by this Act, including the costs of complying with Federal environmental laws.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. DASCHLE. Mr. President, today I am introducing with Senator LARRY CRAIG and a number of my other colleagues the Harmful Non-native Weed Control Act of 2001. This legislation will provide critically needed resources to local agencies to reduce the spread of harmful weeds that are destroying the productivity of farmland and reducing ecological diversity.

In the last few years, public and private lands in the west have seen a startling increase in the spread of harmful, non-native weeds. In south Dakota, these weeds choke out native species, destroy good grazing land, and cost farmers and ranchers thousands of dollars a year to control. On public lands in South Dakota and throughout the west, the spread of the weeds has outpaced the ability of land managers to control them, threatening species diversity and, at times, spreading on to private land.

This problem has become so severe that, last year, the White House has created an Invasive Species Council to address it. Former Secretary Bruce Babbitt noted, ''The blending of the natural world into one great monoculture of the most aggressive species is, I think, a blow to the spirit and beauty of the natural world.''

Despite these efforts, the scale of this problem is vast. Some estimate that it could cost well into the hundreds of millions of dollars to control effectively the spread of these weeds. This legislation will help to meet that need by putting funding directly into the hands of the local weed boards and managers who already are working to control this problem and whose lands are directly affected.

Specifically, this legislation authorizes new weed control funding and establishes an Advisory Board in the Department of Interior to identify the areas of greatest need for the distribution of those funds. States, in turn, will transfer up to 25 percent of it directly to local weed control boards in order to support ongoing activities and spur the creation of new control boards, where necessary. The remaining 75 percent of funds will be made available to weed control boards on a competitive basis to fund weed control projects.

Mr. President, I'd like to thank Senator CRAIG for his work on this issue, and to thank the National Cattleman's Beef Association and the Nature Conservancy, who have been instrumental to the development of this bill. Now that this legislation has been introduced, it is my hope that we can work with all interested stakeholders to enact it as soon as possible. I look forward to working with my colleagues during this process.

Mr. BURNS. Mr. President, I join Senator CRAIG in sponsoring the Harmful Nonnative Weed Control Act of 2001. This bill will require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land. In a state like Montana, where we depend heavily on the bounty of the land to support the lifestyle we enjoy, weed control has a very important place in land management. Noxious weeds attack the natural balance of the range and the entire ecosystem, along with threatening the health and productivity of public and private lands.

When I visit with Montana ranchers, farmers, recreationists, and others who live close to the land, they continually mention their concern over noxious weeds. These folks are worried about how the weeds are changing the face of the land, and I am too. When these weeds take hold and native plants are crowded out, wildlife habitat is compromised, livestock carrying capacity is reduced, and the condition of the land is jeopardized. Over the last few years we have been able to secure appropriations to increase research efforts with respect to weeds management. I think this is a step in the right direction, but we also need our land management agencies and to work with private land owners.

One thing is clear: this is not just a public lands problem, nor is it only a private landowner problem. Without cooperation from both sides, any efforts from the other group are compromised. This bill presents a great opportunity for cooperation, and a chance for the federal government to demonstrate a commitment to stewardship of our public lands. Sadly, this is a commitment we have not seen enough of lately.

Aside from the ongoing battle against nonnative weeds in the West, this year we have an added urgency to do something real about the problem. When fires swept over millions of acres of public and private land last summer, that land was made especially vulnerable to weed infestation. Aside from repairing the immediate damage to structures and making sure we are able to control erosion and protect clean water, we have an obligation to fight the weeds that will otherwise take over these lands. As hard as we have worked in the Senate to create fire programs that repair last year's damage and keep it from happening again, it would be a step in the wrong direction to leave weed prevention by the wayside. Preventing non-native species from taking hold right now will be a much better investment than trying to control the invasion later. We cannot afford to stand by and do nothing.

In some ways, the disease of weed infestation resembles the challenge of wildfire. Both are economically and environmentally devastating, and do not distinguish between public and private land. A recent study presented at the American Association for the Advancement of Science estimates that non-native species cause $123 billion in damage annually. This figure is more than twice the annual economic damage caused by all natural disasters in the United States.

There are no silver bullets here, and we won't be able to fix things overnight, but with hard work and a commitment to this cause, I know we can make a difference. It is time the federal government step up to its obligations to Americans, and take decisive action to fight nonnative weeds. This is a serious problem, and I am proud to be working with my colleagues in the Senate to fix it.

By Mr. REID:

S. 199. A bill to amend title 49, United States Code, to authorize the Secretary of Transportation to oversee the competitive activities of air carriers following a concentration in the airline industry, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. REID. Mr. President, I rise today because I am deeply concerned with the sudden increase in airline merger proposals. Many have predicted that if the proposed merger of United Airlines and US Airways is allowed to go forward, it will be followed by mergers of other major airlines, and we will soon have an industry dominated by mega-carriers.

American Airlines recently bought Reno Air, and now is proposing a merger of American Airlines and Trans World Airlines. If this trend continues, we could end up with only three airlines in America. That could drive prices sky high and cut the number of available flights, which will be terrible for consumers.

I know first hand that mergers can hurt consumers. In my own state, the Reno-Tahoe International Airport lost flights when American Airlines bought Reno Air. Flights were reduced significantly and now it is harder for people to fly in and out of the Reno and Lake Tahoe areas.

The purpose of deregulation was to encourage competition. Evidence seems to support a reduction in competition. It seems to be having an opposite effect. I am very concerned with the recent airline merger proposals and the merger frenzy that may follow. We must maintain as much competition as possible in the airline industry.

This legislation will protect consumers against monopolistic abuses. I emphasize that this type of legislation is not my preferred approach—I would greatly prefer to continue to have consumers protected by adequate competition in a free market.

I emphasize that the bill is not a ''deregulation'' bill. Airlines will remain free to set prices and provide service without prior government approval. However, the bill will give DOT authority to intervene if the airlines take unfair advantage of the absence of sufficient competition.

We are at a critical juncture for the future of a competitive airline industry. The inescapable lesson of 22 years of deregulation is that mergers and a reduction in competition often lead to higher fares for the American traveling public. We cannot stand idly by and allow the benefits of deregulation to be derailed by a wave of mergers.

Mr. President, my bill will take effect as a result of consolidation or mergers that occur between two or more of the top seven airline carriers, or if three or fewer of those air carriers control more than 70% of domestic revenue passenger miles. Highlights of my Airline Competition Preservation bill are as follows:

Monopolistic Fares—The Secretary of Transportation is authorized to require reduction in fares that are unreasonably high. The factors to be considered include:

Whether the fare in question is higher than fares charged in similar markets; whether the fare has been increased in excess of cost increases; and whether there is a reasonable relationship between fares charged leisure travelers and those charged business travelers.

If a fare is found to be unreasonably high, the Secretary may order that it be reduced, that the reduced fare be offered for a specified number of seats and that rebates be offered.

Preventing Unfair Practices Against Low Fare New Entrants: If a dominant incumbent carrier responds to low fare

service by a new entrant by matching the low fare, and offering two or more times the low fare seats as the new entrant, the dominant carrier must continue to offer the low fare for two years.

Increasing Competition At Hubs: If a dominant carrier at a hub airport is taking advantage of its monopoly power by offering fares 5% or more above industry average fares, in more than 20% of hub markets, DOT may take steps to facilitate added competition at the hub.

Mr. President, no one wants the federal government to micro manage private industry. But our airways are not just a private industry—they are a public trust. People need to be able to fly across our vast nation—to do business, to see family members, and to enjoy their lives. If these mergers proceed without the competitive protections I am proposing, then the ultimate irony of deregulation will be that we will have traded government concern for the public interest, for private monopoly control in the interests of the industry.

I ask unanimous consent that the text of the Airline Competition Preservation Act of 2001 be printed in the RECORD.

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

S. 199

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 ''Airline Competition Preservation Act of 2001''.

SEC. 2. OVERSIGHT OF AIR CARRIER PRICING.

(a) IN GENERAL.—Chapter 415 of title 49, United States Code, is amended by adding at the end the following:

''§ 41512. Oversight of air carrier pricing

''(a) EFFECTIVE DATE.—

''(1) IN GENERAL.—This section shall take effect immediately upon a determination by the Secretary of Transportation that 3 or fewer air carriers account for 70 percent or more of the scheduled revenue passenger miles in interstate air transportation as a result of—

''(A) the consolidation or merger of the properties (or a substantial portion of the properties) of 2 or more of the 7 air carriers that account for the highest number of scheduled revenue passenger miles in interstate air transportation into a single entity that owns or operates the properties previously in separate ownership; or

''(B) the acquisition (by purchase, lease, or contract to operate) of the properties (or a substantial portion of the properties) of 1 or more of the 7 air carriers described in subparagraph (A) by another of such carriers.

''(2) USE OF DATA.—For the purpose of determining the number of scheduled revenue passenger miles under paragraph (1), the Secretary shall use data from the latest year for which complete data is available.

''(3) DETERMINATION OF AIR CARRIER CONCENTRATION.—In making a determination under paragraph (1), the Secretary shall attribute to an air carrier those scheduled revenue passenger miles in interstate air transportation of the air carrier that is consolidated, merged, or acquired that are associated with routes adopted by the remaining carrier.

''(b) FARES OF AIR CARRIERS.—

''(1) IN GENERAL.—On the initiative of the Secretary or on a complaint filed with the Secretary, the Secretary may undertake an investigation to determine whether an air carrier is charging a fare or an average fare for interstate air transportation on a route that is unreasonably high.

''(2) CONSIDERATIONS.—In determining whether a fare or an average fare of an air carrier for interstate air transportation on a route is unreasonably high, the Secretary shall consider, among other factors, whether—

''(A) the fare or average fare is higher than the fare or average fare charged by the carrier on other routes in interstate air transportation of comparable distances;

''(B) the fare or average fare has increased by a significant amount in excess of any increase in the cost to operate flights on the route; and

''(C) the range of fares specified on the route or the carrier's entire fare system offers a reasonable balance and a fair allocation of costs between passengers who are primarily price sensitive and passengers who are primarily time sensitive.

''(3) ACTIONS IN RESPONSE TO UNREASONABLE FARES.—If the Secretary determines that an air carrier is charging a fare or an average fare for interstate air transportation on a route that is unreasonably high, the Secretary, after providing the carrier an opportunity for a hearing, may order the carrier—

''(A) to reduce the fare;

''(B) to offer the reduced fare for a specific number of seats on the route; and

''(C) to offer rebates to individuals who have been charged the fare.

''(4) PERIOD OF EFFECTIVENESS OF ORDER.—An order issued by the Secretary under this subsection shall remain in effect for a period to be determined by the Secretary.

''(c) ACTIONS OF DOMINANT AIR CARRIERS IN RESPONSE TO NEW ENTRANTS.—If, with respect to a route in interstate air transportation to or from a hub airport, a dominant air carrier at the airport—

''(1) institutes or changes its fares for air transportation on the route in a manner that results in fares that are lower than or comparable to the fares offered by a new entrant air carrier for such air transportation; and

''(2) increases the passenger capacity at which such fares are offered on the route to a level which is—

''(A) 2 or more times the capacity previously offered by the carrier at such fares on the route; and

''(B) 2 or more times the total capacity offered by the new entrant air carrier on the route, the dominant air carrier, in the 2-year period beginning on the date that such fares and additional capacity are instituted, shall continue to offer such fares with respect to not less than 80 percent of the highest number of seats per week for which the dominant air carrier has offered the fares.

''(d) ENSURING COMPETITION AT HUB AIRPORTS.—

''(1) IN GENERAL.—On the initiative of the Secretary or on a complaint filed with the Secretary, the Secretary may undertake an investigation to determine whether a dominant air carrier at a hub airport is charging higher than average fares at the airport.

''(2) HIGHER THAN AVERAGE FARES.—For purposes of paragraph (1), the Secretary may determine that a dominant air carrier is charging higher than average fares at a hub airport if the carrier is charging, with respect to 20 percent or more of its routes in interstate air transportation that begin or end at the airport, an average fare that is at least 5 percent higher than the average fare being charged by all air carriers on routes in interstate air transportation of comparable distances and density, after adjustments for costs that are carrier or airport specific, such as passenger facility charges or employee compensation.

''(3) ACTIONS IN RESPONSE TO UNFAIR COMPETITION.—If the Secretary determines under paragraph (1) that a dominant air carrier is charging higher than average fares at a hub airport, the Secretary, after providing the carrier an opportunity for a hearing, may order the carrier to take actions to increase opportunities for competition at the hub airport, including—

''(A) requiring the carrier to make gates, slots, and other airport facilities available to other air carriers on reasonable and competitive terms;

''(B) requiring adjustments in the commissions paid by the carrier to travel agents;

''(C) requiring adjustments in the carrier's frequent flyer program; and

''(D) requiring adjustments in the carrier's corporate discount arrangements and comparable corporate arrangements.

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

''(1) DOMINANT AIR CARRIER.—The term 'dominant air carrier', with respect to a hub airport, means an air carrier that accounts for more than 50 percent of the total annual boardings at the airport in the preceding 2-year period or a shorter period specified in paragraph (3).

''(2) HUB AIRPORT.—The term 'hub airport' means an airport that each year has at least .25 percent of the total annual boardings in the United States.

''(3) INTERSTATE AIR TRANSPORTATION.—The term 'interstate air transportation' includes intrastate air transportation.

''(4) NEW ENTRANT AIR CARRIER.—The term 'new entrant air carrier', with respect to a hub airport, means an air carrier that accounts for less than 5 percent of the total annual boardings at the airport in the preceding 2-year period or in a shorter period specified by the Secretary if the carrier has operated at the airport less than 2 years.''.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

''41512. Oversight of air carrier pricing.''.

By Mr. REID:

S. 200. A bill to establish a national policy of basic consumer fair treatment for airline passengers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. REID. Mr. President, this past holiday season saw a record number of Americans travel by air. Unfortunately, it also saw increases in some common problems associated with air travel—delayed and cancelled flights, customer confusion, and occurrences of ''air rage.''

The number of delayed, cancelled and diverted flights has been increasing steadily over the past few years, reaching record highs last year. Last week, the Department of Transportation released a management report indicating

that, from 1995 to 1999, the number of flight delays rose 58 percent and cancelled flights grew by 68 percent. In just one year, 1999, passenger complaints grew by 16 percent. During the first nine months of 2000, one of every four flights was cancelled, delayed or diverted, affecting more than 119 million passengers. The average delay was 50 minutes.

Disturbingly, the report also indicated an increase in the number of near-misses and runway safety errors that could have led to collisions between aircraft both in the air and on the ground.

And amid these problems, the number of choices available to customers keeps decreasing. Within the past few months, National Airlines terminated much of its service, United Airlines announced a merger with USAir, and American Airlines announced its acquisition of TWA. If approved, these mergers would allow only three airlines to dominate the commercial airline industry.

More than a year ago, the airlines announced voluntary pledges to improve their customer service and reduce delays, and asked for time to carry out their promises. But it's obvious that those voluntary promises have not worked. In addition to the increase in delays and customer complaints, a preliminary report by the Inspector General released last summer revealed a number of unfair and deceptive practices by the industry, including providing false or inaccurate information to passengers about the reasons for delays.

Transportation Secretary Norman Mineta, recently confirmed by the Senate, warned a few days ago that flight delays this coming summer will likely be as bad or worse than they have been the past two years.

It's time for Congress to take action.

Last year, I introduced S. 2891, the Air Travelers' Fair Treatment Act of 2000, which was aimed at addressing some of the most pressing problems associated with air travel. Today, I am re-introducing a modified version of that bill, which is titled the ''Air Travelers' Fair Treatment Act of 2001.''

The new bill includes six main provisions:

(1) Flight delays: Air carriers would be required to provide travelers with accurate and timely explanations of the reasons for a flight cancellation, delay or diversion from a ticketed itinerary. The failure to do so would be classified as an unfair practice that would subject the airline to civil penalties.

(2) Right to exit aircraft: Where a plan has remained at the gate for more than 1 hour past its scheduled departure time and the captain has not been informed that the aircraft can be cleared for departure within 15 minutes, passengers would have the right to exit the plane into the terminal to make alternative travel plans, or simply to stretch their legs, get something to eat, etc. I believe this provision will help prevent ''air rage'' incidents when passengers are forced to sit in parked planes for long periods of time.

(3) Right to in-flight medical care: Currently, each airline has its own policy regarding what kind of medical and first-aid equipment and training is provided on their flights, so that the available equipment and medical training varies widely between carriers. This bill would direct the Secretary of Transportation to issue uniform minimum regulations for all carriers regarding the type of medical equipment each flight must carry and the kind of medical training each flight crew should receive.

(4) Access to State laws: The Federal Courts have split on whether the Airline Deregulation Act of 1978 pre-empts state consumer protection and personal injury laws as applied to airlines. The Ninth Circuit Court of Appeals has held that passengers may sue airlines in state court for violations of state fraud and consumer protection laws; in contrast, the Fourth Circuit has held that airlines are immune from state law. The bill would clarify that the 1978 Act does not preempt state tort and consumer protection laws, allowing passengers full access to their consumer rights in whatever state they are in.

(5) Termination of ticket agents: Travel agencies provide a valuable service to customers looking for the best prices. Yet airlines have enormous leverage over what kind of information they can and cannot provide to customers, because they can withdraw their accounts without notice from any travel agency for any reason—even if the only reason is that the travel agency is giving the customer the best rates. The bill requires carriers to provide written 90-day advance statement of reasons before canceling a travel agency's account with the airline, and to give them 60 days to correct the identified deficiencies.

(6) Safety records: Right now, many airlines are reluctant to release information to the public relating to their safety records, including their accident record and certification compliance records. But I believe that passengers should have the right to know whether the airline they are flying has complied with government safety standards, whether it has been fined or penalized for safety violations, and how many accidents or safety violations the airlines has been involved in. This bill will include a new provision requiring the Secretary of Transportation to develop regulations under which the safety, inspection, certification compliance and accident records of the airlines will be made available to any customer upon request.

Mr. President, air travel has become a staple of modern society. All of us in this body rely on it frequently to return to our home states. But by almost every measure, the quality and reliability of air travel continues to decline. I think it's past time that Congress stepped in and forced the airlines to do what they have been unwilling to do so far on their own—to clean up their act. I ask my colleagues to join me.

I ask unanimous consent that the text of the Air Travelers Fair Treatment Act of 2001, be printed in the RECORD.

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

S. 200

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 ''Air Travelers Fair Treatment Act of 2001''.

SEC. 2. FAIR TREATMENT OF AIRLINE PASSENGERS.

Section 41712 of title 49, United States Code, is amended by adding at the end the following:

''(c) SPECIFIC PRACTICES.—For purposes of subsection (a), the term 'unfair or deceptive practice' includes each of the following:

''(1) FLIGHT DELAYS.—The failure of an air carrier or foreign air carrier to provide a passenger of the carrier with an accurate explanation of the reasons for a flight delay, cancellation, or diversion from a ticketed itinerary.

''(2) TERMINATION OF TICKET AGENTS.—In the case of a termination, cancellation, nonrenewal, or substantial change in the competitive circumstances of the appointment of a ticket agent by an air carrier or foreign air carrier, the failure of the air carrier or foreign air carrier—

''(A) to provide the ticket agent with written notice, and a full statement of reasons for the action, on or before the 90th day preceding the action; and

''(B) to provide the ticket agent with at least 60 days to correct any deficiency claimed in the written notice,

except in cases of insolvency, an assignment for the benefit of creditors, bankruptcy, or nonpayment of sums due under the appointment.''.

SEC. 3. CLARIFICATION REGARDING ENFORCEMENT OF STATE LAWS.

Section 41713(b)(1) of title 49, United States Code, is amended by striking ''related to a price, route, or service of an air carrier that may provide air transportation under this subpart'' and inserting ''that directly prescribes a price, route, or level of service for air transportation provided by an air carrier under this subpart''.

SEC. 4. EMERGENCY MEDICAL ASSISTANCE; RIGHT OF EGRESS.

(a) IN GENERAL.—Subchapter I of chapter 417 of title 49, United States Code, is amended by adding at the end the following:

''§ 41722. Airline passenger rights

''(a) RIGHT TO IN-FLIGHT EMERGENCY MEDICAL CARE.—

''(1) IN GENERAL.—The Secretary of Transportation shall prescribe regulations to establish minimum standards for resuscitation, emergency medical, and first-aid equipment and supplies to be carried on board an aircraft operated by an air carrier in air

transportation that is capable of carrying at least 30 passengers.

''(2) CONSIDERATIONS.—In prescribing regulations under paragraph (1), the Secretary shall consider—

''(A) the weight and size of the equipment described in paragraph (1);

''(B) the need for special training of air carrier personnel to operate the equipment safely and effectively;

''(C) the space limitations of each type of aircraft;

''(D) the effect of the regulations on aircraft operations;

''(E) the practical experience of airlines in carrying and operating similar equipment; and

''(F) other relevant factors.

''(3) CONSULTATION.—Before prescribing regulations under paragraph (1), the Secretary shall consult with the Surgeon General of the Public Health Service.

''(b) RIGHT TO EXIT AIRCRAFT.—No air carrier or foreign air carrier operating an aircraft in air transportation shall prevent or hinder (including by failing to assist) any passenger from exiting the aircraft (under the same circumstances as any member of the flight crew is permitted to exit the aircraft) if—

''(1) the aircraft is parked at an airport terminal gate with access to ramp or other facilities through which passengers are customarily boarded and deplaned;

''(2) the aircraft has remained at the gate more than 1 hour past its scheduled departure time; and

''(3) the captain of the aircraft has not been informed by air traffic control authorities that the aircraft can be cleared for departure within 15 minutes.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 417 of title 49, United States Code, is amended by adding at the end the following:

''41722. Airline passenger rights.''.

SEC. 5. CONSUMER ACCESS TO INFORMATION.

(a) REQUIREMENT FOR PROGRAM.—

(1) IN GENERAL.—Chapter 447 of title 49, United States Code, is amended by adding at the end the following new section:

''§ 44727. Air traveler safety program

''(a) IN GENERAL.—

''(1) WRITTEN INFORMATION.—The Secretary of Transportation (in this section referred to as the 'Secretary') shall require in regulations, for a period determined by the Secretary, that each air carrier that provides interstate air transportation or foreign air transportation to provide written information upon request, to passengers that purchase passage for interstate or foreign air transportation concerning the following:

''(A) Safety inspection reviews conducted by the Administrator of the Federal Aviation Administration (in this section referred to as the 'Administrator') on the aircraft of that air carrier.

''(B) The safety ranking of that air carrier, as determined by the Administrator in accordance with applicable law.

''(C) The compliance of the members of the crew of the aircraft with any applicable certification requirements under this subtitle.

''(2) GUIDELINES.—The regulations issued by the Secretary under this subsection shall provide guidelines for air carriers relating to the provision of the information referred to in paragraph (1).

''(3) REQUEST FOR INFORMATION.—An air carrier shall be required to provide to a passenger, on request, any information concerning the safety of aircraft and the competency of persons issued a certificate under this subtitle for the operation of the aircraft that the Secretary, to the extent allowable by law, determines to be appropriate.

''(b) SUBMISSION OF PERFORMANCE REVIEW.—

''(1) IN GENERAL.—Not later than December 31 of each year, the Secretary shall submit a report to Congress regarding the safety of air carriers that provide interstate or foreign air transportation. The report shall include with respect to the year in which the report is filed—

''(A) the number of accidents and a description of such accidents of air carriers attributable to each air carrier that provides interstate or foreign air transportation; and

''(B) the names of makers of aircraft that have been involved in an accident.

''(2) AVAILABILITY OF INFORMATION.—The Secretary shall make the annual report under paragraph (1) available to any person or entity upon request.

''(A) travel agencies and consultants for distribution to persons served by those agencies and consultants; and

''(B) any other person or entity upon request.

''(c) VICTIMS' RIGHTS PROGRAM.—

''(1) IN GENERAL.—The National Transportation Safety Board shall establish and administer a program for victims and survivors of aircraft accidents in air commerce. Under that program, the National Transportation Safety Board shall ensure that such victims and survivors of an accident receive, to the extent allowable by law, immediate and unrestricted access to information on the accident that is made available from—

''(A) the air carrier involved in an accident in air commerce;

''(B) the Federal Government; and

''(C) State governments and political subdivisions thereof.

''(2) CLASSIFIED INFORMATION.—Nothing in paragraph (1) may be construed to authorize a release of information that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy.

''(d) COORDINATION OF VICTIM ASSISTANCE.—

''(1) IN GENERAL.—The National Transportation Safety Board, in cooperation with officials of appropriate Federal agencies and the American Red Cross, shall establish a program to ensure the coordination of the disclosure of information under subsection (c) and assistance provided to victims of an accident in air commerce.

''(2) ESTABLISHMENT OF TOLL-FREE TELEPHONE LINE.—

''(A) IN GENERAL.—The National Transportation Safety Board, in cooperation with officials of the appropriate Federal agencies and the American Red Cross, shall establish a toll-free telephone line to facilitate the provision of information under paragraph (3).

''(B) ACTION BY THE NATIONAL TRANSPORTATION SAFETY BOARD.—The National Transportation Safety Board shall take such action as may be necessary to ensure—

''(i) the publication of the telephone number of the telephone line established under subparagraph (A) in newspapers of general circulation; and

''(ii) the provision of such number on national television news programs.

''(3) INFORMATION PROVIDED BY TELEPHONE LINE.—The telephone line established under paragraph (2) shall provide the following information concerning an accident in air commerce:

''(A) The identifier name and number of the aircraft involved in the accident.

''(B) The names of known victims of the accident.

''(C) The status of the investigation of the accident.

''(D) A list of appropriate Federal agencies and contacts.

''(E) The facilities at which victims of the accident may be identified.

''(e) CIVIL PENALTIES.—

''(1) IN GENERAL.—Any air carrier that fails to provide information in accordance with this section shall be liable for a civil penalty in an amount not to exceed $100,000 per violation.

''(2) TRAVEL AGENCIES AND OTHER PERSONS NOT COVERED.—Paragraph (1) shall not apply to a travel agency or other person that does not provide interstate or foreign air transportation.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 447 of title 49, United States Code, is amended by adding at the end the following new item:

''44727. Air traveler safety program.''.

(b) TIME FOR REGULATIONS.—The Secretary of Transportation shall issue the regulations required by subsection (a) of section 44727 of title 49, United States Code (as added by subsection (a)), not later than 90 days after the date of enactment of this Act.

(c) SUBMITTAL OF FIRST ANNUAL REPORT.—The Secretary of Transportation shall submit the first annual report to Congress under subsection (b) of such section 44727 not later than December 31, 2001.

By Mr. WARNER:

S. 202. A bill to rename Wolf Trap Farm Park for the Performing Arts as ''Wolf Trap National Park for the Performing Arts''; to the Committee on Energy and Natural Resources.

Mr. WARNER. Mr. President, today I rise to introduce a bill to rename the Wolf Trap Farm Park for the Performing Arts as the ''Wolf Trap National Park for the Performing Arts''. Wolf Trap is the only unit of the National Park System dedicated to the performing arts. It provides an unrivaled setting for live performances in the rolling countryside of Virginia outside of Washington, D.C.

To provide this unique experience, the National Park Service collaborates with the Wolf Trap Foundation in a public/private partnership to offer cultural, natural, and educational experiences to the community and to the nation. The National Park Service maintains the grounds and buildings of Wolf Trap Farm Park. The Wolf Trap Foundation, a ''501(c)(3)'' not-for-profit organization, creates and selects the programming, develops all education programs, handles ticket sales, marketing, publicity and public relations, and raises funds to support these programs. The Park Service has an annual budget of just over $3 million to maintain the facility while the Wolf Trap Foundation has an annual budget of $22 million, 60% of which is generated through ticket sales with the rest raised through private donations.

Wolf Trap offers a wide variety of educational programs including the nationally acclaimed Wolf Trap Institute for Early Learning Through the Arts for preschoolers, scholarships and performance opportunities for talented high school musicians, pre-performance preview lectures, the America's Promise mentoring program, the Mars Millennium project partnership with Buzz Aldrin Elementary School, the Folk Masters Study Units for teachers who want to incorporate the folk arts into their curriculum, a highly competitive internship program for college students, and master classes for people with all skill levels and interest. Wolf Trap has also gained world-wide recognition for its summer residency program for young opera singers, the Wolf Trap Opera Company.

This legislation recognizes Wolf Trap's status as one of the crown jewels in the National Park System. Including Wolf Trap with the already designated National Parks is intended to raise awareness of the unique roll this facility plays in the nation's natural, cultural and educational life. I urge my colleagues to join me in recognizing the many achievements of Wolf Trap.

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. 202

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

SECTION 1. RENAMING.

The Act entitled ''An Act to provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes'', Public Law 89–671 (16 U.S.C. 284) is amended in the first section and in section 11(2) by striking ''Wolf Trap Farm Park'' and inserting ''Wolf Trap National Park for the Performing Arts''. Any reference to such park in any law, regulation, map, document, paper, or other record of the United States shall be considered to be a reference to the ''Wolf Trap National Park for the Performing Arts''.

SEC. 2. USE OF NAME.

The Act entitled ''An Act to provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes'', Public Law 89–671 (16 U.S.C. 284) is amended by adding at the end the following:

''SEC. 14. Any reference to the park other than by the name 'Wolf Trap National Park for the Performing Arts' shall be prohibited.''.

SEC. 3. APPLICABILITY OF OTHER LAWS.

Any laws, rules, or regulations that are applicable solely to units of the National Park System that are designated as a ''National Park'' shall not apply to ''Wolf Trap National Park for the Performing Arts'' nor to any other units designated as a ''National Park for the Performing Arts''.

SEC. 4. TECHNICAL CORRECTION.

Section 4(c)(3) of ''An Act to provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes'', Public Law 89–671 (16 U.S.C. 284) is amended by striking ''Funds'' and inserting ''funds''.

By Mr. WARNER:

S. 201. A bill to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws, and for other purposes; to the Committee on Governmental Affairs.

Mr. WARNER. Mr. President, today I rise to introduce the Federal Employee Protection Act of 2001. This bill will significantly strengthen existing laws protecting federal employees from discrimination, harassment, and retaliation in the workplace. It is an unfortunate fact that too many federal employees are subjected to such treatment with alarming regularity.

My bill will result in a more productive work environment by ensuring agencies enforce the laws intended to protect federal employees from harassment, discrimination and retaliation for whistleblowing.

The Federal Employee Protection Act contains three main provisions: No. 1, when agencies lose judgments or make settlements in harassment, discrimination and whistleblower cases, the responsible Federal agency would pay any financial penalty out of its own budget, rather than out of a general Federal judgment fund; No. 2, Federal agencies are required to notify their employees about any applicable discrimination, harassment and whistleblower protection laws; and No. 3, each Federal agency is required to send an annual report to Congress and the Attorney General listing: the number of cases in which an agency was alleged to have violated any of the discrimination, harassment or whistleblower statutes; the disposition of each of these cases; the total of all monetary awards charged against the agency from these cases; and the number of agency employees disciplined for discrimination or harassment or retaliation. Additionally, the Federal Employee Protection Act requires each Federal agency to submit a one-time report to Congress and the Attorney General that includes the same information required for the annual reports going back for the last ten years. This report will provide a historical perspective to help evaluate current agency behavior.

Under current law, agencies are not accountable financially when they lose harassment, discrimination and retaliation cases because any financial penalties are paid out of a government-wide fund and not the agency's budget. I firmly believe that because there is no financial consequence to their actions, Federal agencies are essentially able to escape responsibility when they fail to comply with the law and are unresponsive to their employees' concerns.

Reports of Federal agencies being indifferent or hostile to complaints of sexual harassment and racial discrimination undermine the ability of the Federal Government to enforce civil rights laws and hamper efforts to recruit talented individuals for Federal employment. The Federal Government must set an example for the private sector by promoting a workplace that does not tolerate harassment or discrimination of any kind and that encourages employees to report illegal activity and mismanagement without fear of reprisal.

I believe the Federal Employee Protection Act of 2001 will give Federal employees the protections they need to perform their jobs effectively and will give the taxpayers a government with more accountability. I urge my colleagues to support this important legislation.

ADDITIONAL COSPONSORS

S. 29

At the request of Mr. BOND, the names of the Senator from Oklahoma (Mr. NICKLES), the Senator from Alaska (Mr. STEVENS), the Senator from Alabama (Mr. SHELBY), the Senator from Michigan (Mr. LEVIN), and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 49

At the request of Mr. STEVENS, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 49, a bill to amend the wetlands regulatory program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska, to protect Alaskan property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities, and villages.

S. 88

At the request of Mr. ROCKEFELLER, the names of the Senator from Minnesota (Mr. WELLSTONE) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 127

At the request of Mr. MCCAIN, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

S. 141

At the request of Mr. MCCAIN, the name of the Senator from Kansas (Mr.

BROWNBACK) was added as a cosponsor of S. 141, a bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes.

S. 157

At the request of Mrs. BOXER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 157, a bill to establish a program to help States expand the existing education system to include at least 1 year of early education preceding the year a child enters kindergarten.

S. 174

At the request of Mr. KERRY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 174, a bill to amend the Small Business Act with respect to the microloan program, and for other purposes.

S. 177

At the request of Mr. AKAKA, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Michigan (Ms. STABENOW), and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 177, a bill to amend the provisions of title 19, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established.

S. 189

At the request of Mr. ENZI, his name was added as a cosponsor of S . 189, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

At the request of Mr. HUTCHINSON, his name was added as a cosponsor of S. 189, supra.

SENATE CONCURRENT RESOLUTION 4—EXPRESSING THE SENSE OF THE SENATE REGARDING HOUSING AFFORDABILITY AND ENSURING A COMPETITIVE NORTH AMERICAN MARKET FOR SOFTWOOD LUMBER

Mr. NICKLES (for himself, Mr. DURBIN, Mr. FITZGERALD, Mr. GRAHAM, Mr. HAGEL, Mr. KYL, Mr. INHOFE, and Mr. BINGAMAN) submitted the following resolution; which was referred to the Committee on Finance:

S. CON. RES. 4

Whereas since 1989 the United States and Canada have worked to reduce tariff and nontariff barriers to trade;

Whereas free trade has greatly benefited the United States and Canadian economies;

Whereas the United States and Canada have been engaged in an ongoing dispute over trade in softwood lumber for 19 years;

Whereas on May 29, 1996, the United States and Canada entered into an agreement to temporarily resolve the dispute by limiting Canadian exports of softwood lumber to the United States;

Whereas the United States-Canada Softwood Lumber Agreement of 1996 does not promote open trade;

Whereas the scope of the United States-Canada Softwood Lumber Agreement of 1996 has been expanded, leading to uncertainty for importers, distributors, retailers, and purchasers of softwood lumber products;

Whereas the availability of affordable housing is important to the American homebuyer;

Whereas lumber price volatility jeopardizes housing affordability; and

Whereas the United States-Canada Softwood Lumber Agreement of 1996 will expire on April 1, 2001: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the United States-Canada Softwood Lumber Agreement of 1996 should terminate on April 1, 2001, with no extension or additional quota agreement, and trade restrictions on lumber after the agreement expires should not be renegotiated;

(2) the President should continue to work with the Government of Canada to promote open and competitive trade between the United States and Canada on softwood lumber; and

(3) the President should consult with consumers of softwood lumber products in future discussions regarding the open trade of softwood lumber between the United States and Canada.

NOTICE OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will meet on January 30, 2001 in SH–216 at 9 a.m. The purpose of this hearing will be to review the Report from the Commission on 21st Century Production Agriculture.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, January 31, 2001 at 9:15 a.m. in room 485 of the Russell Senate Office Building to conduct a business/organizational meeting to elect the chairman and vice chairman of the committee.

Those wishing additional information may contact committee staff at 202/224–2251.

ORDER FOR RECORD TO REMAIN OPEN UNTIL FEBRUARY 20 TO SUBMIT CRANSTON TRIBUTES

Mr. MURKOWSKI. Madam President, I ask unanimous consent the order of January 5th with respect to the Cranston tributes be changed to reflect that Senators have until Tuesday, February 20, to submit tributes, and that the tributes then be printed as a Senate document.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94–304, as amended by Public Law 99–7, appoints the Senator from Colorado (Mr. CAMPBELL) as Chairman of the Commission on Security and Cooperation in Europe (Helsinki) during the 107th Congress.

The Chair, on behalf of the President pro tempore, pursuant to Public Law 96–388, as amended by Public Law 97–84 and Public Law 106–292, appoints the following Senators to the United States Holocaust Memorial Council: The Senator from Nevada (Mr. REID), and the Senator from California (Mrs. BOXER) (reappointment).

The Chair, on behalf of the Vice President, pursuant to the provisions of 20 U.S.C., sections 42 and 43, reappoints the Senator from Tennessee (Mr. FRIST) as a member of the Board of Regents of the Smithsonian Institution.

ORDERS FOR TUESDAY, JANUARY 30, 2001

Mr. MURKOWSKI. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Tuesday, January 30. I further ask consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of Governor Christine Todd Whitman to be administrator of the EPA as under the previous order.

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

Mr. MURKOWSKI. I ask further consent that on Tuesday the allotted time for Senator MURKOWSKI on the Whitman nomination be increased by 10 minutes and the time between 2:15 p.m. and 2:45 p.m. be equally divided between Senator GRAHAM of Florida and the majority leader or his designee.

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

Mr. MURKOWSKI. I also ask that the Senate recess from 12:30 until 2:15 p.m. to accommodate the weekly party conferences.

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

PROGRAM

Mr. MURKOWSKI. Madam President, tomorrow at 10 a.m., the Senate will immediately begin consideration of the Whitman nomination for Administrator of the EPA. Under the previous order, there will be up to 30 minutes for debate on the nomination. Following that debate, the Senate will resume consideration of the nomination of Gale Norton to be Secretary of the Interior. There will be approximately 2 hours for closing debate on the Norton nomination, with votes scheduled to occur at 2:45 p.m.

As a reminder, the Secretary of Labor, Elaine Chao, was confirmed today by the Senate by unanimous consent. Therefore, there will be two consecutive votes beginning at 2:45 p.m. on

Tuesday. Following those votes, the Senate will begin consideration of the nomination of John Ashcroft to be Attorney General.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MURKOWSKI. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 4:41 p.m., adjourned until Tuesday, January 30, 2001, at 10 a.m.

NOMINATIONS

Executive Nominations Received by the Senate January 29, 2001:

EXECUTIVE OFFICE OF THE PRESIDENT

ROBERT B. ZOELLICK, OF VIRGINIA, TO BE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

DEPARTMENT OF LABOR

ELAINE LAN CHAO, OF KENTUCKY, TO BE SECRETARY OF LABOR.

DEPARTMENT OF JUSTICE

JOHN ASHCROFT, OF MISSOURI, TO BE ATTORNEY GENERAL.

CONFIRMATION

Executive Nomination Confirmed by the Senate January 29, 2001:

DEPARTMENT OF LABOR

ELAINE LAN CHAO, OF KENTUCKY, TO BE SECRETARY OF LABOR.

EXTENSIONS OF REMARKS

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, January 30, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 31

9:15 a.m.
Indian Affairs
To hold an organizational business meeting to elect the Chairman and Vice Chairman; and to consider committee budget resolution and rules of procedure for the 107th Congress.
SR–485

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings to examine the impact of California's electricity crisis on the West.
SH–216

10 a.m.
Budget
To hold hearings on the issues of the budget and the economic outlook of the United States.
SD–608

FEBRUARY 1

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the American Airlines' proposed acquisition of Trans World Airlines (TWA), and part of DC Air, focusing on airline competition, and the impact on consumers.
SR–253

10:30 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia
Subcommittee
To hold hearings to examine the decision of the General Accounting Office to place strategic human capital management on GAO's ''High-Risk'' list of federal agencies and programs that are vulnerable to waste, fraud, abuse and mismanagement, including administrative and legislative solutions to the human capital crisis.
SD–342

FEBRUARY 13

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the first Monetary Policy Report for 2001.
SH–216