with this vote, which is fine with me, if I could be recognized following this vote to offer my amendment, I would very much appreciate that.

I would ask the Senator from Missouri whether I might be recognized following the vote.

Mr. BOND. Mr. President, on this side I am not authorized to enter into that type of UC. I assure the Senator and my colleagues on the other side we will work with them. There is a concern about moving into the commerce title. We will work with him if we can move forward on the consent for the judge vote; then we will work on this, if we can get consent for that.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Reserving the right to object, I will go along with what the Senator from Missouri requests. It is kind of unfair to the Senator from North Dakota. We have been begging people to offer amendments. He shows up to offer one and now we cannot do it. It doesn't seem very fair. We may be waiting a long time based upon statements by the chairman in the Chamber. I am happy—

Mr. DORGAN. Mr. President, reserving the right to object—and I will not object—if you want Members to come to the floor with germane amendments, I am here. I have been hearing that a lot today. I have one and it is not a big amendment. What I hear being said at the moment is perhaps you want to go through this bill by title, which is something I have not heard before. It should be open to amendment at any point. That is the reason that, for the last hour or so, I put this amendment together.

My hope is that the Senator from Missouri and those managing will understand, when we are ready to offer an amendment, you ought to welcome it. I hope when I seek recognition, you will allow me to offer it. I expect to speak 8 or 10 minutes. If you want to lay it aside then and work on it, I am happy to do that. I shall not object.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Missouri?

Mr. REID. Mr. President, when are we going to have the vote? It is past 4 o'clock.

Mr. BOND. I believe at this point it is necessary to revise the unanimous consent. First, I say to my friend from North Dakota that the title he wants to amend has not been offered. That is a problem on which we are going to have to work. We have only offered the EPW portion.

I asked unanimous consent that there be 5 minutes equally divided between the chairman and the ranking member and, thereafter, there be a vote on the nomination of Mark R. Filip, of Illinois, to be U.S. District Judge for the Northern District of Illinois.

I renew my request. Following the 5 minutes, I ask unanimous consent that the Senate proceed to a vote on the confirmation and, following the vote, the President be immediately notified of the Senate's action and the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF MARK R. FILIP TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS

The PRESIDING OFFICER. The clerk will state the nomination.

The legislative clerk read the nomination of the Mark R. Filip, of Illinois, to be U.S. District Judge for the Northern District of Illinois.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois is recognized.

Mr. FITZGERALD. Mr. President, I take just a few moments to introduce to my colleagues the nominee on whom we are going to be voting in a couple of minutes. I recommended Mark Filip to President Bush. President Bush nominated him. Senator DURBIN concurred in my recommendation to President Bush. I thank Senator DURBIN for his support in this effort. I also thank Chairman HATCH and Senator LEAHY on the Judiciary Committee, and all members of the Judiciary Committee, for helping to move this nomination forward to the floor.

I think one of the most difficult tasks most of us have in the Senate is finding outstanding nominees to the Federal judicial branch of Government. In many cases, at least from my perspective, the choice has been very difficult. Oftentimes, we will get 80 applicants for a single district court judgeship opening in Chicago and you have to pick just one person. That one person, obviously, is very happy and you have many others who are disappointed that they did not get chosen.

In this case, I was elated to find a person of such outstanding credentials that I could wholeheartedly recommend him to the President. I think in the case of this nominee, Mark R. Filip, we are in fact lucky to have someone of his caliber who is willing to leave a very lucrative practice in the private sector. He is now a partner at Skadden Arps' Chicago office. He is willing to leave that very prestigious position to move into public service and become a district court judge in the Northern District of Illinois.

Mark Filip lives in Winnetka, IL, with his wife Beth. They have four sons.

Mark grew up in Chicago and attended the University of Illinois at Champaign. He graduated summa cum laude from the University of Illinois. While there, he received many academic fellowships, including the prestigious Phi Beta Kappa fellowship. After graduating from U of I, he won the highly sought after Marshall Scholarship to attend Oxford. While there, he received a B.A. and M.A. in jurisprudence and won first class honors at Oxford. Returning from his Marshall scholarship to the United States, he matriculated at the Harvard Law School. He did similarly well at Harvard. He became an editor of the Harvard Law Review.

In Mark Filip's second year at Harvard, he won the Sears Prize, which is given annually to the two students of the second year class who achieved the highest grades. Ultimately, in the early 1990s, Mark Filip graduated magna cum laude from Harvard Law School.

He began his professional career in Chicago, serving as an associate at Kirkland & Ellis, one of the best and oldest firms in Chicago. After a couple of years in the Kirkland & Ellis Chicago office, he moved to the U.S. Attorney's Office and became an assistant U.S. attorney in the Northern District of Illinois, where he gained a lot of experience in a wide variety of criminal cases that he prosecuted successfully, including racketeering, white-collar crime, public corruption, tax fraud cases; and he successfully defended the U.S. Attorney's Office on appeal in many of those cases.

Mark Filip returned to the private sector. After leaving the U.S. Attorney's Office, he became an associate at Skadden Arps in 1999, and in 2001 he became a partner at Skadden Arps.

In recent years, he has been an adjunct professor of law at Northwestern University and the University of Chicago Law School, both outstanding institutions.

Now, again, I emphasize how delighted I am to be able to present to my colleagues in the Senate such a well-qualified nominee, Mark Filip, who is a very young man. He has four children, who range in age from 8 months to 6 years. He is in his late thirties, and I expect that if he goes on the district court in Chicago at this early age, he may well have the opportunity to rise to the circuit court of appeals.

I neglected to mention that between law school and his professional career, he had two very prized judicial clerkships. He served as a law clerk to Steven Williams on the DC Court of Appeals and then as a law clerk for Supreme Court Justice Scalia.

I am confident, having researched and talked to all those he has worked with over the years, that there is no question he will make a superior district court judge.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, today, we are considering the nomination of Mark filip to the U.S. District Court for the Northern District of Illinois. The vote today on Mr. Filip is the second vote on a judicial nominee this year, and demonstrates the Democrats'

remarkable cooperation on judicial nominations despite years of intensified Republican partisanship and unilateralism.

Over the past 2 weeks, I have shared with the Senate several disappointing developments regarding judicial nominations: The Pickering recess appointment, the renomination of Claude Allen, and the theft of Democratic offices' computer files by Republican staff. In spite of all those affronts, Senate Democrats cooperated to confirm a nominee last week and are cooperating to confirm another district court nominee today. We do so without the kinds of delays and obstruction that Republicans used with President Clinton's judicial nominees.

Last week, I discussed the recess appointment of Judge Charles Pickering to the U.S. Court of Appeals for the Fifth Circuit, which was President Bush's most cynical and divisive appointment to date. That appointment is without the consent of the United States 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. 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. The Pickering recess appointment is another dangerous step down the Republican's chosen path to erode judicial independence for the sake of partisanship and their ideological court-packing efforts.

The second disappointing development I spoke about last week was the renomination of Claude Allen as a nominee to the fourth Circuit. Two weeks 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. This refusal to compromise is just another example of the White House engaging in partisan politics to the detriment of an independent judiciary

Third, last week, I also mentioned with disappointment 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 to people outside of the Senate. This is no small mistake. It is a serious breach of trust, morals, the standards that govern Senate conduct and possibly, criminal laws. We do not yet know the full extent of these violations. But we do need to repair the loss of trust brought on by this breach of confidentiality and privacy if we are ever to be able to resume our work in the spirit of cooperation and mutual respect that is so necessary to make progress.

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.

Democratic cooperation with the President's slate of judicial nominees has been remarkable in these circumstances. 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 September 11 and their aftermath, as of today, the Senate will have confirmed 171 of President Bush' 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 1994.

The 69 judges confirmed last year exceeds the number of judges confirmed during any of the 6 years from 1995 to 2000 when 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 judges confirmed during any 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.

This week, the chairman of the Senate Judiciary Committee will hold a third hearing for circuit court nominees. Traditionally, the number of nominees who have received hearings and who are confirmed in a Presidential election year has been lower than in other years. In 1996, only four circuit court nominees by President Clinton received a hearing from the Republican Senate majority all year, and it took until July 31 to have a hearing for the third circuit court nominee. By that standard, Chairman HATCH has now moved seven times more quickly than he did for President Clinton's nominees in 1996.

In 2000, only five circuit court nominees by President Clinton received a hearing from the Republican Senate majority. Of course, two of those outstanding and well-qualified nominees in 2000 were never allowed to be considered by the committee or the Senate. By contrast, as of tomorrow we will have held hearings for three circuit court nominees. By the standard Republicans set in 1996 and 2000, we would be done for the entire year.

I congratulate the Democratic Senators on the committee for showing a spirit of cooperation and restraint in the face of a White House and Republican majority 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 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.

That we are proceeding to confirm Mark Filip today is another example of extraordinary Democractic cooperation to fill vacancies in the Federal judiciary, despite the Republicans' consistent and unprecedented attacks. Unfortunately, Mark Filip is another young, Federalist Society member whose record raises concerns, just as the record of far too many of President Bush's judicial nominees.

First, Mr. Filip is only 37 years old. He has been out of law school less than 12 years and just a decade ago he was clerking across the street for Justice Scalia. Second, his record demonstrates a partisan, political background. Mr. Filip worked as a volunteer Republican election monitor in Broward County, Florida during the manual recount of ballots in the contentious 2000 election. Mr. Filip has also made several contributions to Republican candidates and political action committees. While in law school,

he was vice president of the Harvard Law School Federalist Society and he authored an article entitled ''Why Learned Hand Would Never Consult Legislative History Today.'' In this article, Mr. Filip argues that legislative history should be rejected by judges because it reflects nothing more than the desires of congressional staff and lobbyists, and because it does not reflect the majority will of Congress. More important, Mr. Filip wrote that, when confronted with statutory language that would lead to an absurd result, a judge should apply his or her own reasoning rather than legislative history.

The senior Senator from Illinois met with Mr. Filip to address his background and suitability to be a Federal judge.

Senator DURBIN is a thoughtful man and I respect his judgment. Senator DURBIN's willingness to supply this nomination says alot. I am hopeful that Mr. Filip will be a person of his word; that he will follow the law and not seek out opportunities to overturn precedent or decide cases in accord with his private beliefs rather than his obligations as a judge. I also sincerely hope that Mr. Filip will treat all those who appear before him with respect, and will not abuse the power and trust of his position. Sometimes, we take a risk allowing a nominee to be confirmed. This is, frankly, one of those times.

Unfortunately, the Senate has taken a risk and confirmed other nominees of this President who assured the committee that they would follow precedent and would not be results-oriented. In their brief time on the bench, they have already proven to be judicial activities eager to roll back individual rights and limit the authority of Congress to protect civil rights. A number of President Bush's 30 circuit court nominees already confirmed by the Senate have written significant opinions that show their bias in favor of powerful business interests over individual Americans.

For example, Jeffrey Sutton was one of Bush's most controversial appellate court nominees to be confirmed. At the time of his nomination, his record raised serious concerns. He had aggressively pursued a national role as the leading advocate of States' rights and pushed extreme positions in order to limit the ability of Congress to act to prevent discrimination and protect civil rights. His answers to questions posed by Judiciary Committee members did not show that he would be able to put aside his years of passionate advocacy in favor of States' rights and against civil rights. After a lengthy floor debate, he was confirmed by a vote of 52–41, which was the fewest votes in favor of any judicial nominee in the last 20 years and more than enough negative votes to have sustained a filibuster.

In less than 1 year on the bench, he has already issued a dissenting opinion essentially in favor of States' rights and that would have limited Congress' authority under the Commerce Clause. In this case, decided in December, the question was whether a core function of municipal government—the provision of firefighting services—impacts interstate commerce such that an individual can be indicted under a Federal antiarson statute for destroying a fire station. The majority Sixth Circuit panel held that the fire station was used in an activity affecting interstate commerce, relying on the express language of the statute.

Judge Sutton's dissent is a remarkable opinion whose beginning evidences that he has turned his passionate advocacy into judicial activism. His opinion begins, ''Some say the world will end in fire, Some say in ice.'' Judge Sutton concludes that the Federal arson law only applies to buildings with an ''active employment for commercial purposes,'' thereby seeking to narrow the law significantly. His opinion forcefully states that to ''conclude otherwise is to embrace the view that even the most attenuated connections to commerce will suffice in prosecuting individuals under this statute.'' In Judge Sutton's view, arson is a local crime and the ''National Legislature'' had not clearly conveyed its purpose to regulate an area traditionally regulated by the States.

Ironically, his dissent cautions that ''Federal courts should not casually read a statute in a way that alters the Federal-State balance.'' However, he himself ignores the plain language of the statue and legislative history in his attempts to do just that—to alter the balance in a way that favors his own personal and ideological view of States' rights.

John Roberts is a second controversial nominee who, in his few months on the bench, has already displayed a preference for pursuing political and ideological goals above following precedent. Judge Roberts recently issued a troubling dissent from a decision by the full D.C. Circuit that would have indulged another request by the Bush administration to keep secret the records of Vice President CHENEY's energy task force.

The case was part of a continuing effort on behalf of the Vice President to avoid compliance with numerous court orders requiring him to provide records of his meetings with the National Energy Policy Development Group. Two nonprofit organizations brought litigation claiming that the Vice President's task force had violated Federal law by not making its records public. In order to maintain the secrecy of these records, the Vice President had filed an emergency petition for a remedy that the majority noted ''is a drastic one, to be invoked only in extraordinary situations.'' The majority in the case stated that, were they to accept the Vice President's arguments, they would in effect ''have transformed executive privilege from a doctrine designed to protect Presidential communications into virtual immunity from suit'' and noted that ''the President is not 'above the law,' he is subject to judicial process.''

The full D.C. Court of Appeals denied Vice President CHENEY's petition for rehearing en banc. Judge Roberts dissented. He would have indulged the Vice President's desperate attempts to avoid compliance with court orders by granting a motion for rehearing, despite the fact that the D.C. Circuit's five judge majority was the fourth panel of judges to hold that these records must be made available.

A third example of a recently confirmed Bush nominee who has continued to pursue his ideological and political agenda on the bench—as many of us feared at the time of his nonimation—is Judge Dennis Shedd. Judge Shedd wrote the opinion in a ruling so hostile to organized labor that one of the most conservative judges on that court harshly stated that Shedd's opinion ''overstepped [the] boundaries of a reviewing court.''

In this case, the National Labor Relations Board and an administrative law judge found that an employer had unlawfully solicited nine of its employees to sign antiunion statements and had unlawfully withdrawn recognition of the union. Judge Shedd ignored the applicable standard of review and asserted his own view of the facts to conclude that the NLRB had erred in its determination. Approaching the case from a position hostile to organized labor, Judge Shedd ''reconstructed'' the facts of the case, and allowed an employer, who had previously been found to have used illegal tactics in order to decertify a union, to escape any responsibility. Judge Wilkinson's strong dissent highlighted the expertise of the NLRB in examining an employer's conduct and that the reviewing court's role was limited to determining whether the NLRB had taken a permissible view of the evidence.

In other cases, as many of us had feared, President Bush's circuit court nominees are already handing down decisions to roll back individual rights, civil rights and Congress' authority. Among these are:

A majority opinion by Judge Gibbons, on the Sixth Circuit, which fails to provide accommodation to a person with multiple sclerosis under the Americans with Disabilities Act;

A dissent by Judge Shedd in a bankruptcy case, which would have led to foreclosure on a family farm—a decision which the majority said ''misses the mark''; and

A dissent by Judge Rogers in a Title VII case involving illegal retaliation against an African-American employee which would have made it difficult for any employee to present their retaliation claims to a jury.

The President has claimed time and again that he seeks only to fill the bench with judges who will follow the rule of law. He claims that he ''has no litmus test'' for determining who will

and will not be appointed—that he makes his decisions based on the qualifications of the candidates. Despite these statements, the President's nominees seem to have certain striking similarities. They seem to favor powerful interests over individuals. They favor States' rights over civil rights. And many of them are all loyal Federalist Society members and committed to the political agenda of the most conservative wing of the Republican Party. The Senate's constitutional duty to provide advice and consent on judicial nominations is vital in these circumstances—Federal judges must be devoted first and foremost, not to a political platform or certain parties, but to the rule of law, the Constitution, and the basic principles of fairness and justice.

If we are to allow the President to pack the courts with political party loyalists and radical right-wing ideologues, we will cease to have a Government of laws and will end up with a Government controlled by the views of a few. We would risk having a judiciary that functions as a rubber stamp for any right wing argument, policy, or political goal sought to be achieved via the courts.

Yet, despite the troubling records of so many of Bush's confirmed judges and the other disappointing developments this year, Senate Democrats have confirmed vast members of nominees who have come to the Senate floor and are today again making sure that the process of judicial appointments moves forward. Democrats have not obstructed the confirmation process for judicial and executive branch nominations as Republicans did when President Clinton was in office. Today, we proceed to confirm a judicial nominee in spite of the President's recent actions, those of Senate Republicans, and serious reservations about this nominee.

Mr. Filip's nomination was reported favorably to the Senate last October. Had the Republican leadership wanted to proceed on it, this nomination could easily have been confirmed in October, November, or December last year before the Senate adjourned. Instead, partisans chose to devote 40 hours to a talkathon on the President's most controversial and divisive nominees rather than proceed to vote on those judicial nominees with the support of the Senate. The delay in considering this nomination is the responsibility of the Republican leadership.

I congratulate Mark Filip and his family on his confirmation.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Mark R. Filip, of Illinois, to be a U.S. District Court Judge for the Northern District of Illinois?

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 8 Ex.]

YEAS—96

Akaka	DeWine	Lott
Alexander	Dodd	Lugar
Allard	Dole	McCain
Allen	Domenici	McConnell
Baucus	Dorgan	Mikulski
Bayh	Durbin	Miller
Bennett	Ensign	Murkowski
Biden	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Breaux	Frist	Pryor
Brownback	Graham (FL)	Reed
Bunning	Graham (SC)	Reid
Burns	Grassley	Roberts
Byrd	Gregg	Rockefeller
Campbell	Hagel	Santorum
Cantwell	Harkin	Sarbanes
Carper	Hatch	Schumer
Chafee	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Clinton	Inouye	Smith
Cochran	Jeffords	Snowe
Coleman	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kohl	Stevens
Cornyn	Kyl	Sununu
Corzine	Landrieu	Talent
Craig	Lautenberg	Thomas
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lincoln	Wyden

NOT VOTING—4

Edwards	Kerry
Hollings	Lieberman

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

The Senator from Nevada.

Mr. REID. Mr. President, very briefly, we have just approved the 171st judge during the Bush administration. There have been 171 judges approved. To my knowledge, there have been four he submitted who have not been approved, other than those who are going through the committee process. So the score is 171 to 4. A good average, I think.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will continue consideration of S. 1072.

The Senator from Missouri.

AMENDMENT NO. 2265 WITHDRAWN

Mr. BOND. Mr. President, I withdraw amendment 2265.

The PRESIDING OFFICER. The Senator has that right.

The Senator from North Dakota.

AMENDMENT NO. 2267

(Purpose: To exempt certain agricultural producers from certain hazardous materials transportation requirements)

Mr. DORGAN. Mr. President, prior to the vote I indicated I had an amendment. I want to begin the discussion very briefly of the amendment. The amendment is one I have worked on for some while. It deals with a relatively small issue with respect to the context of this bill, but a rather large issue for family farmers. Let me describe what it is.

There was a justifiable effort to address issues dealing with homeland security by the Department of Transportation. They issued regulations that would regulate the shipment and transport of hazardous material in commerce in amounts that require the shipment to be placarded and also to implement security plans for that shipment.

The difficulty and the problem is this. The way the Department of Transportation developed this rule, the rule will apply to family farmers, for example, who have a 120-gallon fuel service tank in the back of their pickup truck. Those farmers are not going to have a security plan for that pickup truck and for that service tank.

It is perfectly logical to want to regulate for safety purposes the shipment of hazardous materials.

Let me give you an example of where this goes when the definitions are not carefully crafted. I was a senior in high school when myself and two of my best friends decided to go to the Black Hills of South Dakota for a weekend. It was a pretty big deal for us. We took a pickup truck and we had a 120-gallon service tank full of gasoline. We had a few dollars, and we bought 120 gallons of gasoline and a relatively new pickup, for three seniors in high school. We were prepared to have a pretty good time. If that happened today, we would under the current rules be required to have a security plan in place prior to taking our pickup truck and 120 gallons of regular gasoline on our trip to the Black Hills of South Dakota. Three high school seniors are not going to have a security plan to get enough gasoline to go to the Black Hills and have a good time. Why would we need a security plan? Because anything over 110 gallons of fuel, propane, chemicals, or hazardous materials will be required to have a security plan. Forget about three seniors who went to the Black Hills.

How about a farmer who has that 120-gallon service tank in the back of his pickup truck who stops at a local cafe and goes in to buy a cheeseburger? He is in violation of this rule by the Department of Transportation unless he can physically see his pickup truck through the window because he will be required to have a ''security plan'' and have a placard.

Again, when I was a young boy, my dad sent me to Dickinson, ND to get 5