an excellent lawyer. He has said he will abide by the law, whatever it is. Whether he agrees or disagrees with it, he will enforce the law. What more can you ask of a nominee? And he is the President's choice for this position. He deserves to have a vote.

If people feel so strongly against him that they want to vote him down, let them vote against him. But at least let this man, and the President, have a vote on this nomination.

The second reason that Eugene Scalia's nomination is being stopped, is that some may hold it against him that his father happens to be Justice Antonin Scalia on the U.S. Supreme Court. I hope nobody in this body would hold it against a son, the fact that they might disagree with the father. I do not have to speak in favor of Antonin Scalia. He is one of the greatest men in this country. He is a strong, morally upright, decent, honorable, intellectually sound, brilliant jurist—just the type we ought to have in the Federal courts. The fact that he may be more conservative than some in this body is irrelevant.

But even if there were some good reason to criticize Justice Scalia, there is no basis at all for using such a criticism against his son, who is a decent, honorable, intelligent, intellectual, brilliant young attorney who deserves the opportunity to serve his Government, and who has already said that as Solicitor of Labor he will abide by the law whether he agrees with it or not. Knowing how honorable he is, I know he will do exactly that.

The second executive branch nomination I want to mention is Joseph Schmitz for Inspector General of the Department of Defense. I happen to know a lot about him; he is one of the brightest people I have ever met. He is not even getting a committee vote. At least Mr. Scalia got a vote in committee—he received a majority vote in his favor in the HELP Committee. But Mr. Schmitz isn't even getting a vote in committee. That is no way to treat a nominee, or the President who nominated him.

Frankly, these jobs—solicitor and inspector general—are not politically sensitive positions. And both of these men I know personally to be honest, decent, honorable men. They deserve votes in this body. If they lose, then I can live with that result. I do not believe they will lose.

The purposeful delay on all of these nominations bother me a great deal, and I hope we do something about it. If we can't do anything before the end of the current session, then I hope we will do it shortly after we get back.

I will continue to do my very best to work as closely as I can with Senator LEAHY. We are friends, and I respect him. I want to support him in every way. But some of the comments I have heard in this Chamber today are nothing more than a distortion of the facts, a distortion of the numbers, and a distortion of the record. I personally resent it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ADMINISTRATIVE SIMPLIFICATION COMPLIANCE ACT

Mr. BINGAMAN. Mr. President, on December 12, 2001, the Senate passed the Administrative Simplification Compliance Act, by unanimous consent. As the title states, this is a bill about compliance with the ''Administrative Simplification Act'' and not a proposal to delay enforcement of it.

This bill permits healthcare organizations, health plans, providers and clearinghouses, which cannot meet the current deadline for compliance with the transactions and code sets rule, to seek and obtain a one-year delay. Such flexibility was necessary due to the complexity and novel nature of the changes mandated under the Administrative Simplification Act. At the same time, certain provisions were built into the rule to allay concerns that entitles that request the delay may merely continue to avoid preparing for compliance. The first of the provisions designed to provide compliance impetus is the requirement to submit a plan no later than October 16, 2002, stating, among other things, how the covered entity will come into compliance by October 16, 2003.

These plans must include: (1) an analysis reflecting the extent to which, and the reasons, why, the person is not in compliance; (2) a budget, schedule, work plan, and implementation strategy for achieving compliance; (3) whether the person plans to use or might use a contractor or other vendor to assist the person in achieving compliance; and (4) a timeframe for testing that begins not later than April 15, 2003.

I am concerned that there will be a year in which some covered entities are using compliant standard transactions, as prescribed by the Administrative Simplification Act, and others who are not compliant and sought the delay according to them by H.R. 3323. For those in compliance, it is important that they are not penalized for using a compliant standard transaction format, as prescribed by the Administrative Simplification Act, after the original compliance date of October 15, 2002. That is, transactions should not be rejected, burdened, or penalized with additional costs, for being in conformity to the standard transaction format.

In order to avoid burdening complying health care entities, those entities seeking delay should also set forth how they will accept and not unduly burden conforming transactions from compliant health care entities between October 16, 2002, and October 16, 2003.

I look forward to working with my colleagues to ensure that Administrative Simplification Act accomplishes what it was set out to do, which is to save money for covered entities on transactions costs, provided administrative efficiency, and protect the privacy of personally identifiable health information.

HOLD ON S. 1803

Mr. GRASSLEY. Mr. President, in keeping with my policy on public disclosure of holds, today I placed a hold on further action on S. 1803, legislation reported out by the Senate Foreign Relations Committee to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961.

I am particularly concerned with Section 602 of this legislation.

Section 602(a) expresses the sense of Congress that the United States Trade Representative should seek to ensure that Free Trade Agreements are accompanied by specific commitments relating to nonproliferation and export controls.

Section 602(b) specifically directs the United States Trade Representative to ensure that any Free Trade Agreement with Singapore contains or is accompanied by a variety of specific nonproliferation and export control commitments.

Both of these matters—what sort of commitments Free Trade Agreements should contain, and specific negotiating instructions to USTR relating to the United States-Singapore FTA negotiations—are matters under the jurisdiction of the Senate Finance Committee.

Apart from the fact that Section 602 deals with matters that pertain to the jurisdiction of the Finance Committee, I have an additional practical concern as well.

According to the Trade Act of 1974, the United States Trade Representative is required to consult with and report to Members of the Senate Finance Committee and the House Committee on Ways and Means on the status of trade negotiations. This includes ongoing negotiations, like the US-Singapore FTA talks, and future FTAs in general.

If enacted into law, Section 602 would likely result in a confusing situation in which the Senate Foreign Relations Committee is advancing negotiating instructions to USTR on behalf of Congress, even though the oversight responsibility for such negotiations lies with the Finance Committee. USTR would have to consult with the Finance Committee about its implementation of negotiating instructions developed by the Foreign Relations Committee, instructions Finance Committee Members had no role in developing, and are not familiar with.

As far as I know, no Member of the Finance Committee has even seen Section 602 before.

Just a few days ago, the Finance Committee approved a bipartisan Trade Promotion Authority bill by a vote of 18–3. This bill contains specific and detailed negotiating instructions relating to multilateral, regional, and bilateral trade negotiations. The issues raised in Section 602, especially those framed as negotiating instructions, should have been considered by the Finance Committee in the context of the mark-up of TPA legislation, not on the floor in the context of legislation authorizing appropriations under the Arms Export Control Act.

For these reasons, Mr. President, I will continue to hold this legislation until the concerns I have raised here are addressed.

CAMBODIA KILLINGS

Mr. MCCONNELL. Mr. President, an article in last week's New York Times highlighting the continued problem of wildlife poaching in Cambodia. A conservation expert predicted that within the next 3 to 5 years several species will cease to be biologically viable. Without a doubt, this is a legitimate concern and I applaud efforts to protect these endangered species.

But there are other species which may be endangered that the New York Times did not cite—these species are called ''Cambodian democrats''.

The killing of democracy activists in Cambodia deserve increase attention from the press and the international community. A total of 11 political activists and candidates from the royalist FUNCINPEC party and the opposition Sam Rainsy Party have been killed in the runup to local election scheduled for February, 2002.

Officials from the ruling Cambodian People's Party (CPP) have blamed these murders on witchcraft and business deals gone sour. This is poppycock. Diplomats in Phnom Penh must show some spine in demanding the CPP to cease the killings and to hold credible and competitive elections—something they did not do prior to the 1998 parliamentary elections. I hope that the importance of free and fair commune elections in 2002 and parliamentary elections in 2003 is not lost on this crowd, who seem more willing to embrace ''stability'' at the expense of democracy and the rule of law. Long term development in Cambodia is possible only under new and dynamic leadership.

There will come a day when the CPP is held accountable for its extrajudicial and corrupt activities. This Senator has not forgotten those killed and injured in the horrific grenade attack against the democratic opposition in March 1997—nor American Ron Abney, injured by shrapnel and who continues to bear physical reminders of that awful day. I have not forgotten the 100 FUNCINPEC supporters killed during the July 1997 coup d'etat organized and executed by CPP Prime Minister Hun Sen. Nor have I forgotten those killed and injured during the July 1998 elections. I ask Hun Sen: what kind of government kills Buddhist monks?

The international community can be part of the problem or part of the solution. It is past time they held the CPP and Prime Minister Hun Sen accountable for their repressive actions. Failure to do so will ensure that ''Cambodian democrats'' will join the list of species facing extinction in this Southeast Asian nation.

EMERGENCY SMALL BUSINESS LOAN ASSISTANCE

Mr. KYL. Mr. President, I rise today to share concerns raised by the Bush administration and some of my colleagues regarding S. 1499, authored by my colleague from Massachusetts, Mr. KERRY.

I strongly believe that we must come to the aid of small businesses hurt hard by the September 11 attacks. That is why I have enthusiastically endorsed the Bush administration's ongoing, active, and aggressive efforts to provide emergency small-business loan assistance.

Unfortunately, S. 1499 came to the Senate floor without debate, without committee hearings, and without an opportunity for concerns about the bill to be raised and addressed. No CBO score was released, depriving those who are fiscally-responsible of a cost estimate of this legislation. Yet the Senate leadership attempted to pass this bill without affording us any opportunity to offer amendments.

Scarcely any explanation of this bill's provisions was ever offered before it was moved to the Senate floor—and that is extremely troubling.

We do know now that the costs of this bill—as much as $815 million—would actually exceed the entire 2002 budget for the Small Business Administration, nearly doubling it, at a time of a economic slowdown.

Additionally, the agency responsible for carrying out this legislation—the Small Business Administration (SBA)—has raised a number of concerns about this bill that have not been adequately addressed.

First, some of the provisions of the Kerry bill duplicate efforts already underway by the Bush administration. After the terrorist attacks, the SBA established the September 11 Emergency Injury Disaster Loan, EIDL, assistance program to make loans available to small businesses throughout the United States, who could demonstrate economic injury as a result of the terrorist attacks.

This was an appropriate and necessary response. I emphasize, Mr. President: these loans already are being made available.

In addition to duplication of ongoing efforts, the SBA also expressed the concern that provisions of the Kerry bill would actually increase the number of small-business loan defaults, at the expense of the American taxpayer.

As the SBA wrote in a letter to the sponsors of this measure:

> By relaxing credit requirements, reducing interest rates, eliminating fees, increasing the government guarantee, deferring principal payments, forgiving interest and increasing government liability, S. 1499 could make government-guaranteed small business loans more attractive than conventional loans, potentially displacing private sector options. In addition, S. 1499 significantly reduces lender and borrower stakes in a loan, thereby increasing the likelihood of default.

Certainly the sponsors of this measure do not want to promote defaults. After all, the goal of small-business assistance is to help entrepreneurs build, sustain and grow small businesses, with sound and fiscally-responsible loan assistance programs.

The existing EIDL assistance program provides a reasonable mechanism for needed aid by offering up to $1.5 million in emergency loans to small businesses at four percent interest over 30 years. Loans are not intended purely as a means of disaster relief.

Additionally, S. 1499's language is so broad that loan assistance could be provided to any small business that have ''been, or, that (are) likely to be directly or indirectly adversely affected'' by the terrorist attacks. Obviously, such language is ripe for abuse and could lead to exorbitant costs for the American taxpayer. Surely, this is not what the bill sponsors intended from this provision.

Lastly, the Small Business Administration expresses concerns regarding S. 1499's provisions providing emergency relief for Federal contractors. The provisions would allow an increase in the price of a federal contract that is performed by a small business in order to offset losses resulting from increased security measures taken by the Federal government at Federal facilities. As the SBA points out: ''providing equitable relief through SBA acting as a central clearing house would prove inefficient, costly, and burdensome on the Federal acquisition process.''

All of us want to come to the aid of small businesses adversely affected by the September 11 attacks and their aftermath. But we can do so in a cost-effective and responsible way, instead of a rushed, haphazard process designed to thwart compromise.

I am confident that a bipartisan compromise on this issue can be found in the near-term, so that the concerns raised by the administration can be taken into account, and we can pass something the President will support.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.