peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Jarrod's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God bless the United States of America.

HONORING SPECIALIST LUKE P. FRIST

Mr. BAYH. Madam President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Brookston, IN. Specialist Luke Frist, 20 years old, died at the Brooke Army Medical Center at Fort Sam Houston, TX, on January 5, 2004, following an attack, 3 days prior in Baghdad, Iraq, when the fuel truck he was driving struck an improvised explosive device.

After joining the Army Reserves, Luke was assigned to the 209th Quartermaster Company in Lafayette, IN. Luke served on a fuel tanker as a petroleum specialist during his deployment, which began in May 2003.

Luke was the twenty-third Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. This brave young soldier leaves behind his father, Dennis, his mother, Pattie, and two sisters. When Luke joined the Army Reserves, he was following in the military footsteps of his parental grandfather, who served in World War II. With his entire life before him, Luke chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Today, I join Luke's family, his friends, and the entire Brookston community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Luke, a memory that will burn brightly during these continuing days of conflict and grief.

Luke's family recalls his being in good spirits during his last phone call home. According to his sister Johanna, Luke ''wanted to fight for his country and be the best of the best . . . . He died doing what he loved.'' Today, Luke's family remembers him as a true American hero, and we honor the sacrifice he made while serving his country.

Luke graduated from Tri-County High School in 2001. He was an active member of the student body, playing the trombone and tuba in the band, playing on the football team, and throwing shot put as a member of the track team. Friends and family members alike remember Luke for his energetic personality, his passion for being outdoors, and his dedication to making his dreams become a reality. When Luke was activated, he was working full time while attending classes at Ivy Tech State College in Lafayette, with plans to transfer to Purdue University to pursue a career in landscape design.

As I search for words to do justice in honoring Luke's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg:

> We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.

This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Luke's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Luke P. Frist in the official RECORD of the U.S. Senate for his service to his country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Luke's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God bless us all.

HONORING SENATOR WILLIAM ROTH

Mr. FEINGOLD. Madam President, today I would like to pay tribute to a man who served in this body with distinction for 30 years, Senator William Roth.

Senator Roth was first elected to the House of Representatives from his adopted State of Delaware in 1966. He immediately made a name for himself as he shed light on wasteful Government spending. His fight against Government waste and abuse continued when he was elected to the Senate in 1970, where he served the people of his State honorably for three decades and chaired both the Governmental Affairs and Finance Committees.

Senator Roth will forever be remembered for the respect he paid to this institution and to his colleagues. That respect was returned many times over by his colleagues, who knew they could count on his integrity, civility and all-around decency. In a time when many feel partisanship is on the rise, those qualities are sorely missed. Senator Roth should be looked to as an example for all Members of the Senate.

Senator Roth's modest demeanor belied his accomplishments and influence. He played significant roles in many tax policy debates over the years and was a lead force in Congress with respect to efforts to ''reinvent'' the Federal Government during the 1990s. He also was a defender of the environment, opposing ocean dumping, oil drilling in the Arctic National Wildlife Refuge, and incineration of toxic waste.

I am honored to have served with Senator Roth and he will be truly missed.

JUDICIAL NOMINATIONS

Mr. LEAHY. Madam President, we open this year confronted with three additional disappointing developments regarding judicial nominations: the Pickering recess appointment, the renomination of Claude Allen, and the pilfering of Democratic offices' computer files by Republican staff.

Late last Friday afternoon President Bush made his most cynical and divisive appointment to date when he bypassed the Senate and unilaterally installed Charles Pickering to the U.S. Court of Appeals for the Fifth Circuit. That appointment is without the consent of the Senate and is a particular affront to the many individuals and membership organizations representing African Americans in the Fifth Circuit who have strongly opposed this nomination.

With respect to his extreme judicial nominations, President George W. Bush is the most divisive President in American history. Through his extreme judicial nominations, President Bush is dividing the American people and undermining the fairness and independence of the federal judiciary on which all Americans depend.

After fair hearings and open debate, the Senate Judiciary Committee rejected the Pickering nomination in 2002. Originally nominated in 2001 by President Bush, this nominee's record underwent a thorough examination by the Senate Judiciary Committee and was found lacking. Rejected for this promotion by the Committee in 2002 because of his poor record as a judge and the ethical problems raised by his handling of his duties in specific instances, Judge Pickering's nomination was nonetheless sent back to the Senate last year by a President who is the first in our history to reject the judgment of the Judiciary Committee on a judicial nominee. This is the only President who has renominated someone rejected on a vote by the Judiciary Committee for a judicial appointment.

The renomination of Charles Pickering lay dormant for most of last year while Republicans reportedly planned further hearings. Judge Pickering himself said that several hearings on his nomination were scheduled and cancelled over the last year by Republicans. Then, without any additional information or hearings, Republicans decided to forego any pretense at proceeding in regular order. Instead, they placed the name of Judge Pickering on the committee's markup agenda and pushed his nomination through with their one-vote majority. The Committee had been told since last January that a new hearing would be held

before a vote on this nomination, but that turned out to be an empty promise.

Why was the Pickering nomination moved ahead of other well-qualified candidates late last fall? Why was the Senate required to expend valuable time rehashing arguments about a controversial nomination that has already been rejected? The timing was arranged by Republicans to coincide with the gubernatorial election in Mississippi. Like so much about this President's actions with respect to the Federal courts, partisan Republican politics seemed to be the governing consideration. Indeed, as the President's own former Secretary of the Treasury points out from personal experience, politics governs more than just Federal judicial nominations in the Bush administration.

Charles Pickering was a nominee rejected by the Judiciary Committee on the merits—a nominee who has a record that does not qualify him for this promotion, who injects his personal views into judicial opinions, and who has made highly questionable ethical judgments. The nominee's supporters, including some Republican Senators, have chosen to imply that Democrats opposed the nominee because of his religion or region. That is untrue and offensive. These smears have been as ugly as they are wrong. Yet the political calculation has been made to ignore the facts, to seek to pin unflattering characterizations on Democrats for partisan purposes and to count on cynicism and misinformation to rule the day. With elections coming up this fall, partisan Republicans are apparently returning to that page of their partisan political playbook.

Never before had a judicial nomination rejected by the Judiciary Committee after a vote been resubmitted to the Senate, but this President took that unprecedented step last year. Never before has a judicial nomination debated at such length by the Senate, and to which the Senate has withheld its consent, been the subject of a Presidential appointment to the Federal bench.

In an editorial following last week's appointment, The Washington Post had it right when it summarized Judge Pickering's record as a federal trial judge as ''undistinguished and downright disturbing.'' As the paper noted: ''The right path is to build consensus that nonpartisanship and excellence are the appropriate criteria for judicial selection.'' Instead we see another dangerous step down the Republican's chosen path to erode judicial independence for the sake of partisanship and their ideological court-packing efforts. I will ask unanimous consent that this editorial be printed in the RECORD. The New York Times also editorialized on this subject and it, too, was correct when it pointed out that this end-run around the advice and consent authority of the Senate is ''absolutely the wrong choice for one of the nation's most sensitive courts.'' I will ask unanimous consent that this editorial also be printed in the RECORD.

Civil rights supporters who so strenuously opposed this nominee were understandably offended that the President chose this action the day after his controversial visit to the grave of Dr. Martin Luther King, Jr. As the Nation was entering the weekend set aside to honor Dr. King and all for which he strived, this President made one of the most insensitive and divisive appointments of his administration. I will ask unanimous consent that the op-ed published in the Chicago Sun Times by the Reverend Jesse Jackson be printed in the RECORD. In this op-ed, Reverend Jackson observed that this President ''has shown a remarkable cynicism about playing racial politics.''

So many civil rights group and individuals committed to supporting civil rights in this country have spoken out in opposition to the elevation of Judge Pickering that their views should have been respected by the President. Contrary to the false assertion made by the Wall Street Journal editorial page this week, the NAACP of Mississippi did not support Judge Pickering's nomination. Indeed, every single branch of the Mississippi State Chapter of the NAACP voted to oppose this nomination—not just once, but three times. When Mr. Pickering was nominated to the District Court in 1990, the NAACP of Mississippi opposed him, and when he was nominated to the Fifth Circuit in 2001 and, again, in 2003, the NAACP of Mississippi opposed him. They have written letter after letter expressing their opposition. That opposition was shared by the NAACP, the Southern Christian Leadership Conference, the Magnolia Bar Association, the Mississippi Legislative Black Caucus, the Mississippi Black Caucus of Local Elected Officials, Representative BENNIE G. THOMPSON and many others. Perhaps the Wall Street Journal confused the Mississippi NAACP with the Mississippi Association of Trial Lawyers, which is an organization that did support the Pickering nomination.

This is an administration that promised to unite the American people but that has chosen time and again to act with respect to judicial nominations in a way that divides us. This is an administration that squandered the goodwill and good faith that Democrats showed in the aftermath of September 11, 2001. This is an administration that refused to acknowledge the strides we made in filling 100 judicial vacancies under Democratic Senate leadership in 2001 and 2002 while overcoming anthrax attacks and in spite of Republican mistreatment of scores of qualified, moderate judicial nominees of President Clinton.

Then, just 2 days ago, the President sent the nomination of Claude Allen back to the Senate. From the time this nomination was originally made to the time it was returned to the President last year, the Maryland Senators have made their position crystal clear. This Fourth Circuit vacancy is a Maryland seat and ought to be filled by an experienced, qualified Marylander. Over the Senate recess, the White House had ample time to find such a nominee, someone of the caliber of sitting U.S. District Court Judges Andre Davis or Roger Titus, two former Maryland nominees whose involvement in the State's legal system and devotion to their local community was clear. This refusal to compromise is just another example of the White House engaging in partisan politics to the detriment of an independent judiciary.

The third disappointment we face is the ongoing fallout from the cyber theft of confidential memoranda from Democratic Senate staff. This invasion was perpetrated by Republican employees both on and off the Committee. As revealed by the Chairman, computer security was compromised and, simply put, members of the Republican staff took things that did not belong to them and passed them around and on to people outside of the Senate. This is no small mistake. It is a serious breach of trust, morals, and possibly the rules and regulations governing the Senate. We do not yet know the full extent of these violations. But we need to repair the loss of trust brought on by this breach of confidentiality and privacy, if we are ever to recover and be able to resume our work in a spirit of cooperation and mutual respect that is so necessary to make progress.

Democratic cooperation with the President's slate of judicial nominees has been remarkable in these circumstances. One way to measure that cooperation and the progress we have made possible is to examine the Chief Justice's annual report on the Federal judiciary. Over the last couple of years, Justice Rehnquist has been ''pleased to report'' our progress on filling judicial vacancies. This is in sharp contrast to the criticism he justifiably made of the shadowy and unprincipled Republican obstruction of consideration of President Clinton's nominees. In 1996, the final year of President Clinton's first term, the Republican-led Senate confirmed only 17 judicial nominees all year and not a single nominee to the circuit courts. At the end of 1996, the Republican Senate majority returned to the President almost twice as many nominations as were confirmed.

By contrast, with the overall cooperation of Senate Democrats, which partisan Republicans are loath to concede, this President has achieved record numbers of judicial confirmations. Despite the attacks of Sept. 11 and their aftermath, the Senate has already confirmed 169 of President Bush's nominees to the Federal bench. This is more judges than were confirmed during President Reagan's entire first 4-year term. Thus, President Bush's 3-year totals rival those achieved by other Presidents in 4 years. That is also true with respect to the nearly 4 years it took for President Clinton to

achieve these results following the Republicans' taking majority control of the Senate in 1995.

The 69 judges confirmed last year exceeds the number of judges confirmed during any of the 6 years from 1995 to 2000 that Republicans controlled the Senate during the Clinton presidency years in which there were far more vacant Federal judgeships than exist today. Among those 69 judges confirmed in 2003 were 13 circuit court judges. That exceeds the number of circuit court judges confirmed during all of 1995, 1996, 1997, 1999, and 2000, when a Democrat was President.

The Senate has already confirmed 30 circuit court judges nominated by President Bush. This is a greater number than were confirmed at this point in the presidencies of his father, President Clinton, or the first term of President Reagan. Vacancies on the Federal judiciary have been reduced to the lowest point in two decades and are lower than Republicans allowed at any time during the Clinton presidency. In addition, there are more Federal judges serving on the bench today than at any time in American history.

I congratulate the Democratic Senators on the Committee for showing a spirit of cooperation and restraint in the face of a White House that so often has refused to consult, compromise or conciliate. I regret that our efforts have not been fairly acknowledged by partisan Republicans and that this administration continues down the path of confrontation. While there have been difficult and controversial nominees whom we have opposed as we exercise our constitutional duty of advice and consent to lifetime appointments on the Federal bench, we have done so openly and on the merits.

For the last 3 years I have urged the President to work with us. It is with deep sadness that I see that this administration still refuses to accept the Senate's shared responsibility under the Constitution and refuses to appreciate our level of cooperation and achievement.

I ask unanimous consent that the materials to which I referred be printed in the RECORD.

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

END RUN FOR MR. PICKERING

[From the Washington Post, Jan. 18, 2004]

President Bush's decision Friday to install controversial judicial nominee Charles W. Pickering Sr. on the U.S. Court of Appeals for the 5th Circuit using a recess appointment is yet another unwarranted escalation of the judicial nomination wars. We have lamented some of the attacks on Mr. Pickering, but his record as a federal trial judge is undistinguished and downright disturbing, and Senate Democrats are reasonable to oppose his nomination. Installing him using a constitutional end run around the Senate only inflames passions. The right path is to build consensus that nonpartisanship and excellence are the appropriate criteria for judicial selection.

The recess appointment—the president's power to temporarily install federal officers without Senate confirmation—is a uniquely bad instrument for federal judges. Judges are supposed to be politically independent. Yet Mr. Pickering will be a controversial nominee before the Senate as he considers cases and will lose his job in a year if he is not confirmed. Even his supporters should understand that he will be subject to the political pressures from which judges are supposed to be insulated.

We don't rule out the recess appointment in all circumstances. At times judges have commanded such uniform support that presidents have used the power to get them in office quickly, leaving the formality of confirmation for later. We supported, moreover, President Bill Clinton's lame-duck recess appointment to the U.S. Court of Appeals for the 4th Circuit of Roger Gregory, who, like Mr. Pickering, was held up in the Senate. But there was a big difference: Mr. Gregory was not controversial. His nomination, in fact, was eventually resubmitted to the Senate by none other than President Bush. It was held up initially because of a long-standing dispute over appointments to that court, not because of any concerns about the nominee himself. There was reason to hope that Mr. Gregory would be confirmed—as, indeed, he was. In this case, Mr. Bush has used a recess appointment for someone who cannot, on his merits, garner a vote of confidence from the Senate and who has no prospect of confirmation in the current Congress.

We don't support the filibuster of nominees, but the answer to Democratic obstruction cannot be the appointment or installation of temporary judges who get to hear a few cases over a few months, all the while looking over their shoulders at the senators who oppose them. The great damage the judicial nomination wars threaten over the long term is to erode judicial independence, to make judges constantly aware of how they might have to answer to the Senate for a given opinion. Using the recess appointment to place Mr. Pickering on the 5th Circuit has made that danger into a realty.

A JUDICIAL END RUN

[From the New York Times, Jan. 17, 2004]

President Bush has used the only avenue remaining to him to install Charles Pickering Sr. of Mississippi on the Fifth Circuit Court of Appeals: a recess appointment, which avoids the confirmation process. That recess appointments are a perfectly legal device used by other presidents in the past does not make this appointment any more palatable. Mr. Pickering is absolutely the wrong choice for one of the nation's most sensitive courts.

Mr. Bush claimed that only a ''handful'' of senators had opposed Mr. Pickering. The opposition was in fact a good deal broader than that.

Mr. Pickering was rejected in 2002 by the Judiciary Committee when the Senate was still in Democratic hands. When the same committee, in Republican control, approved him last fall, the nomination was blocked by a filibuster. Another attempt on the president's part to win Senate approval of Mr. Pickering's nomination would almost certainly have produced the same result.

The reasons are clear enough. Over the years, Mr. Pickering has displayed skepticism toward cases involving civil rights and expressed doubts about well-settled principles like one person one vote. The Senate inquiry into the nomination uncovered troubling questions of judicial ethics. Mr. Pickering took up the case of a man convicted of burning a cross on the lawn of an interracial couple, urging prosecutors to drop a central charge and calling a prosecutor directly. He also seems outside the mainstream on abortion rights.

Mr. Pickering is not the only hard-right candidate Mr. Bush has pushed for high judicial office. But his nomination was among the most troublesome. As Senator Charles Schumer said, Mr. Bush's decision to bypass the Senate in this manner is ''a finger in the eye'' for all those seeking fairness in the nomination process.

BUSH INSULTS KING'S LEGACY AGAIN

[From the Chicago Sun Times, Jan. 20, 2004]

(By Jesse Jackson)

Monday marked what would have been Dr. Martin Luther King's 75th birthday. And once more, President Bush chose the occasion to issue a cold and calculated insult to African Americans and Dr. King's memory.

Last year, the president chose Dr. King's birthday to announce his decision to ask the Supreme Court to overturn our civil rights laws by challenging the University of Michigan's affirmative action program. Despite its conservative majority, even this Supreme Court found that too offensive to constitutional guarantees of equal rights, and ruled against the president's case.

This year, the president took time from his big-donor fund-raising to lay a wreath at Dr. King's grave and call for racial reconciliation. Then after collecting $2.4 million from wealthy beneficiaries of his tax cuts, he announced he would make a recess appointment of Judge Charles Pickering.

Pickering shares views, history and friendship with Mississippi Sen. Trent Lott, who was removed from leadership of the Senate Republicans after he celebrated the segregationist cause of the Dixiecrats. Pickering, with a history of embracing racist causes, was rejected by the Senate Judiciary Committee when Democrats held the majority.

Bush renominated him when Republicans took over, but Pickering's views are so extreme that Democrats made him one of only six judges they have blocked. Now the president chooses Dr. King's holiday to announce his symbolic appointment to the bench. From Willy Horton to Charles Pickering, the Bush family has shown a remarkable cynicism about playing racial politics.

But the true insult to Dr. King's memory is not Bush's symbolic politics; it is the substance of his policies. Here the contrast is stark.

Dr. King called on America to measure itself from the bottom up, not the top down. As the Bible taught, we should be judged on how we treat the ''least of these,'' not how we cater to the most powerful.

Even many of Bush's supporters acknowledge he is the reverse: His policies are designed to reward the wealthy and serve the corporate interests that pay for his party. On his watch, we've mortgaged the store to lavish tax breaks on the wealthy, even as support for the poor has been cut, and working people have been abandoned.

Dr. King devoted his life to fighting against poverty, for peace; against racism, for equal opportunity. In the midst of the Vietnam War, he courageously challenged America's wrongheaded intervention, and warned of the moral poverty of a country that spent more on its military than on its people.

Bush's priorities are literally the reverse. He has done nothing as poverty has worsened, while finding his ''mission'' in endless wars abroad. He'll spend over $200 billion toppling Saddam Hussein, while cutting back on programs designed to give every child a healthy start.

Dr. King's politics came from his deep and abiding faith. Bush's faith seems defined by his politics. King spoke in pulpit after pulpit challenging the faithful to join the movement for social change. Bush, at his best,

goes to churches to preach social service, urging the congregation to accept the status quo and help minister to its victims. Like Moses, King led his people out of oppression. Like Pharaoh, Bush urges people to adjust to their condition.

Dr. King's legacy is as important today as at his death because things haven't gotten much better. A report by United for a Fair Economy shows racial inequities in unemployment, family income, imprisonment, average wealth and infant mortality have gotten worse since he died. And progress in areas like poverty, homeownership, education, and life expectancy has been so slow it will take literally centuries to close the gap.

As Americans celebrate Dr. King's birthday and listen to President Bush's State of the Union address tonight, we must remember King's warning of the moral peril of a nation that fails to create opportunity for all of its people.

No longer do we hear of a War on Poverty, which as Dr. King noted was ''barely a skirmish'' before abandoned for war abroad. Instead, as Dedrick Muhammad, author of the UFE report, observed: We are left with a ''compassionate conservatism, which has been very conservative in its compassion.''

[From the Wall Street Journal, Jan. 19, 2004]

THE PICKERING PRECEDENT

President Bush's recess appointment of Charles Pickering Sr. to the federal appeals bench last Friday is a welcome move, not least because it shows he's willing to carry the fight over judicial nominees from here to November. Mr. Pickering will now get the honor of serving a year on the Fifth Circuit Court of Appeals, and at 66 years old might well make this his career coda. The Mississippi judge was one of Mr. Bush's first nominees, in May 2001, and has always had confirmation support from a bipartisan majority of Senators. But he has been denied a floor vote by a minority filibuster orchestrated by Northeastern liberals Ted Kennedy, Hillary Rodham Clinton and her junior New York partner Chuck Schumer.

Mr. Bush has every right, even an obligation, to use his recess power to counter this unprecedented abuse of the Senate's advice and consent power. A filibuster has never before in U.S. history been used to defeat an appellate court nominee, but Democrats have used it against six of Mr. Bush's choices. All of them have enough bipartisan support to be confirmed if they could only get a full Senate vote.

One of the more despicable elements of the anti-Pickering smear has been the use of the race card, even though the judge has the support of the African-Americans who know him best, including the Mississippi chapter of the NAACP. Mr. Pickering sent his children to the newly integrated public schools in that state in the 1960s, and he helped the FBI in prosecutions of the KKK, testifying against the imperial wizard in 1967 at some personal risk.

But these facts are irrelevant to liberals who are panicked after their recent election defeats and are clinging to their last lever of national power through the appointed judiciary. They're hoping the public won't notice or care much about this power play, which means that Mr. Bush and Republicans will have to keep the issue front and center. Five Southern Senate seats are open this year, and voters in those states in particular deserve to know how much the bicoastal Democratic liberals despise their values.

ELECTRIC RELIABILITY ACT OF 2004 AND ELECTRICITY NEEDS RULES AND OVERSIGHT NOW ACT

Mr. FEINGOLD. Madam President, I would like to express my support for two bills that my colleague, the junior Senator from Washington, introduced this week and that I am pleased to cosponsor: the Electric Reliability Act of 2004 and the Electricity Needs Rules and Oversight Now Act, or ENRON Act. I strongly believe that the country needs to achieve a balanced national energy policy. An essential part of a national energy policy should be to ensure electricity reliability and to protect consumers from energy market manipulation. If Congress cannot agree on an omnibus energy bill, then we must act to pass these stand-alone bills on electricity reliability and market manipulation.

Our citizens deserve a reliable, safe power grid. This is one of the country's most pressing energy needs. We have to do all that we can to prevent blackouts like the one that hit the east coast and Midwest last August and the Electric Reliability Act of 2004 takes a crucial step toward that goal. The bill grants the Federal Energy Regulatory Commission—FERC—the explicit authority to create mandatory electric reliability standards. FERC can also approve the formation of electric reliability organizations, which will, subject to FERC review, enforce these standards. Strong and enforceable electric reliability standards will help ensure that our citizens and businesses do not have to worry about their respective lives and livelihoods being disrupted by blackouts.

In fact, a joint investigation by a United States-Canadian task force found that the lack of mandatory reliability standards contributed to the August 14, 2003, blackout. This massive outage affected 50 million people in eight U.S. States and parts of Canada. The task force report found that an Ohio-based utility and regional grid manager together violated at least six reliability standards on the day of the blackout. Examples of the reliability violations that contributed to the blackout included: not reacting to a power line failure within 30 minutes, not notifying nearby systems of the transmission problems, failing to analyze what was happening to the grid, inadequately training operators, and failing to adequately monitor transmission stations. Since the industry is largely self-regulated, violations of these voluntary reliability standards carry no penalties.

In testimony before the Senate Governmental Affairs Subcommittee on Oversight of Government Management last fall, regulators declared that enforceable reliability standards are vital to a secure power grid. This bill is an important step toward that goal. It provides for enforceable, mandatory electric reliability standards to ensure that our Nation has a secure, reliable power grid.

In addition to securing our Nation's power grid, we must protect consumers from energy market manipulation. We cannot let the market abuses that took place during the Western energy crisis a few years ago happen again. The ENRON Act would prohibit the use of manipulative practices like the schemes used by Enron and other energy traders that raised prices and put consumers, and the reliability of the electric transmission grid, at risk. We learned from this crisis that electricity markets need close Government oversight to ensure that companies do not engage in risky trading schemes leading to soaring energy prices and their own possible financial failure. In both cases, consumers—the people who depend upon the electricity these companies generate or trade—are the losers.

Energy market manipulation crippled the west coast during 2000–2001. Just last month, a former energy trader pleaded guilty to manipulating natural gas markets 2 years ago during the west coast power crisis. This trader admitted to supplying false reports to trade industry publications that calculate the price of natural gas indexes, which are used by derivative traders to buy and sell natural gas futures and real-time transactions. This manipulation apparently benefitted the energy company at the expense of energy consumers.

Other Enron-style trading practices include ''ricochet'' electricity deals. In a ricochet transaction, Enron sent California-generated power to another company. The electricity was then sold back to California, but billed as being generated outside the State. Prosecutors state that this practice allowed Enron to evade California electricity price caps. There is also the ''Death Star'' trading scheme. Apparently, Enron attempted to generate revenue by fraudulently charging fees for services Enron did not provide. Enron charged California for electricity that was not delivered. Charging the State for undelivered power prevented the State from alleviating backlogged transmission lines. This market manipulation scheme was especially harmful since it came at a time when part of the State experienced rolling blackouts.

In June, FERC deprived Enron of its right to trade power and natural gas. Even though the company is barred from the energy-trading industry it helped create, market manipulation remains a threat to consumers. In December 2003, another energy company agreed to pay $1.7 billion to resolve market manipulation claims brought by the California Public Utilities Commission and various business and residential consumers. Other companies allegedly bought and sold natural gas simultaneously at the same price to make demand appear greater.

The ENRON legislation requires the Federal Energy Regulatory Commission to prohibit the use of manipulative practices like these that put at