Senator CARPER has asked the Environmental Protection Agency to review our proposed legislation to determine its effect on the health of Americans, and its cost. According to the EPA analysis prepared in November of 2002—last year—the Clear Skies Act would prevent 11,900 premature deaths, 7,400 chronic bronchitis cases, and 10,400 hospital visits. Our Clean Air Planning Act would prevent 17,800 premature deaths from air pollution, 5,900 more people annually than under Clear Skies, and save $140 billion in health care costs, $50 billion more than Clear Skies.

The EPA internal analysis from November of 2002 also estimates that Clear Skies would cost electric utilities $84.1 billion in the year 2010, while our legislation would cost $86.2 billion in the year 2010. In 2020, Clear Skies would cost $100.9 billion. Our legislation would cost $103.4 billion. In short, according to that EPA internal analysis, our legislation does a better job of improving health and reducing health care costs and would cost only slightly more.

Last week, before the Senate Energy Committee, we discussed again the emergency that is being caused by a shortage of natural gas and the consequence of higher prices. Chemical companies in America are reducing salaries and pushing jobs overseas. Americans living in homes heated by natural gas should expect a 30-percent increase in their bills this winter in our State.

During the last week in July, the Senate will have the opportunity to consider both the natural gas crisis and the urgent need for cleaner air. We will be debating the Energy bill which has been reported by our committee. The bill's purpose is to encourage a diversity of cleaner, newer technologies for producing energy so that we may have a steady supply of low-cost energy and, at the same time, a cleaner environment.

Mr. President, as I said, during the last week in July the Senate will have an opportunity to consider both the natural gas crisis and the need for cleaner air. We will be debating the Energy bill which has been reported by our committee. We have worked hard on that bill, both parties. We believe we have a good bill.

The bill's purpose is to encourage a diversity of cleaner, newer technologies for producing energy so that we may have a steady supply of low cost energy and at the same time a cleaner environment. But for us to avoid facing repeated winters with higher gas prices, to avoid keeping jobs from moving overseas, and to keep our air clean and healthy, we are going to have to face some tough decisions and make different choices than we have so far been willing to make.

We need to explore for natural gas in Alaska and other offshore areas in the United States and build a new pipeline to bring it south. We need to shed our reluctance to use nuclear powerplants that we invented and join France and Japan and the rest of the world in expanding our use of this clean form of energy.

We need to advance our understanding and use of clean coal technologies, especially coal gasification. Coal produces one-half of our electricity and will continue to produce much of it for the foreseeable future.

We should increase the use of other renewable forms of energy, including solar, ethanol, and wind power. We need to get serious about sensible conservation practices, such as using alternatives to idling truck engines when truckers are stopped for a break.

I am proud to be the principal sponsor of President Bush's hydrogen car proposal which offers great promise in the long term to reduce our dependence on foreign oil and to clean our air because its fuel uses no oil or gasoline and its only emission is water.

In summary, President Bush has made a good beginning by placing clean air on the agenda as only a President can and by offering a framework to build a strong proposal. But with respect, he hasn't gone far enough, fast enough. On the other hand, my colleagues, Senators MCCAIN, LIEBERMAN, and JEFFORDS, go too far, too fast, relying on unsettled science to put controls on our economy that are unjustified and that would cost so much that thousands of jobs would go overseas.

The Clean Air Planning Act, which I cosponsor, is, in my judgment, the best balanced solution. It has the advantages of the market-based approach suggested by the President. It goes further faster than the President's proposal in reducing pollutants from sulfur, from nitrogen, and from mercury. It places modest controls on carbon, and it does not weaken the existing clean air law.

Devising a plan for maintaining the proper balance of clean air, efficient energy, and good jobs for the next 10 to 15 years deserves the urgent attention of the Senate. I look forward to being an active participant in the debate.

ADMINISTRATIVE DETENTIONS AND RIGHT TO DUE PROCESS

Mr. BINGAMAN. Mr. President, we in America firmly believe that what distinguishes our country in the history of the world is our commitment to individual liberty and freedom. At the bedrock of a free society is the obligation that the Government takes on to afford individuals certain legal protections, the most basic of which is the freedom from incarceration unless the Government can prove that you have committed a crime.

Today we are witnessing the abandonment by this current administration of our historic commitment to this most basic legal protection. The core element of due process law is the requirement that if individuals are taken into custody by the Government, then within some reasonable time, they will be advised of the crimes of which they are accused. They will be charged with those crimes and they will be prosecuted.

This administration, working through the Justice Department, headed by Attorney General Ashcroft, and the Pentagon, headed by Secretary of Defense Rumsfeld, has taken the position that as to many individuals it now has in custody, no such legal requirements attach.

It is my view that regardless of whether the person in custody is an American citizen or a foreigner, regardless of where he or she is apprehended, and regardless of the Government's preconceptions about his or her guilt, that person should be entitled to some reasonable standard of due process. Secrecy and disregard for the rule of law are not the ideals upon which a free and open society are based.

To demonstrate the basis for my concern, I would like to describe to the Senate some of the actions that have been taken in recent months by the administration. These actions fall into three different categories. There are those that affect immigrants. There are those that affect so-called material witnesses. There are those that affect so-called enemy combatants.

Let me start first with immigrants. In the case of immigrants, the inspector general in the Department of Justice has recently documented the abusive treatment of many immigrants by the FBI and the Justice Department in the period since 9/11. According to the IG's recent report, many immigrants were detained following 9/11 even though the FBI had no evidence that they were connected to terrorism. The report states that some detainees did not receive their so-called charging documents for more than 9 months after they were arrested. Even after they were charged, many detainees were held in ''extremely restrictive conditions of confinement'' for ''weeks and months with no clearance investigation being conducted.''

The Attorney General would have us accept with no dissent that extraordinary times require extraordinary measures, even if it is at the expense of individual civil liberties. In my view, the fact that these immigrants were detained on alleged immigration violations does not permit the Government to totally disregard their rights. While the 9/11 detainees were entitled to be represented by an attorney at their own expense, the inspector general found in many cases that the Government made it very difficult for detainees to obtain an attorney or to speak with that attorney on a regular basis.

I hope the newly established Department of Homeland Security, which now has jurisdiction over immigration violators, will follow the inspector general's recommendation that it ensure that ''detainees have reasonable access to counsel, legal telephone calls, and visitation privileges consistent with their classification.''

I am also troubled by the veil of secrecy which the administration has drawn around these detainees. The public and the Congress have a right to know the names of individuals detained in connection with the September 11 investigation. If we had had timely knowledge of the names of people discussed in the inspector general's report, we might have been able to shine some light on the process to ensure those individuals' rights were not violated.

Unfortunately, a recent circuit court of appeals decision allows the Department of Justice to continue circumventing the Freedom of Information Act. The decision is likely to be appealed, and I hope that the earlier court decision ordering the release of the names will be upheld. In the meantime, however, I hope the Attorney General will do the right thing and voluntarily release the names of the September 11 detainees. I was pleased to join Senators FEINGOLD, KENNEDY, DURBIN, and CORZINE last week in formally making that request. I hope the Attorney General will agree.

Now let me speak about material witnesses.

The second way in which the administration has been detaining people is under the authority of the material witness statute. This little-known statute permits the Government to arrest and detain a potential witness whose testimony is material in a criminal proceeding and who is likely to flee. The statute says:

> Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

The issue here is the manner in which the statute has been applied and, in addition, the unreasonable length of time the administration has detained some individuals under this statute.

On the first point, the administration appears to be using the material witness statute to detain some individuals without any intention of ever calling them to testify before a grand jury. In fact, a Washington Post article published last November reviewed 44 material witness cases. In 20 of the 44, the material witnesses were never called to testify.

I share the concern of those who believe the administration is misapplying the statute in order to hold individuals without due process while those individuals themselves are being investigated. I would like to give the administration the benefit of the doubt, but their answers to a recent House Judiciary Committee inquiry shed little light on their intentions. In those answers, they stated:

> We can only provide information about those material witnesses whose status has been made public in court proceedings.

The administration also refuses to provide the public with the specific number of people who have been detained, saying only that:

> As of January 2003, the total number of material witnesses detained in the course of the September 11 investigation was fewer than 50.

Again, the public and the Congress are faced with the veil of secrecy. Tell me, Mr. President, what is the harm to national security in revealing the specific number of people who have been detained under the material witness statute or the list of charges that have been brought against such people? The public and the Congress have a right and an obligation to know.

One last troubling point is the unreasonable length of time many material witnesses have been held. Again, the Justice Department refuses to provide any specific information. I know Senator LEAHY has written to the Attorney General for more information on actions that have been taken under the material witness statute. He has requested a response by the end of this week. I very much hope that that response will be forthcoming. We need to know more about the Justice Department's use of the material witness statute, and the Congress needs to study whether changes should be made to ensure that due process is followed for individuals who are detained under this statute.

Finally, we come to the third category of individuals who have been detained; that is, individuals the administration deems to be ''enemy combatants.''

To date, the administration is holding three individuals within the United States as enemy combatants, and close to 700 are being held at the United States military base at Guantanamo Bay, Cuba. In all cases, these individuals are being held incommunicado, with no access to counsel and no opportunity for judicial review.

It is not unreasonable to ask who qualifies as an ''enemy combatant.'' Since the Justice Department will not reveal the identities of many of the people it is holding, it is very difficult to tell. Most of these individuals were taken into custody in Afghanistan or Pakistan and are alleged to have been engaged in action against United States troops. At least a few of those held as enemy combatants are citizens of allied countries. According to the Financial Times, nine of those being held in Guantanamo are British citizens. At least one, Jose Padilla, is a U.S. citizen being held in South Carolina. Another, Ali Saleh Kahlah Al-Marri, is a citizen of Qatar and had been scheduled to go on trial this month in Illinois on charges of lying to the FBI. With the trial date approaching last month, the Justice Department removed him from the court system and jailed him in a Navy brig in South Carolina. Now that he is an enemy combatant and is classified as such, our Government takes the position that he need not be charged with any crime, he need not be given a hearing, his attorney is denied the right to see him, and he can be jailed indefinitely by the military in this condition.

President Bush has announced that 6 of the 700 or so ''enemy combatants'' will be tried by a military tribunal. There are serious questions about the procedures intended to be used in those trials. But even more serious questions relate to those who remain in jail without any prospect of charges being brought or trials being conducted.

The obvious question is: Where do we go from here with regard to these individuals?

The administration has labeled these people ''enemy combatants'' and has asserted the right to keep them incarcerated, presumably until our enemies are vanquished. But the President has made it clear that the ''war on terrorism'' in which we are engaged is of indefinite duration.

Is it the President's view that we can keep these individuals in prison in Guantanamo from now on without revealing who they are, without charging them with crimes, without affording them a hearing at which they can protest their innocence?

This is not a tenable position. This is not consistent with the commitment to liberty and the rule of law on which this country was founded. We demand that other governments show greater respect for human rights than this, and we should demand better from our own Government as well.

Let me say what I hope is obvious; that is, I am not advocating the release of these individuals. What I am advocating is that we afford them the right to be charged and to be tried for their alleged crimes. Most of those designated as enemy combatants have been in custody for more than 18 months without being charged.

The Bush administration takes the position that they are not prisoners of war and, therefore, do not enjoy the protections of the Geneva Convention. Our Federal courts take the position that these individuals are in Guantanamo, not within territory controlled by the United States, and therefore the courts have no authority to ensure that basic rights are protected.

In the case of Al Odah, et al, v. United States, the U.S. Court of Appeals for the District of Columbia sidestepped any responsibility for the enforcement of the Constitution by deciding that it had no jurisdiction over the detainees at Guantanamo. The argument used was that since the United States only occupies Guantanamo Naval Base under a lease it signed with Cuba in 1903, therefore, the court reasoned that Cuba is the sovereign nation with jurisdiction in Guantanamo and presumably the detainees should look to Castro for a remedy.

The end result of all this legal maneuvering and sidestepping is that with regard to these individuals, our own Government has successfully managed to avoid and evade any obligation to abide by procedural due process.

In the view of our Attorney General and the Secretary of Defense, there is

no obligation to bring charges, there is no obligation to afford a hearing within a reasonable period of time, there is no obligation to permit legal counsel, and, in fact, there is no obligation to reveal who is being held in this enemy combatant status.

The Attorney General further asserts that if a prosecution in the court system is not proceeding in a promising manner, he has the prerogative of unilaterally removing the defendant from the court system and jailing him for an indefinite period without the need to prove the individual's guilt.

The administration's treatment of immigrants, material witnesses, and persons labeled as ''enemy combatants'' makes a mockery of our professed commitment to individual rights. Our great Nation does not have to abandon its Constitution and trample on the individual rights we hold dear to deal with the threats of a modern world. Terrorism is a threat to our Nation, but the undermining of our constitutional rights is also a threat.

The idea of America is admired and emulated all over the world, in large part because we believe that the right to liberty is fundamental. In those circumstances when the State has reason to deprive a person of liberty, that individual should have the right to know what he or she is charged with and to have access to meaningful review of those charges.

I urge the President, the Attorney General, and the Secretary of Defense to advise the Congress and the American people of the steps they will take to afford basic procedural rights to all those I have discussed here. Too many generations of Americans have fought to protect these rights for us to look the other way as they are being denied and disregarded. Our children and grandchildren would expect better of us, and we should expect better of ourselves.

Mr. President, I yield the floor.

AMERICORPS FUNDING

Mr. LEAHY. Mr. President, I am pleased that the Senate showed its strong support for the AmeriCorps program on Friday by defeating an amendment to strip the $100 million in emergency fiscal year 2003 funding that we in the Senate Appropriations Committee provided as part of the fiscal year 2004 Legislative branch spending bill. Without these emergency funds, Vermont will lose all but 15 to 20 of its over 100 AmeriCorps volunteers, and communities across the Nation are facing similar losses.

The dedicated young people who have answered AmeriCorps' honorable call to service contribute enormously to the strength of our communities. Whether they are helping to house the homeless, feed the hungry, or keep disadvantaged youth safe in fun and educational afterschool activities, they are often filling a sorely needed gap that the community cannot otherwise fill.

We must not let this vital part of our social safety net to unravel in Vermont and across the Nation, and that is why I am pleased to have cosponsored Senator MIKULSKI's amendment in the Appropriations Committee to add $100 million for AmeriCorps, and why I voted on Friday to defeat the amendment to strip the money out. I urge all of my colleagues in Congress, as well as the President, to support this emergency funding.

Mr. KOHL. Mr. President, I rise today in strong support of the $100 million included in the legislative branch appropriations bill for the AmeriCorps service program. It gives me great pride to know that more than 27,000 people of all ages and backgrounds are helping solve problems and strengthen communities through 79 national service projects across Wisconsin. This year alone, more than 700 individuals have committed to serve in Wisconsin communities as AmeriCorps members. To date, more than 3,900 Wisconsin residents have qualified for education awards totaling more than $17,000,000. It is a tragedy to think just a few days ago, all of this may have been brought to a halt. It is with the swift action of the Senate last Friday, in preserving the $100 million appropriation to make AmeriCorps whole, that we are able to ensure that AmeriCorps continues to provide every opportunity for Americans of all ages and backgrounds to engage in service.

AmeriCorps has proven an excellent outlet through which people may get involved in their community. Throughout the State of Wisconsin, AmeriCorps volunteers work closely with local nonprofit agencies and K through 12 schools. These individuals perform substantial amounts of direct service that have benefited our State's citizens. They are tutoring and mentoring students in schools and afterschool programs, teaching children and adults how to read, building and rehabilitating low-income housing, providing street outreach to runaway and homeless youth, cultivating community gardens, and most importantly, demonstrating to others the joy that a selfless act can bring and in return, recruiting others to become volunteers.

As our Nation faces a period of uncertainty, AmeriCorps programs are in a position to help build a stronger, more engaged citizenry while tackling some of our country's most pressing problems. Last week, the Senate was able to show its commitment to volunteerism all across the country by sustaining such a vital program at such a crucial time. I am pleased that the Senate voted to maintain this funding in the bill, and I hope that the House of Representatives will agree in conference to retain it. Without such action, the critical services AmeriCorps programs have provided over the years would not be possible and the communities that have come to rely on AmeriCorps would suffer.

EXTENSION OF NORMAL TRADE RELATIONS TO SERBIA AND MONTENEGRO

Mr. VOINOVICH. Mr. President, I rise today to express my support for Senate Amendment No. 1149, which would grant the President the authority to extend normal trade relations to Serbia and Montenegro.

As my colleagues may be aware, Serbia and Montenegro is one of just four countries that is currently denied normal trade relations, NTR, by the United States. Others in that group include North Korea, Cuba and Laos. Although there are certainly challenges in Serbia and Montenegro that must be addressed, as we discussed during a hearing of the Foreign Relations Committee 2 weeks ago, there is no doubt among my colleagues that this country no longer belongs in this category of ''bad actors.''

While the President has the authority to extend normal trade relations to most countries, the case of Serbia and Montenegro is different. In 1992, Congress revoked most favored nation status for Yugoslavia in response to the policies of former Yugoslav dictator Slobodan Milosevic, who was supporting nationalist Serbian aggression in the conflicts in Croatia and Bosnia.

The legislation passed in 1992, P.L. 102–420, prohibits the extension of normal trade relations to Yugoslavia, now Serbia and Montenegro, until certain conditions have been met. The President must certify that Serbia and Montenegro has ceased armed conflict with other peoples of the former Yugoslavia, agreed to respect the borders of the former Yugoslav states, and ended all support to Bosnian Serb forces.

As written, the law intended to stop Milosevic from aiding Serbian forces responsible for brutal atrocities during the 1990s. There is no doubt that the situation in Serbia and Montenegro has changed, and that the spirit of these conditions has been met. However, some support for Bosnian Serb forces is permitted under the Dayton Peace Accords signed in 1996. Given the situation on the ground in the early 1990s, the legislation enacted in 1992 did not provide the flexibility for this situation. As such, a legislative fix is required to permit the President to extend NTR to Serbia and Montenegro.

With Milosevic behind bars at The Hague and the current government taking action to promote democratic reforms following the assassination of Serbian Prime Minister Zoran Djindjic on March 12, 2003, I believe that it is time to take action to extend normal trade relations to Serbia and Montenegro. While we should continue to call on Serbia and Montenegro to meet its international obligations to apprehend war criminals and cooperate with the International Criminal Tribunal for the Former Yugoslivia, we should take this step to promote trade, economic development, and improved relations between the United States and Serbia and Montenegro.