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Senate

The Senate met at 9:15 a.m. and was called to order by the President pro tempore (Mr. STEVENS.)

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, the Rev. Canon Martyn Minns of Fairfax, VA.

PRAYER

The guest Chaplain offered the following prayer:

Almighty God, we thank You for blessing us as a nation. We pray that we would always be a generous people, eager to share the gifts of freedom, respect for human dignity, and commitment to service, with all the peoples of the world.

We pray for all who suffer and are afflicted in body or mind, especially those who face the devastation of HIV/AIDS and the unfolding terror of SARS. Grant them healing and comfort, and stir up in us the will and patience to minister to their needs.

We commend to Your gracious care all the men and women of our Armed Forces. Defend them day-by-day with Your heavenly grace, and give them a sense of Your abiding presence wherever they may be.

We thank You for the men and women of this Senate, and for all who serve in this place. Grant them the spirit of wisdom, charity and justice; that with steadfast purpose they may faithfully carry out the work set before them.

All this we pray because of the love first shown us in the call of Abraham and Sarah and now revealed to us in the life and witness of Jesus the Christ.

Amen.

PLEDGE OF ALLEGIANCE

The Honorable TED STEVENS led the Pledge of Allegiance, as follows:

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

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SUNUNU). Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Senator from Utah is recognized.

SCHEDULE

Mr. HATCH. Mr. President, for the information of all Senators, this morning the Senate will resume consideration of the Owen nomination. Under the order, at 10:15 the Senate will proceed to a rollcall vote on the motion to invoke cloture on the nomination of Priscilla Owen to be a circuit judge for the Fifth Circuit. If cloture is not invoked, the Senate will begin consideration of the nomination of Edward Prado to be circuit judge. It is hoped we will reach a short time agreement with a vote on that nomination to occur by early afternoon.

In addition to the Owen and Prado nominations, the Senate may also consider the Cook nomination. As the majority leader stated last night, we have attempted to work out a unanimous consent agreement to process these judicial nominations. Unfortunately, we were unable to reach an understanding last night. There continues to be hope that as these nominations are considered we would be able to reach reasonable time limitations for their consideration.

In addition, the leader is still working toward agreements for considering and completing a number of other legislative matters, including the FISA legislation, the State Department authorization bill, the Bioshield legislation, or additional judicial nominations during today's session. Therefore, Senators should expect rollcall votes throughout the day.

MEASURES PLACED ON THE CALENDAR—S. 14 AND H.J. RES. 51

Mr. HATCH. I understand there is a bill and a joint resolution at the desk which are due for a second reading.

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. I ask unanimous consent it be in order to read the titles of the measures en bloc.

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

The clerk will read the titles of the bills en bloc.

The legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes,

A joint resolution (H.J. Res. 51), increasing the statutory limit on the debt.

Mr. HATCH. I ask that the Senate proceed en bloc to the measures, and I object to further proceeding en bloc.

The PRESIDING OFFICER. The objection having been heard, the bills will be placed on the calendar.

Mrs. BOXER. Will the Senator yield for a question? Just on the matter of timing.

Mr. HATCH. I will be delighted.

Mrs. BOXER. Mr. President, I have a markup at 9:30. I wanted to make a 5-minute statement on the judicial nomination. If we can do that and I will give Senator HATCH that 5 minutes back on his time, would that be acceptable?

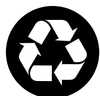
Mr. HATCH. I think the 5 minutes will be taken from the minority side.

Mrs. BOXER. Yes, that is what I suggested.

Mr. HATCH. I am happy to yield so the Senator can make her statement.

Mrs. BOXER. That is very kind. I appreciate it.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.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EXECUTIVE SESSION

NOMINATION OF PRISCILLA OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session. The clerk will report the pending business.

The legislative clerk read the nomination of Priscilla Richmond Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. Under the previous order, there will now be 1 hour of debate divided in the usual form, prior to the vote on the nomination of Priscilla Owen to be circuit court judge for the Fifth Circuit.

The Senator from California.

Mrs. BOXER. Mr. President, I again thank my colleague for allowing me to move forward on this because of a commitment to a markup in the Commerce Committee.

I rise to express my deep concerns regarding the nomination of Priscilla Owen to the U.S. Fifth Circuit Court of Appeals. I have noted there is a lot of politics around this particular nomination, as there is around the Miguel Estrada nomination. I read the Republican Party is planning to run ads against those of us who vote against these nominees, saying we do not want to see diversity on the bench.

Let me say that is extraordinary because as someone who worked so hard to support qualified minorities and women, I have been praised by many in my State for doing just that. But I have to tell you, if you place on the bench a minority or a woman who has animosity toward the goals of minorities and women, you are dealing a great setback to both minorities and women. I will make that point when I have to.

But as for today, I point out I voted for well over 90 percent of the President's appointees up to this point in time, but I cannot support this nomination. This is why.

President Bush pledged to govern from the center. Those were his words. Yet this nominee is so far from the center that she is almost off, to the right. She is barely on that line at all. That differs from the mainstream values of my constituents and I believe of the majority of Americans.

In such important areas as reproductive rights, civil rights, consumer rights, and environmental protection, this nominee has legislated from the bench. She inserted her personal beliefs into the judicial process.

I have to say even members of her own party, and even Mr. Gonzales, who is White House counsel, has criticized her for that.

What is particularly troubling to me is that I believe in the advice and consent role of Senators in the nomination and the confirmation of judicial nominees of any President, be that President a Democrat or a Republican. As we have heard many times from historians, the selection of judges and the confirmation of judges is a shared responsibility. So it is not a question of whether they are Clinton judges or Carter judges or Bush judges; they are America's judges. As such, there has to be a role for the Senate and for the executive.

This President knew very well that this particular nominee was well off the center. He knew very well there was deep objection to her. She was voted down once before. Yet he comes right back with this nomination.

I have made it a priority of mine in this Senate to stand up for the mainstream values of people of my State. So I cannot possibly support this nomination. I wish to outline a case that illustrates Priscilla Owen's callous attitude toward individuals who are fighting against large corporate interests and their well-paid legal defense teams.

A young man in Texas was paralyzed in a car accident. His injuries were made much worse because of a malfunctioning seatbelt, and his family took the automaker to court. The case made its way to the Texas Supreme Court on appeal.

Judge Owen waited 16 months before issuing a decision in that case, in that Ford Motor case. When she did, she essentially sent the case back and created a substantial roadblock for this paralyzed teenager to receive funds to pay for his medical care. There were 2 years of delay on a procedure issue that was never raised in the case but was raised by her, and this young man died. This young man died. His family couldn't afford around-the-clock monitoring of his ventilator. This is a truly tragic example of delayed justice.

I could go into detail about the fundamental right to choose in which Justice Owen set up a barrier to a young woman who was seeking to end her pregnancy. When she issued her opinion, it dealt with having to seek religious counseling, which was not part of the law. In that case, Judge Gonzales, who as you know is White House counsel to this President, said:

> To create hurdles that simply are not to be found in the words of the statute would be an unconscionable act of judicial activism.

That is a quote from Mr. Gonzales regarding Judge Priscilla Owen, criticizing her for judicial activism.

I know the issues of judges are very touchy. Senator HATCH, when President Clinton was President, told me—he said it with a twinkle in his eye: Senator, don't send me judges that are outside the mainstream.

You know, I didn't. Senator HATCH helped me. He helped me get these wonderful people confirmed.

Now we have a circumstance where we are not getting our judges from the mainstream. We are getting some. I have supported 90 percent of these judges. But in this case——

Mr. HATCH. Will the Senator yield for a question?

Mrs. BOXER. I certainly will. I just want to finish my thought.

In this particular case, I think this is a nominee who is outside the mainstream and who was criticized for that by the President's White House counsel.

I am happy to yield to my friend.

Mr. HATCH. Is the Senator aware that there is an ample record that even Judge Gonzales admits he was not criticizing her as an activist, he was criticizing the court. She didn't write the opinion. That has been more than established. Yet we keep hearing Senators on the floor of the Senate and elsewhere saying Judge Gonzales directly criticized her. He didn't. I think the record is pretty clear on that.

Mrs. BOXER. I will have printed in the RECORD my understanding of what actually happened here.

In the case of the 2-year delay, I find that was unconscionable.

The point is this: I will support candidates who are from the mainstream. I want to do that. The chair of the Judiciary Committee has changed his attitude about who is going to get through this Senate. During the Clinton years, you had to have someone from the mainstream. During the Bush years, you can have people from the far right of the spectrum. My constituents do not think that is fair. We had a situation during the Clinton years that two Senators had to sign off on a judge before there would even be a hearing. Oh, no, now the committee has changed its mind. Suddenly, because they have a Republican in the White House, two Senators don't have to sign off and they are pushing forward with hearings.

It is wrong. It is not right. I would say regarding this particular nominee, you have very moderate Members of this Senate saying she is a judicial activist and any words to the contrary can be disproven by her record. I think this is someone who does not come from the center, does not come from the mainstream. I think this is a President who, in this case, has not sought the advice and consent, really, of the Senate. He is essentially saying we don't care that you Democrats—none of you—vote for her. I should not say none—maybe one. Certainly none on the committee. We are going to go right back and bring her back here.

This is a lifetime appointee. I think when we make these types of appointments, we have to make sure the person who is being nominated is not going to be an activist, make sure the person has demonstrated the types of qualities we want on the bench.

I don't think it is a quality you want on the bench when a woman waits 2 years before she renders a decision in a case of a paralyzed teenager whose parents didn't have the money to keep their teenager on a ventilator. And the record shows otherwise? I know what the record is. We have people combing that record. That is why you are going to see very many women in this Senate take this floor. I will repeat, when you put a woman on the bench who has a

record of not really helping women—I have seen it in this case, and I have seen it with other nominees who will be coming before us. I will take a second seat to no one in the advancement of women. Every time I have sought the support of bipartisan women's groups, I have gotten it because of that. Anyone who says Democratic women coming here speaking up against this nominee are not for women ought to study that record as well.

I think the Federal courts deserve better than this nominee. I think the American people deserve better than this nominee. I could go on and on about the record.

Let me briefly outline a case that illustrates Priscilla Owen's callous attitude towards individuals who are facing large corporate interests and their well-paid legal defense teams.

A young man in Texas was paralyzed in a car accident. His injuries were made much worse because of a malfunctioning seatbelt. His family took the automaker to court. The case made its way to the Texas Supreme Court on appeal. Justice Owen's unexplained 16-month delay in writing the court's opinion in the Ford Motor Company v. Miles case created a substantial roadblock for this paralyzed teenager to receive funds to pay for his medical care. Priscilla Owen was responsible for two of the five years of delay and finally issued a decision that was based on a procedural issue never raised in the case. All of her colleagues on the court believed she had improperly delayed the case.

The young man died approximately seven years after his accident because his family could no longer afford round-the-clock monitoring of his ventilator. To date, his family has not received any funds. This is truly a tragic example of delayed justice. This is an unprecedented attempt to manipulate the Senate's role in the confirmation process. The Judiciary Committee rejected this nominee last year.

The committee performed its constitutional rule and voted against Justice Owen. However, the White House renominated her to the same position. How could they not have gotten the message the first time?

This process makes a mockery out of the Senate's constitutional ''advice and consent'' role. The blatant disregard of the Senate's constitutional role is leading us into uncharted territory. Let me say this again that Justice Owen was rejected by the Senate Judiciary Committee—10–9 on September 5, 2002. The long list of concerns about her record that caused the majority of committee members to vote against her last year still exist.

I have made it a priority in my career to stand up for consumers and those who find themselves up against huge corporate interests. The people of California know all too well how difficult it is to take on powerful companies. The playing field is far from balanced.

In other areas, Justice Owen has consistently attempted to chip away at women's fundamental reproductive rights.

In the case of Doe I—2000—Justice Owen argued that a minor must meet a restrictive standard to establish that she is sufficiently well informed about her choice to have an abortion. Among other things, she would have to show that she had received counseling about the religious arguments surrounding abortion, despite the fact that the law in no way involves religious considerations.

The Texas statute states that a minor need not inform her parents before seeking an abortion if the court finds one of three things.

No. 1, that the minor is mature and sufficiently well informed to make a decision; or

No. 2, that parental notifications would not be in her best interest; or

No. 3, that notification may lead to physical, sexual, or emotional abuse.

That is all it says.

I have to go to a markup. But we can try to rewrite the facts all we want. We can rewrite and put another spin on it. We can say, oh, the criticism wasn't toward her, when in essence my belief is that was her point of view that was being espoused. But that is fine. I understand this is a fight. I am willing to take this fight. I was very proud to say that the people in my State want me to stand up in these situations because it goes to the heart of the role of the Senate and it goes to the heart of what kind of country we will have. It goes to the heart of what kind of judges we will have. Will they be compassionate? Will they be fair? Will they stand up for the rights of women? Will they stand up for the little guy against the big corporation? You have to look at this particular record. You are not going to find someone who doesn't.

I thank my colleague, Senator HATCH. I know he strongly disagrees with me. I think that is fine. But he is very kind to allow me to go first so I can go to my hearing for the reauthorization of the FAA.

Thank you very much. I yield the floor and reserve the remainder of the Democratic time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have listened to my distinguished colleague. I have to say that if there has been any attempt to rewrite the facts, it is by those who have spoken as my friend from California has.

First of all, they seem to think on that side that they advance women when they only advance women who agree with their particular position. They don't even realize that Priscilla Owen agrees with many of their positions as she does with other well-thought-out positions. They think the advancement of women depends only on if you have women who are going to be pro-abortion.

I might add that I don't know where Priscilla Owen is with regard to abortion because she has not told me. She has not told the committee that, but she has said what has to be the hallmark of what judgeship nominees should say—that she will uphold Roe v. Wade as a court judge, which is all you can ask of anybody. Regardless of what her personal views are, she is going to uphold it. Yet we hear this argument that they are advancing women because they are keeping a woman who is unanimously well qualified by their gold standard—the American Bar Association, which is not a conservative organization by any stretch of the imagination—they are keeping her from serving this country. They continue to misquote Judge Gonzales as though he was directly attacking Priscilla Owen when he himself admits he was not—and other judges from that Supreme Court of the State of Texas say he was not.

Senator CORNYN, who served with her and was sitting beside her, said those criticisms weren't directed directly at her. That is distortion. It is unworthy of this body. But it is going on all the time.

On the tort case—I know the distinguished Senator from Texas is here, and I will yield to her as soon as she is ready—they bring up again the distortion that she held a case up until this young boy died. Let me make some important observations about the majority opinion Justice Owen wrote in Ford Motor Company v. Miles because I think there has been some serious confusion about the case and it is very apparent that the distinguished Senator from California is confused. This is the case involving a car accident victim named Willie Searcy who, tragically, passed away years after his accident but before the litigation was resolved. I have addressed this issue over and over. But it looks as if I must go through it again.

The accusation was once made that the victim passed away before the Texas Supreme Court ruled on his appeal. Justice Owen more than set the record straight last July. The victim passed away 3 years after the opinion was issued. Yet we hear this again on the floor.

When are the Democrats going to quit distorting President Bush's nominee's record?

I have to admit that I used to think this was—well, just interesting. But it has gone on and on. And after you show them the facts, they still distort it. I would have thought that issue moot because the opinion was issued 3 years before he died. But some interest groups continue to make this allegation in spite of the facts. I suspect that the New York Times just copies the letters in the editorials of People for the American Way. It is unbelievable.

The allegation was made that Justice Owen's opinion was improper based on the issue of venue; in other words, the question of whether plaintiff's lawyers filed the case in the county that didn't have jurisdiction over the dispute.

Some allege that this issue had not been raised by the parties in the lower courts. Again, Justice Owen set the record straight in no uncertain terms. The venue issue was properly considered in the Texas Supreme Court. The entire court agreed that it was appropriate for the court to resolve the venue issue.

Again, they are wrong, and they are distorting this case.

I don't think there is any reason for that type of distortion. We have explained it over and over. Justice Owen was more than clear. Yet they are smearing this judge who has the highest rating of the American Bar Association—unanimously well qualified. That doesn't happen very often.

It must also be emphasized that under Texas law the court was required to address the issue of venue. The court found that the case was filed in the wrong venue. It was required to reverse the verdict. It had no other option. The Texas statute governing this issue read:

On appeal from the trial on the merits, if venue was improper, it shall in no event be harmless error and shall be reversible error.

In other words, the court must reverse if improper venue is found.

In all honesty, to ensure there is no confusion about the problem with venue, let me say there was no question but that Dallas County was the proper place to bring the suit because the plaintiffs lived there, bought their truck there, and that is where the accident took place. Inexplicably, the lawyers filed in another county, Russ County—having absolutely no connection whatsoever to the plaintiffs or the accident. It looked like forum shopping—something that should not be permitted by the courts, under any circumstances, no matter how badly a person might have been injured.

If we read between the lines, we can see that the lawyers were forum shopping—looking for a favorable jury—something that should not be allowed by any court in this land, especially when it is clear cut that the venue was in Dallas County.

It must also be noted that the court's decision did not prevent the case from being filed in Dallas County or refiled.

I am a little tired of the smearing of these nominees. I am not saying intentional smearing, although it is reaching that point when you have to say over and over, when the justice explained herself and made it so abundantly clear, and we have made it over and over ourselves, and the record is so doggone clear. Why would we have, time after time, people coming out here saying they are advancing the cause of women by smearing this woman justice and keeping her from serving her country on the circuit court of appeals?

One last thing: The Senator also complained because she has objected to another nominee when we have the blue slip back from the other Senator from the State. There has never been a rule, since Senator KENNEDY was the chairman of the committee and was the one who established the rule that I followed, that says a single Senator can stop a circuit court of appeals nominee of the President of the United States.

Senator KENNEDY's ruling, even with regard to district courts, was that the opinions of the Senators with regard to blue slips will have great weight, but they will not be dispositive, especially where there is no reason for the withholding of a blue slip. And in this case, there is basically no reasoning, and in this other case of Carolyn Kuhl.

So I want to set the record straight there. No President would agree to, and this Senate should not agree to, one solitary Senator, for political reasons, refusing to return a blue slip on a circuit court of appeals court nominee where that circuit court of appeals nominee, once on the court, will be representing the whole country, but, of course, all the States in that particular circuit.

I notice the distinguished Senator from Texas is in the Chamber, so I will yield——

Mrs. HUTCHISON. Up to 10 minutes.

Mr. HATCH. Up to 10 minutes to the distinguished Senator from Texas. I will continue my remarks afterwards.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Thank you, Mr. President. And I thank the chairman for yielding time to me to talk about someone I know well, someone I have observed over the years, and who is one of the most outstanding people I have ever seen nominated for a Federal bench. She is a legal scholar. She has the temperament for a judge. And I think nothing shows her temperament better than her demeanor during the ordeal through which she has been put.

She has been held up since May 9, 2001. She has had two hearings—not one—in which she was grilled by members of the Judiciary Committee, and she came out spotlessly clean. And even Members who today are going to vote against her have said she is one of the most qualified legal scholars they have seen before their committee. In fact, I have to say, I think there are a number of Democrats who really think she should be confirmed, but they are being held back by the special interest groups and the pressures not to confirm this qualified woman.

Justice Priscilla Owen is an 8-year veteran of the Texas Supreme Court. She graduated cum laude from Baylor Law School. She earned the highest score on the Texas bar exam that year. She was a practicing lawyer before she was nominated for the supreme court. And she has been elected since her nomination and won over 80 percent of the vote of Texans and was endorsed by every newspaper in Texas.

She enjoys broad support. The American Bar Association, as the distinguished chairman mentioned, has voted her unanimously well qualified. The Dallas Morning News called her record one of accomplishment and integrity.

The Houston Chronicle wrote: She has the proper balance of judicial experience, solid legal scholarship, and real world knowhow. This is exactly what we want in judges, people who have been in the real world, who have practiced law, who know what it is to be in a courtroom and see two sides of the issue. She also has the academic qualifications that you would want in a judge.

I cannot think of any better qualification. She has been supported across the board by people with whom she has served, both Democrat and Republican.

Let me read the words of former Texas Supreme Court Chief Justice John Hill, who also served our State as attorney general. He is a Democrat. He denounced the false accusations about Priscilla Owen's record by special interest groups. He said:

Their attacks on Justice Owen in particular are breathtakingly dishonest, ignoring her long held commitment to reform, and grossly distorting her rulings.

Tellingly, the groups made no effort to assess whether her decisions are legally sound. He said:

I know Texas politics and can clearly say that these assaults on Justice Owen's record are false, misleading, and deliberate distortions.

In addition, another judge with whom she served on the Texas Supreme Court, Raul Gonzales, gave her a sterling endorsement.

Two former State bar presidents who are women—there have not been but three or four women State bar presidents, one of whom is Harriet Miers, who supports Justice Owen; she is now counsel to President Bush—yesterday Colleen McHugh, a Republican, a former State bar president, and Lynne Liberato, a Democrat, a former State bar president, ringingly endorsed Justice Owen.

These are the people who have seen her in action, who have seen her opinions, who have worked before her court on both sides. They have won, they have lost, and they have given her the ringing endorsement.

I think there are two areas where the other side has distorted the facts. It has continually been quoted, Judge Gonzales' opinion dissenting from the opinion of Justice Owen—hers was the dissent; his was the majority—in which he said he thought she was being judicially active. But Judge Gonzales is the very person who recommended her to the President for the Fifth Circuit slot because he looked at the totality of her record, and he felt that she was the best qualified person for this nomination.

He held her in such high regard that he singled her out and took her from the supreme court to suggest that she should be on the Fifth Circuit because he knows that she follows the law as she sees it and does not allow her personal opinions to interfere, which is why I think she has been attacked by

the pro-abortion groups who misunderstand her opinions.

Texas has a parental notification statute on abortion. The law was passed in the year 2000. This is not parental consent; it is parental notification. So in the years since the law was passed, the supreme court has been called upon to look at the lower court opinions. Justice Owen has voted with the majority 11 times out of 14. And, in fact, out of those 14 cases that have come before the court, only 3 have reversed the lower court opinions.

I think the reason Justice Owen has so adhered to the lower court fact finding is for the very reason we want her on the bench; that is, that she believes the trier of fact is the court that should make the decisions on fact; and unless there is a reason to believe that lower court has misconstrued the intent of the legislature under the law, that court should not be reversed. Even if she believes that maybe the court made a mistake on the facts, she does not put herself in the place of the fact finders since she is not the one who heard the facts in person.

She is not a judicial activist. She is the opposite. In fact, her record shows that she has gone far beyond what most judges do not to put her personal opinions in place. I do not know what her views on abortion are. She has never told anyone what her views on abortion are because she does not ever intend to let her personal views skew an opinion on this very sensitive issue.

She also said, in defending her record on these issues, that she took the Supreme Court of the United States interpretation of the words that would define when a young woman under the age of consent would be able to make the decision on her own without notifying her parents. She took the U.S. Supreme Court, which is exactly what a judge should do.

So I think Justice Owen has been put into the political meat grinder in Washington, DC. Anyone in Texas you would ask—now, I am not saying that everyone in Texas would say she is their choice; I am not saying that because I have not talked to everyone in Texas about her in particular, but the vast majority of people who know her best, who have practiced before her court, who know the supreme court and what it takes to be a good judge, they have come up here, Democrats and Republicans—not just Democrats and Republicans, leading Democrats and Republicans, the former Democratic attorney general, the former Democratic supreme court chief justice, and another former Democratic justice on the supreme court—they have come forward to say she should be confirmed, that they support her, that she is the right kind of person for a judgeship.

I hope we will be able to meet the 60-vote standard the Democrats are now setting for many judges. That 60-vote standard is wrong. It is against the Constitution. She deserves a vote. She should have the 51-vote standard as the Constitution intended. I hope the Democrats will give her that chance. She is the most qualified person for this position we could ever put forward. I know her personally. I know her integrity. I know what a wonderful human being she is. I have seen her demeanor as she has gone through this meat grinder.

I hope the Senate will give her the dignity she deserves and confirm her today.

Mr. HATCH. Madam President, how much time do I have?

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Utah has 11 minutes remaining.

Mr. HATCH. Let me continue then.

This body is in danger of blowing up. I just read a letter Senator SCHUMER sent to the President yesterday suggesting that we should take this authority from the President to nominate the judges and set up judicial nominating commissions in every State. There is no President in his right mind who would consider doing that. There is no reason a President should. To make a long story short, the Senate is broken. The process is broken. Senator SCHUMER admits it. He writes:

DEAR MR. PRESIDENT: Six months ago you described the judicial nomination confirmation process as "broken" and declared we have a "duty to repair it." I could not agree with you more.

The other side of this body understands this process is broken because they are filibustering now two of the President's nominees for the first time in history.

Both of these nominees, Miguel Estrada and Priscilla Owen, have unanimously well qualified ratings from the American Bar Association, which during the Clinton years the Democrats were saying was the gold standard. Once they have a qualified rating, which is a passable rating, they should be confirmed. These two not only have qualified, they have well qualified, and unanimously. Only a select few have achieved that rating. It is outrageous that we hear again and again, without a single pause, that a nominee rated unanimously well qualified for Federal judicial service is "out of the mainstream."

Those who have served with her on the Texas Supreme Court know that charge is false. Former Texas Supreme Court Justices John Hill, Jack Hightower, Raul Gonzalez, all Democrats, call Justice Owen unbiased and restrained in her decisionmaking, and they praise her impeccable integrity, character, and scholarship.

Senator CORNYN, whom we all respect, who served with Justice Owen on the Texas Supreme Court, has made it clear that the charge is false. Alberto Gonzales, who also served with Justice Owen, said the charge is false. Senator CORNYN and Judge Gonzales believe Justice Owen is a terrific judge. The two individuals who are repeatedly drafted as prosecution witnesses to discredit Justice Owen as an activist judge, Judge Alberto Gonzales and Senator CORNYN, are actually two of her biggest supporters. All you can conclude is that they are smearing this very fine, unanimously well qualified woman in their comments and also through this filibuster. Nothing can change the fact that the two they use to criticize her are her biggest supporters. I fit in that category, too, as one of her biggest supporters.

No matter how hard they try, they cannot distort that. The unqualified endorsement of 15 past presidents of the Texas State Bar, Democrats and Republicans alike, also shows that the charge is false. Justice Owen is a well qualified, mainstream jurist. And to say that the bar association is wrong, all these Democrats down in Texas are wrong, shows the paucity of the argument.

Some criticize a few rulings made by Justice Owen in some parental notification cases which involve a minor girl seeking an abortion. This is really the basis of it because my colleagues on the other side are getting so enamored with abortion that that becomes the single litmus test on every judge. And they are so afraid that this woman judge might be pro-life, even though I don't know what she is and she didn't say what she believes, but she did say she would follow Roe v. Wade as settled law. I don't know what more you can have. And because she is unanimously well qualified for honor, integrity, impeccability, and so forth, we can take her word for it.

Texas happens to have a statute requiring that a minor notify one parent before she has an abortion. The statute allows the minor girl's parents to be involved in this very important decision. Our colleagues on the other side apparently don't think that is a good idea. It upholds the right of parents in the upbringing and care of their children, and the American people support the principle.

According to a January 2003 CNN/USA Today/Gallup poll, 73 percent of Americans favor requiring minor girls to obtain parental consent before obtaining an abortion. The Texas statute doesn't even go that far; it requires only notice. This broad support is also found in the individual States. Currently, 32 States across the country enforce laws requiring parental involvement in a minor girl's decision to obtain an abortion. Fully 18 States enforce parental consent laws, including Louisiana, Massachusetts, Michigan, North Carolina, North Dakota—where both parents must consent—Rhode Island, and Wisconsin. These are States represented in the Senate by both Republican and Democratic Senators, pro-life and pro-choice Senators. These are States inhabited by people of a variety of beliefs and positions.

Simply being pro-life or pro-choice does not make a person out of the mainstream. That is the only argument they have. How can you call

somebody who has a unanimously well qualified rating from the American Bar Association out of the mainstream? That is the height of absurdity, and it shows the ridiculousness of the argument being used against her.

Another 14 States have less stringent parental involvement laws requiring parental notification before a minor has an abortion, including the States of Arkansas, Delaware, Georgia, Iowa, Maryland, Minnesota, Texas, and West Virginia. New Hampshire, which is known as a pro-choice State because of widespread support for abortion rights among State citizens, is close to passing a parental notification law. Notably, the bill's main sponsor in New Hampshire openly supports abortion rights.

Even in States with no laws requiring parental involvement in a minor's abortion decision, popular support for such legislation runs high. In the State of Vermont, more than 70 percent of State citizens support requiring a minor to notify her parents before having an abortion. You would think anybody with a brain would want to do that. These are kids. The parents ought to be involved.

But by comparison, parental consent and notification laws are consistently opposed by the same abortion rights interest groups. These organizations are the ones that do not reflect the thinking of mainstream America on parental rights. Mainstream America supports the fundamental rights of parents in the rearing of their children, including the right to be involved in their minor daughter's reproductive choices.

The abortion rights interest groups, as they do over and over, predict doom and gloom if Justice Owen is allowed to take a seat on the Federal bench. They trot out the excited rhetoric about the nominee's hostility and extreme insensitivity to abortion rights. Occasionally they even top themselves. According to one group, Justice Owen must be opposed because ''at this time of global turmoil, we don't need extremists in the courts willing to make a Dred Scott decision in the area of women's fundamental rights.''

Give me a break. I would be ashamed to make those arguments, yet that is what they are doing. They are smearing this woman with these kinds of arguments that fly in the face of the vast majority of people who believe parents do have some role with regard to their children, especially in something as important as whether or not their daughter should have an abortion.

By now we know these outside groups' track record leaves much to be desired when it comes to predicting how judicial nominees will vote. These groups have cried wolf far too many times to be taken seriously any longer. We know they missed on Justice David Souter, Justice John Paul Stevens, Justice Lewis Powell, when they predicted at their hearings they would ignore the Constitution and put an end to freedom in America. No matter how much some would prefer to argue the point, these cases were not about the right to an abortion.

The opposition to Justice Owen may show that the abortion litmus test is alive and well, but there was never any question about the girls' right to an abortion in these cases.

Indeed, Justice Owen argued in one such case that, based on Supreme Court precedent, a statute requiring a girl to notify both parents would also be questionable under the Constitution. She even went that far toward their position. Justice Owen recognizes a woman's right to obtain an abortion. She said so explicitly. Yet, they treat her like she is going to throw out Roe V. Wade all by herself and ignore precedent.

Justice Owen has been well within the mainstream of her court in the 14 decided notification cases, joining the majority judgment in 11 of those cases. And out of the close to 800 bypass cases since the Texas statute was passed, a mere 12 girls out of 800 have appealed all the way to the Texas Supreme Court. These are usually the toughest cases. The Democrats take the position that they ought to all be decided against the parents and in favor of the girl or of abortion rights. My gosh. By this time, two courts—the trial and the appeals courts—have already considered the bypass petition and turned it down. In other words, the right of a court to give a girl a bypass to avoid having to tell her parents. In these cases, they turned them down. Given the deference appellate courts must pay to the findings of the trial court, the decision is likely to affirm the lower court rulings denying a bypass. That should be no great surprise.

Certainly, Justice Owen and her colleagues on the Texas Supreme Court disagreed in some cases—that is no surprise either; that happens on State supreme courts—but in all cases there was a genuine effort to apply applicable precedent. These parental consent cases show Justice Owen takes Supreme Court precedent seriously. She looks to precedent for guidance, she cites it, and she makes a good faith effort to apply it to the case at hand. She is a judge who defers to the legislature's considered judgment in their policy choices and earnestly seeks to ascertain legislative intent in her ruling. None of her opinions, to quote the Washington Post, ''seem[s] to us [to be] beyond the range of reasonable judicial disagreement.''

What is beyond the range of reasonable disagreement is the charge that Justice Owen is not qualified to sit on the Fifth Circuit Court of Appeals.

A native of Texas, Justice Owen attended Baylor University and Baylor University School of Law. She graduated cum laude from both institutions. She finished third in her law school class.

Justice Owen earned the highest score on the Texas bar exam and thereafter worked for the next 17 years as a commercial litigator specializing in oil and gas matters.

Justice Owen is known for her services for the poor and for her work on gender and family law issues. Justice Owen has taken a genuine interest in improving access to justice for the poor. She successfully fought with others for more funding for legal aid services for the indigent.

Justice Owen is committed to creating opportunities for women in the legal profession. She has been a member of the Texas Supreme Court Gender Neutral Task Force, and she served as one of the editors of the Gender Neutral Handbook. Incredibly, this is the same woman the usual interest groups mischaracterize as ''anti-woman.''

Justice Owen's confirmation may not be cheered by the well-funded and partisan Texas trial-attorney interest groups, but she is backed by Texas lawyers such as E. Thomas Bishop, president of the Texas Association of Defense Counsel, and William B. Emmons, a Texas trial attorney and a Democrat who says that Justice Owen ''will serve [the Fifth Circuit] and the United States exceptionally well.''

Justice Owen has served on the Texas Supreme Court since 1994, winning reelection to another 6-year term in the year 2000 with 84 percent support.

This kind of support—running across the board and across party lines—leaves no doubt that Justice Owen is a fair-minded, mainstream jurist.

Mr. President, Justice Priscilla Owen will be a terrific Federal judge. As I said earlier, we have a choice this morning. Will we block another highly qualified nominee for partisan reasons or will we allow each Senator to decide the merits of the nomination for himself or herself. I know my choice: we should allow a vote. I hope my colleagues will do the right thing and make the same choice.

I will conclude by saying, look, when I hear on the other side that they are standing up for women's rights, while they are rejecting one of the leading woman jurists in the Nation who has said she will uphold their wonderful standard of Roe v. Wade, I have to say that is pure bunk. It is time to quit smearing these judges.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, how much time is available to the Senator from Vermont?

The PRESIDING OFFICER. There are 18 minutes 15 seconds remaining.

Mr. LEAHY. I thank the distinguished Presiding Officer.

Madam President, I regret we have to be here today, but we are here because the President has picked another fight with the Senate by renominating a divisive and controversial activist to another circuit court. That is regrettable. The Republican leadership in the Senate is forcing this confrontation at this time, and it is neither necessary nor constructive. I am sorry the White

House has chosen to make these matters into partisan political fights, rather than working with Senators on both sides of the aisle to fill judicial vacancies with qualified consensus nominees.

I have been here with six Presidents. Five of them, from both parties, would work with members on both sides of the aisle for consensus nominees. This is the first President who has not. Despite what is really a historic low level of cooperation from the White House—and it is the lowest level of cooperation from any White House I have ever had experience with in my 30 years in the Senate—we have already confirmed 120 of President Bush's judicial nominees. We have confirmed 120. We have rejected 2 out of 120. That is not a bad record. Some of them we voted for, including some of the most divisive and controversial nominees sent up by any President. So 120 passed, 2 are being held up. I don't know where that shows an obstructionist Senate. This week the Senate debated and voted on the nomination of Jeffrey Sutton to the Sixth Circuit. This was a divisive one, and I think the fact that it is so divisive is shown by the fact he got the fewest number of favorable votes of any confirmation in almost 20 years—barely a majority. He got 52. That is the lowest number of votes any judge has had in about 20 years. That reflects the fact we have reached the point in the queue where many of these nominations divide the American people and the Senate far more than they unite us. I urge the President to be a uniter, not a divider. This is the third controversial judicial nominee of this President against whom more than 40 negative votes were cast.

Our Senate Democratic leadership is working hard to correct some of the problems that arose with some of the earlier hearings and actions of the Judiciary Committee this year. Just yesterday, we were able to hold a hearing on the nomination of John Roberts to the District of Columbia Circuit. He was put in almost as an afterthought. There was a massive day of hearings, and he was not able to get a full hearing. This was done by the Republican leadership. I appreciate the fact they recognized that was wrong and they had another hearing yesterday. We are all working hard to complete committee consideration of that nomination at the earliest opportunity.

The distinguished chairman of the Senate Judiciary Committee said he will put off that nomination today for a hearing sometime next week, and we will have a vote on him.

I am optimistic our leadership will be able to work out a procedure for Senate consideration of the nomination of Deborah Cook to the Sixth Circuit. So a number of controversial nominations are being considered. I point out there are other nominations, such as that of Judge Edward Prado of Texas, a distinguished Hispanic jurist. Every Democratic Senator said they are willing to go forward with a vote on him. He has been held up on the Republican side. I don't know if we are going to be blamed for holding up this judge or not. We have all agreed we are ready to go forward with a short time agreement and a vote. He will be confirmed. He is not being held up on the Democratic side, but by the Republican side, even though he is one of President Bush's nominees.

There is also Judge Cecilia Altonaga, on whom we have been seeking consideration for some time. I hope the Republican leadership will let them go forward.

We are making progress. The glass is not full, but it is more full than empty. More has been achieved than some want to acknowledge. There have been 120 lifetime confirmations in less than 2 years. That is better than in any 2-year period from 1995 through the year 2000. Why do I mention that time? Because the Republicans were in charge and President Clinton was the President. We have done better in less than 2 years than in any 2-year period when they were in charge. This time, 17 months of that was under Democratic control, where we set a record with the number of Senatorial confirmations of Presidential nominations.

We have reduced judicial vacancies to 48, which is the lowest percentage in more than 12 years. During the entire 8-year term of President Clinton, the Republicans never allowed the vacancy rate to get this low. We have made tremendous progress.

The Republicans continue their drumbeat of political recriminations. We ought to talk about how far we have come with the 110 vacancies Democrats inherited from the Republican majority in the summer of 2001. We have cut those vacancies in half.

Under the Republican majority, circuit vacancies more than doubled and overall vacancies increased significantly. Despite the fact that more than 40 additional vacancies have arisen since the summer of 2001, we have cut those vacancies by more than in half, from 110 to 48. If we had a little bit of cooperation from the other end of Pennsylvania Avenue and from the other side of the aisle, we could achieve so much more.

This is a nomination that should not have been made in the first place and never should have been remade in the second place. It was rejected by the Judiciary Committee last year after a fair hearing and extensive and thoughtful substantive consideration. I think the White House would rather play politics with judicial nominations than solve problems. This unprecedented renomination of a person voted down by the Senate Judiciary Committee is proof of that.

I thank the Democratic leader, the assistant leader, and my Democratic colleagues who have spoken so eloquently and passionately to these matters. Particularly the statements of Senators MIKULSKI, MURRAY, CANTWELL, and STABENOW yesterday were outstanding.

This nomination is extreme. This nominee has shown herself to be a judicial activist and extremist even on the very conservative Texas Supreme Court where her conservative colleagues have criticized her judgements as activist. They have done it not once, not twice but again and again.

The nomination process starts with the President. It is high time for the White House to stop the partisanship and campaign rhetoric. Work with us not to divide us but to unite us, and work with us to ensure the independence and impartiality of the Federal judiciary, something that Presidents have cherished for over 200 years, so that all the American people, whether they are Republicans or Democrats, rich, poor, White, Black, plaintiff or defendant, can go into every Federal courtroom across the country and know that they will receive a fair hearing and justice under the law; that they will come into the one place that is supposed to be impartial, the one place that is supposed to be nonpolitical, the one place that is supposed to look only at the litigants and the law, and so they will not go instead into a politicized, partisan Federal judiciary. That would be a mistake that would hurt us all and that is what we are trying to avoid now.

How much time is remaining on this side?

The PRESIDING OFFICER. Nine minutes twenty seconds remaining.

Mr. LEAHY. I yield such time as he may consume to the distinguished senior Senator from New York.

Mr. SCHUMER. Madam President, I want to thank our leader on the Judiciary Committee for his indefatigable efforts to keep the bench nonpartisan, or bipartisan, or at least moderate, as much as he has done. History will look back very kindly on the leadership of the Senator from Vermont and say that he made a courageous fight. Many of us are proud to be at his side in that fight.

I will speak for a few minutes about the nomination of Judge Owen. The issue is not whether Judge Owen is a conservative; it is whether she will take her own views and subrogate them to the views of what the law is. If we look at her history, time and time again Judge Owen has been unwilling to follow the law and instead impose her own very conservative ideology on the courts. She is clearly not a moderate, but it is not even that she is a conservative that bothers many of us. I have voted for over 100 judges that the President has nominated, and the vast majority could clearly be classified as conservative. In fact, what worries us about Judge Owen is that she is what conservatives used to excoriate, an activist, somebody who will impose her own views because she feels them so strongly and passionately.

I respect people who feel things passionately. I do. But when someone is a judge, that is not what they should bring to the bench. It is not really passion, except in rare instances, that

serves the bench well. It is, rather, an ability to understand the law and follow it.

I do not have many doubts that Judge Owen understands the law. She is a bright person. I have very real doubts whether she will follow it.

Conservative members of the Texas bench, none other than Judge Gonzales, now the President's counsel, have pointed out in instance after instance where Judge Owen has simply gone far afield and imposed her own views rather than do what the Founding Fathers wanted. I speak of the Founding Fathers, and it is a timely coincidence that our leader from West Virginia has come in. He has been the guardian of the Constitution, and he could tell us better than anyone else that the Founding Fathers asked—judges to interpret the law, not make law. The great irony, as we go through these debates, is that in the 1960s and 1970s the hue and cry of people of Judge Owen's philosophy was that judges are making law from the bench.

I had some sympathy for those arguments then. I have sympathy now, even though I might be very sympathetic to the laws they were making. But now, all of a sudden we have had nominee after nominee who are not activists from the left but activists from the right. It is quite logical that if one is on either the far left or the far right, they will have much more of a desire—there are exceptions to every rule but much more of a desire to impose law rather than interpret law, and of all the nominees who have come before us, Judge Owen seems to be the apotheoses of that view because in case after case that is exactly what she has done.

Many of us believe, for instance, that Miguel Estrada would do the same thing, but he does not have a record and he refuses to answer questions. But with Judge Owen, the record is crystal clear that in instance after instance she has not subrogated her own personal feelings but, rather, let them dominate her decisionmaking. That is not what a judge ought to be.

We will defeat this motion for cloture, and I am glad we will. History will look kindly on that as well because never has a President of the United States been more ideological in his selection of judges, never.

I have been studying the history and for the first time, this President—whether because he wants to win political favor of the hard right or because he believes it himself, I do not know; I have not discussed it with him—this President wishes to change America through the article III section of Government, the judiciary. And so nominee after nominee is not just a mainstream conservative but somebody who wears their views on their sleeve and is not at all shy about imposing those views on court decisions.

So those of us on this side who are opposing Judge Owen, and some of the other judges, believe that we are fighting for the Constitution, we are fighting for what the Founding Fathers intended judges to be, we are fighting a President who is more ideological in his selection of judges than any, and we will continue this fight.

I have seen our caucus. We were hesitant when we took the first steps. We are stronger. I think we feel this issue more passionately than before, not at all for political reasons. I can't tell you where the political chips fall out on this one. It is a rather esoteric issue. A few people in America on each side feel strongly about the issue but most do not. We know we are doing the right thing.

I am proud of our caucus. I am proud of this moment today. I think it is so important to try to get the President to back off this plan, which is so out of the thinking of the Founding Fathers, to make law from the one nonelected section of the Government, the judiciary, the article III section.

So I will stand proudly today and move that we not go to vote on Judge Owen, not because she has not answered questions. To her credit, she was more forthright than Miguel Estrada and, frankly, than John Robert of yesterday but, rather, because she does not represent the kind of judge the Founding Fathers wanted and America should have. I hope we can defeat her.

I yield my remaining time back to our leader from Vermont.

Mr. KOHL. Mr. President, I rise today in opposition to the nomination of Priscilla Owen to the U.S. Court of Appeals for the Fifth Circuit and also in opposition to ending debate on consideration of her nomination.

I believe that a filibuster of a judicial nominee is an extraordinary measure, a step to be taken only in the most compelling circumstances. The case of Justice Owen is one of those rare situations. In Justice Owen, we are presented with a nominee whose record demonstrates that she is so far outside the mainstream and so clearly prone to substitute her personal preferences for the legally required result as to compel this conclusion.

Our debate today is not, of course, the first time the Senate has considered Justice Owen's nomination. She was nominated for a seat on the Fifth Circuit last year, and we held an extensive hearing at the Judiciary Committee on her nomination. After meeting with her, and thoroughly reviewing her record and her testimony, I opposed her nomination. Despite her defeat in the Judiciary Committee last year, the President saw fit to renominate Justice Owen for the Fifth Circuit once again this year. Nothing at her most recent confirmation hearing alters my conclusion that she is fundamentally unfit for a federal appellate judgeship.

My opposition to Justice Owen is not because of any doubts regarding her intellectual ability—we all recognize her legal talents. And, unlike Miguel Estrada, my primary concern with respect to Justice Owen does not center on her unwillingness to answer questions at her confirmation hearing. Quite the contrary: Justice Owen's answers to our questions made one thing crystal clear—her consistent record of judicial activism, and her demonstrated willingness to substitute her judgment and policy preferences for those of the legislature.

As Justice Owen's record became known last year, we grew increasingly concerned about her willingness to bend the law to suit her own strongly held opinions under the guise of ''interpretation.'' We should not be concerned that her views are conservative on many issues. However, when those beliefs interfere with her ability to apply the law, we are forced to oppose her nomination.

Merely reviewing the comments of her fellow Texas Supreme Court justices compels us to the unfortunate conclusion she cannot be trusted to accurately interpret the law. In a variety of cases, her colleagues have criticized her opinions for not being grounded in the law. She is clearly and consistently outside of the mainstream in many cases. In an environmental case, FM Properties, she was criticized for basing her arguments on ''flawed premises'' and ''inflammatory rhetoric.'' In an age discrimination suit, Quantum Chemical, she was criticized by the majority for not following the plain meaning of the statute. In a consumer lawsuit, Texas Department of Transportation, the majority criticized her, writing that ''the statute's plain meaning'' indicated that she was wrong. And, finally, in Doe I, a choice case in which she dissented, then Justice Alberto Gonzales called her dissent ''an unconscionable act of judicial activism.''

There is a pattern to this criticism that should not be ignored. She repeatedly alters the law to fit her views in ways that the legislature did not intend and that the majority of her own court condemns.

We all know that the law is subject to interpretation and manipulation. The manner in which a judge interprets law is particularly important when considering a nominee to an appellate court. On the circuit court, subject only to the infrequent supervision of the U.S. Supreme Court, a judge has considerable leeway to make policy if she chooses with little concern of being overruled.

Justice Owen's willingness to bend the law to suit her policy preferences are unacceptable, especially for a nominee to an appellate court judgeship. Justice Owen's nearly decade long record as a Texas Supreme Court Justice gives us little confidence that she will faithfully discharge her obligations as a federal appellate judge. To proceed with Justice Owen's nomination would mean taking the risk of placing on a Federal court of appeals for life someone who has repeatedly

demonstrated little hesitance to disregard clear statutory language to rewrite the law to suit her personal preferences. This is a risk we cannot take.

Anyone who reviews my record on judicial nominations knows that I have not reached my decision to support extended debate here—indeed my decision to oppose Justice Owen's confirmation—lightly. Justice Owen is only one of only seven judicial nominees I have opposed in my entire 14 years in the Senate. But this nominee's extreme record leaves me no choice. I will vote to oppose cloture on her nomination.

Mr. BAUCUS. Mr. President, I would like to briefly explain why I will vote against cloture on the nomination of Priscilla R. Owen to the U.S. Court of Appeals for the Fifth Circuit.

Ms. Owen's record reveals that she is a judicial activist and an ideologue. As newspaper editorials and several of our colleagues have pointed out, she has created a strong record of rewriting the law when it does not match her personal convictions and beliefs. For those reasons, she does not deserve a lifetime appointment to the U.S. Circuit Court of Appeals. I cannot in good conscience, exercising my duty under the Constitution, allow her to be appointed to as powerful and influential a body as the Fifth Circuit.

Appointees to the Federal bench must be able to set aside their personal philosophies and beliefs. They must be able to administer and enforce the law in a fair and impartial manner. Because the U.S. Supreme Court hears fewer and fewer cases each year, the circuit courts are the court of last resort for many ordinary citizens and businesses. The circuit courts often have the last word on important cases dealing with civil rights, environmental protection, labor issues, and many others. Circuit court judges must demonstrate a record of integrity, honesty, fairness, and a willingness to uphold the law. Ms. Owen fails this test.

For example, Ms. Owen has published opinions and dissents that have drawn criticism from other conservatives and Republicans as inconsistent with the law or facts in front of her. We've heard over and over about her decision in FM Properties v. City of Austin, where the majority on the Texas Supreme Court—consisting of two current Bush appointees and current White House counsel Alberto Gonzales—called her dissent ''nothing more than inflammatory rhetoric.''

Additionally, in her dissent to the Texas Supreme Court decision In re Jane Doe 1, Owen proposed to require a minor to show knowledge of religious arguments against abortion. In a separate concurrence, Mr. Gonzales said that to the interpret the law as Owen did ''would be an unconscionable act of judicial activism.''

The administration has every right to appoint judges who share the President's philosophy and beliefs. That is entirely proper. However, that does not give the President the right to appoint judicial activists who have not demonstrated a respect for the law, or an ability to set aside their personal beliefs in order to interpret the law in a fair and impartial manner.

Additionally, a President has never resubmitted a previously rejected circuit court nominee for the same vacancy, as this President has with Ms. Owen. And, the Judiciary Committee for the first time approved a nominee that it had previously rejected. That nominee is Ms. Owen.

So not only does her record of judicial activism disqualify her for a lifetime appointment to the Fifth Circuit, her approval by the Judiciary Committee and consideration by the full Senate is highly unusual and without precedent.

For all of the above reasons, I must oppose Ms. Owen's nomination to the Fifth Circuit and vote against cloture on her nomination.

Mr. FEINGOLD. Mr. President, I will vote no on the nomination of Priscilla Owen to be a judge on the U.S. Court of Appeals for the Fifth Circuit and no on cloture. I'd like to take a moment to explain my decision.

There are a number of factors that I believe require us to give this nomination very careful consideration. First, we should consider that judges on our Courts of Appeals have an enormous influence on the law. Whereas decisions of the District Courts are always subject to appellate review, the decisions of the Courts of Appeals are subject only to discretionary review by the Supreme Court. The decisions of the Courts of Appeals are in almost all cases final, as the Supreme Court agrees to hear only a very small percentage of the cases on which its views are sought. that means that the scrutiny that we give to Circuit Court nominees must be greater than that we give to District Court nominees.

Another important consideration is the ideological balance of the Fifth Circuit. The Fifth Circuit is comprised of Texas, Louisiana, and Mississippi. The Fifth Circuit contains the highest percentage of minority residents—over 40 percent—of any circuit other than the D.C. Circuit. It is a court that during the civil rights era issued some of the most significant decisions supporting the rights of African American citizens to participate as full members of our society. As someone who believes strongly in freedom, liberty, and equal justice under law, and the important role of the Federal courts to defend these fundamental American principles, I am especially concerned about the make-up of our circuit courts and their approaches to civil rights issues.

Even after 8 years of a Democratic President, the Fifth Circuit had twice as many Republican appointees as Democratic appointees. that is because during the last 6 years of the Clinton administration, the Judiciary Committee did not report out a single judge to the Fifth Circuit. And as we all know, that was not for lack of nominees to consider. President Clinton nominated three well-qualified lawyers to the Fifth Circuit—Jorge Rangel, Enrique Moreno, and Alson Johnson. None of these nominees even received a hearing before this Committee. When then-Chairman LEAHY held a hearing in July 2001 on the nomination of Judge Clement for a seat on the Fifth Circuit, only a few months after she was nominated, and less than 2 months after Democrats took control of the Senate, it was the first hearing in this committee for a Fifth Circuit nominee since September 1994. Judge Clement, of course, was confirmed later in the year.

So, there's a history here, and a special burden on President Bush to consult with our side on nominees for this Circuit. Otherwise, we would simply be rewarding the obstructionism that the President's party engaged in over the last 6 years by allowing him to fill with his choices seats that his party held open for years, even when qualified nominees were advanced by President Clinton. And I say once again, my colleagues on the Republican side bear some responsibility for this situation, and they can help resolve it by urging the administration to address the injustices suffered by so many Clinton nominees. One step in the right direction would be for my Republican colleagues to urge the President to renominate some of those Clinton nominees that never received a hearing or vote in this committee. That includes Clinton nominees to the Fifth Circuit.

With that background, let me outline the concerns that have caused me to reach the conclusion that Justice Owen should not be confirmed.

Justice Owen has had a successful legal career. She graduated at the top of her class from Baylor University Law School, worked as an associate and partner at the law firm of Andrews and Kurth in Houston, and has served on the Texas Supreme Court since January 1995. These are great accomplishments.

But Justice Owen's record as a member of the Texas Supreme Court leads me to conclude that she is not the right person for a position on the Fifth Circuit. I am not convinced that Justice Owen will put aside her personal views and ensure that all litigants before her on the Fifth Circuit received a fair hearing. Her decisions in cases involving consumers' rights, worker's rights, and reproductive rights suggest to me that she would be a judge who would be unable to maintain an open mind and provide all litigants a fair and impartial hearing.

Justice Owen has a disturbing record of siding against consumers or victims of personal injury and in favor of business and insurance companies. When the Texas Supreme Court, which is a very conservative and pro-business court, rules in favor of consumers or victims of personal injury, Justice Owen frequently dissents. According to

Texas Watch, during the period 1999–2002, Justice Owen dissented almost 40 percent of time in cases in which a consumer prevailed. But in cases where the consumer position has not succeeded, Justice Owen never dissented.

At her first hearing, Senator KENNEDY and Senator EDWARDS asked Justice Owen to cite cases in which she dissented from the majority and sided in favor of consumers. Justice Owen could cite only one case, *Saenz* v. *Fidelity Guaranty Ins. Underwriters*, 925 S.W. 2d 607, Tex. 1996. But Justice Owen's opinion in this case hardly took a pro-consumer position since it still would have deprived the plaintiff of the entire jury verdict. She did not join Justice Spector's dissent, which would have upheld the jury verdict in favor of Ms. Saenz.

Also during that first hearing, Senators FEINSTEIN and DURBIN questioned Justice Owen about *Provident American Ins. Co.* v. *Castaneda*, 988 S.W. 2d 189, Tex. 1998. In that case, the plaintiff sought damages against a health insurer for denying health care benefits, after the insurer had already provided pre-operative approval for the surgery. Justice Owen, writing for the majority, reversed the jury's verdict in favor of the plaintiff and rejected the plaintiff's claim that the health insurer violated the Texas Insurance Code and the Deceptive Trade Practices Act. At the hearing, Justice Owen defended her opinion by saying that she believed that the plaintiff was seeking extra-contractual damages and that the plaintiff had already received full coverage under the policy and statutory penalties. But, in the words of her colleague, Justice Raul Gonzalez, who wrote a dissent, Justice Owen's opinion "may very well eviscerate the bad-faith tort as a viable case of action in Texas." *Id.* at 212, Gonzalez, J., joined by Spector, J., dissenting. The cause of action for bad faith is designed to deter insurers from engaging in bad faith practices like denying coverage in the first place.

In addition, with respect to several decisions involving interpretation and application of the Texas parental notification law, I am deeply troubled by Justice Owen's apparently ignoring the plain meaning of the statute and injecting her personal beliefs concerning abortion that have no basis in Texas or U.S. Supreme Court law. In 2000, the Texas legislature enacted a parental notification law that allows a minor to obtain an abortion without notification of her parents if she demonstrates to a court that she has complied with one of three "judicial bypass" provisions: (1) that she is "mature and sufficiently well informed" to make the decision without notification to either of her parents, (2) that notification would not be in her best interest, or (3) that notification may lead to her physical, sexual, or emotional abuse.

During Justice Owen's first confirmation hearing, Senator CANTWELL questioned Justice Owen about her positions in cases interpreting this law, focusing on Justice Owen's insistence in In re Jane Doe, 19 S.W. 3d 249, 264–65, 2000, Owen, J., concurring, Doe 1 (I)), that teenagers be required to consider "philosophic, social, moral, and religious" arguments before seeking an abortion. In her opinion, Justice Owen cited the Supreme Court's decision in *Planned Parenthood of Southeastern Pennsylvania* v. *Casey*, 505 U.S. 833, 1992, to support her contention that states can require minors to consider religious views in their decision to have an abortion. But, as Senator CANTWELL noted, Casey in no way authorizes States to require minors to consider religious arguments in their decision on whether to have an abortion. Upon this further questioning, Justice Owen then said that she was referring to another Supreme Court case, *H.L.* v. *Matheson*, 450 U.S. 398, 1981, even though her opinion only cited Casey for this proposition. And even Matheson does not say that minors can be required by state law to consider religious arguments. It is my view that Justice Owen was going beyond not only a plain reading of the Texas statute, but Supreme Court case law, and inappropriately injecting her own personal views to make it more difficult for a minor to comply with the statute and obtain an abortion.

I was also not satisfied with Justice Owen's responses to my questions about bonuses to Texas Supreme Court law clerks. I asked her at the hearing whether she saw any ethical concerns with allowing law clerks to receive bonuses from their prospective employers during their clerkships. I also explored the topic further with her in followup written questions. Justice Owen stated repeatedly in her written responses to my questions that she is not aware of law clerks actually receiving bonuses while they were employed by the Court. She reaffirmed that testimony in her second hearing. This seems implausible given the great amount of publicity given to an investigation pursued by the Travis County Attorney of exactly that practice and the well publicized modifications to the Texas Supreme Court's rules that resulted from that investigation and the accompanying controversy.

Even more disturbing, Justice Owen took the position, both at the first hearing and in her responses to written questions, that because the Texas Supreme Court Code of Conduct requires law clerks to recuse themselves from matters involving their prospective employers, there really is no ethical concern raised by law clerks accepting bonuses while employed with the Court. I disagree. It is not sufficient for law clerks to recuse themselves from matters involving their prospective employers if they have received thousands of dollars in bonuses while they are working for the court. The appearance of impropriety and unfairness that such a situation creates is untenable. As I understand it, the federal courts have long prohibited federal law clerks both from receiving bonuses during their clerkships and from working on cases involving their prospective employers. I'm pleased that the Texas Supreme Court finally recognized this ethical problem and changed its code of conduct for clerks. Justice Owen, in contrast, seems intent on defending the prior, indefensible, practice.

Finally, I want to note the unusual nature of this particular nomination. Unlike so many nominees during the Clinton years, Justice Owen was considered in the Judiciary Committee under Senator LEAHY's leadership last year. She had a hearing, and she had a vote. Her nomination was rejected. This is the first time in history that a Circuit nominee who was formally rejected by the Committee, or the full Senate for that matter, has been renominated by the same President to the same position. I do not believe that defeated judicial nominations should be reconsidered like legislation that is not enacted. After all, legislation can be revisited after it is enacted. If Congress makes a mistake when it passes a law, it can fix that mistake in subsequent legislation. Judicial appointments are for life. Confirmations cannot be taken back or fixed. A vote to confirm a nominee is final. A vote to reject that nominee should be final as well. For the President to renominate a defeated nominee and the Senate to reconsider her simply because of the change of a few seats in an election cheapens the nomination process and the Senate's constitutional role in that process.

I believe Justice Owen is bright and accomplished. But I sincerely believe that based on her judicial record, Justice Owen is not the right choice for this position. I wish her well in her continued work on the Texas Supreme Court, and I hope the President will put forward a nominee for this circuit who the committee can have confidence will enforce the law fairly and impartially to all litigants.

Mrs. BOXER. Mr. President, I want to respond to my colleague from Utah, Mr. HATCH, regarding Priscilla Owen's dissent in the case In re Doe, 19 S.W.3d 346, Texas 2000.

Let me emphasize the fact that Justice Owen wrote her own dissenting opinion in this case. Justice O'Neill delivered the opinion of the court, joined by Justice Enoch, Justice Baker, Justice Hankinson, and Justice Gonzales and by Chief Justice Phillips as to Parts II and III. Justice Enoch filed a concurring opinion, joined by Justice Baker. Justice Gonzales filed a concurring opinion, joined by Justice Enoch.

Three Justices dissented in this case, each filing the own separate opinion. The dissenting opinions were written by Justice Hecht, Justice Owen, and Justice Abbott.

Justices Gonzales, in his concurring opinion, very clearly voices criticism of the dissenting opinions:

The dissenting opinions suggest that the exceptions to the general rule of notification

should be very rare and require a high standard of proof. I respectfully submit that these are policy decisions for the Legislature. . . . Thus, to construe the Parental Notification Act so narrowly as to eliminate bypasses, or to create hurdles that simply are not to be found in the words of the statute, would be an unconscionable act of judicial activism. As a judge, I hold the rights of parents to protect and guide the education, safety, health, and development of their children as one of the most important rights in our society. But I cannot rewrite the statute to make parental rights absolute, or virtually absolute, particularly when, as here, the Legislature has elected not to do so.

The chairman of the Judiciary Committee states that Justice Owen did not write the opinion that Justice Gonzales criticized. I fail to see how Senator HATCH can reach that conclusion. Justice Gonzales clearly refers to ''the dissenting opinions''—plural—and Justice Owen wrote one of those dissenting opinions.

I trust that this resolves any dispute regarding this matter.

Mr. LEAHY. Madam President, how much time remains for the Senator from Vermont?

The PRESIDING OFFICER. One minute and 40 seconds.

Mr. LEAHY. I yield back our time.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 86, the nomination of Priscilla R. Owen of Texas to be United States Circuit Judge for the Fifth Circuit:

Bill Frist, Orrin Hatch, Kay Bailey Hutchison, John Cornyn, Mitch McConnell, Jon Kyl, Wayne Allard, Sam Brownback, Jim Talent, Mike Crapo, Gordon Smith, Peter Fitzgerald, Jeff Sessions, Lindsey Graham, Lincoln Chafee, Saxby Chambliss.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the nomination of Priscilla R. Owen, to be United States Circuit Judge for the Fifth Circuit, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Oklahoma (Mr. INHOFE) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

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

The yeas and nays resulted—yeas 52, nays 44, as follows:

[Rollcall Vote No. 137 Ex.]

YEAS—52

Alexander	Dole	Murkowski
Allard	Domenici	Nelson (NE)
Allen	Ensign	Nickles
Bennett	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Sessions
Bunning	Graham (SC)	Shelby
Burns	Grassley	Smith
Campbell	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Kyl	Talent
Collins	Lott	Thomas
Cornyn	Lugar	Voinovich
Craig	McCain	Warner
Crapo	McConnell	
DeWine	Miller	

NAYS—44

Akaka	Dodd	Lautenberg
Baucus	Dorgan	Leahy
Bayh	Durbin	Levin
Biden	Edwards	Lincoln
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Breaux	Harkin	Nelson (FL)
Byrd	Hollings	Pryor
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Clinton	Johnson	Rockefeller
Conrad	Kennedy	Schumer
Corzine	Kerry	Stabenow
Daschle	Kohl	Wyden
Dayton	Landrieu	

NOT VOTING—4

Graham (FL)	Lieberman
Inhofe	Sarbanes

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business between 11 a.m. and 12 noon, with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

Mr. REID. Mr. President, the Senator from Texas wishes to speak as in morning business. I ask unanimous consent that he be allowed to speak.

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

The Senator from Texas.

HONORING OUR ARMED FORCES

Mr. CORNYN. Mr. President, I rise this morning to offer a tribute to our men and women in uniform.

As we all know, President Bush will speak this evening to the Nation and mark the end of a major conflict in Iraq and acknowledge the heroism and sacrifice of our brave men and women in the Armed Forces. I know I speak for the people of my State of Texas and for all Americans when I give thanks that this operation has reached such a swift end, with so few coalition lives lost.

Over the April recess, I took the opportunity to visit most of the military bases in my home State, along with my distinguished colleague Senator HUTCHISON. One in 10 active duty military personnel call Texas their home. As a member of the Armed Services Committee, I am dedicated to looking after their interests and the interests of all of our military personnel.

We must ensure that the United States military continues to have the training, the equipment, and the facilities they need to remain the greatest fighting force the world has ever known, both in war and in peace. The military bases we have in Texas are some of the strongest components of our military readiness in the current war against terror, from Afghanistan to Iraq and across the world. We must use these valuable assets to maintain our status as the world's lone superpower, as we transform our military to face the challenges of the future.

Seeing our soldiers face to face reminds us that they are not just numbers or statistics. They are real Americans, true patriots, with real families. When someone leaves their home to fight for American interests abroad, it affects their entire community; it affects their friends and, most profoundly, it affects their families.

We must remember not just the sacrifices of the brave men and women who fight on the battlefield but the sacrifices of the families they leave behind. I remember, most poignantly, as the deployment was occurring from Camp Lejeune, on CNN a young mother with her child was saying goodbye to her husband, the father of that child. I will never forget the comments she made. She said:

I used to think that if he loved us, he would never leave us. But now I know that he is leaving us because he loves us.

We must remember the sons who have never seen the faces of their fathers, and mothers who are separated from their children. We must remember the families whose loved ones will not be coming back, who paid the ultimate price so that others can live free.

Our own freedom was not won without cost but bought and paid for by the sacrifices of generations that have gone before. We must honor these heroic dead for their courage and their commitment to the dream that is freedom.

On this same trip with Senator HUTCHISON, visiting our Texas military bases, I had the chance to meet with several of the former prisoners of war who had just returned to their homes. It was especially meaningful to me, because my dad was a POW in World War II. On a bombing mission over Mannheim, Germany, he was shot down and captured and spent 4 months in a prison camp before General Patton and his Army came along and liberated him and others. Knowing the impact of my dad's experience, I have sensed a glimmer of the pain, the anxiety, and ultimately the joy of the families of these former POWs.

I know, in time, as both the former captives and their loved ones learn the names of the rescuers, they will want to express their gratitude in person and continue to be thankful to a nation that recognizes the value of each and every human life.

It strikes me that the Iraqi people's experience was much the same. No doubt the captivity of their nation was longer, more brutal, and more terrible than what our soldiers experienced. The pain of the Iraqi people was immeasurable. But now, at long last, their country has returned to them.

In 1944, Winston Churchill spoke in the Royal Albert Hall to the British troops and reminded them that they served a cause greater than themselves. He said:

We are joined together in this union of action which has been forced upon us by our common hatred of tyranny. Shedding our blood side by side, struggling for the same ideals, until the triumph of the great causes which we serve shall be made manifest. . . . Then, indeed, there will be a day of thanksgiving, one in which all the world will share.

There is a lot of work to be done in Iraq. But the difference our forces have made in such a short time is undeniable. Just a few short months ago, the idea that the Iraqi people could live free was a concept that some found hard to treat seriously. Now the dream of a free Iraq is in sight. The day of thanksgiving is not here yet, but it is coming. And thanks to the sacrifices of American families and America's warriors, it is coming soon.

We as a grateful nation continue to wish our men and women in uniform godspeed, and we hope and pray for their swift return to the loving arms of their families.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—JUDICIAL NOMINATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the vote on the pending Prado nomination occur at 2:15 today with the remaining time until then equally divided between the chairman and the ranking member. I further ask consent that following the vote, the President immediately be notified of the Senate's action. I also ask consent that on Monday, May 5, at a time determined by the majority leader after consultation with the Democratic leader, the Senate proceed to executive session for the consideration of Calendar No. 34, the nomination of Deborah Cook to be a U.S. district judge for the Sixth Circuit; provided further there be 4 hours for debate equally divided between the chairman and ranking member or their designees. Further, I ask that following the use or yielding of that time the Senate proceed to a vote on the confirmation of the nomination, again with no intervening action.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. I ask that the consent be modified so we have a vote on Prado at 2:15 today.

Mr. FRIST. I believe that was the way it was requested.

Mr. REID. I am sorry. I missed that. I was visiting with someone else.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

Mr. REID. Mr. President, it is my understanding that the distinguished majority leader wishes to have a vote on Cook at 4:45 on Monday. Is that true?

Mr. FRIST. That is correct. The first vote on Monday will be 4:45, and that would be on the Cook nomination.

Mr. REID. I ask consent that that be part of what we are doing today. I ask consent that the vote occur at 4:45 and there be a period prior to that of 4 hours for debate on the Cook nomination.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. And that 1 hour of that time be reserved for Senator KENNEDY.

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

Mr. FRIST. Mr. President, I thank all of the Senators who have been involved in leadership on the Democratic side and the Republican side in working on this agreement. I particularly thank Senator MCCONNELL for his perseverance and counsel over the course of the past several days. Both sides have worked in good faith to come to this conclusion.

I now would ask for a further clarification with respect to the nomination of John Roberts. That nomination will be reported a week from today. We have been assured by the other side of the aisle that there would be no filibuster on the nomination of John Roberts; also, that the Senate would vote up or down on his confirmation. I know Members will want to speak on that nomination and we will be prepared to provide time on Thursday for that debate.

I, therefore, expect that prior to completing our business next week we will vote on the nomination. I yield to my colleague with regard to this understanding.

Mr. REID. The statement of the Senator is absolutely correct. There will be no filibuster. I would only ask, as the Senator has already indicated, that there be ample time—it may take as much as 6 hours of debate—prior to a vote on that. The Senator said it would be on Thursday. It may have to spill over until Friday. We may not be able to do all 6 hours on Thursday.

I was just saying—I know the Senator was preoccupied—we may take as much as 6 hours, 3 hours on our side; the other side may not need as much time, and so we may not be able to complete all that on Thursday. That is strictly up to the leader, but we have already indicated we would need up to that much time.

Mr. FRIST. Mr. President, I want to make sure there is adequate time for debate. I would like to try to have the vote by the end of next week, if at all possible.

Mr. REID. Mr. President, Senator MCCONNELL and I worked as much as we could to get this to a point where we are today. I do not like to acknowledge this often, but we were unable to do that. It was only because of the intervention of the two leaders that we were able to arrive at this point. We need not go into all the details of what went into this agreement, but I want to publicly acknowledge the good work of the Democratic leader and the majority leader in allowing us to get to this point. This has been done very quickly on the Senate floor, but to arrive at this point has taken literally hours of time.

This is a significant breakthrough. I think, with all the difficulty we have been having with judicial nominations, that this is a significant advancement. It is typical of what has to be done when dealing with legislation. A lot of people have to give up what they felt was something they could not give up.

I also would say that Senator HATCH and Senator LEAHY have been involved. I think they have helped the advancement of the Senate by their agreeing to things to which a little while ago they

would not have agreed. I wish to publicly commend the two leaders, and the chairman of the committee and the ranking member of the Judiciary Committee, Senators HATCH and LEAHY, for some excellent work. This is not anything that will ever be written in the history books but in my mind I have some knowledge of what is good for the Senate and I am convinced that what we have done today is some of the best work we have done all year.

Mr. FRIST. Mr. President, I thank my colleague for his comments and agree wholeheartedly in terms of the efforts that have been made in good faith on both sides of the aisle. It has been difficult in terms of negotiations but everybody has been involved at the leadership level, as well as working with the respective leaders of the committee. We have come to a satisfactory conclusion. By the end of next week we will have accomplished the goals we all have, and that is to keep the process working—it is not always pretty—in a way that will deliver what the American people deserve.

We will have more to say later today, but we will expect to have two votes on Monday, the first at 4:45 and then a vote later, which we will set up the time agreement probably an hour or so after that vote, with consideration to Miguel Estrada. Again, we will make specific announcements but we will have two votes on Monday. I point out the first one is at 4:45, which we have tried to announce a few days ago to make sure people are back for that particular vote.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent the distinguished Senator from New York, Mrs. CLINTON, and I control the next half hour as if in morning business.

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

SUNSHINE IN IRAQI RECONSTRUCTION CONTRACTING ACT

Mr. WYDEN. Mr. President, we rise today to discuss the call of a bipartisan coalition for some badly needed sunshine in the process of awarding Iraqi reconstruction contracts. I particularly commend several of my colleagues for joining me in the bipartisan legislation, the Sunshine in Iraqi Reconstruction Contracting Act introduced April 10.

First, Senator CLINTON and I are especially grateful to the chair of the Governmental Affairs Committee, Senator COLLINS of Maine. Not only is she an excellent chair of the committee that will take up this legislation, she is also an expert on procurement law, a real authority on the very issue we have addressed in our legislation. We are very proud to have her as our lead bipartisan coalition builder on this legislation because her leadership qualities on the committee and special proficiency on this topic give me great confidence this bill is the right move for America, the right move for the Senate, particularly the right move for our taxpayers, and we are very grateful for Senator COLLINS' support and participation in this effort.

Our legislation has a simple aim. It says if a Federal agency awards an Iraqi reconstruction contract without the benefit of open and competitive bidding, that agency must publicly justify their decision to do so. I will tell the Senate and my colleagues the events and news reports of the 21 days since our bill's introduction have only strengthened our bipartisan conviction that Iraqi reconstruction contracts must be awarded in the sunshine and not behind a smokescreen.

There are two primary reasons we believe it is so important American taxpayers deserve additional details about this closed and secretive process. First, there is a huge amount of money on the line, a projected $100 billion in taxpayer funds. Second, the General Accounting Office has already reported sole-source or limited-source contracts almost always are not the best buy for the taxpayer.

In my view, the need for explanation increases a hundredfold if Federal agencies are going to employ a process that may expose taxpayers to additional cost. When we introduced this legislation, we were concerned that the U.S. Agency on International Development had already awarded four of eight major Iraqi contracts through a closed bid or no-bid process. Even at that time, sole-source and limited-source contracts already seemed to be the rule and not the exception for rebuilding Iraq. USAID announced it would limit competition to companies they felt had the technical ability and accounting ability to handle these matters.

But since our legislation was introduced, not only have a number of Federal agencies continued to award no-bid or closed-bid contracts, but once the bids have been solicited, they even started to ignore or circumvent their own publicly stated criteria for limiting the pool of applicants. More than ever, our bipartisan coalition believes if the Federal Government chooses not to use free market competition to get the most reasonable price from the most qualified contractor, then at a minimum they should tell the American people why that is necessary. Sunshine is the best disinfectant and the news reports of recent days simply beg for a clearing of the air.

On April 11, the day after we introduced our bill, one firm secured a $2 million Iraq school contract through an invitation-only process. On April 18, USAID awarded the biggest contract yet through an invitation-only bid process. A $680 million contract to rebuild Iraq's infrastructure was awarded to Bechtel. On April 19, a $50 million policing contract was awarded through a closed bidding process. On the same day, the Washington Post reported that a renewable $7.9 billion contract for personnel services in Iraqi reconstruction was awarded February 25, nearly a month before the war began, with a single company invited to bid for the job. According to the press reports, that invitation came a full 55 days before the start of the hostilities.

As each of the contracts was awarded, Federal agencies justified the no-bid or closed-bid process only by saying that they simply had to move quickly. That is basically one of the only arguments the agencies have left. Originally, USAID said the only companies with security clearances could be invited to apply. But that argument fell apart just a couple of days ago. USAID's own inspector general revealed that USAID waived the security clearance requirement when one bid was awarded. It turned out that the winner of a $4 million ports contract, in fact, did not have the security clearance that was supposedly essential when the limited bid process started. In effect, USAID eliminated the very criteria it used to limit bidders on the project. USAID suddenly said the outbreak of war in Iraq simply made the security clearance process unnecessary.

The only reason the United States would be awarding contracting to rebuild Iraq would be if the United States went to war. So if the requirement for security clearance was needed before the war broke out, it is hard to see what would have changed once the war started. As a Member of the Senate Intelligence Committee, I thought the argument was a bit shaky at the outset. I was not certain why you would need all of the security clearances to fix the sewer system. Weeks ago, it was clear that most of the Iraqi work would be subcontracted out to companies who did not meet the security requirements in the first place. But the report from the inspector general this week has significantly increased my concern. It turned the agency's argument about security clearances from suspect to essentially ludicrous.

This incident makes the case better than any other that agencies should have to clearly and publicly state how they are choosing companies for these invitation-only bids. Perhaps if they know they have to face the public on these issues they will have better explanations or a more open process.

We want to be clear, in the presence of actual security concerns, our legislation assures the protection of classified information. But at the same time, it does give the Congress oversight over the billions in taxpayer money that Americans are being asked to commit in Iraq and that is desperately needed. Historically, open and competitive bidding by Federal agencies has been the tool to get the best value for the taxpayers of our Nation.

Again, independent reports from the General Accounting Office show that in the past, the soul-source or limited-source contracts have not been before the buy. According to the General Accounting Office, military leaders have

often simply accepted the level of services given by a contractor without ever asking if it could be done more efficiently or at a lower cost. In the case of Iraq, again, with estimates being low-balled at $25 billion and some exceeding $100 billion, taxpayers in our country have a great interest in making sure this money is spent efficiently.

I also note in wrapping up that many of these contracts are so-called cost-plus contracts. They pay a company's expenses, plus a guaranteed profit of 1 to 8 percent. There are no limits on total costs, so the more a firm charges in expenses, the more profit it is going to make. If the Federal Government is going to spend the money of the people of Oregon in this fashion without asking for competitive bids, I think the people of Oregon and the people of this country deserve to know why. There simply should not be a place for waste when you are talking about at least $100 billion of taxpayers' cash.

I understand the argument that these contracts need to be awarded quickly. I understand in many cases the companies receiving them have a long history of international work. I simply believe if the need for speed can adequately justify these closed-bid processes that may expose the taxpayers to additional expenditures, then those agencies need to make public why they would take these extraordinary measures that could very well waste significant amounts of taxpayer money.

I want to yield my time to Senator CLINTON. I thank her. She is on the Senate Armed Services Committee. She and I and Senator COLLINS have been a bipartisan coalition.

I would also like to note a number of other Senators—Senator BYRD in particular, who serves on the Appropriations Committee and the Armed Services Committee—have been very helpful as well. But I yield to Senator CLINTON and particularly express my support to her. With Senator COLLINS, we have tried to make the focus that there is a bipartisan need for protecting taxpayers, to make sure this money is spent wisely at a time when there is so much economic hurt across the Nation.

I yield to the distinguished Senator from New York.

Mrs. CLINTON. Mr. President, will my distinguished colleague yield for a question?

Mr. WYDEN. I will.

Mrs. CLINTON. Mr. President, it is a great privilege to be working in this bipartisan coalition with the chairman of the Governmental Affairs Committee, Senator COLLINS, and with a long-time champion of taxpayers and consumers like Senator WYDEN.

Is it the understanding of the Senator from Oregon that the buck really stops with Congress? It is the Congress's responsibility to ensure the funds we appropriate for reconstruction in Iraq are spent in a fair and open manner?

Mr. WYDEN. The Senator from New York has summed it up. This is Congress's call. The buck in fact does stop with the Congress.

What we are talking about here is making sure Congress keeps in place vigorous oversight about the process. The process is what has, in our view, put taxpayers' dollars in some peril. People have focused on one company or another. There are inquiries underway. What we are going to do is protect the process that ensures, as the Senator from New York suggests, that the taxpayers are protected and Congress in fact has the last word in making sure this money is spent responsibly.

Mrs. CLINTON. Mr. President, that is an eloquent summation as to why I have joined with my colleagues in introducing the Sunshine In Iraqi Reconstruction Contracting Bill.

Tonight President Bush will address our Nation and will tell the world that Operation Iraqi Freedom's military action is over, at least insofar as major military engagements may be required. We know we will have continuing problems, like those we have seen in the last few days. But it is true we are now moving toward the second phase, which is the rebuilding of Iraq. So this colloquy we are having today is especially timely because of the President's announcement this evening.

With respect to our going forward, I think the important points the Senator from Oregon has made need to be underscored because, for many of us, we want to see the plans that have been explained in the last several weeks about the rebuilding effort move forward as expeditiously and cost-effectively as possible.

We know, as we just heard from the distinguished Senator, that a number of contracts have already been let. They have been no-bid or closed-bid contracts. As one follows the information about these contracts in the press, it has become clearer and clearer this has been in the planning for quite some time and it has been largely the province of a rather small group of insiders.

I think it is imperative, not only for the integrity of our procurement process, for the integrity of the congressional appropriation and oversight process, but for the integrity of the entire operation that has been undertaken in Iraq, to be transparent and open before the world.

If I may ask the Senator from Oregon another question, is it correct the legislation we have introduced would require when contracts are awarded without a full and open competition, behind closed doors, that the awarding agency—whether it is the Department of Defense or USAID—would have to publicly explain why they could not have had an open process?

Mr. WYDEN. The Senator is correct. Again, that is what the legislation is about. There is a certain irony in that that information is in fact already available. The bipartisan legislation we have put together with the Chair of the Governmental Affairs Committee, Senator COLLINS, says what is already completed work, in terms of the analysis and justification, simply would be made public so as to reinforce the proposition that there be the maximum amount of transparency, the maximum amount of accountability, and so the public can see why, if necessary, a special process that doesn't involve open bids would be necessary.

Mrs. CLINTON. You know, our bill also requires as part of that transparency, letting the sunshine come in, that the agencies would make public the amount of the contract, the scope of the contract, would provide information about how contractors were identified, as well as the justification and determination of the documents that led to the decision not to use full and open competition.

I find that very reassuring. I do not understand why this would not be legislation we could literally pass by unanimous consent this afternoon. I don't think it is in our Government's interest nor is it in America's interest that there be any doubt at all, any shadow cast over this process so people in our own country or elsewhere can say there is something funny going on, this is not being done straight.

Would the Senator agree, in addition to fulfilling what we know to be the appropriate procurement procedures, the fact that no-bid or closed-bid contracts time and time again lead to overruns, to excessive costs, that we are also, through this legislation, trying to send a warning, in a sense holding out a helping hand to the Government, to say let's do this in the open so nobody can ever go back and question motive or process with respect to what we are attempting to do with the reconstruction of Iraq?

Mr. WYDEN. The point of the Senator about the credibility of the Government I think is fundamental. I think we all know if people see something taking place behind closed doors, in secret, without the open and full process of competitive bidding, it just engenders suspicion, it just engenders a sense of skepticism and cynicism about government that just does not have to be.

It is particularly troubling here because the General Accounting Office, the nonpartisan organization of auditors, has already documented there is a problem. So we have a combination of taxpayer skepticism about work done in secret coupled with the long history of the General Accounting Office's skepticism about these reports, and here is an area that just cries out for sunshine.

I talked about sunshine being the best disinfectant, but certainly since we introduced this bill with Senator COLLINS over the last 21 days, the fact we have seen all these contracts—in fact, one of them where the agency just waives their own process, without an explanation—I think highlights the Senator's point that the Government's credibility is at stake.

Mrs. CLINTON. Mr. President, I hope we will have an even larger bipartisan

coalition supporting this legislation, working with us, perhaps even convincing the Government agencies responsible for letting these contracts to think very hard about the process they are now following.

Again, I thank my colleague from Oregon and my colleague from Maine for providing such leadership. It is a pleasure to work with them. But it is also a duty. I think all of us feel a heavy responsibility to make sure the billions and billions of dollars—maybe as much as $100 billion that will be spent on reconstructing Iraq—is spent in the most effective way. Because, while we are looking at the extraordinary costs of this kind of task awaiting us in Iraq, we are also in this body hearing from our constituents, as many of us did over the previous 2 weeks, about what is happening to their schools, what is happening to their hospitals.

So we have to be especially conscious that this money can be justified; that we can look our constituents in the eyes when they say, I don't understand, Senator. I thought we were going to get more help for our poor schools. Senator, I don't understand. Our hospital has just closed down because we can't get enough reimbursements from the Federal Government.

This is not only about all of the good government principles. It is not even only about the integrity and credibility of our government. It is about the choices that are being made. These choices are not only important with respect to contracting, but they are important with respect to our values.

I hope our colleagues will join us in moving this piece of important legislation through so that we can begin to practice what many of us preach about transparency and openness and also making sure we get the very best deal. Our dollars are limited. If there is any excess on justified dollars going to Iraq that could go to my kids and schools in New York City, or to Ron's hospital in Oregon, that is our responsibility.

Let me again thank my colleagues. I look forward to being successful with this bipartisan coalition and getting this legislation passed at the earliest possible time.

Mr. WYDEN. Mr. President, to wrap up, I would like to reaffirm a point that the distinguished Senator from New York mentioned with respect to the feeling of our citizens at a time when there are so many schools that are underfunded and seniors can't afford their medicine and other services. When I was home over the break—perhaps the Senator from New York heard this as well—many constituents came up to me and said: We are really glad that you are pushing this bill at more competitive bidding and reconstruction contracts. But, to tell you the truth, why don't you just have Iraqi oil pay for all of the reconstruction? We don't need the taxpayer money.

There already is a sense about the Nation that we have to be careful about how these funds are being used. I think there is a role for the United States to play. I think it is clear that is a part of an important contribution that our country can make with the conflict winding down. But it just reaffirms in my mind how critical it is to use this money wisely. With the American people hurting now with what one might say is the highest unemployment rate of our country, you can't explain to the taxpayers of this Nation frittering away dollars on contracts that are let without competitive bids.

We look forward to colleagues of both political parties joining us in this effort. It seems to me a bill such as this should be passed unanimously with all 100 Senators onboard. We look forward to seeing the resolution of this legislation to protect the taxpayers.

Again, I want to close by expressing my thanks to the chairman of the committee where this legislation was sent. Senator COLLINS has been a critical partner in this effort to direct procurement law. Senator BYRD, who holds, of course, a longstanding interest in this matter and serves on both the Appropriations and the Armed Services Committees, has been invaluable to me in particular in providing counsel with respect to how to move this legislation forward. Together we look forward to passing this bill and protecting the taxpayers' interests as perhaps $100 billion of taxpayer money is spent in the rebuilding of Iraq.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF EDWARD C. PRADO, OF TEXAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The PRESIDING OFFICER (Mr. BUNNING). Under the previous order, the Senate will now proceed to the consideration of Executive Calendar No. 105, which the clerk will report.

The assistant legislative clerk read the nomination of Edward C. Prado, of Texas, to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed for the next 15 minutes as in morning business.

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

(The remarks of Mr. DEWINE are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. Who yields time?

The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, on behalf of the majority leader FRIST, I ask unanimous consent that the vote on Executive Calendar No. 105, the nomination of Edward C. Prado, occur at 2:05 p.m. today.

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

Mr. REID. Mr. President, I am pleased we are going to move to the nomination of Judge Edward Prado. While my friend, the distinguished senior Senator from Ohio, is on the floor, I want to extend early congratulations because it appears that on Monday we are going to approve a judge on which he has worked so hard. Because of his advocacy and a number of others, we have been able to move through this circuit court process a little more quickly. The Senator from Ohio told me how much he thought of Judge Cook, and being the fine lawyer the Senator is, I am certain we are going to get a good addition to the court. His recommendation goes a long way with me. I congratulate the Senator from Ohio for his advocacy on the part of someone he knows and speaks so well of.

Mr. President, I am pleased we now are on the nomination of Judge Edward Prado, a well-qualified nominee for the Fifth Circuit Court of Appeals. Judge Prado is being considered for the same court as Justice Priscilla Owen, a nominee we on this side find to be a divisive choice for the circuit court. The swift consideration of Judge Prado's nomination illustrates again how the nomination process can work when the President sends up fairminded and mainstream choices for lifetime seats on our Federal bench. It happens quickly.

This came about as a result of our being involved in another judicial nomination that was not going anywhere, and on this side we moved to the nomination of Judge Prado. I think that and other reasons moved us along the path very quickly.

While some have decried the confirmation process is broken, certainly the numbers belie that charge. With the two district court judges confirmed before we recessed and Mr. Sutton on Tuesday, the number of confirmations has already risen to 120. This afternoon it will be 121. These numbers dwarf the confirmations achieved by my Republican colleagues under President Clinton.

Last year alone, in an election year, the Democratic-led Senate confirmed 72 judicial nominees, more than in any of the prior 6 years of Republican control. Overall, in the 17 months of Senate Democratic control, we were able to confirm 100 judges and vastly reduce judicial vacancies. We were able to do so despite the refusal of the administration to consult with Democrats on circuit court vacancies and many district court vacancies.

As I have indicated, if we confirm Judge Prado, which I am confident we will do, he will be the 121st judge. He will also be the 11th Latino judge serving in our circuit courts. Judge Prado is supported by the Congressional Hispanic Caucus, the Mexican American Legal Defense Fund, and many others.

I ask unanimous consent that a letter from the Congressional Hispanic Caucus expressing their unanimous support be printed in the RECORD.

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

APRIL 29, 2003.

Hon. BILL FRIST,
U.S. Senate Majority Leader,
U.S. Senate, Washington, DC.

DEAR MAJORITY LEADER FRIST: On behalf of the Congressional Hispanic Caucus (CHC), we write today regarding Edward Charles Prado's nomination to the United States Court of Appeals for the Fifth Circuit. Earlier this year, the CHC voted unanimously to endorse the nomination of Judge Prado. Subsequently, Judge Prado received the unanimous bipartisan support of the Senate Judiciary Committee, and it is our understanding that Senate Democratic leadership has since asked that this non-controversial nomination be immediately called up for a vote.

Unfortunately, it is now being reported that Senate Republican leadership is holding up confirmation of Judge Prado as part of a political ploy to characterize Democratic opposition to certain individual judicial nominees as a Democratic assault on women and minorities. If this in fact is the case, then it is reprehensible that the Senate Republican leadership would engage in such offensive and malicious tactics for mere political gain.

It is ironic that although Judge Prado has received bipartisan and unanimous support so far, Republican leadership has not yet allowed the full Senate a final vote on his nomination. Intentionally delaying a vote on this nomination casts doubt on the sincerity of Republican rhetoric about supporting and confirming qualified Hispanic judges.

Furthermore, it would be a travesty for Judge Prado, a qualified and respected Hispanic judicial nominee, to fall victim to a disingenuous politically motivated campaign to label Democrats as anti-minority by highlighting Democratic opposition to a select few while ignoring Democratic support for the vast majority of President Bush's Hispanic judicial nominees.

President Bush's nominations of Jose Martinez to a District Court in Florida, Jose Linares to a District Court in New Jersey, Christina Armijo to a District Court in New Mexico, James Otero to a District Court in California, as well as Alia Ludlum, Philip Martinez, and Randy Crane to District Courts in Texas all received Democratic support and all were confirmed by the U.S. Senate. In addition to Judge Prado, another pending Hispanic judicial nominee, Cecilia Altonaga of Florida, is also expected to be confirmed by the Senate with Democratic support.

Clearly, Senate Democrats have displayed a willingness to support President Bush's Hispanic nominees, and any assertions to the contrary are unnecessary and counterproductive to efforts to increase diversity on our Nation's federal courts.

As you know, the judicial nomination process is important to the CHC because we believe that our Nation's courts should reflect the diversity of thought and action that enrich America. To that extent, we established the Hispanic Judiciary Initiative to further formalize our involvement in this issue by establishing a set of evaluation criteria and an internal process for endorsing nominees. Since its inception the CHC Hispanic Judiciary Initiative has worked to improve diversity within the federal judiciary. For this effort to be hindered due to political maneuvering, absent concern for the best interest of the Hispanic community, is both irresponsible and neglectful.

Once again, we believe that Judge Prado's qualifications and distinguished career in law, as well as his dedication to the Hispanic community make him a judicial nominee deserving of confirmation. We respectfully urge you to schedule a vote to conform Edward Charles Prado to the United States Court of Appeals for the Fifth Circuit without any further delay.

Sincerely,

CIRO D. RODRIGUEZ,
Chair, Congressional Hispanic Caucus
CHARLES A. GONZALEZ,
Chair, CHC Hispanic Judiciary Initiative.

Mr. REED. Judge Prado has served 19 years in the United States district court. As some of my colleagues have noted, it is sometimes more challenging to review nominees who come to us from private practice and universities. We have to extrapolate from their record in those different roles as to how they would perform as a judge. With Judge Prado, we certainly do not have that problem. We know how he has performed as a judge.

With the nomination of Priscilla Owen, the same applies. We have the Priscilla Owen and Judge Prado judicial records we can directly evaluate. In the case of Justice Owen, it is a record many on our side find troubling. If all the Members had been present today, it would have been 47 people voting against cloture.

In the case of Judge Prado, it is a record we find evinces an evenhandedness and fairness befitting a circuit court judge. Not that I would decide every case the way Judge Prado has—I would not—but overall he has won the support of all Democratic Senators, as far as I know, on the Judiciary Committee, and other Democratic Senators, because they found his record one of balance and fairness. Unlike Justice Owen and Mr. Estrada, no colleague or supervisor has questioned his ability to apply the law faithfully. Unlike Justice Owen and Mr. Estrada, no single person or organization has submitted a letter of concern or opposition to Judge Prado's nomination.

Judge Prado has generated no controversy. He is experienced. While I am sure he is conservative, it does not matter; He is an evenhanded judge.

There is something to be said for conservative judges. If conservatism means the law is followed, stare decisis, the precedent set, I think that is good.

Judge Prado will be confirmed today because he is a fine person and an excellent judge. As I have noted in the past, eight of the sitting Latino judges were appointed by President Clinton. Several of these judges were denied Senate consideration for years while the Republicans controlled the Senate. Judge Richard Paez, nominee for the Ninth Circuit, waited over 1,500 days. He was well qualified, had the support of his hometown Senators, and 39 Republicans voted against his nomination. There is nothing wrong with that. They had different views as to how he would serve as a judge.

Judge Sonia Sotomayor, a nominee to the Second Circuit, was similarly stalled. Her confirmation took 433 days. Then there were the Hispanic nominees who were denied hearings or votes by Republicans during the Clinton administration: Jorge Rangel, Enrique Moreno, Christine Arguello, Richard Morado, Anabelle Rodriquez.

These facts and the expected confirmation of Judge Prado belie the anti-Hispanic charges some have made in the context of the Estrada debate. The extended debate Democrats have sought to have on just a handful of judicial nominees affects our constitutional advice and consent duty.

While the number of judges who have been confirmed demonstrates our good faith in working with our colleagues and the President, we will not simply rubberstamp ideologically driven individuals for lifetime seats on our Federal courts.

I am pleased that today we are moving forward on this qualified judge, Edward Prado. I believe the way Judge Prado's nomination has been received in the Senate points the way through some of the conflict that has occurred in the Senate over a very small number of judicial nominees.

If my math is correct, by today's end there will be 121 versus 2. That is a good record in anyone's book.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, as I understand it we are on the Prado nomination.

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. Mr. President, I am pleased that we are considering the nomination of Edward C. Prado, who has been nominated by President Bush to serve on the United States Court of Appeals for the Fifth Circuit. He has an outstanding record of distinguished public service and will be a great addition to the Fifth Circuit, especially since the seat to which he has been nominated has been designated a judicial emergency by the Judicial Conference of the United States.

Judge Prado currently serves as a United States District Judge for the Western District of Texas, having been unanimously confirmed by the Senate in 1984. His 18 years on the bench, plus prior service as a Texas state court district judge has given him the experience and background to make an outstanding Fifth Circuit Judge.

In addition to his judicial experience, Judge Prado has had a distinguished legal career. After graduating from the University of Texas School of Law in 1972, he began his legal career as an Assistant District Attorney in the Bexar County, TX, District Attorney's Office. In 1976 he accepted a position with the Federal Public Defender's Office for the

Western District of Texas where he served as an Assistant Federal Public Defender representing indigent criminal defendants in the federal courts.

During 1980, he served as a Texas state district judge, filling the unexpired term of the incumbent. In this position, he presided over several hundred cases, including felony criminal trials. In 1981, he was unanimously confirmed by the Senate and appointed as United States Attorney for the Western District of Texas, where he managed one of the largest United States Attorney's Offices in the Nation. In 1984, President Reagan nominated and the Senate confirmed Judge Prado as a United States District Judge for the Western District of Texas. In this capacity he has handled thousands of cases and hundreds of trials.

Judge Prado is a man of exceptional character, impeccable ethics, and is well qualified to serve as a Circuit Judge. He has received many honors and awards for his work in the law, including the St. Thomas Moore Award from St. Mary's University School of Law in 2000, the LULAC State Award for Excellence in 1981, the Achievement Award from the U.S. Attorney General in 1980, and recognition as an Outstanding Federal Public Defender in 1978.

Judge Prado is a native of San Antonio, Texas and has served his community, state and nation in a variety of ways. Not only has he served in his professional capacity, but also he believes in community service and has been involved in community service organizations such as St. Mark's Catholic Church, Witte Museum Community Advisory Committee, the Philosophical Society of Texas, the Rotary Club of San Antonio, and Leadership San Antonio. Additionally, Judge Prado served in the U.S. Army Reserve as an Infantry Officer from 1972–1987.

In addition to his public and community service, Judge Prado has been actively involved in efforts to improve the legal and judicial process. He has been a leader in numerous bar associations and law-related organizations. For example, he has been a member of the Texas and San Antonio Bar Associations since 1972, including service as President, and later Director and Chairman of the Board of Trustees, of the San Antonio Bar Foundation. Judge Prado serves on the Texas State Bar Crime Victims Committee, and was appointed by Chief Justice Rehnquist to serve as the Chairman of the Criminal Justice Act Review Committee from 1991–1993.

As a District Judge, he has made efforts to reach out to youth groups to help them learn about the law and the judicial process. He gives motivational speeches and conducts events in his courtroom as an introduction to the law.

Judge Prado comes highly recommended by those with whom he serves and by those who appear in his courtroom. Let me read a few statements made by Texas attorneys, as reported in the Texas Lawyer, February 10, 2003. Laurence R. Macon said of Judge Prado, ''I've known him for 30 years, and he doesn't have any outrageous positions. He won't be there trying to make law.'' Seagal Wheatley stated, ''If the Judiciary Committee looks at his qualifications, he should be a shoo-in. I'm not aware of any recent opinion that will cause him problems.'' A third attorney, Van Hilley, said, ''Judge Prado has a varied background and an open mind about things. The reason his docket ran so smooth is he wasn't viewed as pro-government or pro-defense.''

The legal bar's wide regard for Judge Prado is reflected in his evaluation by the American Bar Association. The ABA evaluates judicial nominees based on their professional qualifications, their integrity, their professional competence, and their judicial temperament. The ABA has bestowed upon Judge Prado its highest rating of Unanimously Well Qualified.

Furthermore, Judge Prado has been endorsed by his hometown newspaper, The San Antonio Express-News, which declared, ''The Senate should confirm Prado's nomination without undue controversy or delay. . . . His credentials are unquestioned.'' Mr. President, I ask unanimous consent that the complete San Antonio Express-News editorial be printed in the RECORD, following my remarks.

The PRESIDING OFFICER. Without objection it is so ordered. (See exhibit No. 1)

Mr. HATCH. Mr. President, the record is clear that Judge Prado is a man of ability and character. This Senate, on two previous occasions, has found Judge Prado worthy of confirmation for positions of high responsibility in the government, and I am confident it will do so again today. I strongly support his confirmation and urge my colleagues to do likewise.

EXHIBIT NO. 1

U.S. District Judge Edward C. Prado has compiled an admirable record in his almost two decades on the federal trial bench.

Last week, President Bush nominated the San Antonio judge for a well-deserved promotion to the 5th U.S. Circuit Court of Appeals.

The Senate should confirm Prado's nomination without undue controversy or delay.

Prado, a graduate of Edgewood High School, was appointed to his federal district court post by President Reagan in 1984 and has performed consistently as a non-ideological moderate.

His credentials are unquestioned. Prado first became a judge in 1980 when Gov. Bill Clements named him to a state district court bench.

In addition, U.S. Sens. KAY BAILEY HUTCHISON and JOHN CORNYN of Texas swiftly recommended a solid replacement for Prado if he is elevated.

The lawmakers forwarded the name of former Texas Supreme Court Justice Xavier Rodriguez of San Antonio to the White House to fill Prado's seat.

Gov. Rick Perry appointed Rodriguez to the state's high court, but he was defeated in last year's GOP primary.

A bright lawyer with solid legal qualifications, Rodriguez was apolitical before being appointed to the Texas Supreme Court, and that is one of many factors that make him a strong candidate for a federal bench.

We urge Bush to accept the recommendation of the Texas senators and nominate Rodriguez when Prado's post is officially vacated.

Mr. KOHL. Mr. President, I rise today in support of the nomination of Judge Edward Prado to be a Circuit Court Judge for the Fifth Circuit Court of Appeals. Judge Prado has earned my support and that of my colleagues for his distinguished record in public service and for the integrity with which he has gone through the Senate confirmation process.

Judge Prado has been a public servant for his entire professional life. From the assistant district attorney position he took just after receiving his law degree, to his experience as a U.S. attorney for the Western District of Texas, to the 19 years he has served as a district court judge for the Western District of Texas, Judge Prado's commitment to public service is evident.

During his tenure as a Federal district court judge, Judge Prado has heard and decided hundreds of cases. This experience helps make him a well-prepared and well-qualified nominee to the Fifth Circuit. He has developed an extensive record of achievement for the Senate to consider and review in our endeavor to evaluate his nomination.

Further, Judge Prado should be commended both for his willingness to be honest and forthcoming in the questionnaire he submitted to the committee, and for his comportment at his committee confirmation hearing. Judge Prado directly and fully addressed some of his more controversial rulings in his questionnaire, and provided honest, complete answers to all questions asked of him at his hearing. I do not agree with all of Judge Prado's decisions; in fact, we may hold different views on significant issues. Yet I am convinced that he will apply the law in a capable and responsible manner.

Finally, it should be noted that I support the elevation of Judge Prado to the Court of Appeals for the same reasons that make me unable to support the nomination of Miguel Estrada to the D.C. Circuit. Where Judge Prado has 19 years of experience on the Federal bench, Mr. Estrada has no experience of any kind as a judge. And, more importantly, Judge Prado has voluntarily and directly addressed any controversial issues in his record, while Mr. Estrada has made a habit of concealing such information and refusing to submit documents which would be of substantial assistance to the committee.

Mr. Prado is the kind of experienced, well-qualified nominee that the Senate can confirm with speed and ease. I support his nomination.

Mr. LEAHY. Will the Senator yield?

Mr. HATCH. I am happy to yield.

Mr. LEAHY. I know we have set a time. I wonder if the Senator from Vermont might have a minute or so to speak about this nomination.

The PRESIDING OFFICER. Each side has 3 minutes remaining at this time.

Mr. HATCH. I will yield to the distinguished Senator from Vermont, and I yield my remaining 3 minutes to the distinguished Senator from Texas.

Mr. LEAHY. Mr. President, I begin by thanking the democratic leader and assistant leader for going to bat for Judge Edward Prado and working out this arrangement with the Republican leadership so that this consensus nomination can be considered without further delay. I appreciate that the majority leader and Senator MCCONNELL have been willing to work with us to allow this nomination to go forward today.

I was disappointed to hear on Tuesday that the Republican position was that this matter should be further delayed and I did not understand the logic or motivation behind that position.

I cannot recall a time when the Senate or either party leadership insisted on strict adherence to consideration of nominations based on their calendar number. Indeed, during the period 1995 through 2001, quite the opposite was true and Democrats had to work very hard to get the Republican leadership to take up nominations that were stalled on the Senate Executive Calendar for weeks, months and sometimes years. This year we have continued to make progress on filling judicial vacancies not by holding up all nominations reported after that of Mr. Estrada but, on the contrary, by moving to those on which there is agreement and on which we can proceed most efficiently.

In fact, all 20 judicial confirmations this year were nominations reported and considered after that of Mr. Estrada and after debate on the Estrada nomination had begun.

We still do not know who on the Republican side delayed consideration of the consensus nomination of Judge Prado for the last month. I thank the Congressional Hispanic Caucus for its support of this nomination and for working with the Senate to bring this matter forward at this time. I also want to thank the Republican leadership for changing position and working with us to move forward.

I came to the floor on Monday to make the point that the nomination of Judge Edward Prado to the United States Court of Appeals for the Fifth Circuit was cleared on the Democratic side and that we were prepared to proceed. Senator DASCHLE and Senator REID came before the Senate on Tuesday to urge that the Prado nomination be considered rather than be held captive on the Senate calendar. All Democratic Senators serving on the Judiciary Committee voted to report this nomination favorably. All Democratic Senators had indicated that they were eager to proceed to this nomination and, after a reasonable period of debate, voting on the nomination. I am confident this nomination will be confirmed by an extraordinary majority—maybe unanimously.

It is most unfortunate that so many partisans in this administration and on the other side of the aisle insist on bogging down consensus matters and consensus nominees in order to focus exclusively on the most divisive and controversial of this President's nominees as he continues his efforts to pack the courts. Democratic Senators have worked very hard to cooperate with this administration in order to fill judicial vacancies. What the other side seeks to obscure is that effort, that fairness and the progress we have been able to achieve without much help from the other side or the administration.

This week, again, despite Democratic willingness to proceed to a vote on the controversial nomination of Jeffrey Sutton to the Sixth Circuit, the other side then insisted we proceed to the unprecedented renomination of Priscilla Owen. Mr. Sutton was confirmed with the fewest votes in favor of any judicial nominee in the last 20 years and with more than enough negative votes to have sustained a filibuster. Rather than proceed to a consensus nominee and fill a judicial emergency vacancy on the Fifth Circuit with an experienced and respected Hispanic federal judge, Judge Prado, Republicans insisted on pressing forward with another of the President's most controversial and divisive nominations.

The fact is that when Democrats became the Senate majority in the summer of 2001 we inherited 110 judicial vacancies. Over the next 17 months, despite constant criticism from the administration, the Senate proceeded to confirm 100 of President Bush's nominees, including several who were divisive and controversial, several who had mixed peer review ratings from the ABA and at least one who had been rated not qualified. Despite the additional 40 vacancies that arose, we reduced judicial vacancies to 60, a level below that termed "full employment" by Senator HATCH. Since the beginning of this year, in spite of the fixation of the Republican majority on the President's most controversial nominations, we have worked hard to reduce judicial vacancies even further.

As of today, the Senate Judiciary Committee website lists the number of judicial vacancies at 48. That is the lowest it has been in 13 years. That is lower than at any time during the entire eight years of the Clinton administration. We have already reduced judicial vacancies from 110 to 48, in less than two years. We have reduced the vacancy rate from 12.8 percent to 5.6 percent, the lowest it has been in the last two decades. With some cooperation from the administration think of the additional progress we could be making.

Even after the consideration of Judge Prado, for example, there is another distinguished Hispanic nominee who was reported unanimously by the Judiciary Committee last month on which the Senate will not yet have acted: on the Senate executive calendar is the nomination of Cecilia Altonaga to be a Federal judge in Florida. We expedited consideration of this nominee at the request of Senator GRAHAM of Florida. She will be the first Cuban-American woman to be confirmed to the Federal bench when Republicans choose to proceed to that nomination. Indeed, Democrats in the Senate have worked to expedite fair consideration of every Latino nominee this President has made to the Federal trial courts in addition to the nomination of Judge Prado.

Another example may be the nomination of Consuelo Callahan to the Ninth Circuit Court of Appeals. Unlike the divisive nomination of Carolyn Kuhl to the same court, both home State Senators returned their blue slips and support a hearing for Judge Consuelo Callahan. I have asked that she receive a hearing in the near future and look forward to learning more about her record as an appellate judge for the State of California. Rather than disregarding time-honored rules and Senate practices, I urge my friends on the other side of the aisle to help us fill more judicial vacancies more quickly by bringing those nominations that have bipartisan support to the front of the line for Committee hearings and floor votes.

As I have noted throughout the last 2 years, the Senate is able to move expeditiously when we have consensus, mainstream nominees to consider. Nationally-respected columnist David Broder made this point in an April 16 column that appeared in the Washington Post. I referenced this column earlier this week and inserted it in the CONGRESSIONAL RECORD. In his column, Mr. Broder noted that when he asked Alberto Gonzales if there might be a lesson in Judge Prado's easy approval, Mr. Gonzales missed the point. In Mr. Broder's mind: "The lesson seems obvious. Conservatives can be confirmed for the courts when they are well known in their communities and a broad range of their constituents have reason to think them fair-minded."

To date the Senate has proceeded to confirm 120 of President Bush's nominees, 100 in the 17 months in which Democrats made up the Senate majority. The lesson that less controversial nominees are considered and confirmed more easily was the lesson of the last two years and that lesson has been lost on this White House.

Unfortunately, far too many of this President's nominees raise serious concerns about whether they will be fair judges to all parties on all issues. Those types of nominees should not be rushed through the process. I regret the administration's refusal to work

with us to end the impasse it has created in connection with the Estrada nomination.

The partisan politics of division that the administration is practicing with respect to that nomination are not helpful and not respectful of the damage done to the Hispanic community by insisting on so divisive a nominee.

I invite the President to work with us and to nominate more mainstream individuals like Judge Prado. His proven record and bipartisan support makes it easier for us to uphold our constitutional duty of advise and consent. I encourage those on the other side of the aisle to allow us to consider his nomination. I look forward to casting a vote in favor of his confirmation.

Judge Prado is an exceptional candidate for elevation to the appeals court. He has significant experience as a public servant in west Texas. Perhaps the fact that he has bipartisan support is the reason why he is not being brought forward at this time for a floor vote. That does not fit the Republican message but reveals the truth: That Democratic Senators, having already acted on 120 judges nominated by President Bush, are prepared to support even more of his nominations when they are mainstream, consensus nominees. Perhaps the fact that Democrats unanimously supported his nomination in committee is seen as a drawback for Mr. Prado in the Republican world of nomination politics. I hope that is not the case.

I also hope the fact that Judge Prado is Hispanic has not been a factor in the Republican delay. Some have suggested that Judge Prado has been delayed because Democratic Senators are likely to vote for him and thereby undercut the Republican's shameless charge that the opposition to Miguel Estrada is based on his ethnicity. Republican partisans have made lots of partisan hay attacking Democrats in connection with the Estrada nomination. We all know that the White House could have cooperated with the Senate by producing his work papers and the Senate could have proceeded to a vote on the Estrada nomination months ago. The request for his work papers was sent last May.

Rather than respond as every other administration has over the last 20 years and provide access to those papers, this White House has stonewalled. Rather than follow the policy of openness outlined by Attorney General Robert Jackson in the 1940's, this administration has stonewalled. And Republican Senators and other partisans could not wait to claim that the impasse created by the White House's change in policy and practice with respect to nominations was somehow attributable to Democrats being anti-Hispanic. The charge would be laughable if it were not so calculated to do political damage and to divide the Hispanic community. That is what Republican partisans hope is the result. That is wrong.

So some have come to the conclusion that Republican delay in connection with the consideration of Judge Prado's nomination may be related to the political strategy of the White House to characterize Democrats unfairly. Might the record be set straight if Democrats were seen to be supporting this Hispanic nominee to the Fifth Circuit? Might the Republicans' own record of opposing President Clinton's nominations of Judge Jorge Rangel and Enrique Moreno to that same circuit court be contrasted unfavorably with Democrats' support of Judge Prado?

Might Judge Prado, a conservative from Texas with a public record of service as a Federal district court judge, become the first Hispanic appointed by President Bush to the circuit courts with widespread support from Senate Democrats? Might this more mainstream, consensus nominee stand in stark contrast to the ideological choices intended to pack the courts on which the White House and Senate Republicans concentrate almost exclusively?

Judge Prado has 19 years of experience as a U.S. District Court judge, which provides us with a significant judicial career to evaluate. A review of Judge Prado's actions on the bench demonstrates a solid record of fairness and evenhandedness.

While I may not agree with each and every one of his rulings or with every action he has taken as a lawyer or judge, my review of his record leads me to conclude that he will be a fair judge. No supervisor or colleague of Judge Prado's has questioned his ability or willingness to interpret the law fairly. Judge Prado enjoys the full support of the Congressional Hispanic Caucus and the Mexican American Legal Defense and Education Fund. Not a single person or organization has submitted a letter of opposition or raised concerns about Judge Prado. No controversy. No red flags. No basis for concern. No opposition. This explains why his nomination was voted out of the Judiciary Committee with a unanimous, bipartisan vote on an expedited basis.

To understand the importance of Judge Prado's nomination, we must put it in the context of prior nominations to the Fifth Circuit Court of Appeals. Until Judge Prado's hearing, it had been more than a decade since a Latino nominee to that Court had even been allowed a hearing by the Senate Judiciary Committee, let alone a vote on the floor. I recall President Clinton's two Hispanic nominations to the Fifth Circuit and the poor treatment they received from the Republican-led Senate.

Judge Jorge Rangel was a former Texas State judge and a dedicated attorney in private practice in Corpus Christi, TX when President Clinton nominated him to the United States Court of Appeals for the Fifth Circuit in 1997. Judge Rangel is a graduate of the University of Houston and the Harvard Law School and earned a rating of ''Well Qualified'' by the American Bar Association. Yet, under Republican leadership, he never received a hearing on his nomination, let alone a vote by the Committee or by the full Senate. His nomination languished without action for 15 months. Despite his treatment, this outstanding gentleman has recently written us in support of a judicial nominee of President Bush.

After Judge Rangel, disappointed with his treatment at the hands of the Republican majority, asked the President not to resubmit his nomination, President Clinton nominated Enrique Moreno, a distinguished attorney in private practice in El Paso, TX. Mr. Moreno is a graduate of Harvard University and the Harvard Law School. He was given the highest rating of unanimously ''Well Qualified'' by the ABA. Mr. Moreno also waited 15 months, but was never allowed a hearing before the Senate Judiciary Committee. President Clinton renominated him at the beginning of 2001, but President Bush, squandering an opportunity for bipartisanship, withdrew the nomination and refused to renominate him.

In addition, President Clinton nominated H. Alston Johnson to the Fifth Circuit in 1999. This talented Louisianan came to the Senate with the support of both of his home state Senators but he never received a hearing on his nomination or a vote by the Committee or the full Senate in 1999, 2000, or the beginning of 2001. His nomination languished without action for 23 months.

In contrast, when I served as Chair of the Judiciary Committee last Congress, we granted Edith Clement a hearing within months of her nomination. At that time there had been no hearings on Fifth Circuit nominees since 1994 and no confirmations since 1995.

We also proceeded to hearings, committee debate and committee votes on the divisive and controversial nominations of Judge Priscilla Owen and Judge Charles Pickering. We granted hearings and votes on all four of this President's nominees to the Fifth Circuit in spite of the treatment Republicans accorded President Clinton's qualified nominees to that same circuit. Under Republican leadership, none of President Clinton's nominees to this Court received a hearing during his entire second term of office.

Some of my friends on the other side of the aisle have made the outrageous claim that Democratic Senators are anti-Hispanic or anti-Latino. I think it is important to set the record straight.

Of the ten Latino appellate judges currently seated in the Federal courts, 8 were appointed by President Clinton. Three other Latino nominees of President Clinton to the appellate courts were blocked by Republicans—as well as several others for the district court. In fact, in contrast to the President's selection of only one Latino circuit

court nominee in his first 2 years in office, 3 of President Clinton's first 14 judicial nominees were Latino, and he nominated more than 30 Latino nominees to the Federal courts.

During President Clinton's tenure, 10 of his more than 30 Latino nominees, including Judge Rangel, Enrique Moreno, and Christine Arguello to the circuit courts, were delayed or blocked from receiving hearings or votes by the Republican leadership.

Republicans delayed consideration of Judge Richard Paez for over 1,500 days, and 39 Republicans voted against him. The confirmations of Latina circuit nominees Rosemary Barkett and Sonia Sotomayor were also delayed by Republicans. Judge Barkett was targeted for delay and defeat by Republicans based on claims about her judicial philosophy, but those efforts were not successful. After significant delays, 36 Republicans voted against the confirmation of this nominee who received a ''Well Qualified'' rating by the ABA. Additionally, Judge Sotomayor, who also received a ''Well Qualified'' rating and had been appointed to district court by President George H.W. Bush, was targeted by Republicans for delay or defeat when she was nominated to the Second Circuit. She was confirmed, although 29 Republicans voted against her.

The fact is that the Latino nominations that the Senate has received from this administration have been acted upon in a expeditious manner. They have overwhelmingly enjoyed bipartisan support. Under the Democratically-led Senate, we swiftly granted hearings for and eventually confirmed Judge Christina Armijo of New Mexico, Judge Phillip Martinez and Randy Crane of Texas, Judge Jose Martinez of Florida, U.S. Magistrate Judge Alia Ludlum, and Judge Jose Linares of New Jersey to the district courts.

This year, we also confirmed Judge James Otero of California, and we would have held his confirmation hearing last year if his ABA peer rating had been delivered to us in time for the scheduling of our last hearing. As I have noted, we also have the nomination of Cecilia Altonaga to be a Federal judge in Florida already on the Senate Executive Calendar.

I, again, urge those on the other side of the aisle to help us fill more judicial vacancies more quickly by bringing those nominations that have bipartisan support to the front of the line for Committee hearings and floor votes. As I have noted throughout the last 2 years, the Senate is able to move expeditiously when we have consensus, mainstream nominees to consider.

That is the way to achieve 100 confirmations in 17 months and 120 in less than 2 years. The lesson that less controversial nominees are considered and confirmed more easily was the lesson of the last 2 years and that lesson has been lost on this White House.

Unfortunately, far too many of this President's nominees raise serious concerns about whether they will be fair judges to all parties on all issues. Those types of nominees should not be rushed through the process. I invite the President to nominate more mainstream individuals like Judge Prado. His proven record and bipartisan support makes it easier for us to uphold our constitutional duty of advise and consent. I encourage those on the other side of the aisle to allow us to consider his nomination. I look forward to casting a vote in favor of his confirmation.

I, again, thank the Senate Republican leadership for working with us to proceed to this consensus nomination, to provide adequate time for debate and to proceed to a vote without further delay. Judge Prado's nomination has been delayed on the Senate executive calendar for several weeks, unnecessarily in my view. I recall all too vividly when anonymous Republican holds delayed Senate action on the nomination of Judge Sonia Sotomayor to the Second Circuit for 7 months. Let us work together. I thank all Senators, even those Republicans who have anonymously held up consideration of Judge Prado's nomination for the last month, for agreeing to proceed with this nomination at this time. I congratulate the nominee and his family on his elevation to the Fifth Circuit and look forward to his continuing judicial service.

Again, I thank the Congressional Hispanic Caucus for its support of this nomination and for working with the Senate to bring this matter forward at this time. I do thank the Republican leadership for changing its position and working with us to move forward.

I see the distinguished senior Senator from Texas in the Chamber, and if I have further time, I withhold it. I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Texas.

Mrs. HUTCHISON. I would like to be notified when I have 1 minute remaining so Senator HATCH can take that last minute of our 3 minutes.

The PRESIDING OFFICER. The Senator will be notified.

Mrs. HUTCHISON. Mr. President, I am pleased, of course, the Senate will be voting on Judge Ed Prado to move to the Fifth Circuit Court of Appeals. He has been a judge on the district bench for a number of years—actually, since 1984—and he has an outstanding record. He was a great choice by the President, and this is a circuit that needs these vacancies filled. There is no question it is a judicial emergency. We hope to fill this seat with Judge Prado, and then we hope Justice Priscilla Owen will also fill the other vacancy for the Fifth Circuit, that is open, from Texas.

Judge Prado has an outstanding record. He graduated from the University of Texas and the University of Texas Law School, a great university in our Nation. He also has served as U.S. Attorney for the Western District. He served as judge on the State district court. This is a man who has made public service his career, and an outstanding one at that. He is so well regarded in San Antonio and by the people who have gone before him. They know they will get fair and impartial justice in his court. That is why I am pleased to support his nomination.

This nomination has moved very quickly. We are very pleased because of the vacancies on the Fifth Circuit. But the ABA agreed that he had the ''well qualified'' unanimous approval of their committee.

There is just no controversy at all with this wonderful judge. It is my pleasure as a Texan to support and urge my colleagues to support the nomination of Judge Ed Prado.

The PRESIDING OFFICER. One minute remains.

Who yields time?

The Senator from Utah.

Mr. HATCH. Mr. President, I ask for an additional 2 minutes equally divided in addition to the 1 minute I have remaining.

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

Mr. HATCH. Mr. President, I am pleased that my Democratic colleagues are willing to join us in confirming Judge Prado to the Fifth Circuit Court of Appeals.

I regret that there has been any discussion that somehow the Republican leadership has held up this nominee. That is not true. What is particularly troubling is the suggestion that there is some Republican delay in the consideration of Judge Prado's nomination related to the Estrada nomination.

I would point out that Democrats who support the nomination of Judge Prado to the Fifth Circuit are leading the opposition to Mr. Estrada, nominated to the D.C. Circuit. Those Democrats have characterized the D.C. Circuit as ''the second most important court in the land.'' Senator KENNEDY stated recently that the D.C. Circuit makes decisions with national impact on the lives of all of the American people. Senator SCHUMER echoed these sentiments just yesterday. It does seem to me that there is a different standard being applied to Miguel Estrada—a nominee to the second highest court in the land—than to Judge Prado—a nominee to one of twelve other Circuit Courts—although they are important.

In any event, neither the confirmation of Judge Prado nor the confirmation of any judge justifies or excuses the continued obstruction on Miguel Estrada. I repeat that the arguments put forth by opponents of Mr. Estrada just do not hold up under scrutiny. Their repeated accusations that he failed to answer the questions has been refuted again and again. The demand for confidential memoranda he authored as a line attorney for the Department of Justice is both extraordinary and ill-advised, as I and others, including all the living former Solicitors General, have repeatedly demonstrated.

So my Democratic colleagues have had unlimited opportunities to make their case on Mr. Estrada. Some of them oppose him; others support him. But one thing has remained clear through this debate: There is no good reason to deny Mr. Estrada an up or down vote on his nomination.

The time has come to end the debate on Mr. Estrada's nomination and give him and up or down vote, as the Senate will now do on Judge Prado. It is the fair thing to do.

I urge all of my colleagues to join me in voting for Judge Prado's nomination at this time.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I am glad my friends on the Republican side now allow Judge Prado's nomination to go forward. I intend to vote for him.

I yield the remainder of my time.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Edward C. Prado, of Texas, to be United States Circuit Judge for the Fifth Circuit?

Mr. HATCH. 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 legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Oklahoma (Mr. INHOFE) is necessarily absent.

Mr. REID. I announce that the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 138 Ex.]

YEAS—97

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

NOT VOTING—3

Inhofe
Lieberman
Sarbanes

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of this action.

LEGISLATIVE SESSION

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

The Senator from Illinois.

MORNING BUSINESS

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

Mr. FITZGERALD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

HONORING THE UNITED STATES CAPITOL POLICE ON THE DEPARTMENT'S 175TH ANNIVERSARY

Mr. DASCHLE. Mr. President, tomorrow marks a special milestone in the history of the Capitol: The 175th anniversary of the U.S. Capitol Police Department.

Those of us who are privileged to work in the Capitol know, perhaps better than anyone, what a difficult and demanding job it is to protect the Capitol, and how extraordinarily well the men and women of the Capitol Police perform that job.

We also know how dedicated they are to their duty.

After September 11 and the anthrax attack on the Capitol itself, no one showed more courage, no one was showed more determination, and no one was more critical to ensuring that the ''People's House'' remained open to the people, than the members of the Capitol Police force.

We, and all Americans, owe them an enormous debt of gratitude.

Today, on the eve of the 175th anniversary of the department, we say ''thank you'' to Chief Gainer and all of the men and women of the Capitol Police.

When we look at the highly trained, highly skilled professionals who protect the Capitol today, it is hard to imagine sometimes that the department is descended from such humble beginnings.

The Capitol Police department traces its origins to 1801, when Congress moved from Philadelphia to Washington. At the time, the department had exactly one member, a watchman named John Goldin, who was not armed, had no power of arrest, and was paid an annual salary of $371.75.

In 1827, the force was expanded for the first time, to four watchmen; two to work the day shift, one to work the night shift, and one to fill in as needed.

One-hundred and seventy-five years ago tomorrow, on May 2, 1828, Congress passed a milestone piece of legislation titled, appropriately, ''the Act of May 2, 1828,'' bringing responsibility for policing the Capitol, for the first time, under the direction of the presiding officers of the House and Senate.

This same law also empowered the Capitol watchmen with full law enforcement authority. It transformed a corps of watchmen into a police department.

In 1854, the Capitol Police were armed for the first time with heavy hickory canes.

In 1867, responsibility of the Capitol Police was transferred to the Sergeant of Arms in the House and Senate, where it remains today.

In 1873, the U.S. Capitol Police Board was formed to oversee the department.

At the beginning of the 20th century, the department had grown to 67 members.

In 1909, the department expanded to just over 100 members; a move necessitated by the construction of the Russell Senate Office Building and the Cannon House Office building. This also marked the first time the authority of the Capitol Police stretched outside the Capitol building itself.

In 1935, the Capitol Police Board, for the first time, set qualification standards for Capitol Police officers.

In 1974, the first women officers joined the force.

In 1981, the Capitol Police were authorized to protect Members and officers of Congress, and their families, anywhere in the United States.

Since September 11, all Members of the House and Senate leadership have been required to have Capitol police protection whenever we travel, and throughout the day as we go outside the Capitol building. One happy result of that, for me, is that I have been able to show off my home State to a number of officers.

And I am proud to say that a few of them now consider themselves almost honorary South Dakotans.

From the beginning, protecting the Capitol has always carried the risk of personal injury, or worse.

On 1814, during the War of 1812, the British set fire to the Capitol building.

During the Civil War, the Capitol Police kept the ''People's House'' open to the public from sunrise to sunset, despite the fact that military troops were stationed around, and at times even in this building.

Three times in the last century—in 1915, 1917, and 1983—bombs were exploded in the Capitol by groups seeking to advance political agendas.

In 1954, four members of a Puerto Rican nationalist group entered the House gallery and fired more than 16 shots with .38 caliber pistols at the 243 Members who were then on the floor. Five Congress Members were injured.

In response to each of these attacks, the Capitol Police Department strengthened its training procedures, and strengthened its ability to prevent and respond to such attacks.

The fact that schoolchildren and other visitors can sit in the galleries today and watch their Government in action is a powerful symbol of America's commitment to democracy, and a testimony to the skill and courage of the Capitol Police.

Given the risks, it seems almost miraculous that the department did not lose a single member in the line of duty until 1984, when Sergeant Christopher Eney was killed in a training exercise.

And we all remember the terrible Friday afternoon, July 24, 1998, when Officer JJ Chestnut and Detective John Gibson were killed preventing a severely mentally ill man with a gun from entering the Capitol and killing others. We still honor and miss them today.

Their deaths brought into sharp relief how difficult it is to protect ''the People's House'' and keep it open to the people at the same time. It is a complex balancing act that few other police departments in the world even attempt, and none performs better.

On September 11 and during the anthrax attacks, the Capitol Police reacted with great courage and professionalism under circumstances few people could have imagined even a few years ago.

Since then, the department has undergone an intensive process to be able to prevent, and respond to, the new threats posed by global terrorism.

Capitol Police officers continue to work long days and long weeks in order to respond to the need for increased vigilance. It is not unusual to see an officer guarding a door to the Capitol when we arrive in the morning—and see that same officer, still on duty, when we leave at night.

Without them, we could not do our jobs. And this Capitol could not keep its doors open to the more than 1 million people who visit it each year from across this Nation and the world.

Over the years, many fine men and women have served on the Capitol Police Force—including my dear friend, the assistant minority leader, HARRY REID.

As they prepare to celebrate 175 years of proud service to our Nation, we thank them all for their devotion to duty, their great skill and professionalism, and for their unyielding courage and sacrifice.

I yield the floor and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

THE ECONOMY

Mr. NELSON of Florida. Mr. President, I rise to speak about the depleted condition of our national economy and what we ought to do.

It is timely to point out that next week this Chamber, the U.S. Senate, will consider legislation raising the debt limit; that is, the limit set by law under which the Federal Government can borrow money that is a debt obligation of the United States. That debt limit is approximately $6.3 trillion. Next week, we will consider the House bill which has been sent to us to raise that by the largest amount ever in the history of the Union, almost $1 trillion. Specifically, $984 billion will be the vote that we will cast next week to raise the debt limit.

The Federal Government has to pay its obligations. So by law we have to raise the debt limit so that the Federal Government can pay its obligations. But it is illustrative of the fact that the national debt is growing larger and larger, and we are adopting fiscal policies that add to that national debt each year by increasing the deficit financing that we engage in by the budgets we adopt and then all of the legislation with which we implement those budgets—the tax cuts, the spending bills, financing the war, all of those necessary expenditures. But a fiscal policy has been advocated by the White House, one of dropping off over the next 10 years tax revenues by some $720 billion. And what is likely to pass the Senate is the commitments that were made several weeks ago that that level will be in the range of $350 billion over 10 years instead of the level passed by or to be passed by the House of Representatives in the range of about $550 billion over 10 years.

Is any elected official not for tax cuts? Of course, we are. But that is not the decision with which we are confronted. What we are confronted with is, what do we do to better stabilize a sick economy and to get our economy moving again? Almost unanimously, the economists—I say almost unanimously because it is probably a ratio of 9 to 1 among the economists, including statements issued yesterday by the Chairman of the Federal Reserve, Alan Greenspan—are basically saying: Watch out. If you deficit finance, long-term interest rates are going to go up. It is going to depress the economy coming out of this near recession. It is going to be difficult for us to get the economy moving again.

That is particularly true of the financial condition in which we find ourselves now. In the first 6 months of this fiscal year, the Government has had to go out and deficit spend to the tune of $250 billion. Annualized, that means we will deficit finance, if that trend holds up, a half a trillion dollars.

What does deficit financing mean? That means we are going to adopt budgetary policies of spending and tax revenues by which we are going to spend a half a trillion dollars, $500 billion, more than we have coming in in tax revenue. And you wonder why the stock market is languishing so much. The stock market is a reflection of the American people's confidence in the future of the economy and economic activity. So is it any wonder the stock market just keeps kind of languishing along? Do people have the confidence we are going to come out of these economic doldrums and get the economy moving again? I think you see how they are voting with their pocketbooks on the stock market. The people do not have that confidence. Why should they if, in this year, we are going to spend a half trillion dollars more than we have coming in in tax revenue?

This leads me, then, to next week. Next week, in addition to taking up the debt ceiling bill of raising the debt almost a trillion dollars more so we can pay our bills, we are also going to take up the tax bill. The tax bill, as presented to this body, is at least going to be $350 billion. There are many in this body who would like that tax bill to be even more over a 10-year period.

To me, it is not wise fiscal policy if that causes our deficit financing to go up continually, just like we are seeing in this present fiscal year. If that debt keeps getting added to the national debt, then it won't be too long—another couple years—and we will be right back here asking to raise the debt limit from about $7.3 trillion—another trillion dollars—up to about $8.5 trillion. That is not sound fiscal policy.

That is not going to bring us back on the road to economic recovery. What we can do is balance interests. We can have some tax cuts that will get the economy moving again, that will provide economic growth, that will provide jobs so we get more dollars into the economy and circulating to offset the sickly economy, offset the lack of economic activity, some of which has been brought on by September 11 but some of which has also been brought on by an economic policy that is embracing deficit financing.

I will never forget over two decades ago when I was in the House of Representatives. One of the most prolific writers and great speakers who had articulated balanced budgets suddenly changed his tune and started speaking the message that we will not worship at the shrine of balanced budgets anymore. Well, in the early 1980s, that kind of worship didn't work. The fiscal policies adopted in the early 1980s were so out of whack with the deficits annually soaring up to as high as $250 billion in 1 year, finally those policies had to be reversed—not once but three times.

Now we have a situation that is double the annual deficits ever experienced

in the 1980s. We best get about the process of getting our economic and fiscal house in order if we want America to have the economic prosperity our citizens should enjoy.

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

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

The legislative clerk proceeded to call the roll.

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

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

THE HIV-AIDS EPIDEMIC

Mr. DEWINE. Mr. President, a number of us had the honor of attending an event at the White House on Tuesday in which President Bush urged Congress to act quickly in passing an emergency plan for global HIV/AIDS relief.

I come to the Senate floor this afternoon to applaud the President for his remarks and for his continuing commitment to ease the worldwide suffering caused by the HIV/AIDS epidemic around the world.

I also want to thank Secretary of State Colin Powell and also my colleagues in both the House of Representatives and in the Senate for their leadership in fighting this dread disease. There are so many people to thank. Let me commend Senators LUGAR, BIDEN, FRIST, SANTORUM, DURBIN, and KERRY for their tireless efforts and their dedication to this fight, as well as Congressmen HENRY HYDE and TOM LANTOS for their great leadership and their great vision. I am encouraged by what they have done with their leadership.

I believe we will soon pass a comprehensive global AIDS relief initiative. As the President said, time is not on our side. It is imperative that we in the U.S. Congress move quickly. As President Bush so correctly said on Tuesday:

> Fighting AIDS on a global scale is a massive and complicated undertaking. Yet, this cause is rooted in the simplest of moral duties. When we see this kind of preventable suffering—when we see a plague leaving graves and orphans across a continent—we must act.

The President of the United States is absolutely right. This is a moral issue. We as a nation and as a people have an obligation to act. We as a nation and we as a people have the ability to fight this disease. We have the tools. And it is our duty and it is our obligation to help ease this grave and global public health crisis.

In February, I made my 12th trip to Haiti and my first visit to Guyana, both nations in our hemisphere that President Bush has cited as countries in dire need of our assistance to fight this HIV/AIDS problem. We traveled there to learn more about the AIDS situation and determine what kind of health infrastructure is in place to fight the disease. What we saw in these visits was devastating, with so many children and adults dying of this horrible disease and too few drugs to go around to help treat them and keep them alive.

Without question, HIV/AIDS is a human tragedy of grave proportions—not just in Africa but right here in our own backyard in our own hemisphere.

When you travel to the AIDS-infested regions of the world, as my wife Fran and I have, and as so many of my colleagues here in the Senate have, such as Majority Leader FRIST, Senator INHOFE, Senator DURBIN, Senator NELSON of Florida, and Senator CHAFEE, when you see the children with AIDS, when you hold them, when you touch them, when you talk to the people who care for them, when you know that these children will in all likelihood die, it truly does change you forever. Then when you leave those countries, and when you leave those children, you know you cannot just leave; you know you have to try to do something to help.

Our trip in February reinforced what we already knew about the devastation of the disease in Haiti, and allowed us to see what efforts are now underway in Guyana.

This afternoon, I would like to take a few minutes to tell my colleagues about what we learned on that visit.

I was pleased that Senator CHAFEE and his wife Stephanie were able to join Fran and me on that trip. We learned a great deal about what is and what is not being done in both of these impoverished nations.

We were fortunate to have Senator DURBIN and Senator NELSON of Florida and his wife Grace and Congressman KENDRICK MEEK join us on an earlier trip to Haiti in January, where we saw the tragic effects of the abject poverty and disease that engulfs Haiti today.

While there is certainly some miraculous work being done in Haiti to ease the suffering—work done by people such as Father Tom Hagan and his organization Hands Together—there remains so much work to be done.

When you view the HIV/AIDS rates in Haiti and Guyana in the context of the disease's overall prevalence rate in our hemisphere—Haiti has the highest rate and Guyana, either the second or third highest rate—the moral imperative of helping these two troubled nations becomes absolutely crystal clear.

In Haiti today, a nation of approximately 8 million people, 300,000 currently live with AIDS—300,000 people out of a country of 8 million people.

Guyana follows close behind. In Guyana, a nation of roughly 800,000 people, 35,000—35,000—have been identified as HIV positive or as having AIDS. Of those 35,000 people who have been identified as HIV positive or as having AIDS, only 200—less than 1 percent—are getting antiretroviral drug treatment. Of those 200, only one—only one—is a child. So virtually none of the children in Guyana are getting any kind of drug treatment at all—virtually none. Only one child in all of Guyana is getting any drug treatment for AIDS. What a great tragedy.

Consequently, the disease is having a devastating impact on these nations, and especially on the children.

In Haiti, there are more than 150,000 orphans due to AIDS. This number has been increasing for over a decade and is expected to rise even more. Specifically, the percentage of Haitian AIDS orphans has gone from 7 percent in 1990 to 43 percent in 2001 and is estimated to increase to 49 percent by 2010. That will be a sevenfold increase in 20 years.

Rates are equally troubling in Guyana. In 1990, there were no children orphaned due to AIDS, none, but by 2001, 21 percent of the orphans were the result of AIDS, and that number is projected to double to 41 percent by 2010.

Not only is AIDS orphaning these children, but many of them are also suffering from the disease.

Today, in Haiti, there are hundreds of orphanages spread throughout the country, hundreds actually just in the capital of Port-au-Prince, but there are less than just a handful that are serving or even taking care of children who have AIDS or who are HIV positive.

We visited one of these orphanages in February, one of the orphanages that is taking care of children with AIDS. It is a wonderful place. It is a place called Arc en Ciel or ''Rainbow House Orphanage.'' This is a place that is doing just wonderful work.

A Canadian couple—Danielle and Robert Penette—came in and restored the home there, and today it is a wonderful, bright, cheery, clean, and beautifully maintained orphanage for about 37 Haitian children. I think about 30 of them actually are HIV positive or already have AIDS.

What we saw there was truly inspiring: children playing, laughing, and learning in the classroom. They sang songs for us. They were happy and healthy and content. They did not seem like orphans at all really but more like one big happy family—one healthy family. It was hard to imagine that any of these little children were sick at all.

But of the HIV-positive children at the Rainbow House Orphanage, about 15 of them are currently in need of antiretroviral drugs. Those 15 children, fortunately, are now receiving these drugs.

One of the important lessons we learned about these children and about the Rainbow House is that by providing these drugs, and by providing love and consistent nutrition—this good health care—clean water, the Penettes, this wonderful couple, are making an unbelievable impact on the quality of life for these very sick children.

What they, in effect, are doing is prolonging the time it takes before these children actually need to be on AIDS treatment drugs. So half the children are not even on the drugs yet. Half of them are on the drugs.

There are other places in Haiti, places where there are good, decent, loving people, such as the Penettes, who are also working miracles.

For example, at another orphanage we visited in January, we saw wonderful people doing the best they could to care for some very sick, very malnourished children. At this particular orphanage, many children are brought there who are on the verge of death. The parents bring them there to try to save them.

The good people who run these orphanages—saints really—love these children. They care for them. They feed them, give them what little medicine they have access to. These people bring many of these dying children back to life. They save them and they nourish them.

But, tragically, for many of these children, they have AIDS. Unfortunately, the people who care for them in these orphanages—these other orphanages—do not have access to what the Penettes have; that is, the lifesaving drugs, antiretroviral drugs to keep these children with AIDS alive.

They can give them love. They can give them food and clean water—and that helps—but they cannot give them the drugs that ultimately will save them.

At this orphanage that Fran and I saw, they have an entire floor just for children—these young babies with AIDS. What you see when you go there really does change you forever. It is truly tragic—row after row of steel cribs with babies at various stages of disease, none of whom are receiving any sort of antiretroviral drug treatment.

I remember seeing a little boy. He was about 4 or 5 years old, a little boy whose name was Francois. He had AIDS. The day we were there, when we saw him, he was very close to death. He was laid out on a makeshift bed on the cold, concrete floor. He had an IV attached to him, and he was getting some fluids.

The wonderful people who were caring for him explained that he was no longer able to keep any food down. They explained to us that he would probably die within a couple days.

There were no drugs available to treat him. So the people who were caring for him, were loving him, nurturing him, were doing what they could to give him the love they could and to make him as comfortable in the little time this poor little boy had remaining. I will not ever forget that little boy. I will not forget him for the rest of my life. I don't think anybody else who was in our group and who saw that little boy will forget him either.

Another little boy I won't forget was about 7 years old. He also had AIDS. But he appeared to be, when you looked at him, very healthy. He was lively and content and thriving. But when we talked to the people in the orphanage, sadly we found out that will not last because this little boy also has AIDS. Very likely, unless something changes, unless drugs are made available to him, this little 7-year-old boy, who I also can't get out of my mind, will also eventually die.

His death will be a needless one because these drugs are available. It is just that the folks caring for this little boy do not have access to them. Money is not available. The drugs are not available. That is an injustice. It is wrong. It is a human tragedy.

When we see children who are healthy now and who could remain healthy if treated properly, we feel so helpless because we know they are eventually going to die if we don't do something. That is why we must try to do something. I believe we must take action to save these children.

This is one of the children my wife Fran and I had the opportunity to see at the orphanage I just described in Haiti. This is one of the little children who does in fact have AIDS. This is one of the little children who does not have access today to the drugs that will save this child. So when the President talks about a moral imperative, as he so eloquently does, and says we in the United States have a moral obligation to stop the suffering, to reach out and help these children, these are not just statistics. These are children who are in Africa, Asia, Haiti, Guyana. This is just one of the real faces of the children.

This is a picture of one of the many AIDS babies we saw and actually held when we were in Haiti. When you look at that innocent, helpless little child, a child who has acquired AIDS through no fault of her own, you realize we as a Nation have a moral obligation to help. Children like this little girl, who in all likelihood may have already died in the time that has passed since we were in Haiti, will continue to die because they are not getting the drugs they need. These drugs are available, but they are not getting them.

It is clear we are not doing enough. It is also clear this Congress must act. We cannot just walk away from nations such as Haiti and Guyana and these children and say this problem is too big for us to fix. We cannot walk away and say these are resource-strapped Third World countries and there is nothing we can do. We cannot walk away and say we should not funnel more resources into those nations because it will be too difficult to get compliance with the reforms; in other words, that lack of education and a weak and feeble infrastructure will impede any progress. We cannot walk away and simply say these are poor people, illiterate people, and we cannot teach them how to take the drugs. We cannot walk away and say there is no hope, because the evidence is that is not true. There is hope.

The evidence is good doctors have already demonstrated, in countries like Haiti, that no matter how poor, how illiterate, people can take the drugs. They can do it very well and effectively, and their lives can be saved. In fact, doctors in Haiti have already demonstrated—Dr. Pape, Dr. Farmer, who I will talk about in a moment—through the compliance rate, in other words, the rate people taking these drugs and doing it consistently and saving their own lives, that they can do it just as well as you or I can do it in the United States or someone who has AIDS in the United States can do it.

The fact is, despite the enormity of the despair, there is an equal if not greater amount of hope. There is hope because we can help. There is hope because a great deal is being done already. In Guyana, there is an energetic President, President Jagdeo, and a dedicated health minister who are committed to fighting this disease and building a health infrastructure in their nation that will in fact save lives. They have a long way to go, but I am encouraged by their current education efforts and by their commitment to getting more drug treatment into their nation. As they work to build this infrastructure, they can learn a great deal from the success stories in Haiti. I will tell you a couple.

First there is Dr. Bill Pape who was with us at the White House just 2 days ago and who the President talked about and cited as a great example. He is director of GESHKIO, a health organization with 27 clinics in the Port-au-Prince area dedicated to the prevention and treatment of AIDS. I met with Dr. Pape several times in the past. I am always amazed at what this man has accomplished. Through his work, Dr. Pape is showing that in places as poor as Haiti, a nation with an average yearly per capita income of only $250, a nation where there are very limited health resources and, frankly, a nation with all kinds of problems with the government, HIV treatment and prevention can and does work.

At the 27 GESHKIO clinics, they see over 11,000 children, of whom 589 are HIV positive. Sadly, of those children, only 29 are currently on antiretroviral drugs, but that is changing. At the same time, GESHKIO is working hard to treat infected mothers to help prevent mother-to-child HIV transmission.

At Dr. Pape's clinics, they have found 30 percent of children were being born with HIV/AIDS if the mother was HIV positive and not receiving treatment. But of the HIV-positive mothers receiving treatment, only 8.7 percent of the children born are HIV positive. Clearly, this shows what can be accomplished, and this is one of the President's major initiatives—the mother-to-child transmission. It shows what you can do when you can go from a 30 percent AIDS incidence to at least 8.7, and possibly even lower. Think of all the children whose lives are being saved, who are not getting HIV, who are not HIV positive because of that.

Mr. President, the medical science is clear: If we can reach these mothers

early enough before they give birth to that child who will have AIDS because the mom has AIDS, and if we can get medical treatment to the mother and get her the proper drugs, we can save that child. We can save that child at comparatively little economic cost. We should think of the savings not just in dollars and cents, but in lives saved.

I was pleased to have the opportunity in February to also meet with Dr. Paul Farmer, who is fighting AIDS in the rural and remote parts of Haiti. He runs an organization called ''Partners in Health'' and operates clinics in Cange. Dr. Farmer is making tremendous progress. Since 1999, his organization has tracked a population of 3,500 HIV/AIDS patients and has been able to treat more than 350 of them with antiretroviral drugs. Of those receiving drugs since 1999, zero percent—no one—has died. Yet, tragically, of those not receiving drug treatment, 35 percent, so far, have died.

Both Dr. Pape and Dr. Farmer have received grants from the Global AIDS Fund to supplement their efforts. And I point out that money is being put into proven organizations that can get the job done. This tells us we are willing to invest efforts that are working and making a difference and saving lives. While Dr. Farmer and Dr. Pape have empirically proven there is success in treatment in a Third World nation, and there is hope, we still must do more. We must act, and we must act now.

I am encouraged we have moved forward in terms of our AIDS spending level—a level that has gone up significantly over the last few years. I compliment my colleagues on the Appropriations Committee, and particularly Senator TED STEVENS for his efforts and dedication to increasing our funds to fight AIDS.

Earlier this year, Senator DURBIN and I were successful in amending the fiscal year 2003 omnibus appropriations bill to include an additional $100 million to fight the global AIDS pandemic. That money will go a long way. If that money is used to implement a holistic approach to fighting AIDS, I believe we can make significant advances worldwide. That means focusing funds on education and prevention and treatment—treatment in terms of mother-to-child transmission, treatment of mothers who already have children, and treatment of all infected adults. This type of comprehensive approach can and will make a difference.

Let me turn my colleagues' attention to two other photographs from our recent trip to Guyana. You will see two men who are stricken with AIDS. They are patients of the only public hospital in that nation's capital of Georgetown. When you look at these pictures, you can see the anguish in these poor men's eyes. You can see their suffering and you can certainly see their heartbreak. This shows you the ward in this hospital in Georgetown. This poor gentleman has AIDS. Though the staggering and shocking statistics can be at once overwhelming and seemingly unreal, when you hold babies dying from the disease, or when you see the real faces of these men, the people suffering, as in these photographs, it has to move you. It changes you. It certainly makes the statistics real.

Mr. President, in a guest column recently in the Washington Post, prominent AIDS activist Bono quoted something President Harry Truman once said. This is what Truman said:

> I trust the people because when they know the facts, they do the right thing.

That certainly is the case, I believe, when it comes to the global AIDS problem. We have the opportunity to do the right thing. I believe we will do the right thing.

The House plans to take final action on its bill today, and I am encouraged by the continued good-faith efforts of my colleagues in the Senate. We are moving forward on a bipartisan basis. The majority leader, Dr. BILL FRIST, has been a real leader in this. My colleague, Senator LUGAR, on a bipartisan basis, is working with others and moving forward on this as well. I am encouraged that we will be able to get a bill put together.

Mr. President, every 50 seconds a child somewhere in the world dies of an AIDS-related illness, and another becomes infected with HIV. We have to do something to stop this. The United States has an obligation to lead this fight, and we are leading it and moving forward. I look forward to continuing to work with my colleagues as we move ahead. It is our duty, it is our moral obligation, and it is the right thing to do.

I yield the floor.

IMMIGRANT CHILDREN'S HEALTH IMPROVEMENT ACT

Mr. DASCHLE. Mr. President, I would like to bring a matter to the attention of my colleagues. This is a clear example of misplaced priorities in the President's budget.

Last January, a number of Senators wrote to the President requesting that he include a provision in his budget to allow states to provide Medicaid and SCHIP health care coverage for women and children who are legal immigrants.

Yesterday, Senator GRAHAM received a letter in response to that request. The letter makes a number of claims that are, at best, disingenuous.

Just to remind my colleagues of the history of this issue: the 1996 welfare law banned legal immigrants from receiving Federal benefits under a number of programs, including Medicaid, for 5 years. The argument was made that people shouldn't come to this country if they are going to be a public charge.

The reality is that many legal immigrants and their families, because of language barriers and other issues, agree to take some of the lowest paying jobs in this country. They don't come here to take welfare; they come because they want to make better lives for themselves and for their children. Most of these jobs, as we well know, do not provide health insurance for citizen families or immigrant families.

Legal immigrants play an important role in our overall economy. They take low-paying jobs that businesses rely on. They pay taxes. Immigrant children are also required to register for the Selective Service when they turn 18. According to the American Immigrant Law Foundation, 60,000 legal immigrants are on active duty in the U.S. Armed Forces.

But now, as a result of this policy, when a woman becomes pregnant, or a child gets sick, they have no where to turn but to emergency care, which is the most expensive means of providing health care.

A number of States have realized that this is not an efficient or acceptable means of addressing the health care needs of these families. Some 20 States now provide health care services to legal immigrants using their own funds. The result of the 1996 policy has not been the one desired by the authors of the language. Instead, it has resulted in transferring the burden of caring for these people to States and hospitals. Unfortunately, the severe fiscal crisis is forcing some States to reexamine their coverage.

To respond to this situation, Senator GRAHAM introduced S. 845, the Immigrant Children's Health Improvement Act, or ICHIA. It would allow States to use Federal Medicaid and SCHIP funding to provide coverage for pregnant women and children who are legal immigrants. This proposal has strong bipartisan support, not only in the Senate but also in the House. In fact, last year, it was adopted on a bipartisan basis in the Finance Committee during debate on a bill to reauthorize welfare programs.

The administration's letter suggests that this proposal would somehow create a new burden on the States. In fact, the proposal gives States the option to provide this coverage, and allows them to use Federal resources to do so, thus giving them significant fiscal relief. No new burden would be imposed on the States. In addition, the National Governors Association and the National Conference of State Legislatures have made restoring these benefits a priority.

The long-term economic and health consequences of inadequate health care services for pregnant women and children is well-established. The administration's letter tries to minimize the importance of this issue for immigrants, by talking about other, less effective health care proposals, such as the Medicaid block grant, and by pointing out that the fetuses of immigrants are covered by SCHIP.

It is important to recognize, however, that more than 5 million children live in poor or ''near-poor'' non-citizen families. That is more than one-quarter of the total population of poor or

''near-poor'' children. Almost half of all low-income immigrant children are uninsured—and they are more than twice as likely to be uninsured as low-income citizen children with native-born parents.

Most of these children will eventually become American citizens. By denying all but emergency health care, and especially by denying preventive care, we increase the risk that these children will suffer long-term health consequences—consequences that could reduce their ability to learn and develop and become productive, contributing citizens; consequences that increase the possibility these children will need more expensive health care later on.

The administration claims credit for providing coverage for fetuses, presumably because when these children are born they will be citizens. But it is worth noting that the Medicaid/SCHIP ban is having an impact on citizen children living in immigrant families. As many as 85 percent of immigrant families have at least one child who is a citizen. Although many of these children are eligible for Medicaid and SCHIP, receipt among eligible citizen children of non-citizen parents is significantly below that for other poor children. Parents may be confused about their children's eligibility, or concerned that somehow claiming these benefits will affect the status of other family members.

Finally, the letter suggests that, at a cost of $2.24 billion over 10 years, providing this coverage is too expensive. It also reminds us that this issue must be considered in the context of competing priorities. That is precisely my point. Making sure that pregnant immigrant women, and their children, have access to health care, including preventive care, is an investment in the future workforce of this Nation. Denying them the care they need on an appropriate and timely basis could have dire consequences not only for these individuals, but for our businesses that will depend on a healthy population for their future workers.

I believe providing health care for all of our citizens, including pregnant women and children who are immigrants, is vital for our future economic strength. It should be a much higher priority than providing a $1.2 trillion tax cut for the richest people in the country. It is the right thing to do.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 21, 2001, in Anaheim, CA. A 27 year-old Indian physical therapist was mistaken for a Middle Easterner and assaulted while celebrating his birthday at a karaoke bar. The victim was leaving the bar at about 1 a.m. with a group of his friends and family when several men picked a fight with him. Witnesses heard at least two people yell racial slurs about ''Middle Easterners.'' The man suffered a shattered jaw and was released from the hospital 2 days later after undergoing surgery to have his mouth wired shut.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

A RECKLESS GUN INDUSTRY

Mr. LEVIN. Mr. President, a recent report published by the Brady Campaign to Prevent Gun Violence cites numerous examples of reckless sales and distribution practices by gun manufacturers, distributors and dealers. The report, entitled ''Smoking Guns: Exposing the Gun Industry's Complicity in the Illegal Gun Market,'' reveals a disturbing pattern of negligence by some in the gun industry.

In one example, in 1996, according to the report, the owner and six employees of a California gun store were arrested for numerous Federal firearms offenses. The violations included selling illegally converted, fully automatic AK–47 assault rifles and having employees encourage customers to obtain false identification in order to skirt legal requirements for gun ownership. Even after the owner of the store was sent to prison, Heckler & Koch and other gun manufacturers, according to the report, continued to supply the store. In a letter explaining their ongoing business with the gun store, Heckler & Koch wrote that it ''is not our intention to turn away business.''

More recently, the sniper shootings that paralyzed the Washington, DC, area last year were committed with a rifle traced to a gun store in Tacoma, WA. According to the report, the Bushmaster semi-automatic assault rifle possessed by the sniper suspects was only one of 238 guns missing from the store's inventory. Despite previous ATF audits which revealed dozens of missing weapons and evidence linking a Bushmaster rifle from the store to the sniper killings, according to the report, a Bushmaster executive announced that his company still considered the same store a ''good customer'' and would continue to sell to it.

These examples of gun industry negligence are by no means isolated. The Brady Campaign report contains numerous other examples of careless behavior on the part of gun manufacturers and dealers, many of which surfaced only after civil liability suits were filed. The Brady report reveals the disregard of some in the gun industry for even basic self-regulation. The Lawful Commerce in Arms Act that recently passed the House and that has been referred to the Senate Judiciary Committee would shield the gun industry from many legitimate civil lawsuits. Certainly, those in the industry who conduct their business negligently or recklessly should not be shielded from the civil consequences of their actions.

THE BROAD-BASED STOCK OPTION PLAN TRANSPARENCY ACT OF 2003

Mrs. BOXER. Mr. President, the Financial Accounting Standards Board, FASB, issued a tentative decision last week to mandate the expensing of stock options. As a result of this decision, the FASB will develop a mechanism for determining the cost of the options granted to employees and then force firms to deduct that cost from earnings in their financial statements.

If finalized and enforced, expensing rules would kill broad-based options programs available to rank-and-file workers and punish companies that treat employees as partners in innovation rather than just as simple factors of production. But worst of all, it would misrepresent a firm's earnings because experts have said again and again that stock options cannot be priced accurately in the short term.

The FASB received more than 250 comment letters during the period leading up to its current project on expensing stock options. Those letters presented a range of views on whether stock options constitute a cost that should be deducted from earnings. Many respected economists and accountants stated clearly that options should not be expensed. But expensing seems to be the only mechanism that the FASB is willing to consider for improving investor understanding of a firm's financial condition.

The experts I have worked with believe that better, more detailed disclosure of stock option programs is the best mechanism for informing investors on those programs. And I do not believe that the FASB has adequately considered greater disclosure as an alternative to expensing. Greater disclosure would provide investors with the information they need without discouraging the use of stock option programs at innovative firms. At the very least, greater disclosure should be tried and evaluated prior to imposing a new, disruptive expensing regime.

Stock option programs mean opportunity for workers across gender lines and wage scales in my state. In Silicon Valley, the median home price is $530,000. I know of single women working in Silicon Valley who have only been able to own a home because of the stock options their companies offer them. For small businesses in my state, stock options permit cash-

strapped businesses to attract and retain employees who want to share in the fruits of a growing company. The Woman's High Tech Coalition wrote to me last year:

> The education process on stock options needs to be complete in its understanding of what this opportunity has meant to so many women, in particular, in terms of their ability to lift themselves and their children out of a cycle that can affect several generations.

Unfortunately, the process at the FASB is not designed to consider the broader economic benefits of stock-option programs in its rule-making process. In failing to consider these benefits, the FASB's actions may end up doing more harm than good. And before we allow unaccountable officials to create new rules that effectively eliminate stock option programs, I strongly believe that we should be fully informed about the broader impact on workers and productivity. A recently published book, ''In the Company of Owners: The Truth About Stock Options (And Why Every Employee Should Have Them)'' includes extensive research showing that broad-based stock option plans, over the past 20 years, enhanced productivity, spurred capital formation, and enhanced shareholder value. We should carefully review the implications of any new policy on stock options programs before implementing them and hoping for positive results.

As a result of FASB's decision and the refusal to consider alternatives to expensing, I am joining Senator ENSIGN in introducing legislation that calls for the Securities and Exchange Commission to undertake a thorough review of stock option programs and an assessment of the value of greater disclosure as an alternative to expensing. The bill sets a 3-year framework for evaluating this alternative to expensing during which the SEC could not enforce any new accounting standard on options that the FASB establishes.

If the SEC's studies indicate that greater disclosure is not getting enough information to investors, then we can revisit the issue. But we should not let unelected, unaccountable FASB officials dictate policy through a rushed accounting standard. We must exercise our oversight function and carefully weigh alternatives that would be better for workers, investors, and the economy as a whole.

TAIWAN SUPPORT

Mr. CRAPO. Mr. President, I rise today to bring to the attention of my colleagues the importance of U.S. relations with Taiwan.

Most Americans have been focused on the two media showpiece events in recent weeks—the conflict in Iraq and the SARS pandemic. I would note to the Senate that our relations with Taiwan—a key strategic ally for the United States and a critical regional trading partner—should not be overlooked.

In addition to its strategic role with the U.S., Taiwan has a strong market-based economy and burgeoning multiparty democratic system. It has helped lead the modernization of Southeast Asia by demonstrating the importance of respecting civil liberties and the rule of law.

A component of U.S. efforts to ensure regional stability is to maintain strong relations with Taiwan, including assurances to protect the island against military attacks. To support this effort, the U.S. has a tradition of providing military assistance to Taiwan for the purpose of its self-defense. In recent years, this assistance has primarily been in the form of sales of aircraft and advanced warning radars to the Taiwanese government. Most recently, the Bush administration announced it would sell Taiwan a new assortment of defense articles, including diesel submarines, P–3C anti-submarine aircraft, and *Kidd*-class destroyers. I support this decision because it recognizes the legitimate self-defense requirements of Taiwan, but does not destabilize the sensitive relations between Taipei and Beijing.

The Key to ensuring peace and stability in the region is to promote healthy U.S. relations with Taiwan and support efforts to encourage the People's Republic of China and Taiwan to resolve their differences peacefully. We should continue to pursue a means of supporting Taiwan without harming U.S. interests in China.

IN MEMORY OF HENRY BERMAN

Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to a very dear friend and colleague of mine, Henry Berman, who died on Tuesday, April 27. He was just 92 years old.

He was a true Renaissance man—a man who loved life and loved people. Indeed, there was not a sweeter, gentler, or more generous person on earth than Henry Berman.

Born in 1910, in New Haven, CT, Henry made his way to San Francisco in the early 1930s. During the Great Depression he worked as laborer, then sold butter and eggs, until he settled down as a consultant for Joseph Seagrams & Sons, where he worked for 56 years.

Long active in San Francisco politics and a dedicated philanthropist, I was lucky enough to have Henry serve as the Chairman of the Fire Commission during my tenure as mayor.

I was also fortunate enough to have him serve as my campaign treasurer, in 1992, when I first ran for the United States Senate. I never had a more loyal supporter.

He served the city of San Francisco up until the very end of his life, when he was the president of the airport commission. According to his son Ron, Henry was on the phone with airport leaders even during the last days of his illness.

That's classic Henry for you: if he could walk, sure enough he would be there. He was truly one of a kind.

He was also involved in a wide range of civic and charitable work, including the Anti-Defamation League of B'Nai B'rith, the American Jewish Committee, Meals on Wheels and ''Mo's Kitchen,'' which provides daily meals at Glide Memorial Methodist Church in San Francisco.

Henry was also an overseer of UC-San Francisco, a trustee of the McLaren School of Business at the University of San Francisco, and a board member of USF's Fromm Institute of Lifelong Learning.

When someone lives as long as Henry did—92 long, prosperous, and productive years you can't conceive of the world without them.

My heartfelt condolences go out to his wonderful wife Sally, to his sons Ron and Bob, and to his grandchildren and great-grandchildren.

I will miss him greatly, but consider myself so very privileged to have known Henry Berman to be able to call him my loyal colleague and my dear, dear friend.

ADDITIONAL STATEMENTS

RALPH KRISKA PERDUE

• Ms. MURKOWSKI. Mr. President, today I honor a pillar of the Fairbanks business community and a respected Athabaskan Elder, Ralph Kriska Perdue, who passed on early Tuesday morning at the age of 73. I doubt that most folks in Interior Alaska knew his real age. You see, for years Ralph's wife, Dorothy, conducted a 39th birthday sale, every Christmas, at the family store, Perdue's Jewelers.

Ralph was born on December 16, 1929 in the village of Koyukuk on the Yukon River. He became interested in making jewelry around 1946 and in 1961 opened a jewelry store in downtown Fairbanks. Ralph was a determined individual. He once told a reporter for the Fairbanks Daily News-Miner, ''To me, there is satisfaction that something is done the way it should be done, whether it's a piece of jewelry or anything that confronts me.'' The Fairbanks economy has experienced booms and busts, but Perdue's Jewelers has grown and prospered.

Ralph will be remembered in Interior Alaska for many things. A bridge between the Native community and the broader community, he served for 6 years as president of the Tanana Chiefs Conference and as a member of the Fairbanks North Star Borough Assembly and the Fairbanks North Star Borough School Board.

He will be dearly remembered as the father of the Fairbanks Native Association, which he helped found in 1963. Today, the Fairbanks Native Association has an annual operating budget of about $13 million and a workforce of

300 people. It provides a variety of social services to the people of Fairbanks, including a very successful regional alcoholism treatment center, which was appropriately named the ''Ralph Perdue Center.''

Annette Freiburger, executive director of the Fairbanks Native Association (FNA), is quoted in the News-Miner as follows, ''Ralph has always served as a guide and inspiration for FNA. We recognized him as our FNA chief, the only chief we have in Fairbanks.''

Ralph was also the devoted father of Karen Perdue Bettisworth, the distinguished former commissioner of the Alaska Department of Health and Social Services, and of Mona Perdue Jones. I extend to Dorothy, to Karen and to Mona, my deepest condolences and I join with the Fairbanks community in extending my appreciation to the late Chief Ralph Kriska Perdue for a job well done.●

RECOGNIZING LORRAINE JOHNSON, 2003 GEORGIA TEACHER OF THE YEAR

● Mr. MILLER. Mr. President, I would like to pay tribute to Lorraine Johnson, Georgia's 2003 Teacher of the Year and a finalist for National Teacher of the Year.

This Coweta County seventh grade teacher was selected as one of four finalists for the National Teacher of the Year award by a panel made up of members from 15 national education organizations. She attended a ceremony yesterday at the White House where the President recognized this great achievement, and I was honored to be part of the audience.

Ms. Johnson has been an outstanding educator for over 18 years and has taught seventh-grade English and language arts at Arnall Middle School in Newnan, GA, for the past 8 years. This past year, Ms. Johnson has been on a sabbatical to travel across the State of Georgia giving speeches and conducting workshops for her peers at other Georgia schools.

Ms. Johnson told a reporter recently that she hopes she can inspire other teachers to have pride in their profession, and I think she is achieving that goal. Though her commitment and dedication to teaching she has influenced hundreds of students and made Georgia and our entire country a better place.●

● Mr. CHAMBLISS. Mr. President, I rise today to pay a special tribute to Lorraine Johnson of Newnan, GA. Lorraine Johnson is an outstanding Georgia educator.

Lorraine Johnson was recently honored and recognized as one of four finalists by President George W. Bush at the White House for the National Teacher of the Year award.

Top notch teachers, like Lorraine Johnson, work day and night to make a difference to our Nation's young people as they prepare for their future. These are our true American heroes in our communities, in our States and in our Nation. As the husband of a retired teacher who spent 35 years in the classroom, I know first hand the deep commitment, tough challenges, and endless efforts that go along with being a dedicated teacher. There is no doubt about it: Lorraine Johnson is a dedicated educator.

Lorraine Johnson teaches seventh grade language arts at Arnall Middle School in Newnan, GA. In my home State of Georgia, Lorraine's excellence is no secret. She was named Georgia's Teacher of the Year for 2003 for her remarkable efforts.

It was a real honor and a privilege to share in a special White House ceremony praising Lorraine's hard work and dedication. President George W. Bush, U.S. Secretary of Education Rodney Paige and many other lawmakers also commended Lorraine Johnson for her accomplishments.

Lorraine Johnson of Newnan, GA, is truly an outstanding educator. Not only is she an inspiration to Georgians, but she is an inspiration to all Americans.●

HONORING BOB PROFT

● Mr. COLEMAN. Mr. President, I ask that the following two tributes honoring the life of the late Bob Proft—a proud Minnesotan, respected author, and brave World War II veteran—be printed in the RECORD.

The tributes follow.

[From the Star Tribune, Jan. 1996]

A TRIBUTE TO HEROES

(By Chuck Haga)

Fifty years ago, Congress awarded a Medal of Honor to Jimmy LaBelle, a 19-year-old Marine from Columbia Heights and one of Bob Proft's best friends.

Proft, a B–17 radio operator during the war, always wondered what his buddy had done to receive the country's highest military decoration, but he could find no lists, no compilation of citations.

So Proft published a book. Working out of his sign-painter's garage in Columbia Heights, he researched the history of the medal, compiled lists of the recipients and their citations—from the Civil War through Vietnam—and in 1980 assembled an encyclopedic document of more than 1,100 pages. With co-publisher Mitch DeMars of Columbia Heights, he brought out an updated edition last year.

Now anybody can look up Jimmy LaBelle's name and find out just what he did before he died on March 8, 1945, on Iwo Jima.

''I don't think there's anything else I've ever done that's given me more satisfaction,'' Proft said.

He is a fit man of 70, earnest in his cause but self-effacing when talking about his own military service. ''I didn't do anything heroic whatsoever,'' he said.

But heroes matter to him.

''It bothers me that you can talk to young people and they don't even know what the Medal of Honor is,'' he said. ''They know John Wayne. They know 'Rambo.' Real heroes are forgotten.''

LaBelle was a soft-spoken, unassuming teenager, ''Just one of the guys growing up in the Heights,'' Proft said. During high school, he worked at a hamburger joint called Virg's on Central Ave. He boxed in intramurals.

About 15 years after the war, Proft was painting a sign near Virg's. As he passed the hamburger joint, he thought about LaBelle and his Medal of Honor.

''It struck me that I didn't know anything about what he had done,'' he said.

He went to his local library, then to the Minneapolis Public Library. He wrote to government and military sources. A friend helped with the search, but they came up empty-handed.

In the late 1960s, the U.S. Government Printing Office compiled lists of recipients with their citations, he said, but that material was distributed only to federal depository libraries and couldn't be checked out.

Proft thought there should be something that could go in school libraries, something that young hamburger-flippers could stumble across.

''You can't sit and read this book like a novel,'' he said. ''The citations would start blending together. But if you pick out a few citations at a time, they can really grip you.''

The honor roll lists 47 Minnesotans, including Dale Wayrynen of McGregor, who received the medal posthumously for gallantry in Vietnam. Ten of the Minnesotans were natives of other countries: Germany, Austria, Norway, England, Ireland and Canada.

Proft's favorite is the citation for Nathanial Gwynne, who was 15 and trying to talk his way into the 13th Ohio Cavalry on July 30, 1864, at Petersburg, Va. When the unit charged a Confederate position, Gwynne rode along.

The Yankees were forced to retreat, leaving their flag and battle standards. Young Gwynne charged back along, gathered up the colors and—despite having an arm almost shot off—brought them back.

''Somebody said, 'That young man should get the Medal of Honor,' '' Proft said. ''Somebody else said, 'Yes, but we'd better get him mustered first.' ''

Since the medal was first presented in 1863, 3,420 have been awarded. Eighteen people received two medals.

An award requires at least two witnesses, and the action must involve ''gallantry beyond the call of duty'' and the risk of death.

In 1916, a congressional panel reviewed records of medals awarded to that point and rescinded 910, Proft said, because they didn't meet those standards.

Proft's book includes the citation for Alvin York, of course, the conscientious objector from Tennessee who became a World War I hero. Gary Cooper portrayed him in the film ''Sgt. York.''

And there are the stories of two living Minnesotans who received the Medal of Honor: Don Rudolph of Bovey, for actions in the Philippines during World II, and Mike Colalillo of Duluth, for actions against German forces near the end of the war in Europe.

Proft's labor was a good thing, said Rudolph, 74. ''It gets it into the schools and the city libraries.''

The Veterans of Foreign Wars post in Grand Rapids, Minn., bought 12 of the books for local schools and libraries, he said.

Rudolph has had his own copy of the book signed by about 200 recipients of the medal. Today, only 184 recipients are living.

''I've read the citations of everybody in the book,'' he said.

His own citation tells of his actions Feb. 5, when his platoon had been pinned down at Munoz, on Luzon: ''While administering first aid on the battlefield, he observed enemy fire issuing from a nearby culvert. Crawling to the culvert with rifle and grenades, he killed

three of the enemy concealed there. He then worked his way across open terrain toward a line of enemy pillboxes. . . .''

He used grenades, a pick and his rifle to put seven pillboxes out of commission. ''Later, when his platoon was attacked by an enemy tank, he advanced under covering fire, climbed to the top of the tank and dropped a white phosphorous grenade through the turret, destroying the crew.''

Rudolph said he made it through all that without a scratch.

''I've said many times that I really don't know why I did it or why I got the medal,'' he said. ''But I knew I had to do it. Otherwise we were going to lose more men.''

It was about a month later that LaBelle died on Iwo Jima.

He was a private in the 5th Marine Division. On the night of March 8, as Japanese forces tried to break through American lines, a grenade landed in the foxhole that LaBelle shared with two other Marines.

He shouted a warning, then fell on the grenade, absorbing most if its impact with his body.

''His dauntless courage, cool decision and valiant spirit of self-sacrifice in the face of certain death reflect the highest credit on Pfc. LaBelle,'' his posthumous citation reads.

Medals of Honor awarded in major conflicts: Civil War 1,520; Indian campaigns (1861–1898) 428; Spanish-American War 109; World War I 124; World War II 433; Korean Conflict 131; Vietnam 239. Source: United States of America's Congressional Medal of Honor Recipients.

[From the Star Tribune, Apr. 13, 2003]

REMEMBERING A WRITER

(By Lou Gelfand)

Often he offered a touch of whimsy or a sweet bow to tradition, rarely a cheap shot or a critical word.

Those elements characterized the many hundreds of letters submitted to the Star Tribune editorial page over the years by Bob Proft, a retired Columbia Heights business owner.

His short missives filled with expressive words were an antidote to the stream of letters to the editor exhorting the citizenry to rise in anger and slay the dragon of the day.

That he knew only one letter every 30 days could qualify for publication didn't faze him.

His profundity could come in 14 words or less, as when Americans began packing their bags for Iraq: ''Many things change from war to war, but never this: The goodbye kiss.''

His change of pace was delightful: ''The media exclaimed recently that Princess Diana has been dead four years. That means Mother Teresa has too. Ah, priorities.''

That is not to say Proft had no passion.

''We cannot abide a government of the people, by the lobbyists, for the privileged and remain a bona-fide democracy. If this government of We the People is not, in fact and spirit, of us and by us and for us, we are operating with half-truths at best. And we are mocked by crafty hypocrites every time we are unctuously assured that we control this carefully designed system. In whatever manner and to whatever degree our representation is tainted, that is the manner and degree our government is a counterfeit of what our founding fathers created.''

He lost his fettle for sports, but not for columnist Patrick Reusse.

''Older now, I seldom read the sports pages. However, thumbing through, I can't pass up Pat Reusse. For all the proper reasons I'm attracted to that face. It just came to me he reminds me of New York's Jimmy Breslin. With that face Reusse had to be a sportswriter or some guy living under the Third Avenue bridge. Now don't get me wrong, I still don't know if I should like this guy. But my, my, how he can write! I'll bet my dentures Reusse is a closet poet. Robert Browning or Robert Service type, I don't know.''

His love for holiday and tradition, spring and freedom and, above all, for family is expressed in these letters some readers may have saved to savor:

''Contracted Christmas greeting: Ho!''

''Sure signs autumn cometh: falling leaves, long sleeves.''

''Our nation is free. For that reason we own everything we have to those we remember this day.''

''Any force at any time in any country that can keep a loving father from a loving son for one second is a force of evil. A mob at any time in any country may have the power to prevent a loving father from reaching his loving son but it will never have the right.''

His Veterans Day letter made him dear to the editor:

''While it is fitting and proper that we enjoy the fruits of our power and plenty, we must not forget those who destiny decreed should pay that price. Today is Veterans Day, set aside to commemorate that unique fraternity. Please, you needn't genuflect. Just give a knowing nod, and maybe a smile.''

Proft enlisted in World War II and was training to fly bombers when peace came.

His love for country was funneled into publishing a 1,248-page book listing Medal of Honor Recipients and their official citations. Humility dictated that his initials, not his name, be on the cover.

The final letter from Proft, 78, arrived last week. He died at home early Thursday morning after a short illness.●

HONORING DR. MARTHA MYERS

● Mr. SESSIONS. Mr. President, I rise today to remember a selfless American, Dr. Martha Myers. Many know Dr. Myers as one of the two Southern Baptist missionaries recently murdered by extremists in Yemen. She represents the bests in missionary service. She was, by her aid to those in need, a demonstrated friend of the people of Yemen and in the end, she laid down her life for them. Greater love hath no one than this. Her death has touched me deeply as it has touched many worldwide. It has also, unfortunately, heightened our concern for Christian missionaries throughout the world.

Dr. Myers was educated in my home State of Alabama where she earned degrees from both Samford University and University of Alabama Medical School. The daughter of the State of Alabama's long time health officer, Dr. Ira Myers, she was educated and trained as an obstetrician. Instead of seeking monetary gain, like a modern day Nehemiah she dedicated the rest of her life in selfless service to the indigent families of Yemen. She spent 24 years as a medical missionary in Yemen ministering by example. Her colleagues have stated that she often slept in her office cubicle to save money to give to poor families in communities surrounding the hospital.

I find it particularly telling that it was her choice to be buried on the grounds of the hospital in Yemen. I find this important because it shows a total and complete devotion to the difficult and selfless work she felt called to do. It demonstrated her total commitment without thought of turning back. Former professors and college friends say that her sense of calling to the field of missions was ''crystal clear.'' They also said it was evident to everyone around her that this clear call to serve others empowered and motivated her even as a college freshman in 1963.

Dr. Martha Myers' ability to rise above personal interest in service of others goes far beyond what most people can conceive. Dr. Mike Howell, her former biology professor, summarized her life and commitment well in saying ''There aren't many people willing to dedicate their life to people. That is the greatest calling of a Christian.''

While the world has lost a selfless servant, We may hope that the life of Martha Myers will serve as an inspiration for others. It demonstrates that religious faith can be the basis for a life dedicated to others, even if those served have a different religion. Dr. Myers did not limit her patients to Christians. She served all in need, and she never forced her views on anyone.

In these days of terrorism and the prospect of war, our world should think deeply about the well lived life of Dr. Martha Myers. In such loving humility can come the seeds of a more peaceful world.

Some may say that this senseless murder proves that radicalism rules the day and that such acts can only be dealt with by war. But, perhaps not. Certainly, some radicalized terrorist, someone with a twisted view of their faith, can end a lifetime of work. Still, such evil acts cannot erase the good she has done. And, maybe, just maybe, the thousands of poor, sick, and dying that she treated and comforted will have a different view of the United States, a different view of the West, and a different view of freedom and faith as a result of her life well lived. In that we can all take comfort.●

JARISSE J. SANBORN, B.G. U.S. AIR FORCE

● Ms. MURKOWSKI. Mr. President, I rise today to honor a great Alaskan upon the occasion of her promotion to Brigadier General in the United States Air Force.

I am speaking of Jarisse J. Sanborn who, on April 1, 2003, became the first active duty woman ever promoted to Brigadier General in the Judge Advocate Corps of any armed service in this country. Upon her promotion, General Sanborn was assigned to U.S. Transportation Command and the Air Mobility Command, where she serves as the Staff Judge Advocate to both commands.

General Sanborn, the daughter of a career Navy officer, began her Air Force career after graduating Magna Cum Laude from Randolph-Macon

Woman's College in Virginia. After serving as a squadron and wing executive officer, she was selected for the Air Force-funded legal education program, graduating from Creighton Law School in Omaha, NE, again Magna Cum Laude. She is also a graduate of the National War College.

General Sanborn has had a distinguished legal career, including her most recent assignment as the Staff Judge Advocate for the North American Aerospace Defense Command, better known by its acronym NORAD, and U.S. Northern Command, the newly created unified command responsible for the homeland defense of the United States. General Sanborn also has been the Staff Judge Advocate for U.S. Space Command, Air Force Space Command, and Alaska Command.

From her time as head of Alaska Command at Fort Richardson in Anchorage, she remains a resident of Alaska, where she and her husband Al still own a home in Eagle River. They have two sons: Tyler and John.

Brigadier General Sanborn is a veteran of Operation Desert Storm, where she earned the Bronze Star as the Staff Judge Advocate for the Fourth Fighter Wing deployed to Oman and Saudi Arabia.

Now, at a time when women are making such important contributions to our efforts in Iraq, it's very appropriate that we recognize the success of this fine officer. It is also appropriate that we celebrate this important step for all women in the military. General Sanborn truly makes all Americans proud of the capabilities and accomplishments of our Armed Forces.●

MASSACHUSETTS STATE TROOPER SCOTT McDONALD

● Mr. KENNEDY. Mr. President, I pay tribute to one of Massachusetts' finest law enforcement officers—Massachusetts State Trooper Scott McDonald. Recently, Trooper McDonald was honored by the Massachusetts State Police with a Medal of Lifesaving, awarded to bestow recognition upon troopers who undertake significant actions in the saving of another life.

On August 4, 2002, Trooper Scott McDonald was on patrol when he was dispatched to a motor vehicle accident in the town of Deerfield. Upon arrival, he observed a truck overturned on the road. As the driver was without a pulse and not breathing, he immediately began CPR. While a passing motorist stopped, identified herself as a doctor and said she would pronounce the victim dead, Scott continued lifesaving efforts. Amazingly, the driver was ultimately revived and flown to Baystate Medical Center in Springfield.

Trooper McDonald is a fine example of the Commonwealth's outstanding first responder community. I rise to join the Massachusetts State Police, the City of Holyoke, and Scott's family and friends in honoring a great American, Massachusetts State Trooper Scott McDonald.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:36 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1350. An act to reauthorize the Individuals with Disabilities Education Act, and for other purposes.

The message also announced that pursuant to section 1238(b)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398), the Minority Leader reappoints the following individuals to the United States-China Security Review Commission: Mr. George Becker of Pennsylvania, for a term to expire on December 31, 2005 and Mr. Michael Wessel of Virginia, for a term to expire on December 31, 2004.

The message further announced that pursuant to 40 U.S.C. 188a(b)(2), Mr. Vernon J. Ehlers, Vice-chairman of the Joint Committee of the Library appoints the following Member of the House of Representatives as his designee to the Capitol Preservation Commission: Mr. John Mica of Florida.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 162. An act to provide for the use and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian community, and for other purposes.

MEASURE REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1350. An act to reauthorize the Individuals with Disabilities Education Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

MEASURES PLACED ON THE CALENDAR

The following bill and joint resolution were read the second time, and placed on the calendar:

H.J. Res. 51. Joint resolution increasing the statutory limit on the public debt.

S. 14. A bill to enhance the energy security of the United States, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2046. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled "Approval and Promulgation of Air Quality Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Wisconsin (FRL 7484–2)" received on April 16, 2003; to the Committee on Environment and Public Works.

EC–2047. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled "Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Maryland, Virginia; Post 1996 Rate-of-Progress Plans; and One-Hour Ozone Attainment Demonstrations (FRL 7484–6)" received on April 16, 2003

EC–2048. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled "Approval and Promulgation of Implementation Plans; Louisiana: Revision to the Ozone Maintenance Plans for Beauregard, St. Mary, Lafayette, and Grant Parishes and the New Orleans Consolidated Metropolitan Statistical Area (FRL 7485–6)" received on April 16, 2003; to the Committee on Environment and Public Works.

EC–2049. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled "Approval and Promulgation of State Implementation Plans, and Designation of Areas for Air Quality Planning Purposes; California—Coachella Valley (FRL 7473–4)" received on April 16, 2003; to the Committee on Environment and Public Works.

EC–2050. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled "Approval and Promulgation of State Implementation Plans; California—South Coast (FRL 7473–3)" received on April 16, 2003; to the Committee on Environment and Public Works.

EC–2051. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled "Clean Air Act Approval of Operating Permits Program Revision; District of Columbia (FRL 7483–6)" received on April 16, 2003; to the Committee on Environment and Public Works.

EC–2052. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled "Oil Pollution Prevention and Response; Non-Transportation-Related Onshore and Offshore Facilities (FRL 7484–7)" received on April 16, 2003; to the Committee on Environment and Public Works.

EC–2053. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled "Texas: Final Authorization of Staten Hazardous Waste Management Program

Revisions (FRL 7482–3)'' received on April 16, 2003; to the Committee on Environment and Public Works.

EC–2054. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled ''Approval and Promulgation of the State Air Quality Plans for Designated Facilities and Pollutants, State of West Virginia; Control of Emissions from Commercial and Industrial Solid Waste Incinerator Units (FRL 7479–9)'' received on April 11, 2003; to the Committee on Environment and Public Works.

EC–2055. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled ''Approval and Promulgation of State Plan for Designated Facilities and Pollutants Florida (FRL 7481–8)'' received on April 11, 2003; to the Committee on Environment and Public Works.

EC–2056. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled ''Control of Emissions From New Nonroad Diesel Engines: Amendments to the Nonroad Engine Definition (FRL 7482–1)'' received on April 11, 2003; to the Committee on Environment and Public Works.

EC–2057. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled ''Nebraska: Final Authorization of State Hazardous Waste Management Program Revision (FRL 7480–9)'' received on April 11, 2003; to the Committee on Environment and Public Works.

EC–2058. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled ''Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions (FRL 7479–1)'' received on April 11, 2003; to the Committee on Environment and Public Works.

EC–2059. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled ''Tennessee: Final Authorization of State Hazardous Waste Management Program Revision (FRL 7478–5)'' received on April 11, 2003; to the Committee on Environment and Public Works.

EC–2060. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled ''Texas: Final Authorization of State Hazardous Waste Management Program Revisions (FRL 7482–3)'' received on April 11, 2003; to the Committee on Environment and Public Works.

EC–2061. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled ''Utah: Final Authorization of State Hazardous Waste Management Program Revision (FRL 7480–6)'' received on April 11, 2003; to the Committee on Environment and Public Works.

EC–2062. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled ''Notice of Withdrawal of October 2, 2003, Attainment Date Extension, Determination of Nonattainment as November 15, 1999, and Reclassification of the Baton Rouge Ozone Nonattainment Area (FRL 7487–4)'' received on April 23, 2003; to the Committee on Environment and Public Works.

EC–2063. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled ''Approval and Promulgation of Implementation Plans Florida: Revision to Jacksonville, Florida Ozone Air Quality Maintenance Plan (FRL 7486–7)'' received on April 23, 2003; to the Committee on Environment and Public Works.

EC–2064. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled ''Approval and Promulgation of Implementation Plans to the Alabama State Implementation Plan (FRL 7487–1)'' received on April 23, 2003; to the Committee on Environment and Public Works.

EC–2065. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled ''Approval and Promulgation of State Implementation Plans; Prevention of Significant Deterioration (PSD); Idaho and Oregon (FRL 7487–2)'' received on April 23, 2003; to the Committee on Environment and Public Works.

EC–2066. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled ''Guidance on Awarding Section 319 Grant to Indian Tribes in FY 2003'' received on April 23, 2003; to the Committee on Environment and Public Works.

EC–2067. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of rule entitled ''Minnesota: Final Authorization of State Hazardous Waste Management Program Revision (FRL 7486–4)'' received on April 23, 2003; to the Committee on Environment and Public Works.

EC–2068. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of a document entitled ''Chemical Specification of PM2.5 in urban and Rural Areas: Background Information'' received on April 11, 2003; to the Committee on Environment and Public Works.

EC–2069. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of a document entitled ''National Air Quality Standards for Fine Particles: Guidance for Designating Areas'' received on April 11, 2003; to the Committee on Environment and Public Works.

EC–2070. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of a document entitled ''National Air Quality Standards for Fine Particles Guidance for Designating Areas'' received on April 11, 2003; to the Committee on Environment and Public Works.

EC–2071. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of a document entitled ''National Air Quality Standards for Fine Particles Guidance for Designating Areas'' received on April 11, 2003; to the Committee on Environment and Public Works.

EC–2072. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of a document entitled ''Stationary Gas Turbines: Proposed Amendments to Air Toxics Performance Standards: Fact Sheet'' received on April 11, 2003; to the Committee on Environment and Public Works.

EC–2073. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of a document entitled ''Guidance on Generation and Submission of Grandfathered Cryptosporidium Data for Bin Classification Under the Long Term 2 Enhanced Surface Water Treatment Rule'' received on April 23, 2003; to the Committee on Environment and Public Works.

EC–2074. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of a document entitled ''Ozone Transport: Proposed Rule Revision: Fact Sheet'' received on April 23, 2003; to the Committee on Environment and Public Works.

EC–2075. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of a document entitled ''Small Entity Compliance Guide for the Tier 2/Gasoline Sulfur Final Rule (EPA420–B–03–005)'' received on April 23, 2003; to the Committee on Environment and Public Works.

EC–2076. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of a document entitled ''Use of CERCLA Section 114(c) Service Station Dealers Exemption'' received on April 23, 2003; to the Committee on Environment and Public Works.

EC–2077. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to the law, the report of a document entitled ''Revised Guidance Manual for Selecting Lead and Copper Control Strategies'' received on April 23, 2003; to the Committee on Environment and Public Works.

EC–2078. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to the law, the ''Report to Congress on Abnormal Occurrences, Fiscal Year 2002'' received on April 11, 2003; to the Committee on Environment and Public Works.

EC–2079. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to the law, the report entitled ''Monthly Status Report on the Licensing Activities and Regulatory Duties of the United States Nuclear Regulatory Commission, January 2003'' received on April 22, 2003; to the Committee on Environment and Public Works.

EC–2080. A communication from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of rule entitled ''Subsistence Management Regulations for Public Lands in Alaska, Subpart D—Subsistence Taking of Fish, Customary Trade (1018–AI31)'' received on April 23, 2003; to the Committee on Environment and Public Works.

EC–2081. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to the law, the report of a rule entitled ''Assistance to Firefighters Grant Program 68 FR 12544 (3067–AD21)'' received on April 16, 2003; to the Committee on Environment and Public Works.

EC–2082. A communication from the Director, Office of Congressional Affairs, Office of the General Counsel, Nuclear Regulatory Commission, transmitting, pursuant to the law, the report of a rule entitled ''Availability of Official Records (3150–AC07)'' received on April 22, 2003; to the Committee on Environment and Public Works.

EC–2083. A communication from the Director, Office of Congressional Affairs, Office of Nuclear Material Safety and Safeguards Nuclear Regulatory Commission, transmitting, pursuant to the law, the report of a rule entitled ''Medical Use of Byproduct Material: Clarifying and Minor Amendments (10 CFR Part 35) (RIN3150–AH08)'' received on April 22, 2003; to the Committee on Environment and Public Works.

EC–2084. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to the law, the report of a violation of the Antideficiency Act by the Department of the Navy, case no. 02–04, totaling $2,763,000; to the Committee on Appropriations.

EC–2085. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to the law, the report of a violation of the Antideficiency Act by the Department of the Navy, case no. 00–03, totaling $1,629,233.61; to the Committee on Appropriations.

EC–2086. A communication from the President of the United States, transmitting, pursuant to law, the report that provides ''the aggregate number, locations, activities, and lengths of assignment for all temporary and permanent U.S. military personnel and U.S. individual civilians retained as contractors involved in the antinarcotics campaign in Colombia'' received on April 25, 2003; to the Committee on Appropriations.

EC–2087. A communication from the Assistant Chief Counsel, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Administrative Waivers of the Coastwise Trade Laws for Eligible Vessels (2133–AB49)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2088. A communication from the Senior Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Reporting of Information and Documents about potential Defects; Defect & Noncompliance Reports (2127–AI92)'' received on April 28, 2003; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 75. A resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

S. Con. Res. 15. A concurrent resolution commemorating the 140th anniversary of the issuance of the Emancipation Proclamation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MCCAIN for the Committee on Commerce, Science, and Transportation.

Coast Guard nomination of Lewis J. Buckley.

By Mr. HATCH for the Committee on the Judiciary.

J. Leon Holmes, of Arkansas, to be United States District Judge for the Eastern District of Arkansas.

Patricia Head Minaldi, of Louisiana, to be United States District Judge for the Western District of Louisiana.

Adam Noel Torres, of California, to be United States Marshal for the Central District of California for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. REID (for himself, Mr. CHAFEE, Mr. CORZINE, Mr. SARBANES, and Mr. LIEBERMAN):

S. 965. A bill to require the Secretary of the Interior to implement the final rule to phase out snowmobile use in Yellowstone National Park, John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park, and snowplane use in Grand Teton National Park; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself, Mr. SPECTER, Mr. DASCHLE, Mr. SMITH, Mr. LEAHY, Ms. COLLINS, Mr. LIEBERMAN, Ms. SNOWE, Mr. WYDEN, Mr. JEFFORDS, Mr. SCHUMER, Mr. CHAFEE, Mr. AKAKA, Mr. ENSIGN, Mr. BAYH, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. GRAHAM of Florida, Mr. HARKIN, Mr. INOUYE, Mr. JOHNSON, Mr. KERRY, Ms. LANDRIEU, Mr. LEVIN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MILLER, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Ms. STABENOW, Mr. LAUTENBERG, and Mr. PRYOR):

S. 966. A bill to provide Federal assistance to States and local jurisdictions to prosecute hate crimes; to the Committee on the Judiciary.

By Mr. SCHUMER:

S. 967. A bill to require the Secretary of Veterans Affairs to replace with a more equitable formula the current formula, known as the Veterans Equitable Resource Allocation (VERA), for the allocation of funds appropriated to the Department of Veterans Affairs for medical care to different geographic regions of the Nation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SESSIONS:

S. 968. A bill to amend the Internal Revenue Code of 1986 to provide capital gain treatment under section 631(b) of such Code for outright sales of timber by landowners; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. KENNEDY, Mr. CORZINE, and Mr. REED):

S. 969. A bill to enhance the security and safety of the Nation by increasing the time allowed to track terrorists during periods of elevated alert, closing loopholes that have allowed terrorists to acquire firearms, maintaining records of certain handgun transfers during periods of heightened terrorist risk, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 970. A bill to amend the Internal Revenue Code of 1986 to preserve jobs and production activities in the United States; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. KENNEDY, Mr. COCHRAN, Mr. BIDEN, Ms. LANDRIEU, Mr. KERRY, Mr. CORZINE, Mr. SCHUMER, Mrs. CLINTON, and Mr. DAYTON):

S. 971. A bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes; to the Committee on Finance.

By Mr. COLEMAN:

S. 972. A bill to clarify the authority of States to establish conditions for insurers to conduct the business of insurance within a State based on the provision of information regarding Holocaust era insurance policies of the insurer, to establish a Federal cause of action for claims for payment of such insurance policies, and for other purposes; to the Committee on the Judiciary.

By Mr. NICKLES (for himself and Mr. BREAUX):

S. 973. A bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings; to the Committee on Finance.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 974. A bill to amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products ; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 975. A bill to revise eligibility requirements applicable to essential air service subsidies; to the Committee on Commerce, Science, and Transportation.

By Mr. WARNER (for himself and Mr. ALLEN):

S. 976. A bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FITZGERALD (for himself, Mr. KENNEDY, and Ms. SNOWE):

S. 977. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage from treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER:

S. 978. A bill to amend title 38, United States Code, to provide housing loan benefits for the purchase of residential cooperative apartment units; to the Committee on Veterans' Affairs .

By Mr. ENSIGN (for himself, Mrs. BOXER, Ms. CANTWELL, Mr. CRAPO, Mr. CRAIG, Mr. ALLEN, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. REID, Mr. ALLARD, Mr. BURNS, Mr. WARNER, Mr. BENNETT, Mr. SMITH, Ms. STABENOW, and Mr. COLEMAN):

S. 979. A bill to direct the Securities and Exchange Commission to require enhanced disclosures of employee stock options, to require a study on the economic impact of broad-based employee stock option plans, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRAHAM of South Carolina (for himself and Mr. MILLER):

S. 980. A bill to conduct a study on the effectiveness of ballistic imaging technology and evaluate its effectiveness as a law enforcement tool; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 981. A bill to limit the period for which the Federal Government may procure property or services using noncompetitive procedures during emergency and urgent situations; to the Committee on Governmental Affairs.

By Mrs. BOXER (for herself and Mr. SANTORUM):

S. 982. A bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes; to the Committee on Foreign Relations.

By Mr. CHAFEE (for himself, Mr. REID, Mr. HATCH, Ms. MIKULSKI, Ms. COLLINS, Mr. LEAHY, Mr. WARNER, Mr. KENNEDY, Mr. VOINOVICH, Mr. BIDEN, Mr. ALLEN, Mrs. CLINTON, Mr. FITZGERALD, Mrs. MURRAY, Ms. SNOWE, Mr. JOHNSON, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. REED, and Mr. CORZINE):

S. 983. A bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAUCUS:

S. 984. A bill to direct the Secretary of the Interior to evaluate opportunities to enhance domestic oil and gas production through the exchange of nonproducing Federal oil and gas leases located in the Lewis and Clark National Forest, in the Flathead National Forest, and on Bureau of Land Management land in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself, Ms. COLLINS, Mrs. CLINTON, Mr. CORZINE, Ms. CANTWELL, Mr. DURBIN, Mr. GRASSLEY, Mr. LEAHY, Ms. SNOWE, Mr. REED, Mr. BIDEN, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. LIEBERMAN, Mr. WARNER, Mr. JOHNSON, Mrs. MURRAY, Mr. CARPER, Mr. KERRY, Mr. BAUCUS, Mr. REID, Mr. SARBANES, and Mr. JEFFORDS):

S. 985. A bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. AKAKA (for himself, Mr. FITZGERALD, Ms. COLLINS, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. DURBIN, Mr. COLEMAN, and Mr. LEVIN):

S. Res. 130. A resolution expressing the sense of the Senate that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week; to the Committee on Governmental Affairs.

By Mr. MILLER (for himself, Mr. BURNS, Mr. WARNER, Mr. CHAMBLISS, and Mr. ROBERTS):

S. Res. 131. A resolution expressing the sense of the Senate that the President should award the Presidential Medal of Freedom to General Raymond G. Davis, USMC (retired); to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 13

At the request of Mr. KYL, the names of the Senator from Illinois (Mr. FITZGERALD) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 13, a bill to provide financial security to family farm and small business owners while by ending the unfair practice of taxing someone at death.

S. 50

At the request of Mr. JOHNSON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 50, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

S. 55

At the request of Mr. JOHNSON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 55, a bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes.

S. 146

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 146, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

S. 271

At the request of Mr. SMITH, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 300

At the request of Mr. KERRY, the names of the Senator from Montana (Mr. BURNS), the Senator from Ohio (Mr. DEWINE), the Senator from Texas (Mrs. HUTCHISON) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 300

At the request of Mr. MCCAIN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 300, supra.

S. 340

At the request of Mr. BUNNING, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 340, a bill to authorize the Secretary of Health and Human Services to make grants to nonprofit tax-exempt organizations for the purchase of ultrasound equipment to provide free examinations to pregnant women needing such services, and for other purposes.

S. 379

At the request of Mr. BINGAMAN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 379, a bill to amend title XVIII of the Social Security Act to improve the medicare incentive payment program.

S. 392

At the request of Mr. REID, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 518

At the request of Ms. COLLINS, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 545

At the request of Mr. LOTT, his name was withdrawn as a cosponsor of S. 545, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

S. 567

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 567, a bill to amend the Federal Water Pollution Control Act to authorize appropriations for sewer overflow control grants.

S. 589

At the request of Mr. AKAKA, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 589, a bill to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies.

S. 595

At the request of Mr. HATCH, the names of the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Alabama (Mr. SESSIONS), the Senator from Idaho (Mr. CRAPO), the Senator from Washington (Ms. CANTWELL), the Senator from Ohio (Mr. VOINOVICH) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 595, a bill to amend the Internal

Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 632

At the request of Mr. CRAIG, the names of the Senator from Nevada (Mr. ENSIGN), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 632, a bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the medicare program for beneficiaries with cardiovascular disease.

S. 647

At the request of Mr. KENNEDY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 647, a bill to amend title 10, United States Code, to provide for Department of Defense funding of continuation of health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents, and for other purposes.

S. 652

At the request of Mr. CHAFEE, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 652, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 661

At the request of Mr. SCHUMER, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 661, a bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes.

S. 764

At the request of Mr. CAMPBELL, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 764, a bill to extend the authorization of the Bulletproof Vest Partnership Grant Program.

S. 774

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 774, a bill to amend the Internal Revenue Code of 1986 to allow the use of completed contract method of accounting in the case of certain long-term naval vessel construction contracts.

S. 789

At the request of Mr. NELSON of Florida, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 789, a bill to change the requirements for naturalization through service in the Armed Forces of the United States.

S. 874

At the request of Mr. TALENT, the names of the Senator from Colorado (Mr. CAMPBELL) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 877

At the request of Mr. BURNS, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 877, a bill to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet.

S. 881

At the request of Mr. BINGAMAN, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 881, a bill to amend title XVIII of the Social Security Act to establish a minimum geographic cost-of-practice index value for physicians' services furnished under the medicare program.

S. 897

At the request of Mr. CORNYN, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 897, a bill to amend the Immigration and Nationality Act to change the requirements for naturalization through service in the Armed Forces of the United States, and for other purposes.

S. 922

At the request of Mr. REID, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 922, a bill to change the requirements for naturalization through service in the Armed Forces of the United States, to extend naturalization benefits to members of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces, to extend posthumous benefits to surviving spouses, children, and parents, and for other purposes.

S. 939

At the request of Mr. HAGEL, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 939, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. 942

At the request of Mr. BROWNBACK, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 942 , a bill to amend title XVIII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals.

S. CON. RES. 33

At the request of Mr. CRAIG, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Con . Res. 33, a concurrent resolution expressing the sense of the Congress regarding scleroderma.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. SPECTER, Mr. DASCHLE, Mr. SMITH, Mr. LEAHY, Ms. COLLINS, Mr. LIEBERMAN, Ms. SNOWE, Mr. WYDEN, Mr. JEFFORDS, Mr. SCHUMER, Mr. CHAFEE, Mr. AKAKA, Mr. ENSIGN, Mr. BAYH, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. GRAHAM of Florida, Mr. HARKIN, Mr. INOUYE, Mr. JOHNSON, Mr. KERRY, Ms. LANDRIEU, Mr. LEVIN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MILLER, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Ms. STABENOW, Mr. LAUTENBERG, and Mr. PRYOR):

S. 966. A bill to provide Federal assistance to States and local jurisdictions to prosecute hate crimes; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, it's a privilege to join my colleagues in introducing this legislation to combat hate crimes. Hate crimes are a violation of all our country stands for. They send the poisonous message that some Americans deserve to be victimized solely because of who they are. Like acts of terrorism, hate crimes have an impact far greater than the impact on the individual victims. They are crimes against entire communities, against the whole Nation, and against the fundamental ideals on which America was founded. As Attorney General Ashcroft has said, ''Criminal acts of hate run counter to what is best in America—our belief in equality and freedom.''

Although there was a significant overall reduction in violent crimes during the 1990s, the number of hate crimes continued to grow. According to the Federal Bureau of Investigation, 9,730 hate crimes were reported in the United States in 2001. That is over 26 hate crimes a day, every day. More than 83,000 hate crimes have been reported since 1991.

The need for an effective national response is as compelling as it has ever been. Hate crimes against Arabs and Muslims rose dramatically in the weeks following the September 11 terrorist attacks. These hate crimes included murder, beatings, arson, attacks on mosques, shootings, and other assaults. In 2001, anti-Islamic incidents were the second highest-reported type of hate crimes based on religion—second only to anti-Jewish hate crimes.

Los Angeles and Chicago reported a massive increase in the number of anti-Arab and anti-Muslim crimes after 9/11.

Hate crimes based on sexual orientation continue to be a serious danger, constituting 14 percent of all hate crimes reported.

Each person's life is valuable, and even one life lost is too many. It is not the frequency of hate crimes alone that makes these acts of violence so serious. It is the terror and intimidation they inflict on the victims, their families, their communities, and, in some cases, the entire Nation.

Congress cannot sit silent while this hatred spreads. It is long past time for us to do more to end hate-motivated violence. The Local Law Enforcement Enhancement Act will strengthen the ability of Federal, State and local governments to investigate and prosecute these vicious and senseless crimes. Our legislation is supported by over 175 law enforcement, civil rights, civic, and religious organizations.

The current Federal law on hate crimes was passed soon after the assassination of Dr. Martin Luther King Jr. Today, however, it is a generation out of date. It has two significant deficiencies. It does not cover hate crimes based on sexual orientation, gender, or disability. And even in cases of hate crimes based on race, religion, or ethnic background, it contains excessive restrictions requiring proof that the victims were attacked because they were engaged in certain ''federally protected activities.''

Our bill is designed to close these substantial loopholes. It has six principal provisions: 1. It removes the ''federally protected activity'' barrier. 2. It adds sexual orientation, gender and disability to the existing categories of race, color, religion, and national origin. 3. It protects State interests with a strict certification procedure that requires the Federal Government to consult with local officials before bringing a Federal case. 4. It offers federal assistance to State and local law enforcement officials to investigate and prosecute heated crimes in any of the federal categories. 5. It offers training grants for local law enforcement. 6. It amends the Federal Hate Crime Statistics Act to add gender to the existing categories of race, religion, ethnic background, sexual orientation, and disability.

These much needed changes in current law will help ensure that the Department of Justice has what it needs to combat the growing problem of hate-motivated violence more effectively.

Nothing in the bill prohibits or punishes speech, expression, or association in any way—even ''hate speech.'' It addresses only violent actions that result in death or injury. The Supreme Court has ruled repeatedly—and as recently as this year, in the cross-burning decision Virginia v. Black—that a hate crimes statute that considers bias motivation directly connected to a defendant's criminal conduct does not violate the First Amendment. No one has a First Amendment right to commit a crime.

A strong Federal role in prosecuting hate crimes is essential, because crimes have an impact far greater than their impact on individual victims. Nevertheless, our bill fully respects the primary role of state and local law enforcement in responding to violent crime. The vast majority of hate crimes will continue to be prosecuted at the state and local level. The bill authorizes the Justice Department to assist State and local authorities in hate crimes cases, but it authorizes Federal prosecutions only when a state does not have jurisdiction, or when it asks the Federal Government to take jurisdiction, or when it fails to act against hate-motivated violence. In other words, the bill establishes an appropriate back-up for State and local law enforcement, to deal with hate crimes in cases where states request assistance, or cases that would not otherwise be effectively investigated and prosecuted.

Working cooperatively, State, local and Federal law enforcement officials have the best chance to bring the perpetrators of hate crimes to justice. Federal resources and expertise in the identification and proof of hate crimes can provide invaluable assistance to state and local authorities without undermining the traditional role of states in prosecuting crimes. As Attorney General Ashcroft has said of current law, ''Cooperation between federal agents and local law enforcement officers and between Justice Department prosecutors and local prosecutors has been outstanding.'' And it will continue to be so, and be even more effective, when this legislation is enacted into law.

Now is the time for Congress to speak with one voice and insist that all Americans will be guaranteed the equal protection of the laws. Now is the time to make combating hate crimes a high national priority. The Local Law Enforcement Enhancement Act is a needed response to a serious problem that continues to plague the nation, and I urge the Senate to support it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Local Law Enforcement Enhancement Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) The prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

(7) Perpetrators cross State lines to commit such violence.

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(9) Such violence is committed using articles that have traveled in interstate commerce.

(10) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(11) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct ''races''. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(12) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(13) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. 3. DEFINITION OF HATE CRIME.

In this Act, the term ''hate crime'' has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. 4. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of a law enforcement official of a State or Indian tribe, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(B) constitutes a felony under the laws of the State or Indian tribe; and

(C) is motivated by prejudice based on the race, color, religion, national origin, gender, sexual orientation, or disability of the victim, or is a violation of the hate crime laws of the State or Indian tribe.

(2) PRIORITY.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than 1 State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) GRANTS.—

(1) IN GENERAL.—The Attorney General may award grants to assist State, local, and Indian law enforcement officials with the extraordinary expenses associated with the investigation and prosecution of hate crimes.

(2) OFFICE OF JUSTICE PROGRAMS.—In implementing the grant program, the Office of Justice Programs shall work closely with the funded jurisdictions to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(3) APPLICATION.—

(A) IN GENERAL.—Each State that desires a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(B) DATE FOR SUBMISSION.—Applications submitted pursuant to subparagraph (A) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.

(C) REQUIREMENTS.—A State or political subdivision of a State or tribal official applying for assistance under this subsection shall—

(i) describe the extraordinary purposes for which the grant is needed;

(ii) certify that the State, political subdivision, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(iii) demonstrate that, in developing a plan to implement the grant, the State, political subdivision, or tribal official has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(iv) certify that any Federal funds received under this subsection will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection.

(4) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 30 business days after the date on which the Attorney General receives the application.

(5) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single jurisdiction within a 1 year period.

(6) REPORT.—Not later than December 31, 2004, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this subsection, the award of such grants, and the purposes for which the grant amounts were expended.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2004 and 2005.

SEC. 5. GRANT PROGRAM.

(a) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall award grants, in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2004, 2005, and 2006 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code, as added by section 7.

SEC. 7. PROHIBITION OF CERTAIN HATE CRIME ACTS.

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

"§ 249. Hate crime acts

"(a) IN GENERAL.—

"(1) OFFENSES INVOLVING ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

"(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

"(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

"(i) death results from the offense; or

"(ii) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

"(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, OR DISABILITY.—

"(A) IN GENERAL.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, or disability of any person—

"(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

"(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

"(I) death results from the offense; or

"(II) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

"(B) CIRCUMSTANCES DESCRIBED.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

"(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—

"(I) across a State line or national border; or

"(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

"(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

"(iii) in connection with the conduct described in subparagraph (A), the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

"(iv) the conduct described in subparagraph (A)—

"(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

"(II) otherwise affects interstate or foreign commerce.

"(b) CERTIFICATION REQUIREMENT.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that—

"(1) he or she has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of any person was a motivating factor underlying the alleged conduct of the defendant; and

"(2) he or his designee or she or her designee has consulted with State or local law enforcement officials regarding the prosecution and determined that—

"(A) the State does not have jurisdiction or does not intend to exercise jurisdiction;

"(B) the State has requested that the Federal Government assume jurisdiction;

"(C) the State does not object to the Federal Government assuming jurisdiction; or

"(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

"(c) DEFINITIONS.—In this section—

"(1) the term 'explosive or incendiary device' has the meaning given the term in section 232 of this title; and

"(2) the term 'firearm' has the meaning given the term in section 921(a) of this title.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

"249. Hate crime acts.".

SEC. 8. DUTIES OF FEDERAL SENTENCING COMMISSION.

(a) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—Pursuant to the authority provided under section 994 of title 28, United States Code, the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall, if appropriate, amend the Federal sentencing guidelines to provide sentencing enhancements (in addition to the sentencing enhancement provided for the use of a minor during the commission of an offense) for adult defendants who recruit juveniles to assist in the commission of hate crimes.

(b) CONSISTENCY WITH OTHER GUIDELINES.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishments for substantially the same offense.

SEC. 9. STATISTICS.

Subsection (b)(1) of the first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended by inserting ''gender,'' after ''race,''.

SEC. 10. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

By Mr. SESSIONS:

S. 968. A bill to amend the Internal Revenue Code of 1986 to provide capital gain treatment under section 631(b) of such Code for outright sales of timber by landowners; to the Committee on Finance.

Mr. SESSIONS. Mr. President, I rise today to introduce legislation which will simplify and update a provision of the tax code that affects the sale of timber. It is both a simplification measure and a fairness measure. I call it the Timber Tax Simplification Act.

Under current law, landowners that are occasional sellers of timer are often classified by the Internal Revenue Service as ''dealers.'' As a result, the small landowner is forced to choose, because of the tax code, between two different methods of selling their timber. The first method, ''lump sum sales provides for good business practice but is subjected to a high income tax. The second method ''pay-as-cut'' sales, allows for lower capital gains tax treatment, but often results in an underrealization of the fair value of the contract. Why, one might ask, do these conflicting incentives exist for our Nation's timber growers?

Ealier in this century, outright, or ''lump sum,'' sales on a cash in advance, sealed basis, were associated with a ''cut and run'' mentality that did not promote good forest management. ''Pay-as-cut sales,'' however, in which a timber owner is only paid for timber that is harvested, were associated with ''enlighted'' resource management. Consequently, in 1943, Congress, in an effect to provide an incentive for improved forest management, passed legislation that allowed capital gains treatment under 631(b) of the IRS Code for pay-as-cut sales, leaving lump-sum sales to pay the much higher rate of income tax. It is said that President Roosevelt opposed the bill and almost vetoed it.

Today, however, Section 631(b) like so many provisions in the IRS Code, is outdated. Forest management practices are much different from what they were in 1943 and lump-sum sales are no longer associated with poor forest management. And while there are occasional special situations where other methods may be more appropriate, most timber owners prefer this method over the ''pay-as-cut'' method. The reasons are simple: title to the timber is transferred upon the closing of the sale and the buyer assumes the risk of any physical loss of timber to fire, insects, disease, storms, etc. Furthermore, the price to be paid for the timber is determined and received at the time of the sale.

Unfortunately, in order for timber owners to qualify for the favorable capital gains treatment, they must market their timber on a ''pay-as-cut'' basis under Section 631(b) which requires timber owners to sell their timber with a ''retained economic interest.'' This means that the timber owner, not the buyer, must bear the risk of any physical loss during the timber sale contract period and must be paid only for the timber that is actually harvested. As a result, this type of sale can be subject to fraud and abuse by the timber buyer. Since the buyer pays only for the timber that is removed and scaled, there is an incentive to waste poor quality timber by breaking the tree during the logging process, underscaling the timber, or removing the timber without scaling. But because 631(b) provides for the favorable tax treatment, many timber owners are forced into exposing themselves to unnecessary risk of loss by having to market their timber in this disadvantageous way instead of the more preferable lump-sum method.

Like many of the provisions in the tax code, Section 631(b) is outdated and prevents good forestry business management. Timber farmers, who have usually spent decades producing their timber ''crop,'' should be able to receive equal tax treatment regardless of the method used for marketing their timber.

In the past, the Joint Committee on Taxation has studied this legislation to consider what impact it might have on the Treasury and found that it would have no real cost—only a ''negligible change'' according to their analysis.

The IRS has no business stepping in and dictating the kind of sales contract a landowner must choose. My legislation will provide greater consistency by removing the exclusive ''retained economic interest'' requirement in the IRC Section 631(b). Reform of 631(b) is important to our Nation's non-industrial, private landowners because it will improve the economic viability of their forestry investments and protect the taxpayer from unnecessary exposure to risk of loss. This in turn will benefit the entire forest products industry, the U.S. economy and especially small landowners.

By Mr. LAUTENBERG (for himself, Mr. KENNEDY, Mr. CORZINE, and Mr. REED):

S. 969. A bill to enhance the security and safety of the Nation by increasing the time allowed to track terrorists during periods of elevated alert, closing loopholes that have allowed terrorists to acquire firearms, maintaining records of certain handgun transfers during periods of heightened terrorist risk, and for other purposes; to the Committee on the Judiciary.

Mr. LAUTENBERG. Mr. President, I rise to introduce a critical piece of legislation, the Homeland Security Gun Safety Act.

In the aftermath of the tragic events of 9–11, the Federal Government has reassessed the Nation's vulnerabilities to acts and threats of terrorism.

And in response, the United States Congress gave the Department of Justice expanded powers to detain suspected terrorists, conduct surveillance and obtain confidential information on American citizens. In addition, we have created the new Department of Homeland Security—the largest reorganization of the Federal Government since the 1940s.

In short, the events of 9–11 required us to reevaluate our safety concerns and the security of the Nation.

Echoing this need, President Bush said before the United Nations on November 10, 2001, that ''we have the responsibility to deny weapons to terrorists and to actively prevent private citizens from providing them.''

I wholeheartedly agree with this statement. And I believe the American people want the U.S. Senate to follow through with concrete legislative action.

However, we have failed to address a significant remaining threat: the accessibility to firearms and explosives within our own borders.

How can we truly protect this Nation, if we do not enact legislation which prevents terrorists and potential terrorists from acquiring guns in the United States?

Terrorists have identified the lax gun laws of the United States as a means to advance their evil goal to terrorize and harm the American people.

In December 2001, during the war on terror, we attacked a terrorist training facility south of Kabul. Found among the rubble at that facility was a manual called: ''How I Can Train Myself for Jihad.''

This manual, contains an entire section on ''Firearms Training'' and singles out the United States for its easy availability of firearms. It stipulates that terrorists living in the U.S. should ''obtain an assault weapon legally, preferably AK-47 or variations.'' It also advises would-be terrorsts on how they should conduct themselves in order to avoid arousing suspicion as they amass and transport firearms.

There are other examples where terrorists have sought to take advantage of this nation's lax gun laws.

On the eve of the September 11 terrorist attack, on September 10, 2001, a Federal jury convicted Ali Boumelhem, a known member of the terrorist group Hezbollah on seven counts of weapons charges and conspiracy to ship weapons and ammunition to Lebanon.

And we have seen how firearms can be used to terrorize an entire community.

We are all familiar with the case of John Muhammad and John Malvo, who terrorized the Washington, DC area for more than three weeks as they embarked on a shooting spree with a sniper rifle, shooting 13 innocent people before being caught.

Homeland Security Secretary Tom Ridge agrees that there is a dangerous link between guns and terror. During his confirmation hearing before Governmental Affairs Committee on January 17, 2003, in response to a question I asked him about guns and terror, Secretary Ridge said:

[W]hen anyone uses a firearm, whether it's the kind of terrorism that we are trying to combat with al Qaeda and these non-state terrorists, or as a former district attorney involved in the conviction of an individual who used firearms against innocent citizens—regardless of how we define terrorism, that individual and that family felt that they were victims of a terrorist act. Brandishing a firearm in front of anybody under any set of circumstances is a terrorist act and needs to be dealt with.

Well, the Homeland Security Gun Safety Act deals with it. The Act deals with this threat that leaves America especially vulnerable to future terrorist attacks.

The Homeland Security Gun Safety Act would enact specific measures that would help prevent terrorists from acquiring firearms within our own borders.

Under current law, there are cases when law enforcement is blocked from conducting an adequate investigation when a terrorist or criminal tries to buy a gun.

Current law says if law enforcement takes over three days to conduct a background check on someone who wants a weapon—just hand over the gun.

That is ludicrous—especially when we are in an elevated state of terrorist threat.

When we are at Code Yellow, the Department of Homeland Security has determined that we are at a significant risk of terrorist attack.

The bill I am introducing today would suspend these loopholes in our gun safety laws when we are at Code Yellow or above in the interest of homeland security.

The three-day limit on law enforcement is nothing more than a loophole in our laws put there by the gun lobby.

And it's a dangerous loophole—a recent study showed that, from December 1998 to June 2001, nearly 10,000 people who should not have been permitted to buy guns, did receive guns because the three-day period passed before law enforcement could finish a background check.

Our bill will also require that the Federal Government retain records of weapons transactions while we are in an elevated state of alert. There is no reason we should handicap law enforcement during such a dangerous time.

This bill will also close a number of loopholes that have allowed rogue gun dealers to skirt the law. These are the same few gun dealers that are now the subject of lawsuits across the country.

These dangerous loopholes that the gun lobby built into our gun laws now pose a major threat to homeland security.

This bill will help shut down those loopholes. The bill would require gun dealers to: immediately report ''missing'' guns or face suspension of their license; and put appropriate security measures in place to prevent theft of their weapons; and check with the FBI's Stolen Gun Registry to make sure that secondhand weapons they purchase are not stolen.

This bill will also step up enforcement of gun dealers: law enforcement would not be restricted in its ability to inspect dealers. Currently, law enforcement is only allowed one unannounced inspection per year.

The bill will also increase the penalties for violations of gun dealer laws to a felony. Right now, the maximum penalty is only a misdemeanor. It has no teeth.

I know the NRA will cry wolf to gun owners about this bill. But this bill will not affect the vast majority of honest, law abiding Americans who want to purchase guns. This bill focuses on preventing weapons from getting into the hands of terrorists and criminals.

Over 75 percent of background checks are performed in mere minutes. However, there are those purchasers who raise red flags that require further investigation.

Those are red flags we can no longer afford to ignore.

When we are at Code Yellow, everyday Americans are prevented from taking a tour of the White House—but a terrorist can buy weapons.

It makes no sense.

This bill offers Congress a clear choice: protect our homeland or protect the gun lobby.

I ask unanimous consent that a summary of my bill, the Homeland Security Gun Safety Act, be printed in the RECORD.

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

THE HOMELAND SECURITY GUN SAFETY ACT OF 2003

In the aftermath of the tragic events of September 11, 2001, the Federal Government has reassessed the Nation's vulnerabilities to acts and threats of terrorism. However, actions taken thus far have failed to address a major remaining threat: accessibility to firearms and explosives within our own borders. The Homeland Security Gun Safety Act of 2003 addresses this threat that leaves America especially vulnerable to future terrorist attacks.

The Act would enact specific measures that would help prevent terrorists from acquiring firearms and explosives in the United States. Specifically, the Act: 1. enacts increased homeland security measures regarding firearm sales when the terrorist risk level of the Homeland Security Advisory System is raised to ''Elevated''; 2. closes loopholes that have allowed rogue gun dealers to abuse existing law and supply weapons to terrorists and criminals; and 3. strengthens the enforcement of laws federally licensed gun dealers are required to follow.

''We have the responsibility to deny weapons to terrorists and to actively prevent private citizens from providing them.''—President George W. Bush, Address to the United Nations, November 10, 2001.

THE PROBLEM: TERRORISM AND GUNS

There are a number of cases in which terrorists, both domestic and international, have been acquiring firearms in our country and are using them here and abroad for despicable acts of violence. Firearms are being acquired by prohibited persons due to the weakness and lack of enforceability of existing gun laws.

Examples of the link between terrorism and firearms in the U.S. include:

In December, 2001, a manual titled ''How I Can Train Myself for Jihad'' was found among the rubble at a training facility for a radical Pakistan-based Islamic terrorist organization in Afghanistan. This manual contains an entire section on ''Firearms Training'' and singles out the United States for its easy availability of firearms. It stipulates that terrorists living in the U.S. ''obtain an assault weapon legally, preferably AK–47 or variations.'' It also advises would-be terrorists on how they should conduct themselves in order to avoid arousing suspicion as they amass and transport firearms.

In November 2000, Ali Bourmelhem, was arrested for shipping guns and ammunition to Hezbollah militants in Lebanon by hiding the arms in cargo crates. Boumelhem, who was a resident of Detroit and Beirut, was observed by authorities traveling to gun shows to buy gun parts and ammunition for shipment overseas. He was arrested just before he was scheduled to travel to Lebanon.

In September 2000, Conor Claxton, an admitted member of the IRA, bought dozens of handguns, rifles and rounds of high-powered ammunition through illegal multiple sales and at gun shows. Police in Northern Ireland intercepted 23 of the packages which contained 122 guns and other weapons originating from the group. Claxton's team enlisted the assistance of a licensed firearms dealer in Florida who sold at least 43 handguns to associates of Claxton. The dealer agreed not to report all of the sales on required Federal forms in exchange for an extra $50 per gun. The dealer admitted that he suspected the guns could wind up in the hands of assassins. The dealer later cooperated with prosecutors and pleaded guilty to conspiring to export guns illegally. According to the FBI Agent interviewing Claxton: ''Claxton stated that it is common knowledge that obtaining weapons in the United States is easy,'' and that ''Claxton blamed the United States government for not having tougher gun laws.''

In 1993, the owners of the Al Fajr Trading Company in Atlanta were convicted of illegally shipping hundreds of guns to Muslim street gangs and drug dealers in New York, Detroit and Philadelphia. Among the customers was a gang associated with Sheik Omar Abdel-Rahman, the Egyptian cleric who was involved in the 1993 terrorist bombing of the World Trade Center. Al Fajr was a licensed dealer but intentionally failed to maintain firearms transaction records of nearly 1,000 guns that were trafficked to the Northeast.

In 1992, an Iranian immigrant in the United States was shot and killed execution style outside her home in Northern New Jersey by a suspected Iranian terrorist. The gun was bought at a Virginia gun shop that was preferred by straw purchasers, high-volume buyers, gun traffickers and convicted felons. The Virginia gun shop owners were arrested 2 months prior to the murder and pleaded guilty to charges stemming from straw purchases.

Cases of the use of firearms for terrorist acts include:

In 2002, John Muhammad and John Malvo terrorized the Washington, DC area for more than 3 weeks by embarking on a shooting spree with a sniper rifle. The weapon used to shoot 13 innocent victims was a Bushmaster XM–15 rifle purchased at the Bull's Eye Shooter Supply in Tacoma, WA. Muhammad

could not have legally purchased it because he is under a domestic violence restraining order and Malvo at age 17 is disqualified as a minor and an illegal immigrant. Two employees of the store admitted that they noticed that the .223 caliber Bushmaster was ''missing'' from a display case but the store's owner did not report the loss as required by Federal law. Following the sniper killings, the shop revealed that over 200 guns went ''missing'' in the last several years. Bull's Eye Shooter Supply remains in operation today.

In February 1997, Ali Abu Kamal opened fire on a crowd of tourists at the Empire State Building, killing one person and wounding six others. Kamal arrived in New York from Cairo on a tourist visa. After a short stay in New York, he traveled to Melbourne, FL where he checked into a motel. He showed the motel receipt as proof of residency to obtain a Florida ID card which he used to buy a 14-shot, semi-automatic Beretta handgun. Total time from arrival in this country to purchase of the gun was 37 days. The same gun store in Melbourne sold a Ruger Mini 14 rifle to mass-murderer William Cruse a month before he went on a shooting spree in Palm Bay, FL. Cruse killed six people and wounded two dozen others.

''[W]hen anyone uses a firearm, whether it's the kind of terrorism that we are trying to combat with al Qaeda and these non-state terrorists, or as a former district attorney involved in the conviction of an individual who used firearms against innocent citizens—regardless of how we define terrorism, that individual and that family felt that they were victims of a terrorist act. Brandishing a firearm in front of anybody under any set of circumstances is a terrorist act and needs to be dealt with.''—Tom Ridge, January 17, 2003, at his confirmation hearing for Secretary of Homeland Security, before the Senate Government Affairs Committee.

CONFRONTING THE THREAT: THE HOMELAND SECURITY GUN SAFETY ACT OF 2003

The Homeland Security Gun Safety Act of 2003 integrates gun safety into our national homeland security strategy. The bill will suspend the current restrictions on law enforcement's investigative powers during periods of ''Elevated'' terror threat.

Currently, law enforcement is severely limited in its ability to conduct background checks on suspicious gun purchasers. While over 70 percent of background checks are completed within seconds, and approximately 95 percent are completed within 2 hours, red flags raised on some people's records require further investigation. Under current law, law enforcement only has 3 days to conduct a background check. Given the complexity of tracing court records, the 3-day period often does not give law enforcement enough time to complete a check in some important cases. However, under current law, after the 3-day period has expired, the firearm is handed over to the purchaser—even if the person is a convicted felon or part of a terrorist organization.

Under the Homeland Security Gun Safety Act, when the Department of Homeland Security determines that the nation is in an ''Elevated'' (yellow) risk of attack or above, the 3-day rule would be suspended and law enforcement would have as much time as needed to complete a background check on an individual seeking a weapon or explosive. Upon reverting to a ''Low,'' green, risk for a period of 180 consecutive days, the 3-day rule would resume.

The Homeland Security Gun Safety Act would suspend this record destruction rule, and require that all records of firearms transfers subject to background checks and records of the National Instant Criminal Background Check system be maintained indefinitely when the Department of Homeland Security determines that the nation is at an ''elevated,'' yellow, risk of terrorist attack or above. Upon reverting to a ''Low,'' green, risk for a period of 180 consecutive days, the standard destruction of records rule resumes. This information will be critical to investigators who are tracking potential terrorists within our borders while we are in a heightened state of alert.

Federal Firearms Dealer Responsibilities

The Homeland Security Gun Safety Act requires more responsibility on the part of Federal Firearms Licensees; FFLs; to prevent the flow of illegal firearms. Under the current regime, rules gun dealers are ''required'' to follow are routinely ignored, as the gun laws provide for little enforcement, and even restrict the ability of law enforcement to check gun dealer compliance. In addition, the current system allows terrorists and criminals to travel from dealer to dealer to attempt to purchase a gun until they ''score''—without worrying about detection of their failed purchases. The Homeland Security Gun Safety Act would close these loopholes that allow rogue gun dealers to evade the law and sell guns to criminals and terrorists. Specifically, the Act would:

Require FFLs to report missing weapons immediately and satisfy record keeping requirements, for multiple handgun sales, theft or loss of firearm registration documents, trace requests, out of business and demand records, or face suspension of their licenses. As the ATF's ability to trace crime guns depends on the records kept by FFLs, it is imperative that FFLs fulfill their responsibility to timely report missing weapons and relevant records.

Requires FFLs not to sell a firearm to an individual when they have reasonable cause to believe that a gun will be used in the commission of a crime.

If a FFL has reasonable cause to believe that a purchaser is not buying a firearm for his or her own use, but intends to transfer it to another individual who would not qualify for a legal gun purchase, he or she will be prohibited from making the transfer. This is commonly known as a ''straw purchase'' and is a major problem in firearm trafficking in the United States.

Require FFLs to abide by security standards for the storage and display of firearms. According to the ATF, in 1998 and 1999, FFLs filed reports on over 27,287 missing or stolen firearms. The Act would authorize suspensions and fines of FFLs who fail to abide by security standards for the display and storage of firearms.

Require FFLs to check all secondhand firearm purchases through the FBI's Stolen Gun Registry to confirm that the firearm was not stolen prior to the purchase.

Require that FFLs notify NICS immediately upon receiving a request from a prospective transferee, of any check conducted within the previous 30 days that did not result in the transfer of a handgun.

Increase the number of permissible inspections of gun dealers from one unannounced inspection per year, current law, to an unlimited amount of inspections for any violation. If a licensee has a poor compliance record, such as one of the 1.2 percent of firearms dealers who account for 57 percent of crime guns, multiple compliance inspections within the 1-year period are necessary for adequate supervision.

Increase penalties for FFLs who fail to account for missing weapons, fail to timely record or maintain records, record keeping violations or knowingly make false statements in connection with firearms from 1 year to 5 years and assess fines up to $10,000 per violation. The current penalty for this violation is a misdemeanor.

Prohibit any licensed firearms dealer from selling two or more handguns to an unlicensed individual during any 30-day period. This prohibition will be inapplicable to an exchange of one handgun for one handgun.

Increase the penalties for persons who unlawfully transfer handguns to juveniles from a misdemeanor to a felony.

Suspend a FFL's license if the licensee is charged with a crime. Currently, a gun dealer can remain in operation if charged with a crime.

Require the termination of a FFLs license upon a conviction of a felony. Under current law, a licensee convicted of a felony may continue to conduct business until appeal rights are exhausted. This is a serious loophole which jeopardizes public safety by allowing convicted felons to continue buying and selling large quantities of firearms in interstate commerce pending the resolution of their appeals.

Require criminal background checks of gun industry employees who deal with firearms, including gun shops, manufacturers and distributors.

Increase the penalty for persons who unlawfully transfer firearms to a juvenile, from a misdemeanor to a felony.

Decrease the amount of black powder explosive one is able to acquire without a permit from 50 pounds to 5 pounds.

According to the ATF report on Commerce in Firearms in the United States, only 1.2 percent of Federal firearms licensees—1,020 of the approximately 83,200 FFL retail dealers—account for over half, 57 percent, of the crime guns traced to current FFLs. This is a staggering number that depicts the disregard of existing laws by these rogue gun dealers. The Homeland and Security Gun Safety Act will strengthen current regulatory control and enforcement in order to protect the safety of the public, while allowing law-abiding Americans to purchase firearms for their own use.

''It's our position at the Justice Department and the position of this Administration that we need to unleash every possible tool in the fight against terrorism and do so promptly.''—Attorney General John Ashcroft, Testimony before Congress, September 24, 2001.

It is time we take a common sense approach to the terrorist threats that face our country today. Terrorists are well aware of our lax gun laws, and we must act preemptively to prevent future tragedies. It is time for action to prevent terrorism by strengthening our country's current gun laws. Our citizens demand it and our homeland security depends on it.

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By Mr. HOLLINGS:

S. 970. A bill to amend the Internal Revenue Code of 1986 to preserve jobs and production activities in the United States; to the Committee on Finance.

Mr. HOLLINGS. Mr. President, March marked the 32nd consecutive month, since July 2000), that manufacturing employment has declined in the United States. This is the longest consecutive monthly decline in the post

World War II era. Already, more than 2 million manufacturing jobs are gone.

In South Carolina, we have seen a steady erosion of our manufacturing job base, and if we don't come up with new concepts to create and maintain domestic manufacturing jobs, America will go out of business.

For all of 2002, industrial production fell 0.6 percent following a 3.5 percent decline in 2001. That represented the first back-to-back annual declines in industrial output since 1974–1975.

Quite frankly, this is unacceptable.

We must act to save our manufacturing jobs. Earlier this Congress, I introduced S. 592, the ''Save American Manufacturing Act of 2003,'' that seeks to eliminate the tax incentives for offshore production. Today, I introduce complementary legislation to provide tax incentives to produce in the United States.

The legislation I'm introducing today would provide tax benefits to domestic producers. These tax incentives would become increasingly beneficial as the percentage of manufacturing done in the United States increases. Conversely, as the percentage of domestic production decreases the incentives would also decrease.

This mechanism will provide a strong incentive for manufacturers to maintain U.S. production and to return runaway production to the United States.

Our communities, our industries and our workers are being harmed by the erosion of our manufacturing base. Today's legislation is one additional way that we can provide assistance to these vital groups.

This legislation is the companion to H.R. 1769 introduced earlier this session in the House by Representatives RANGEL and CRANE.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Job Protection Act of 2003''.

SEC. 2. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.

(a) IN GENERAL.—Section 114 of the Internal Revenue Code of 1986 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subpart E of part III of subchapter N of chapter 1 of such Code (relating to qualifying foreign trade income) is hereby repealed.

(2) The table of subparts for such part III is amended by striking the item relating to subpart E.

(3) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 114.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of such Code, as in effect on the day before the date of the enactment of this Act), and

(B) which is in effect on April 11, 2003, and at all times thereafter.

For purposes of this paragraph, a binding contract shall include a purchase option, renewal option, or replacement option which is included in such contract.

(d) REVOCATION OF SECTION 943(e) ELECTIONS.—

(1) IN GENERAL.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

(A) the corporation may revoke such election, effective as of the date of the enactment of this Act, and

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of the date of the enactment of this Act) all of its property to a foreign corporation in connection with an exchange described in section 354 of the Internal Revenue Code of 1986, and

(ii) no gain or loss shall be recognized on such transfer.

(2) EXCEPTION.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of the person from whom the revoking corporation acquired such asset,

(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

(C) a principal purpose of the acquisition was the reduction or avoidance of tax.

(e) GENERAL TRANSITION.—

(1) IN GENERAL.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2009, for purposes of chapter 1 of such Code, each current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

(2) CURRENT FSC/ETI BENEFICIARY.—The term ''current FSC/ETI beneficiary'' means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2001 with respect to which FSC/ETI benefits were allowable.

(3) TRANSITION AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the adjusted base period amount.

(B) PHASEOUT PERCENTAGE.—

(i) IN GENERAL.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

"Years:	The phaseout percentage is:
2004 and 2005	100
2006	75
2007	75
2008	50
2009 and thereafter	0

(ii) SPECIAL RULE FOR 2003.—The phaseout percentage for 2003 shall be the amount that bears the same ratio to 100 percent as the number of days after the date of the enactment of this Act bears to 365.

(iii) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

(4) ADJUSTED BASE PERIOD AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—In the case of a taxpayer using the calendar year as its taxable year, the adjusted base period amount for any taxable year is the base period amount multiplied by the applicable percentage, as determined in the following table:

"Years:	The applicable percentage is:
2003	100
2004	100
2005	105
2006	110
2007	115
2008	120
2009 and thereafter	0

(B) BASE PERIOD AMOUNT.—The base period amount is the aggregate FSC/ETI benefits for the taxpayer's taxable year beginning in calendar year 2001.

(C) SPECIAL RULES FOR FISCAL YEAR TAXPAYERS, ETC.—Rules similar to rules of clauses (ii) and (iii) of paragraph (3)(B) shall apply for purposes of this paragraph.

(5) FSC/ETI BENEFIT.—For purposes of this subsection, the term 'FSC/ETI benefit' means—

(A) amounts excludable from gross income under section 114 of such Code, and

(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in part by the taxpayer.

(6) SPECIAL RULE FOR FARM COOPERATIVES.—Under regulations prescribed by the Secretary, determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out by excluding amounts from the gross income of its patrons.

(7) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

(8) COORDINATION WITH BINDING CONTRACT RULE.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2). The preceding sentence shall not apply to any FSC/ETI benefit attributable to a transaction described in the last sentence of paragraph (5).

(9) SPECIAL RULE FOR TAXABLE YEAR WHICH INCLUDES DATE OF ENACTMENT.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

(A) 100 percent of such beneficiary's adjusted base period amount for calendar year 2003, reduced by

(B) the aggregate FSC/ETI benefits of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

SEC. 3. DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION ACTIVITIES.

(a) IN GENERAL.—Part VIII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to special deductions for corporations) is amended by adding at the end the following new section:

"SEC. 250. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

''(a) IN GENERAL.—In the case of a corporation, there shall be allowed as a deduction an amount equal to 10 percent of the qualified production activities income of the corporation for the taxable year.

''(b) PHASEIN.—In the case of taxable years beginning in 2006, 2007, 2008 or 2009, subsection (a) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

"Taxable years beginning in:	The transition percentage is:
2006	1
2007	2
2008	4
2009	9

''(c) QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this section, the term 'qualified production activities income' means the product of—

''(1) the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities, and

''(2) the domestic/foreign fraction.

''(d) DETERMINATION OF INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes of this section—

''(1) IN GENERAL.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

''(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

''(B) the sum of—

''(i) the costs of goods sold that are allocable to such receipts,

''(ii) other deductions, expenses, or losses directly allocable to such receipts, and

''(iii) a ratable portion of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

''(2) ALLOCATION METHOD.—Except as provided in regulations, allocations under clauses (ii) and (iii) of paragraph (1)(B) shall be made under the principles used in determining the portion of taxable income from sources within and without the United States.

''(3) SPECIAL RULE.—

''(A) For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States without a transfer price meeting the requirements of section 482 shall be treated as acquired by purchase, and its cost shall be treated as not less than its value when it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

''(B) In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost (or adjusted basis) under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

''(4) MODIFIED TAXABLE INCOME.—The term 'modified taxable income' means taxable income computed without regard to the deduction allowable under this section.

''(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

''(A) any sale, exchange, or other disposition of, or

''(B) any lease, rental or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

''(2) SPECIAL RULE.—The term 'domestic production gross receipts' includes gross receipts of the taxpayer from the sale, exchange, or other disposition of replacement parts if—

''(A) such parts are sold by the taxpayer as replacement parts for qualified production property produced or manufactured in whole or significant part by the taxpayer in the United States, and

''(B) the taxpayer (or a related party) owns the designs for such parts.

''(3) RELATED PARTY.—The term 'related party' means any corporation which is a member of the taxpayer's expanded afiliated group.

''(f) QUALIFYING PRODUCTION PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualifying production property' means—

''(A) any tangible personal property,

''(B) any computer software, and

''(C) any films, tapes, records, or similar reproductions.

''(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'qualifying production property' shall not include—

''(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

''(B) oil or gas (or any primary product thereof),

''(C) electricity,

''(D) water supplied by pipeline to the consumer,

''(E) any unprocessed timber which is softwood,

''(F) utility services, or

''(G) any property (not described in paragraph (1)(B)) which is a film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber.

''(g) DOMESTIC/FOREIGN FRACTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'domestic/foreign fraction' means a fraction—

''(A) the numerator of which is the value of the domestic production of the taxpayer, and

''(B) the denominator of which is the value of the worldwide production of the taxpayer.

''(2) VALUE OF DOMESTIC PRODUCTION.—The value of domestic production is the excess of—

''(A) the domestic production gross receipts, over

''(B) the cost of purchased inputs allocable to such receipts that are deductible under this chapter for the taxable year.

''(3) PURCHASED INPUTS.—

''(A) IN GENERAL.—Purchased inputs are any of the following items acquired by purchase:

''(i) Services (other than services of employees) used in manufacture, production, growth, or extraction activities.

''(ii) Items consumed in connection with such activities.

''(iii) Items incorporated as part of the property being manufactured, produced, grown, or extracted.

''(B) SPECIAL RULE.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of this subsection.

''(4) VALUE OF WORLDWIDE PRODUCTION.—

''(A) IN GENERAL.—The value of worldwide production shall be determined under the principles of paragraph (2), except that—

''(i) worldwide production gross receipts shall be taken into account, and

''(ii) paragraph (3)(B) shall not apply.

''(B) WORLDWIDE PRODUCTION GROSS RECEIPTS.—The worldwide production gross receipts is the amount that would be determined under subsection (e) if such subsection were applied without any reference to the United States.

''(5) SPECIAL RULE FOR AFFILIATED GROUPS.—

''(A) IN GENERAL.—In the case of a taxpayer that is a member of an expanded affiliated group, the domestic/foreign fraction shall be the amount determined under the preceding provisions of this subsection by treating all members of such group as a single corporation.

''(B) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

''(i) by substituting '50 percent' for '80 percent' each place it appears, and

''(ii) without regard to paragraphs (2), (3), and (4) of section 1504(b).

''(h) DEFINITIONS AND SPECIAL RULES.—

''(1) UNITED STATES.—For purposes of this section, the term 'United States' includes the Commonwealth of Puerto Rico and any other possession of the United States.

''(2) SPECIAL RULE FOR PARTNERSHIPS.—For purposes of this section, a corporation's distributive share of any partnership item shall be taken into account as if directly realized by the corporation.

''(3) COORDINATION WITH MINIMUM TAX.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

''(4) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

''(5) COORDINATION WITH TRANSITION RULES.—For purposes of this section—

''(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 2(c)(2) of the Job Protection Act of 2003 applies to such transaction, and

''(B) any deduction allowed under section 2(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.''.

(b) CLERICAL AMENDMENT.—The table of sections for part VIII of subchapter B of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 250. Income attributable to domestic production activities.''.

(c) EFFECTIVE DATE.—

''(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after 2005.

''(2) APPLICATION OF SECTION 15.—Section 15 of the Internal Revenue Code of 1986 shall apply to the amendments made by this section as if they were changes in a rate of tax.

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. KENNEDY, Mr. COCHRAN, Mr. BIDEN, Ms. LANDRIEU, Mr. KERRY, Mr. CORZINE, Mr. SCHUMER, Mrs. CLINTON, and Mr. DAYTON):

S. 971. A bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes; to the Committee on Finance.

Mr. HARKIN. Mr. President, today Senator SPECTER and I and others introduce the Medicaid Community-Based Attendant Services and Supports Act of 2003, MICASSA. This legislation is needed to truly bring people with disabilities into the mainstream of society and provide equal opportunity for employment and community activities.

In order to work or live in their own homes, Americans with disabilities and older Americans need access to community-based services and supports. Unfortunately, under current Federal Medicaid policy, the deck is stacked in favor of living in an institution. The purpose of our bill is to level the playing field and give eligible individuals equal access to community-based services and supports.

The Medicaid Community Attendant Services and Supports Act accomplishes four goals.

First, the bill amends Title XIX of the Social Security Act to provide a new Medicaid plan benefit that would give individuals who are currently eligible for nursing home services or an intermediate care facility for the mentally retarded equal access to community-based attendant services and supports.

Second, for a limited time, States would have the opportunity to receive additional funds to support community attendant services and supports and for certain administrative activities. Each State currently gets Federal money for their Medicaid program based on a set percentage. This percentage is the Medicaid match rate. This bill would increase that percentage to provide some additional funding to States to help them reform their long term care systems.

Third, the bill provides States with financial assistance to support ''real choice systems change initiatives'' that include specific action steps to increase the provision of home and community based services.

Finally, the bill establishes a demonstration project to evaluate service coordination and cost sharing approaches with respect to the provision of services and supports for individuals with disabilities under the age of 65 who are dually eligible for Medicaid and Medicare.

Some States have already recognized the benefits of home and community based services. Every State offers certain services under home and community based waiver programs, which serve a capped number of individuals with an array of home and community based services to meet their needs and avoid institutionalization. Some States also are now providing the personal care optional benefit through their Medicaid program.

However, despite this market progress, home and community based services are unevenly distributed within and across states and only reach a small percentage of eligible individuals.

Those left behind are often needlessly institutionalize because they cannot access community alternatives. A person with a disability's civil right to be integrated into his or her community should not depend on his or her address. In Olmstead v. LC, the Supreme Court recognized that needless institutionalization is a form of discrimination under the Americans With Disabilities Act. We in Congress have a responsibility to help States meet their obligations under Olmstead.

This MICASSA legislation is designed to do just that and make the promise of the ADA a reality. It will help rebalance the current Medicaid long term care system, which spends a disproportionate amount on institutional services. For example, in 2000, 49.5 billion dollars were spent on institutional care, compared to 18.2 billion on community based care. In the same year, only 3 States spent 50 percent or more of their long term care funds under the Medicaid program on home and community based care.

And that means that individuals do not have equal access to community based care throughout this country. An individual should not be asked to move to another state in order to avoid needless segregation. They also should not be moved away from family and friends because their only choice is an institution.

For example, I know a young man in Iowa, Ken Kendall, who is currently living in a nursing home because he cannot access home and community based care. Ken was injured in a serious accident at the age of 17 and sustained a spinal chord injury. With the help of community based services covered by his insurance company, Ken could live in his home in Iowa City. Remaining independent made a tremendous difference in his life.

However, several years ago, Ken lost his health insurance and after a time, he went onto Medicaid. As a Medicaid recipient, Ken was only given the option to live in a nursing home in Waterloo, almost two hours from his friends and family in Iowa City. In the nursing home, Ken has become isolated. He is very far from his family and friends and does not have access to transportation. He has not been to a restaurant or a movie since he moved to the nursing home over two years ago. His life has dramatically changed from when he lived in his own apartment and hired his own attendants to care for him. MICASSA would give him that choice again—the choice to control his own life and live a full and meaningful life in his home community surrounded by his friends and family.

Federal Medicaid policy should reflect the consensus reached in the ADA that Americans with Disabilities should have equal opportunity to contribute to our communities and participate in our society as full citizens. That means no one has to sacrifice their full participation in society because they need help getting out of the house in the morning or assistance with personal care or some other basic service.

I am very pleased that the administration has included the Real Choice Systems Change grants in its budget this year at $40 million dollars. Senator Specter and I have supported these grants for several years now. I also applaud the administration's commitment to The President's New Freedom Initiative for People with Disabilities and believe that this legislation helps promote the goals of that initiative.

Community based attendant services and supports allow people with disabilities to lead independent lives, have jobs, and participate in the community. Some will become taxpayers, some will get an education, and some will participate in recreational and civic activities. But all will experience a chance to make their own choices and govern their own lives.

This bill will open the door to full participation by people with disabilities in our workplaces, our economy, and our American Dream, and I urge all my colleagues to support us on this issue. I want to thank Senator SPECTER for his leadership on this issue and his commitment to improving access to home and community based services for people with disabilities. I would also like to thank Senators KENNEDY, COCHRAN, BIDEN, LANDRIEU, KERRY, CORZINE, SCHUMER, and CLINTON for joining me in this important initiative.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicaid Community-Based Attendant Services and Supports Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
TITLE I—ESTABLISHMENT OF MEDICAID PLAN BENEFIT
Sec. 101. Coverage of community-based attendant services and supports under the medicaid program.

Sec. 102. Enhanced FMAP for ongoing activities of early coverage States that enhance and promote the use of community-based attendant services and supports.
Sec. 103. Increased Federal financial participation for certain expenditures.

TITLE II—PROMOTION OF SYSTEMS CHANGE AND CAPACITY BUILDING

Sec. 201. Grants to promote systems change and capacity building.
Sec. 202. Demonstration project to enhance coordination of care under the medicare and medicaid programs for non-elderly dual eligible individuals.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Long-term services and supports provided under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) must meet the ability and life choices of individuals with disabilities and older Americans, including the choice to live in one's own home or with one's own family and to become a productive member of the community.

(2) Research on the provision of long-term services and supports under the medicaid program (conducted by and on behalf of the Department of Health and Human Services) has revealed a significant funding bias toward institutional care. Only about 27 percent of long term care funds expended under the medicaid program, and only about 9 percent of all funds expended under that program, pay for services and supports in home and community-based settings.

(3) In the case of medicaid beneficiaries who need long term care, the only long-term care service currently guaranteed by Federal law in every State is nursing home care. Only 27 States have adopted the benefit option of providing personal care services under the medicaid program. Although every State has chosen to provide certain services under home and community-based waivers, these services are unevenly available within and across States, and reach a small percentage of eligible individuals. In fiscal year 2000, only 3 States spent 50 percent or more of their medicaid long term care funds under the medicaid program on home and community-based care.

(4) Despite the funding bias and the uneven distribution of home and community-based services, 2½ times more people are served in home and community-based settings than in institutional settings.

(5) The goals of the Nation properly include providing families of children with disabilities, working-age adults with disabilities, and older Americans with—

(A) a meaningful choice of receiving long-term services and supports in the most integrated setting appropriate to their needs;

(B) the greatest possible control over the services received and, therefore, their own lives and futures; and

(C) quality services that maximize independence in the home and community, including in the workplace.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To reform the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to provide equal access to community-based attendant services and supports.

(2) To provide financial assistance to States as they reform their long-term care systems to provide comprehensive statewide long-term services and supports, including community-based attendant services and supports that provide consumer choice and direction, in the most integrated setting appropriate.

TITLE I—ESTABLISHMENT OF MEDICAID PLAN BENEFIT

SEC. 101. COVERAGE OF COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS UNDER THE MEDICAID PROGRAM.

(a) MANDATORY COVERAGE.—Section 1902(a)(10)(D) of the Social Security Act (42 U.S.C. 1396a(a)(10)(D)) is amended—

(1) by inserting ''(i)'' after ''(D)'';

(2) by adding ''and'' after the semicolon; and

(3) by adding at the end the following new clause:

''(ii) subject to section 1935, for the inclusion of community-based attendant services and supports for any individual who—

''(I) is eligible for medical assistance under the State plan;

''(II) with respect to whom there has been a determination that the individual requires the level of care provided in a nursing facility or an intermediate care facility for the mentally retarded (whether or not coverage of such intermediate care facility is provided under the State plan); and

''(III) who chooses to receive such services and supports;''.

(b) COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(A) by redesignating section 1935 as section 1936; and

(B) by inserting after section 1934 the following:

''COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS

''SEC. 1935. (a) REQUIRED COVERAGE.—

''(1) IN GENERAL.—Not later than October 1, 2007, a State shall provide through a plan amendment for the inclusion of community-based attendant services and supports (as defined in subsection (g)(1)) for individuals described in section 1902(a)(10)(D)(ii) in accordance with this section.

''(2) ENHANCED FMAP AND ADDITIONAL FEDERAL FINANCIAL SUPPORT FOR EARLIER COVERAGE.—Notwithstanding section 1905(b), during the period that begins on or after October 1, 2003, and ends on September 30, 2007, in the case of a State with an approved plan amendment under this section during that period that also satisfies the requirements of subsection (c) the Federal medical assistance percentage shall be equal to the enhanced FMAP described in section 2105(b) with respect to medical assistance in the form of community-based attendant services and supports provided to individuals described in section 1902(a)(10)(D)(ii) in accordance with this section.

''(b) DEVELOPMENT AND IMPLEMENTATION OF BENEFIT.—In order for a State plan amendment to be approved under this section, a State shall provide the Secretary with the following assurances:

''(1) ASSURANCE OF DEVELOPMENT AND IMPLEMENTATION COLLABORATION.—That the State has developed and shall implement the provision of community-based attendant services and supports under the State plan through active collaboration with—

''(A) individuals with disabilities;

''(B) elderly individuals;

''(C) representatives of such individuals; and

''(D) providers of, and advocates for, services and supports for such individuals.

''(2) ASSURANCE OF PROVISION ON A STATEWIDE BASIS AND IN MOST INTEGRATED SETTING.—That community-based attendant services and supports will be provided under the State plan to individuals described in section 1902(a)(10)(D)(ii) on a statewide basis and in a manner that provides such services and supports in the most integrated setting appropriate for each individual eligible for such services and supports.

''(3) ASSURANCE OF NONDISCRIMINATION.—That the State will provide community-based attendant services and supports to an individual described in section 1902(a)(10)(D)(ii) without regard to the individual's age, type of disability, or the form of community-based attendant services and supports that the individual requires in order to lead an independent life.

''(4) ASSURANCE OF MAINTENANCE OF EFFORT.—That the level of State expenditures for optional medical assistance that—

''(A) is described in a paragraph other than paragraphs (1) through (5), (17) and (21) of section 1905(a) or that is provided under a waiver under section 1915, section 1115, or otherwise; and

''(B) is provided to individuals with disabilities or elderly individuals for a fiscal year, shall not be less than the level of such expenditures for the fiscal year preceding the fiscal year in which the State plan amendment to provide community-based attendant services and supports in accordance with this section is approved.

''(c) REQUIREMENTS FOR ENHANCED FMAP FOR EARLY COVERAGE.—In addition to satisfying the other requirements for an approved plan amendment under this section, in order for a State to be eligible under subsection (a)(2) during the period described in that subsection for the enhanced FMAP for early coverage under subsection (a)(2), the State shall satisfy the following requirements:

''(1) SPECIFICATIONS.—With respect to a fiscal year, the State shall provide the Secretary with the following specifications regarding the provision of community-based attendant services and supports under the plan for that fiscal year:

''(A)(i) The number of individuals who are estimated to receive community-based attendant services and supports under the plan during the fiscal year.

''(ii) The number of individuals that received such services and supports during the preceding fiscal year.

''(B) The maximum number of individuals who will receive such services and supports under the plan during that fiscal year.

''(C) The procedures the State will implement to ensure that the models for delivery of such services and supports are consumer controlled (as defined in subsection (g)(2)(B)).

''(D) The procedures the State will implement to inform all potentially eligible individuals and relevant other individuals of the availability of such services and supports under the this title, and of other items and services that may be provided to the individual under this title or title XVIII.

''(E) The procedures the State will implement to ensure that such services and supports are provided in accordance with the requirements of subsection (b)(1).

''(F) The procedures the State will implement to actively involve individuals with disabilities, elderly individuals, and representatives of such individuals in the design, delivery, administration, and evaluation of the provision of such services and supports under this title.

''(2) PARTICIPATION IN EVALUATIONS.—The State shall provide the Secretary with such substantive input into, and participation in, the design and conduct of data collection, analyses, and other qualitative or quantitative evaluations of the provision of community-based attendant services and supports under this section as the Secretary deems necessary in order to determine the effectiveness of the provision of such services and supports in allowing the individuals receiving such services and supports to lead

an independent life to the maximum extent possible.

''(d) QUALITY ASSURANCE PROGRAM.—

''(1) STATE RESPONSIBILITIES.—In order for a State plan amendment to be approved under this section, a State shall establish and maintain a quality assurance program with respect to community-based attendant services and supports that provides for the following:

''(A) The State shall establish requirements, as appropriate, for agency-based and other delivery models that include—

''(i) minimum qualifications and training requirements for agency-based and other models;

''(ii) financial operating standards; and

''(iii) an appeals procedure for eligibility denials and a procedure for resolving disagreements over the terms of an individualized plan.

''(B) The State shall modify the quality assurance program, as appropriate, to maximize consumer independence and consumer control in both agency-provided and other delivery models.

''(C) The State shall provide a system that allows for the external monitoring of the quality of services and supports by entities consisting of consumers and their representatives, disability organizations, providers, families of disabled or elderly individuals, members of the community, and others.

''(D) The State shall provide for ongoing monitoring of the health and well-being of each individual who receives community-based attendant services and supports.

''(E) The State shall require that quality assurance mechanisms appropriate for the individual be included in the individual's written plan.

''(F) The State shall establish a process for the mandatory reporting, investigation, and resolution of allegations of neglect, abuse, or exploitation in connection with the provision of such services and supports.

''(G) The State shall obtain meaningful consumer input, including consumer surveys, that measure the extent to which an individual receives the services and supports described in the individual's plan and the individual's satisfaction with such services and supports.

''(H) The State shall make available to the public the findings of the quality assurance program.

''(I) The State shall establish an ongoing public process for the development, implementation, and review of the State's quality assurance program.

''(J) The State shall develop and implement a program of sanctions for providers of community-based services and supports that violate the terms or conditions for the provision of such services and supports.

''(2) FEDERAL RESPONSIBILITIES.—

''(A) PERIODIC EVALUATIONS.—The Secretary shall conduct a periodic sample review of outcomes for individuals who receive community-based attendant services and supports under this title.

''(B) INVESTIGATIONS.—The Secretary may conduct targeted reviews and investigations upon receipt of an allegation of neglect, abuse, or exploitation of an individual receiving community-based attendant services and supports under this section.

''(C) DEVELOPMENT OF PROVIDER SANCTION GUIDELINES.—The Secretary shall develop guidelines for States to use in developing the sanctions required under paragraph (1)(J).

''(e) REPORTS.—The Secretary shall submit to Congress periodic reports on the provision of community-based attendant services and supports under this section, particularly with respect to the impact of the provision of such services and supports on—

''(1) individuals eligible for medical assistance under this title;

''(2) States; and

''(3) the Federal Government.

''(f) NO EFFECT ON ABILITY TO PROVIDE COVERAGE UNDER A WAIVER.—

''(1) IN GENERAL.—Nothing in this section shall be construed as affecting the ability of a State to provide coverage under the State plan for community-based attendant services and supports (or similar coverage) under a waiver approved under section 1915, section 1115, or otherwise.

''(2) ELIGIBILITY FOR ENHANCED MATCH.—In the case of a State that provides coverage for such services and supports under a waiver, the State shall not be eligible under subsection (a)(2) for the enhanced FMAP for the early provision of such coverage unless the State submits a plan amendment to the Secretary that meets the requirements of this section.

''(g) DEFINITIONS.—In this title:

''(1) COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS.—

''(A) IN GENERAL.—The term 'community-based attendant services and supports' means attendant services and supports furnished to an individual, as needed, to assist in accomplishing activities of daily living, instrumental activities of daily living, and health-related functions through hands-on assistance, supervision, or cueing—

''(i) under a plan of services and supports that is based on an assessment of functional need and that is agreed to by the individual or, as appropriate, the individual's representative;

''(ii) in a home or community setting, which may include a school, workplace, or recreation or religious facility, but does not include a nursing facility or an intermediate care facility for the mentally retarded;

''(iii) under an agency-provider model or other model (as defined in paragraph (2)(C)); and

''(iv) the furnishing of which is selected, managed, and dismissed by the individual, or, as appropriate, with assistance from the individual's representative.

''(B) INCLUDED SERVICES AND SUPPORTS.—Such term includes—

''(i) tasks necessary to assist an individual in accomplishing activities of daily living, instrumental activities of daily living, and health-related functions;

''(ii) the acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish activities of daily living, instrumental activities of daily living, and health-related functions;

''(iii) backup systems or mechanisms (such as the use of beepers) to ensure continuity of services and supports; and

''(iv) voluntary training on how to select, manage, and dismiss attendants.

''(C) EXCLUDED SERVICES AND SUPPORTS.—Subject to subparagraph (D), such term does not include—

''(i) the provision of room and board for the individual;

''(ii) special education and related services provided under the Individuals with Disabilities Education Act and vocational rehabilitation services provided under the Rehabilitation Act of 1973;

''(iii) assistive technology devices and assistive technology services;

''(iv) durable medical equipment; or

''(v) home modifications.

''(D) FLEXIBILITY IN TRANSITION TO COMMUNITY-BASED HOME SETTING.—Such term may include expenditures for transitional costs, such as rent and utility deposits, first month's rent and utilities, bedding, basic kitchen supplies, and other necessities required for an individual to make the transition from a nursing facility or intermediate care facility for the mentally retarded to a community-based home setting where the individual resides.

''(2) ADDITIONAL DEFINITIONS.—

''(A) ACTIVITIES OF DAILY LIVING.—The term 'activities of daily living' includes eating, toileting, grooming, dressing, bathing, and transferring.

''(B) CONSUMER CONTROLLED.—The term 'consumer controlled' means a method of providing services and supports that allow the individual, or where appropriate, the individual's representative, maximum control of the community-based attendant services and supports, regardless of who acts as the employer of record.

''(C) DELIVERY MODELS.—

''(i) AGENCY-PROVIDER MODEL.—The term 'agency-provider model' means, with respect to the provision of community-based attendant services and supports for an individual, a method of providing consumer controlled services and supports under which entities contract for the provision of such services and supports.

''(ii) OTHER MODELS.—The term 'other models' means methods, other than an agency-provider model, for the provision of consumer controlled services and supports. Such models may include the provision of vouchers, direct cash payments, or use of a fiscal agent to assist in obtaining services.

''(D) HEALTH-RELATED FUNCTIONS.—The term 'health-related functions' means functions that can be delegated or assigned by licensed health-care professionals under State law to be performed by an attendant.

''(E) INSTRUMENTAL ACTIVITIES OF DAILY LIVING.—The term 'instrumental activities of daily living' includes meal planning and preparation, managing finances, shopping for food, clothing, and other essential items, performing essential household chores, communicating by phone and other media, and traveling around and participating in the community.

''(F) INDIVIDUAL'S REPRESENTATIVE.—The term 'individual's representative' means a parent, a family member, a guardian, an advocate, or an authorized representative of an individual.''.

(c) CONFORMING AMENDMENTS.—

(1) MANDATORY BENEFIT.—Section 1902(a)(10)(A) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)) is amended, in the matter preceding clause (i), by striking ''(17) and (21)'' and inserting ''(17), (21), and (27)''.

(2) DEFINITION OF MEDICAL ASSISTANCE.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) by striking ''and'' at the end of paragraph (26);

(B) by redesignating paragraph (27) as paragraph (28); and

(C) by inserting after paragraph (26) the following:

''(27) community-based attendant services and supports (to the extent allowed and as defined in section 1935); and''.

(3) IMD/ICFMR REQUIREMENTS.—Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting ''and (27)'' after ''(24)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section (other than the amendment made by subsection (c)(1)) take effect on October 1, 2003, and apply to medical assistance provided for community-based attendant services and supports described in section 1935 of the Social Security Act furnished on or after that date.

(2) MANDATORY BENEFIT.—The amendment made by subsection (c)(1) takes effect on October 1, 2007.

SEC. 102. ENHANCED FMAP FOR ONGOING ACTIVITIES OF EARLY COVERAGE STATES THAT ENHANCE AND PROMOTE THE USE OF COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS.

(a) IN GENERAL.—Section 1935 of the Social Security Act, as added by section 101(b), is amended—

(1) by redesignating subsections (d) through (g) as subsections (f) through (i), respectively;

(2) in subsection (a)(1), by striking ''subsection (g)(1)'' and inserting ''subsection (i)(1)'';

(3) in subsection (a)(2), by inserting '', and with respect to expenditures described in subsection (d), the Secretary shall pay the State the amount described in subsection (d)(1)'' before the period;

(4) in subsection (c)(1)(C), by striking ''subsection (g)(2)(B)'' and inserting ''subsection (i)(2)(B)''; and

(5) by inserting after subsection (c), the following:

''(d) INCREASED FEDERAL FINANCIAL PARTICIPATION FOR EARLY COVERAGE STATES THAT MEET CERTAIN BENCHMARKS.—

''(1) IN GENERAL.—Subject to paragraph (2), for purposes of subsection (a)(2), the amount and expenditures described in this subsection are an amount equal to the Federal medical assistance percentage, increased by 10 percentage points, of the expenditures incurred by the State for the provision or conduct of the services or activities described in paragraph (3).

''(2) EXPENDITURE CRITERIA.—A State shall—

''(A) develop criteria for determining the expenditures described in paragraph (1) in collaboration with the individuals and representatives described in subsection (b)(1); and

''(B) submit such criteria for approval by the Secretary.

''(3) SERVICES AND ACTIVITIES DESCRIBED.—For purposes of paragraph (1), the services and activities described in this subparagraph are the following:

''(A) One-stop intake, referral, and institutional diversion services.

''(B) Identifying and remedying gaps and inequities in the State's current provision of long-term services, particularly those services that are provided based on such factors as age, disability type, ethnicity, income, institutional bias, or other similar factors.

''(C) Establishment of consumer participation and consumer governance mechanisms, such as cooperatives and regional service authorities, that are managed and controlled by individuals with significant disabilities who use community-based services and supports or their representatives.

''(D) Activities designed to enhance the skills, earnings, benefits, supply, career, and future prospects of workers who provide community-based attendant services and supports.

''(E) Continuous improvement activities that are designed to ensure and enhance the health and well-being of individuals who rely on community-based attendant services and supports, particularly activities involving or initiated by consumers of such services and supports or their representatives.

''(F) Family support services to augment the efforts of families and friends to enable individuals with disabilities of all ages to live in their own homes and communities.

''(G) Health promotion and wellness services and activities.

''(H) Provider recruitment and enhancement activities, particularly such activities that encourage the development and maintenance of consumer controlled cooperatives or other small businesses or microenterprises that provide community-based attendant services and supports or related services.

''(I) Activities designed to ensure service and systems coordination.

''(J) Any other services or activities that the Secretary deems appropriate.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2003.

SEC. 103. INCREASED FEDERAL FINANCIAL PARTICIPATION FOR CERTAIN EXPENDITURES.

(a) IN GENERAL.—Section 1935 of the Social Security Act, as added by section 101(b) and amended by section 102, is amended by inserting after subsection (d) the following:

''(e) INCREASED FEDERAL FINANCIAL PARTICIPATION FOR CERTAIN EXPENDITURES.—

''(1) ELIGIBILITY FOR PAYMENT.—

''(A) IN GENERAL.—In the case of a State that the Secretary determines satisfies the requirements of subparagraph (B), the Secretary shall pay the State the amounts described in paragraph (2) in addition to any other payments provided for under section 1903 or this section for the provision of community-based attendant services and supports.

''(B) REQUIREMENTS.—The requirements of this subparagraph are the following:

''(i) The State has an approved plan amendment under this section.

''(ii) The State has incurred expenditures described in paragraph (2).

''(iii) The State develops and submits to the Secretary criteria to identify and select such expenditures in accordance with the requirements of paragraph (3).

''(iv) The Secretary determines that payment of the applicable percentage of such expenditures (as determined under paragraph (2)(B)) would enable the State to provide a meaningful choice of receiving community-based services and supports to individuals with disabilities and elderly individuals who would otherwise only have the option of receiving institutional care.

''(2) AMOUNTS AND EXPENDITURES DESCRIBED.—

''(A) EXPENDITURES IN EXCESS OF 150 PERCENT OF BASELINE AMOUNT.—The amounts and expenditures described in this paragraph are an amount equal to the applicable percentage, as determined by the Secretary in accordance with subparagraph (B), of the expenditures incurred by the State for the provision of community-based attendant services and supports to an individual that exceed 150 percent of the average cost of providing nursing facility services to an individual who resides in the State and is eligible for such services under this title, as determined in accordance with criteria established by the Secretary.

''(B) APPLICABLE PERCENTAGE.—The Secretary shall establish a payment scale for the expenditures described in subparagraph (A) so that the Federal financial participation for such expenditures gradually increases from 70 percent to 90 percent as such expenditures increase.

''(3) SPECIFICATION OF ORDER OF SELECTION FOR EXPENDITURES.—In order to receive the amounts described in paragraph (2), a State shall—

''(A) develop, in collaboration with the individuals and representatives described in subsection (b)(1) and pursuant to guidelines established by the Secretary, criteria to identify and select the expenditures submitted under that paragraph; and

''(B) submit such criteria to the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2003.

TITLE II—PROMOTION OF SYSTEMS CHANGE AND CAPACITY BUILDING

SEC. 201. GRANTS TO PROMOTE SYSTEMS CHANGE AND CAPACITY BUILDING.

(a) AUTHORITY TO AWARD GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall award grants to eligible States to carry out the activities described in subsection (b).

(2) APPLICATION.—In order to be eligible for a grant under this section, a State shall submit to the Secretary an application in such form and manner, and that contains such information, as the Secretary may require.

(b) PERMISSIBLE ACTIVITIES.—A State that receives a grant under this section may use funds provided under the grant for any of the following activities, focusing on areas of need identified by the State and the Consumer Task Force established under subsection (c):

(1) The development and implementation of the provision of community-based attendant services and supports under section 1935 of the Social Security Act (as added by section 101(b) and amended by sections 102 and 103) through active collaboration with—

(A) individuals with disabilities;

(B) elderly individuals;

(C) representatives of such individuals; and

(D) providers of, and advocates for, services and supports for such individuals.

(2) Substantially involving individuals with significant disabilities and representatives of such individuals in jointly developing, implementing, and continually improving a mutually acceptable comprehensive, effectively working statewide plan for preventing and alleviating unnecessary institutionalization of such individuals.

(3) Engaging in system change and other activities deemed necessary to achieve any or all of the goals of such statewide plan.

(4) Identifying and remedying disparities and gaps in services to classes of individuals with disabilities and elderly individuals who are currently experiencing or who face substantial risk of unnecessary institutionalization.

(5) Building and expanding system capacity to offer quality consumer controlled community-based services and supports to individuals with disabilities and elderly individuals, including by—

(A) seeding the development and effective use of community-based attendant services and supports cooperatives, independent living centers, small businesses, microenterprises and similar joint ventures owned and controlled by individuals with disabilities or representatives of such individuals and community-based attendant services and supports workers;

(B) enhancing the choice and control individuals with disabilities and elderly individuals exercise, including through their representatives, with respect to the personal assistance and supports they rely upon to lead independent, self-directed lives;

(C) enhancing the skills, earnings, benefits, supply, career, and future prospects of workers who provide community-based attendant services and supports;

(D) engaging in a variety of needs assessment and data gathering;

(E) developing strategies for modifying policies, practices, and procedures that result in unnecessary institutional bias or the overmedicalization of long-term services and supports;

(F) engaging in interagency coordination and single point of entry activities;

(G) providing training and technical assistance with respect to the provision of community-based attendant services and supports;

(H) engaging in—

(i) public awareness campaigns;

(ii) facility-to-community transitional activities; and

(iii) demonstrations of new approaches; and

(I) engaging in other systems change activities necessary for developing, implementing, or evaluating a comprehensive statewide system of community-based attendant services and supports.

(6) Ensuring that the activities funded by the grant are coordinated with other efforts to increase personal attendant services and supports, including—

(A) programs funded under or amended by the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170; 113 Stat. 1860);

(B) grants funded under the Families of Children With Disabilities Support Act of 2000 (42 U.S.C. 15091 et seq.); and

(C) other initiatives designed to enhance the delivery of community-based services and supports to individuals with disabilities and elderly individuals.

(7) Engaging in transition partnership activities with nursing facilities and intermediate care facilities for the mentally retarded that utilize and build upon items and services provided to individuals with disabilities or elderly individuals under the medicaid program under title XIX of the Social Security Act, or by Federal, State, or local housing agencies, independent living centers, and other organizations controlled by consumers or their representatives.

(c) CONSUMER TASK FORCE.—

(1) ESTABLISHMENT AND DUTIES.—To be eligible to receive a grant under this section, each State shall establish a Consumer Task Force (referred to in this subsection as the ''Task Force'') to assist the State in the development, implementation, and evaluation of real choice systems change initiatives.

(2) APPOINTMENT.—Members of the Task Force shall be appointed by the Chief Executive Officer of the State in accordance with the requirements of paragraph (3), after the solicitation of recommendations from representatives of organizations representing a broad range of individuals with disabilities, elderly individuals, representatives of such individuals, and organizations interested in individuals with disabilities and elderly individuals.

(3) COMPOSITION.—

(A) IN GENERAL.—The Task Force shall represent a broad range of individuals with disabilities from diverse backgrounds and shall include representatives from Developmental Disabilities Councils, Mental Health Councils, State Independent Living Centers and Councils, Commissions on Aging, organizations that provide services to individuals with disabilities and consumers of long-term services and supports.

(B) INDIVIDUALS WITH DISABILITIES.—A majority of the members of the Task Force shall be individuals with disabilities or representatives of such individuals.

(C) LIMITATION.—The Task Force shall not include employees of any State agency providing services to individuals with disabilities other than employees of entities described in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.).

(d) ANNUAL REPORT.—

(1) STATES.—A State that receives a grant under this section shall submit an annual report to the Secretary on the use of funds provided under the grant in such form and manner as the Secretary may require.

(2) SECRETARY.—The Secretary shall submit to Congress an annual report on the grants made under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $50,000,000 for each of fiscal years 2004 through 2006.

(2) AVAILABILITY.—Amounts appropriated to carry out this section shall remain available without fiscal year limitation.

SEC. 202. DEMONSTRATION PROJECT TO ENHANCE COORDINATION OF CARE UNDER THE MEDICARE AND MEDICAID PROGRAMS FOR NON-ELDERLY DUAL ELIGIBLE INDIVIDUALS.

(a) DEFINITIONS.—In this section:

(1) NON-ELDERLY DUALLY ELIGIBLE INDIVIDUAL.—The term ''non-elderly dually eligible individual'' means an individual who—

(A) has not attained age 65; and

(B) is enrolled in the medicare and medicaid programs established under titles XVIII and XIX, respectively, of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq.).

(2) PROJECT.—The term ''project'' means the demonstration project authorized to be conducted under this section.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(b) AUTHORITY TO CONDUCT PROJECT.—The Secretary shall conduct a project under this section for the purpose of evaluating service coordination and cost-sharing approaches with respect to the provision of community-based services and supports to non-elderly dually eligible individuals.

(c) REQUIREMENTS.—

(1) NUMBER OF PARTICIPANTS.—Not more than 5 States may participate in the project.

(2) APPLICATION.—A State that desires to participate in the project shall submit an application to the Secretary, at such time and in such form and manner as the Secretary shall specify.

(3) DURATION.—The project shall be conducted for at least 5, but not more than 10 years.

(d) EVALUATION AND REPORT.—

(1) EVALUATION.—Not later than 1 year prior to the termination date of the project, the Secretary, in consultation with States participating in the project, representatives of non-elderly dually eligible individuals, and others, shall evaluate the impact and effectiveness of the project.

(2) REPORT.—The Secretary shall submit a report to Congress that contains the findings of the evaluation conducted under paragraph (1) along with recommendations regarding whether the project should be extended or expanded, and any other legislative or administrative actions that the Secretary considers appropriate as a result of the project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Mr. SPECTER. Mr. President, I have sought recognition to join Senator TOM HARKIN, my colleague and distinguished ranking member of the Appropriations Subcommittee on Labor, Health and Human Services and Education, which I chair, in introducing the ''Medicaid Attendant Care Services and Supports Act of 2003.'' This creative proposal addresses a glaring gap in Federal health coverage, and assists one of our Nation's most vulnerable populations, persons with disabilities.

In an effort to improve the delivery of care and the comfort of those with long-term disabilities, this vital legislation would allow for reimbursement for community-based attendant care services, in lieu of institutionalization, for eligible individuals who require such services based on functional need, without regard to the individual's age or the nature of the disability. The most recent data available tell us that 58.5 million individuals receive care for disabilities under the Medicaid program. The number of disabled who are not currently enrolled in the program who would apply for this improved benefit is not easily counted, but would likely be substantial given the preference of home and community-based care over institutional care.

Under this proposal, States may apply for grants for assistance in implementing ''systems change'' initiatives, in order to eliminate the institutional bias in their current policies and for needs assessment activities. Further, if a state can show that the aggregate amounts of Federal expenditures on people living in the community exceeds what would have been spent on the same people had they been in nursing homes, the state can limit the program. No limiting mechanism is mandated under this bill, And finally, States would be required to maintain expenditures for attendant care services under other Medicaid community-based programs, thereby preventing the states from shifting patients into the new benefit proposed under this bill.

Let me speak briefly about why such a change in Medicaid law is so desperately needed. In 1999 the Supreme Court held in Olmstead v. L.C., 119 S. Ct. 2176 (1999), that the Americans with Disabilities Act, ADA, requires States, under some circumstances, to provide community-based treatment to persons with mental disabilities rather than placing them in institutions. This decision and several lower court decisions have pointed to the need for a structured Medicaid attendant-care services benefit in order to meet obligations under the ADA. Disability advocates strongly support this legislation, arguing that the lack of Medicaid community-based services options is discriminatory and unhealthful for disabled individuals. Virtually every major disability advocacy group supports this bill, including ADAPT, the Arc, the National Council on Independent Living, Paralyzed Veterans of America, and the National Spinal Cord Injury Association.

Senator HARKIN and I recognize that such a shift in the Medicaid program is a huge undertaking—but feel that it is a vitally important one. We are introducing this legislation today in an attempt to move ahead with the consideration of crucial disability legislation and to provide a starting point for debate. The time has come for concerted action in this arena.

I urge the Congressional leadership, including the appropriate committee chairmen, to move forward in considering this legislation, and take the significant next step forward in achieving the objective of providing individuals with disabilities the freedom to live in their own communities.

By Mr. COLEMAN:

S. 972. A bill to clarify the authority of States to establish conditions for insurers to conduct the business of insurance within a State based on the provision of information regarding Holocaust era insurance policies of the insurer, to establish a Federal cause of action for claims for payment of such insurance policies, and for other purposes; to the Committee on the Judiciary.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the bill I introduce today to clarify the authority of States to establish conditions for insurers to conduct the business of insurance within a State based on the provision of information regarding Holocaust era insurance policies of the insurer, to establish a Federal cause of action for claims of payment of such insurance policies, and for other purposes be printed in the RECORD.

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

S. 972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive Holocaust Accountability in Insurance Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Between 1933 and 1945, the Nazi regime and its collaborators conducted systematic, bureaucratic, and State-sponsored persecution and murder of approximately 6,000,000 Jews—the genocidal act known as the Holocaust.

(2) Before and during World War II, millions of European Jews purchased, in good faith, life insurance policies with certain European insurance companies because these policies were a popular form of savings and investment that provided a means of safeguarding family assets, assisting in retirement planning, providing for a dowry, or saving for the education of children.

(3) After the Nazis came to power in Germany, they systematically confiscated the insurance assets, including the cash value of life insurance policies, of Jews and other designated enemies of the Nazi regime.

(4) After the conclusion of World War II, European insurers often rejected insurance claims of Holocaust victims and heirs who lacked required documentation, such as death certificates.

(5) During the 50 years since the end of the war, only a small percentage of Holocaust victims and their families have been successful in collecting on their policies.

(6) In 1998, the International Commission on Holocaust Era Insurance Claims (ICHEIC) was established by State insurance regulators in the United States, European insurers, and certain nongovernmental organizations to act as a facilitator between insurers and beneficiaries to help expedite payouts on contested insurance policies.

(7) To date ICHEIC has received more than 90,000 claims and has only made 2,281 settlement offers, which amounts to a resolution rate of less than a 3 percent.

(8) These insurance payments should to be expedited to the victims of the most heinous crime of the 20th Century to ensure that they do not become victims a second time.

(9) States should be allowed to collect Holocaust-era insurance information from foreign-based insurance companies that want to do business in such States.

(10) Holocaust victims and their families should be able to recover claims on Holocaust era insurance policies in Federal court when they consider it necessary to seek redress through the judicial system.

SEC. 3. STATE AUTHORITY TO ESTABLISH REQUIREMENTS FOR CONDUCTING INSURANCE BUSINESS.

(a) IN GENERAL.—A State may establish requirements on insurers as a condition of doing insurance business in that State, to the extent such requirements are consistent with the due process guarantees of the Constitution of the United States, as follows:

(1) INFORMATION REQUIREMENTS.—The State may require that an insurer provide to the State the following information regarding Holocaust era insurance policies:

(A) Whether the insurer, or any affiliate or predecessor company, sold any such policies.

(B) The number of such policies sold by the insurer, and any affiliates and predecessor companies, and the number the insurer and its affiliates currently have in their possession.

(C) The identity of the holder and beneficiary of each such policy sold or held and the current status of each such policy.

(D) The city of origin, domicile, and address for each policyholder listed.

(E) If an insurer has no such policies to report because records are no longer in the possession of the insurer or its affiliates, a statement explaining the reasons for the lack of possession of such records.

(F) Any other information regarding such policies as the State considers appropriate.

(2) REQUIREMENTS REGARDING PAYMENT OF POLICIES.—A State may require that an insurer certify that, with respect to any Holocaust era insurance policies sold or at any time held by the insurer—

(A) the proceeds of the policy were paid;

(B) the beneficiaries of the policy or heirs or such beneficiaries could not, after diligent search, be located, and the proceeds were distributed to Holocaust survivors or charities;

(C) a court of law has certified a plan for the distribution of the proceeds; or

(D) the proceeds have not been distributed.

(b) HOLOCAUST ERA INSURANCE POLICIES.—In this section, the term ''Holocaust era insurance policy'' means a policy for insurance coverage that—

(1) was in force at any time during the period beginning with 1920 and ending with 1945; and

(2) has a policy beneficiary, policyholder, or insured life that is a listed Holocaust victim.

SEC. 4. FEDERAL CAUSE OF ACTION FOR COVERED CLAIMS.

(a) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for any covered claim.

(2) STATUTE OF LIMITATIONS.—Any action brought under paragraph (1) shall be filed not later than 10 years after the date of the enactment of this Act.

(b) SUBJECT MATTER JURISDICTION.—The district courts shall have original jurisdiction of any civil action on a covered claim (whether brought under subsection (a) or otherwise).

(c) PERSONAL JURISDICTION.—Notwithstanding any provision of Rule 4 of the Federal Rules of Civil Procedure to the contrary, in a civil action on a covered claim (whether brought under subsection (a) or otherwise) commenced in a district where the defendant is not a resident—

(1) the court may exercise jurisdiction over such defendant on any basis not inconsistent with the Constitution of the United States; and

(2) service of process, summons, and subpoena may be made on such defendant in any manner not inconsistent with the Constitution of the United States.

(d) DEFINITIONS.—In this section:

(1) COVERED CLAIM.—The term ''covered claim'' means a claim against a covered foreign insurance company that arises out of the insurance coverage involved in an original request.

(2) ORIGINAL REQUEST.—The term ''original request'' means a request that—

(A) seeks payment of any claim on insurance coverage that—

(i) was provided by a covered foreign insurance company;

(ii) had as the policyholder, insured, or beneficiary a listed Holocaust victim; and

(iii) was in effect during any portion of the 13-year period beginning with 1933 and ending with 1945; and

(B) was made by a listed Holocaust victim, or the heirs of beneficiaries of such victim, to the covered foreign insurance company or the International Commission on Holocaust Era Insurance Claims.

(3) COVERED FOREIGN INSURANCE COMPANY.—The term ''covered foreign insurance company'' means each of the following companies, and its affiliates and predecessor companies:

(A) Assicurazioni Generali S.p.A.

(B) Union Des Assurances de Paris.

(C) Victoria Lebenversicherungs AG.

(D) Winterthur Lebensversicherungs Gesellschaft.

(E) Allianz Lebensversicherungs AG.

(F) Wiener Allianz Versicherungs AG.

(G) Riunione Adriatica di Sicurta.

(H) Vereinte Lebensversicherungs AG.

(I) Basler Lebens-Versicherungs Gesellschaft.

(J) Deutscher Ring Lebensversicherungs AG.

(K) Nordstern Lebensversicherungs AG.

(L) Gerling Konzern Lebensversicherungs AG.

(M) Manheimer Lebensversicherung AG.

(N) Der Anker.

(O) Allgemeine Versicherungs AG.

(P) Zuerich Lebensversicherungs Gesellschaft.

(Q) Any other foreign insurance company that a State or the Attorney General determines was in a position to have financial dealings with any individual who was a victim of the Holocaust.

SEC. 5. LISTED HOLOCAUST VICTIMS.

In this Act, the term ''listed Holocaust victim'' means the following individuals:

(1) LIST OF SURVIVORS.—Any individual whose name is on the list of Jewish Holocaust Survivors maintained by the United States Holocaust Memorial Museum in Washington, D.C.

(2) LIST OF DECEASED.—Any individual whose name is on the list of individuals who died in the Holocaust maintained by the Yad Veshem of Jerusalem in its Hall of Names.

(3) OTHER LISTS.—Any individual whose name is on any list of Holocaust victims that is designated as appropriate for use under this Act by the chief executive officer of a State or a State insurance commissioner or other principal insurance regulatory authority of a State.

By Mr. NICKLES (for himself and Mr. BREAUX):

S. 973. A bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings; to the Committee on Finance.

Mr. NICKLES. Mr. President, I rise today to introduce legislation to provide that restaurant buildings are depreciated over 15 years instead of the

current-law 39 years. My legislation will ensure that the tax laws more accurately reflect the true economic life of restaurant buildings.

Under current law, real estate property and any improvements thereto generally must be depreciated over 39 years. However, restaurant buildings undergo excessive wear and tear, and are renovated on average every 6 to 8 years. Requiring restaurant owners to depreciate these renovations over 39 years leads to a mismatch of income and expenses, thereby increasing the tax consequence of making such improvements. The long depreciation period simply makes no economic sense.

In recent years, Congress has changed the depreciation schedules for competitors of owner-occupied restaurants. For example, convenience stores are depreciated over 15 years. In addition, leased properties, including leased restaurant space, can take advantage of the temporary bonus depreciation incentives contained in the 2001 economic stimulus bill.

I believe that our tax laws should be updated to treat restaurant property in a more rational manner. That is why I am introducing legislation to reduce the depreciable life of restaurant property from 39 years to 15 years. My legislation would ensure that all restaurants, either leased or owner-occupied, are treated equally. It would also ensure a level playing field between restaurants and their competitors. By reducing the time period over which all restaurants are depreciated, my bill will more accurately align a restaurant's income and expenses. According to the National Restaurant Association, enacting this legislation would generate an additional $3.7 billion in cash flow for restaurants over the next 10 years. This is money that could be reinvested and, in turn, generate new jobs.

I look forward to working with my colleagues to enact my legislation that will provide more rational tax-treatment of restaurants on a permanent basis. by doing so, we will take an incremental step toward modernizing the tax code's outdated depreciation rules.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 974. A bill to amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products; to the Committee on Health, Education, Labor, and Pensions.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce legislation designed to permit certain youths, those exempt from attending school, between the ages of 14 and 18 to work in sawmills under special safety conditions and close adult supervision. I introduced identical measures in the past three Congresses. Similar legislation introduced by my distinguished colleague, Representative JOSEPH R. PITTS, has already passed in the House in the 105th and 106th Congresses. I am hopeful the Senate will also enact this important issue.

As Chairman of the Labor, Health and Human Services and Education Appropriations Subcommittee, I have strongly supported increased funding for the enforcement of the important child safety protections contained in the Fair Labor Standards Act. I also believe, however, that accommodation must be made for youths who are exempt from compulsory school-attendance laws after the eighth grade. It is extremely important that youths who are exempt from attending school be provided with access to jobs and apprenticeships in areas that offer employment where they live.

The need for access to popular trades is demonstrated by the Amish community. In 1998, I toured an Amish sawmill in Lancaster County, PA, and had the opportunity to meet with some of my Amish constituency. In December 2000, Representative PITTS and I held a meeting in Gap, PA with over 20 members of the Amish community to hear their concerns on this issue. On May 3, 2001, I chaired a hearing of the Labor, Health and Human Services and Education Appropriations Subcommittee to examine these issues.

At the hearing the Amish explained that while they once made their living almost entirely by farming, they have increasingly had to expand into other occupations as farmland has disappeared in many areas due to pressure from development. As a result, many of the Amish have come to rely more and more on work in sawmills to make their living. The Amish culture expects youth, upon the completion of their education at the age of 14, to begin to learn a trade that will enable them to become productive members of society. In many areas, work in sawmills is one of the major occupations available for the Amish, whose belief system limits the types of jobs they may hold. Unfortunately, these youths are currently prohibited by law from employment in this industry until they reach the age of 18. This prohibition threatens both the religion and lifestyle of the Amish.

Under my legislation, youths would not be allowed to operate power machinery, but would be restricted to performing activities such as sweeping, stacking wood, and writing orders. My legislation requires that the youths must be protected from wood particles or flying debris and wear protective equipment, all while under strict adult supervision. The Department of Labor must monitor these safeguards to insure that they are enforced.

The Department of Justice has raised serious concerns under the Establishment Clause with the House legislation. The House measure conferred benefits only to a youth who is a ''member of a religious sect or division thereof whose established teachings do not permit formal education beyond the eighth grade.'' By conferring the ''benefit'' of working in a sawmill only to the adherents of certain religions, the Department argues that the bill appears to impermissibly favor religion to ''irreligion.'' In drafting my legislation, I attempted to overcome such an objection by conferring permission to work in sawmills to all youths who ''are exempted from compulsory education laws after the eighth grade.'' Indeed, I think a broader focus is necessary to create a sufficient range of vocational opportunities for all youth who are legally out of school and in need of vocational opportunities.

I also believe that the logic of the Supreme Court's 1972 decision in Wisconsin v. Yoder supports my bill. In Yoder, the Court held that Wisconsin's compulsory school attendance law requiring children to attend school until the age of 16 violated the Free Exercise Clause. The Court found that the Wisconsin law imposed a substantial burden on the free exercise of religion by the Amish since attending school beyond the eighth grade ''contravenes the basic religious tenets and practices of the Amish faith.'' I believe a similar argument can be made with respect to Amish youth working in sawmills. As their population grows and their subsistence through an agricultural way of life decreases, trades such as sawmills become more and more crucial to the continuation of their lifestyle. Barring youths from the sawmills denies these youths the very vocational training and path to self-reliance that was central to the Yoder Court's holding that the Amish do not need the final two years of public education.

I offer my legislation with the hope that my colleagues will work with me to provide relief for the Amish community.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 975. A bill to revise eligibility requirements applicable to essential air service subsidies; to the Committee on Commerce, Science, and Transportation.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce legislation designed to improve the Department of Transportation's Essential Air Services program and reinstate Lancaster, PA's eligibility to receive subsidized air service.

The Essential Air Services program provides operating subsidies to airlines, enabling them to serve smaller markets which would otherwise be unable to attract or retain commercial flights. To be eligible to receive such a subsidy, the community where the airport is located must be greater than 70 miles from the nearest large or medium hub airport. If the airport is located within 70 miles of a hub airport, the Secretary of Transportation may use his or her discretion to award a subsidy if the most commonly used highway route between both places is greater than 70 miles. It is up to the Department of Transportation to determine what route is used in making this mileage determination.

Residents and businesses in many rural and smaller communities throughout the United States rely heavily upon air service to provide a necessary link to larger cities. Lancaster, PA is one such community which had been designated as an Essential Air Services city since the Airline Deregulation Act of 1978. Up until the events of September 11, when the Airport faced a sharp decline in passenger revenue, Lancaster had never required a subsidy under this program.

When Lancaster ultimately found it necessary to seek a subsidy for its three daily flights to Pittsburgh, the Department of Transportation issued an Order to Show Cause on March 8, 2002, stating that Lancaster was not eligible for an Essential Air Services subsidy because it was located within 70 miles of Philadelphia International Airport. The Secretary of Transportation declined to use his discretion to award the subsidy because the Department identified a driving route of less than 70 miles between Lancaster City and Philadelphia Airport. While there is no question that such a route exists, it is by no means the most commonly used highway route as required by law.

The route selected by the Department of Transportation is one which the average person would never travel, via back roads and seldom used streets. In making its distance determination, the Department used a 66 mile route along Route 30 which would take over three hours to drive. The more commonly used highway route to the Philadelphia International Airport would be along US 222 to the Pennsylvania Turnpike, and then on to I–76, which is over 70 miles.

The legislation I am introducing today addresses this issue by designating an area's local metropolitan planning organization, rather than the Department of Transportation, as the organization responsible for determining the most commonly used highway route. If no such organization exists, the Governor of the State in which the airport is located, or the Governor's designee will make the determination. I believe that a local entity, not the Department of Transportation, is better suited to identify the route most travelers would drive. In such cases where that route exceeds 70 miles, the Department should be required to designate a community as eligible to receive subsidized air service.

My legislation will not place too great a burden upon the Essential Air Services program by allowing additional airports to participate. I am advised that there are only eight other communities, including Lancaster, which could become newly eligible to receive subsidized air service as a result of the changes I am proposing. Further, I would note that of the $113 million the program received in Fiscal Year 2002, there was an excess of $10.9 million which remained unspent and which carried over into Fiscal Year 2003.

Lancaster Airport's only commercial air carrier, Colgan Air, ceased operations on March 23, 2003, because it could not sustain service without a subsidy. The loss of commercial air service has already had a serious impact upon the Lancaster community. I am confident that my legislation will not only reinstate Lancaster's eligibility for subsidized air service and allow for the return of commercial air service, but it will also provide for a greater level of fairness for other communities which rely so heavily upon this important program.

By Mr. WARNER (for himself and Mr. ALLEN):

S. 976. A bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement; to the Committee on Banking, Housing, and Urban Affairs.

Mr. WARNER. Mr. President, I rise today to introduce legislation, along with my colleague, Senator ALLEN, to mint a commemorative coin celebrating the 400th anniversary of the founding of Jamestown, VA in 2007.

The lasting significance of Jamestown stretches far beyond its contributions to the Commonwealth of Virginia. Our Nation is indebted to the 104 original inhabitants of Jamestown who, after completing a harrowing journey across the Atlantic in May of 1607, established the first permanent English settlement in America.

The legacies of Jamestown extend from the founding of our representative democracy in which we serve today, to the free market enterprise system on which our economy has flourished. Our unshakeable traditions of common law, agricultural production, manufacturing, and our free market economy received their humble beginnings from the entrepreneurial spirit of the Jamestown colonists.

The colonists established and implemented the principles of a representative government to build our American democracy that has withstood the test of time and internal conflict. The Jamestown settlers elected America's first democratic assembly, the Virginia House of Burgesses. The structure and procedures of this first legislative body still resonates in the chamber we serve in today. Our political philosophies and traditions took hold in the untamed landscape of Jamestown Island and remain the cornerstone of our republic today.

Jamestown also marked the beginning of the American cultural identity, hosting a combination of diverse cultural traditions. The settlement united English, Native American, and African cultures compelling each one to learn valuable lessons from the others. The colonists at Jamestown were the first immigrants to travel to America, making us a nation of immigrants of which we are so proud today.

The colony at Jamestown showcased the triumph of American ingenuity and hard work. Colonists at Jamestown were forced to battle starvation, disease, and the weather of their new home. Life in Jamestown was a struggle, and the determination shown by the colonists set the foundation for the revolutionary ideas that guided Americans through the colonial era.

Now 395 years later, the history of our Nation continues to come alive in Jamestown. Since 1994, archaeologists have found the remains of the original Jamestown fort constructed in 1607 and over 350,000 artifacts from the colonial period. These fascinating discoveries have given scholars, visitors, and most importantly, America's young people, a realistic view of 17th century American life. The continuing restoration and discovery of the original Jamestown colony provides all Americans with a window on their roots, and to the foundation on which this great Nation was built.

The proceeds from this commemorative coin will help both the National Park Service and the Association for the Preservation of Virginia Antiquities continue their research at the Jamestown site, complete necessary construction projects at the Jamestown National Park, and provide funds for events surrounding the 400th anniversary celebration. In addition, this legislation would help ensure that the Jamestown Rediscovery project will have adequate funds to continue educating the American public on our colonial history. In the 106th Congress, the House and Senate created the Jamestown 400th Commemoration Commission to ensure that the anniversary in 2007 is a truly national event. This legislation that I introduce today continues along this same line.

Recent events have brought about a renewed reverence and interest in our nation's history among the American people. This legislation would help bring national attention to this important anniversary and would serve as a fitting tribute to America's first permanent settlers. This event celebrates America's colonial history and gives every American a chance to help support America's Hometown, Jamestown, VA.

I ask my colleagues in the Senate to join me in supporting our Nation's and Virginia's colonial traditions with this important legislation. I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Jamestown 400th Anniversary Commemorative Coin Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the founding of the colony at Jamestown, Virginia in 1607, the first permanent English colony in America, and the capital of Virginia for 92 years, has major significance in the history of the United States;

(2) the Jamestown settlement brought people from throughout the Atlantic Basin together to form a multicultural society, including English, other Europeans, Native Americans, and Africans;

(3) the economic, political, religious, and social institutions that developed during the first 9 decades of the existence of Jamestown continue to have profound effects on the United States, particularly in English common law and language, cross cultural relationships, manufacturing, and economic structure and status;

(4) the National Park Service, the Association for the Preservation of Virginia Antiquities, and the Jamestown-Yorktown Foundation of the Commonwealth of Virginia collectively own and operate significant resources related to the early history of Jamestown;

(5) in 2000, Congress established the Jamestown 400th Commemoration Commission to ensure a suitable national observance of the Jamestown 2007 anniversary and to support and facilitate marketing efforts for a commemorative coin, stamp, and related activities for the Jamestown 2007 observances;

(6) a commemorative coin will bring national and international attention to the lasting legacy of Jamestown, Virginia; and

(7) the proceeds from a surcharge on the sale of such commemorative coin will assist the financing of a suitable national observance in 2007 of the 400th anniversary of the founding of Jamestown, Virginia.

SEC. 3. COIN SPECIFICATIONS.

(a) $5 GOLD COINS.—The Secretary of the Treasury (in this Act referred to as the ''Secretary'') shall issue not more than 100,000 $5 coins, which shall—

(1) weigh 8.359 grams;

(2) have a diameter of 0.850 inches; and

(3) contain 90 percent gold and 10 percent alloy.

(b) $1 SILVER COINS—The Secretary shall issue not more than 500,000 $1 coins, which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1,500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(c) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(e) SOURCES OF BULLION.—

(1) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under section 5116 of title 31, United States Code.

(2) SILVER.—The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the settlement of Jamestown, Virginia, the first permanent English settlement in America.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2007''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) DESIGN SELECTION.—Subject to subsection (a), the design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with—

(A) the Jamestown 2007 Steering Committee, created by the Jamestown-Yorktown Foundation of the Commonwealth of Virginia;

(B) the National Park Service; and

(C) the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the period beginning on January 1, 2007, and ending on December 31, 2007.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins minted under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (c) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(c) BULK SALES.—The Secretary shall make bulk sales of the coins minted under this Act at a reasonable discount.

(d) SURCHARGE.—All sales of coins minted under this Act shall include a surcharge of—

(1) $35 per coin for the $5 coin; and

(2) $10 per coin for the $1 coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) RECIPIENTS.—

(1) IN GENERAL.—All surcharges received by the Secretary from the sale of coins minted under this Act shall be promptly paid by the Secretary to the recipients listed under paragraphs (2) and (3).

(2) JAMESTOWN-YORKTOWN FOUNDATION.—The Secretary shall distribute 50 percent of the surcharges described under paragraph (1) to the Jamestown-Yorktown Foundation of the Commonwealth of Virginia, to support programs to promote the understanding of the legacies of Jamestown.

(3) OTHER RECIPIENTS.—

(A) IN GENERAL.—The Secretary shall distribute 50 percent of the surcharges described under paragraph (1) to the entities specified under subparagraph (B), in equal shares, for the purposes of—

(i) sustaining the ongoing mission of preserving Jamestown;

(ii) enhancing the national and international educational programs;

(iii) improving infrastructure and archaeological research activities; and

(iv) conducting other programs to support the commemoration of the 400th anniversary of Jamestown.

(B) ENTITIES SPECIFIED.—Entities specified under this subparagraph are—

(i) the Secretary of the Department of the Interior;

(ii) the President of the Association for the Preservation of Virginia Antiquities; and

(iii) the Chairman of the Jamestown Yorktown Foundation.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the entities specified in subsection (a), as may be related to the expenditure of amounts distributed under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

By Mr. FITZGERALD (for himself, Mr. KENNEDY, and Ms. SNOWE):

S. 977. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage from treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease; to the Committee on Health, Education, Labor, and Pensions.

Mr. FITZGERALD. Mr. President, I rise today to introduce the Children's Deformities Act of 2003, which will require insurance companies to cover corrective surgeries for children with congenital or developmental deformities.

According to the March of Dimes, 3.8 percent of babies born annually—about 150,000 babies per year suffer from birth defects. Approximately 50,000 of these babies require reconstructive surgery. Examples of these deformities include cleft lip, cleft palate, skin lesions, vascular anomalies, malformations of the ear, hand, or foot, and other more profound craniofacial deformities.

Plastic surgeons are able to correct many of these problems, and doing so is critical to both the physical and mental health and development of the child. On average, children with congenital deformities or developmental anomalies will need three to five surgical procedures before normalcy is achieved. An increasing number of insurance companies are denying access

to care by labeling the surgical procedures cosmetic or nonfunctional in nature. In some cases, carriers may provide coverage for initial procedures, but resist covering later, necessary procedures, claiming that they are cosmetic and not medically necessary.

Although insurance companies ultimately have decided to cover some of these procedures, families have had to battle through the appeals process of insurance companies for extended periods of time, thereby forcing children to wait unnecessarily for needed surgeries. The treatment plan for children with congenital defects usually requires staged surgical care in accordance with the child's growth pattern. Onerous and time-consuming appeals procedures can jeopardize the physical and psychological health of children with deformities.

The American Medical Association defines cosmetic surgery as being performed to reshape normal structures of the body in order to improve the patient's appearance and self-esteem. In contrast, reconstructive surgery is defined as being performed on abnormal structures of the body, caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease. According to the American Society of Plastic Surgeons, reconstructive surgery is performed in order to improve function and approximate a normal appearance.

The Treatment of Children's Deformities Act of 2003 will prohibit insurers from denying coverage for reconstructive surgery for children. This bill identifies the difference between cosmetic and reconstructive surgery and incorporates the American Medical Association's definition of reconstructive surgery. The measure requires group and individual health insurers and group health plans to provide coverage for treatment of a minor child's congenital or developmental deformity, disease, or injury. The legislation defines ''treatment'' to include reconstructive surgical procedures. These are procedures that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease.

The Treatment of Children's Deformities Act of 2003 has been endorsed by the American Society of Plastic Surgeons, the American Medical Association, the American Academy of Pediatrics, and several other medical organizations. Fifteen States have already enacted legislation that to different degrees require insurance companies to cover treatment of craniofacial and congenital anomalies. While governor of Texas, George W. Bush signed into law legislation that is similar to the legislation I introduce today.

I would like to thank Senator KENNEDY and Senator SNOWE for cosponsoring this important legislation. I urge all of my colleagues to join me in supporting this bill so that children who suffer from congenital deformities or developmental anomalies do not have to wait unnecessarily for needed treatment.

I ask unanimous consent that the bill be printed in the RECORD following the conclusion of my remarks.

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

S. 977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Treatment of Children's Deformities Act of 2003''.

SEC. 2. COVERAGE OF MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following:

''SEC. 2707. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

''(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

''(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

''(3) TREATMENT DEFINED.—

''(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

''(i) procedures that do not materially affect the function of the body part being treated; and

''(ii) procedures for secondary conditions and follow-up treatment.

''(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.

''(b) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.''.

(B) CONFORMING AMENDMENT.—Section 2723(c) of the Public Health Service Act (42 U.S.C. 300gg–23(c)) is amended by striking ''section 2704'' and inserting ''sections 2704 and 2707''.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

''(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

''(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

''(3) TREATMENT DEFINED.—

''(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

''(i) procedures that do not materially affect the function of the body part being treated; and

''(ii) procedures for secondary conditions and follow-up treatment.

''(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.

''(b) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.''.

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191(c)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(ii) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(iii) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following:

''Sec. 714. Standards relating to benefits for minor child's congenital or developmental deformity or disorder.''.

(3) INTERNAL REVENUE CODE AMENDMENTS.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(A) in the table of sections, by inserting after the item relating to section 9812 the following:

''Sec. 9813. Standards relating to benefits for minor child's congenital or developmental deformity or disorder.''; and

(B) by inserting after section 9812 the following:

"SEC. 9813. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

"(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

"(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

"(3) TREATMENT DEFINED.—

"(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

"(i) procedures that do not materially affect the function of the body part being treated; and

"(ii) procedures for secondary conditions and follow-up treatment.

"(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.''.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following:

"SEC. 2753. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

"(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

"(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

"(3) TREATMENT DEFINED.—

"(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

"(i) procedures that do not materially affect the function of the body part being treated; and

"(ii) procedures for secondary conditions and follow-up treatment.

"(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.

"(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.''.

(2) CONFORMING AMENDMENT.—Section 2762(b)(2) of the Public Health Service Act (42 U.S.C. 300gg–62(b)(2)) is amended by striking ''section 2751'' and inserting ''sections 2751 and 2753''.

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH COVERAGE.—The amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 2004.

(2) INDIVIDUAL HEALTH COVERAGE.—The amendment made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

(d) COORDINATED REGULATIONS.—Section 104(1) of Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 300gg-92 note) is amended by striking ''this subtitle (and the amendments made by this subtitle and section 401)'' and inserting ''the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts A and C of title XXVII of the Public Health Service Act, and chapter 100 of the Internal Revenue Code of 1986''.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator FITIZGERALD and Senator SNOWE in introducing the Treatment of Children's Deformities Act. The purpose of our bill is to see that health insurers and health plans cover the treatment of children's congenital and developmental deformities and disorders.

About 7 percent of all children are born with significant problems, including cleft lips or cleft palates, serious skin lesions such as port wine stains, malformations of the ear, or facial deformities. Plastic surgery can correct many of these conditions, but too often parents face significant barriers in obtaining care for their children. More than half of all plastic surgeons report that these patients are denied insurance coverage or had the struggle to receive it. Too often, insurers deny coverage by calling the treatment cosmetic or not medically necessary.

The medical, developmental, and psychological problems associated with denied or delayed treatment of these deformities are enormous. Treatment often requires a series of treatments as the child grow. No child should be forced to live with an untreated cleft lip or a facial deformity while parents appeal an insurer's unfair denial. Delayed or denied treatment puts a child's physical and mental health at risk.

Our bill requires health insurers and health plans to provide coverage to treat a child's congenial or developmental deformity, or disorders caused by disease, trauma, infection, or tumor. It is supported by many medical organizations, including the American Academy of Pediatrics, the American Medical Association, and the American Society of Plastic Surgeons. I urge the Senate to support this important bill, and give children and families the support they deserve.

By Mr. ENSIGN (for himself, Mrs. BOXER, Ms. CANTWELL, Mr. CRAPO, Mr. CRAIG, Mr. ALLEN, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. REID, Mr. ALLARD, Mr. BURNS, Mr. WARNER, Mr. BENNETT, Mr. SMITH, Ms. STABENOW, and Mr. COLEMAN):

S. 979. A bill to direct the Securities and Exchange Commission to require enhanced disclosures of employee stock options, to require a study on the economic impact of broad-based employee stock options plans, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENSIGN. Mr. President, I rise today, along with my good friend, the junior Senator from California, to introduce legislation on an issue that could have a significant impact on the economy.

The financial scandals which occurred last year at Enron, WorldCom, and other corporations rocked our financial markets and greatly diminished investor confidence in this country. In response to abuses by a few high-profile corporate executives, Congress passed the Sarbanes-Oxley Corporate Responsibility Act, which closed loopholes that led to those scandals and sought to restore investor confidence in our markets.

However, in the wake of those scandals, I believe that stock options have been incorrectly equated with abuse.

Stock option plans reflect America's best business values—the willingness to take risks, the vision to develop new entrepreneurial companies and technologies, and a way to broaden ownership and participation among all employees.

Last week, the Financial Accounting Standards Board made a tentative decision to mandate the expensing of stock options. This would effectively kill broad-based stock option plans which are used by many high-growth, entrepreneurial companies. Such board-based plans distribute options to rank-and-file employees, not just to senior executives. This is a very different approach than that used by companies associated with the scandals of last year.

This issue was brought to my attention by a couple hundred chief executive officers and leaders in the high-tech world. This is their No. 1 issue because, when they are properly structured, stock options are valuable incentives for productivity and growth. They also help startup companies recruit and retain workers—an essential tool in a struggling economy.

I think it is absolutely ludicrous that we would risk destroying growth when there isn't even a workable model available to accurately expense stock options. Not only is the plan wrong, it is not doable.

The legislation that we are introducing today would provide shareholders with accurate information

about a company's use of stock options, while also preserving this critical tool for all company employees. It would enhance the availability of financial reporting by requiring the SEC to take very specific steps to give shareholders and investors the important financial information they need.

Additionally, this bill places a 3-year moratorium on the mandatory expensing of stock options. This will allow the Department of Commerce to take a very detailed look at the negative impact that mandating expensing of stock options could have on our economy.

It is important that we do not react to the corporate scandals of last year by stifling this vital tool for economic growth. It would be bad for the economy, bad for workers in this country, and bad for potential investors.

Mr. President, before I yield the floor, I would like to thank the Senator from California, Mrs. BOXER, for her hard work on this issue. I would also like to recognize and thank my colleagues who have signed on in support of this bill, Senators GEORGE ALLEN, MIKE CRAPO, LARRY CRAIG, MARIA CANTWELL, PATTY MURRAY, DIANNE FEINSTEIN, HARRY REID, WAYNE ALLARD, CONRAD BURNS, GORDON SMITH, ROBERT BENNETT and JOHN WARNER.

I yield the floor.

I ask unanimous consent that the text of the bill be printed in the RECORD in the appropriate place.

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

S. 979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Broad-Based Stock Option Plan Transparency Act of 2003''.

SEC. 2. CONGRESSIONAL FINDINGS.

Congress finds that—

(1) innovation and entrepreneurship, particularly in the high technology industry, helped propel the economic growth of the 1990s, and will continue to be the essential building blocks of economic growth in the 21st century;

(2) broad-based employee stock option plans enable entrepreneurs and corporations to attract quality workers, to incentivize worker innovation, and to stimulate productivity, which in turn increase shareholder value;

(3) broad-based employee stock options plans that expand corporate ownership to rank-and-file employees spur capital formation, benefit workers, and improve corporate performance to the benefit of investors and the economy;

(4) concerns raised about the impact of employee stock option plans on shareholder value raise legitimate issues relevant to the current level of disclosure and transparency of those plans to current and potential investors; and

(5) investors deserve to have accurate, reliable, and meaningful information about the existence of outstanding employee stock options and their impact on the share value of a going concern.

SEC. 3. IMPROVED EMPLOYEE STOCK OPTION TRANSPARENCY AND REPORTING DISCLOSURES.

(a) ENHANCED DISCLOSURES REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission (in this Act referred to as the ''Commission'') shall, by rule, require, for each company required to file periodic reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)), that such reports include detailed information regarding stock option plans, stock purchase plans, and other arrangements involving an employee acquisition of an equity interest in the company, particularly with respect to the dilutive effect of such plans, including—

(1) a discussion, written in ''plain English'' (in accordance with the Plain English Handbook published by the Office of Investor Education and Assistance of the Commission), of the dilutive effect of stock option plans, including tables or graphic illustrations of such dilutive effects;

(2) expanded disclosure of the dilutive effect of employee stock options on the earnings per share number of the company;

(3) prominent placement and increased comparability of all stock option related information; and

(4) a summary of the stock options granted to the 5 most highly compensated executive officers of the company, including any outstanding stock options of those officers.

(b) EQUITY INTEREST.—As used in this section, the term ''equity interest'' includes common stock, preferred stock, stock appreciation rights, phantom stock, and any other security that replicates the investment characteristics of such securities, and any right or option to acquire any such security.

SEC. 4. EVALUATION OF EMPLOYEE STOCK OPTION PLANS TRANSPARENCY AND REPORTING DISCLOSURES AND REPORT TO CONGRESS.

(a) STUDY AND REPORT.—

(1) STUDY.—During the 3-year period following the date of issuance of a final rule under section 3(a), the Commission shall conduct a study of the effectiveness of the enhanced disclosures required by section 3 in increasing transparency to current and potential investors.

(2) REPORT.—Not later than 180 days after the end of the 3-year period referred to in paragraph (1), the Commission shall transmit a report of the results of the study conducted under paragraph (1) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(b) MORATORIUM ON NEW ACCOUNTING STANDARDS RELATED TO STOCK OPTIONS.—During the period beginning on the date of enactment of this Act and ending 60 days after the date of transmission of the report required under subsection (a)(2), the Commission shall not recognize as generally accepted accounting principles for purposes of enforcing the securities laws any accounting standards related to the treatment of stock options that the Commission did not recognize for that purpose before April 1, 2003.

SEC. 5. STUDY ON THE ECONOMIC IMPACT OF BROAD-BASED EMPLOYEE STOCK OPTION PLANS AND REPORT TO CONGRESS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Commerce shall conduct a study and analysis of broad-based employee stock option plans, particularly in the high technology and any other high growth industries.

(2) CONTENT.—The study and analysis required by paragraph (1) shall include an examination of—

(A) the impact of such plans on expanding employee corporate ownership to workers at a wide-range of income levels, with a particular focus on rank-and-file employees;

(B) the role of such plans in the recruitment and retention of skilled workers; and

(C) the role of such plans in stimulating research and innovation;

(D) the impact of such plans on the economic growth of the United States; and

(E) the role of such plans in strengthening the international competitiveness of companies organized under the laws of the United States.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce shall submit a report on the study and analysis required by subsection (a) to—

(1) the Committee on Energy and Commerce and the Committee on Financial Services of the House of Representatives; and

(2) the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing, and Urban Affairs of the Senate.

Mrs. FEINSTEIN. Mr. President, I rise in support of legislation introduced by Senators BOXER and ENSIGN to improve disclosure of stock option grants in company financial statements while, at the same time, delaying the adoption of new accounting standards that could fundamentally distort reported earnings.

I believe that at this time of continued economic weakness it is critical that we take action to both increase transparency and improve corporate governance, without which we cannot hope to restore investor confidence.

The Broad-Based Stock Option Plan Transparency Act would increase the transparency of stock option grants at all levels of public companies, particularly executive compensation, and would provide investors with additional tools to make investment decisions.

Increased disclosure provisions in the bill include: expanded disclosure of the dilutive effect of employee stock options on reported earnings per share; a ''plain English'' discussion of share value dilution, which would allow individual investors to understand the impact of options grants on their investment; more prominent placement and increased comparability of stock option-related footnotes; and a summary of stock options granted to the 5 most highly compensated executives of the company.

These provisions help us fulfill the goal of greater transparency in our markets and improved corporate governance. With passage of the Sarbanes-Oxley accounting reform legislation last summer, we took a major step in that direction, and I believe this bill adds to those achievements.

If individual investors do not feel comfortable with the information reported by public companies or the advice given by banks and other major players in our financial markets, they will not feel comfortable making new investments and our markets are unlikely to recover.

In addition to requiring new disclosure of the impact of employee stock options on a company's earnings per share, this bill also requires the SEC to

monitor the effectiveness of increased disclosure requirements for 3 years.

The bill also specifies that the SEC must examine the impact of broad-based stock option plans on worker productivity and the performance of the firms which use such plans.

As anyone who has spent time in Silicon Valley can attest, the phenomenal achievements of high tech companies in California and across the country would not have been possible without employee stock options.

Stock options give employees a stake in the success of their company and create a degree of employee loyalty, productivity, and achievement that simply would not be possible if cash were the only form of compensation available. Moreover, it has allowed start-ups that are cash-poor to hire and retain talent that might otherwise have been available only to established firms.

A mandatory expensing standard will sharply limit the use of stock options, particularly for rank and file workers, and will slow our economic recovery.

Without a strong high tech sector developing new technologies and bringing new products to market, we cannot hope to return to the robust economic growth of the last decade.

Moreover, mandatory expensing could actually decrease transparency for the average investor. The Financial Accounting Standards Board (FASB) has indicated it will implement such a rule within the next year, but has not come up with an adequate means of valuing those options for expensing purposes.

The binomial pricing model currently used to value short-term derivatives, also known as Black/Scholes, does not work with the types of long-term, restricted options packages granted to employees. Without an accurate valuation methodology, we risk giving investors a much less accurate picture of a company's financial health than they would have otherwise.

I have spoken with the chief executive officers of a number of companies in my state, including John Chambers, CEO of Cisco Systems, Craig Barrett, CEO of Intel, and Richard Kovacevich, CEO of Wells Fargo. Each one of those corporate leaders has told me that a mandatory expensing standard would lead them to sharply limit the number of options he grants to his employees.

They also told me that it would lead them cut back on hiring and possibly send more jobs abroad. I found those comments disturbing, and they should give us pause and compel us to act prudently. That is why we should support further study of the accounting treatment of stock options, during which period no new accounting rules pertaining tot stock options could be adopted.

I would like to describe briefly the impact of employee stock options on the value of an investor's holdings in the company that granted the option.

In order for employee stock options not to be counted as an expense, they must be set at or above the average closing price of the company's stock during a fixed period. They are also generally restricted, and usually cannot be exercised for several years after their grant date.

Should the value of the underlying shares fall during the life of the option, the options are underwater and are effectively worthless. Should the share price increase, however, the exercise of those options creates no cash charge to the company whatsoever. Instead, it increases the total number of shares outstanding.

To take one concrete example, Cisco Systems recently reported approximately 7.3 billion shares outstanding in their latest annual report. They also reported approximately 600 million options to purchase shares that were ''in the money,'' or had an exercise price below the current share price.

If all those options were exercised, and no shares were repurchased, each share would be entitled to approximately 8 percent less in dividends than before. In fact, the actual dilution would likely be somewhat less.

If options are expensed, however, the impact on Cisco's bottom line would be dramatic, despite the fact that their only tangible impact is on the number of shares outstanding. Had Cisco expensed their stock options for the 2001 fiscal year, their reported profits would have been 171 percent lower. A roughly $1 billion profit would instead have been a nearly $1 billion loss.

Yet the actual value of those options now is almost nil. They were all granted at exercise prices well above the current share price, and may never be exercised.

Options are not a cash expense and represent no tangible exchange of assets. They are a form of incentive pay that may ultimately be worthless. In short, they are nothing like a cash salary.

The legislation introduced by Senators BOXER and ENSIGN recognizes the need for further study, but does not place an indefinite moratorium on FASB action. It is a balanced bill that will help the average investor and ultimately strengthen our financial markets.

I urge my colleagues to support the Broad-Based Stock Option Transparency Act.

By Mr. GRAHAM of South Carolina (for himself and Mr. MILLER):

S. 980. A bill to conduct a study on the effectiveness of ballistic imaging technology and evaluate its effectiveness as a law enforcement tool; to the Committee on the Judiciary.

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 980

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ballistic Imaging Evaluation and Study Act of 2003''.

SEC. 2. PURPOSES.

The purposes of this Act are the following:

(1) To conduct a comprehensive study of ballistic imaging technology and evaluate design parameters for packing and shipping of fired cartridge cases and projectiles.

(2) To determine the effectiveness of the National Integrated Ballistic Information Network (NIBIN) as a tool in investigating crimes committed with handguns and rifles.

(3) To establish the cost and overall effectiveness of State-mandated ballistic imaging systems and the sharing and retention of the data collected by the systems.

SEC. 3. STUDY.

(a) IN GENERAL.—Not later than six (6) months after the date of the enactment of this Act, the Attorney General shall enter into an arrangement with the National Research Council of the National Academy of Sciences, which shall have sole responsibility for conducting under the arrangement a study to determine the following:

(1) The design parameters for an effective and uniform system for packing fired cartridge cases and projectiles, and for collecting information that will accompany a fired cartridge case and projectile and be entered into a ballistic imaging system.

(2) The most effective method for projectile recovery that can be used to collect fired projectiles for entry into a ballistic imaging system and the cost of such recovery equipment.

(3) Which countries are employing ballistic imaging systems and the results of the systems as a tool in investigating crimes committed with handguns and rifles.

(4) The comprehensive cost, to date, for Federal, State, and local jurisdictions that have implemented a ballistic imaging system to include startup, operating costs, and outlays for personnel and administration.

(5) The estimated yearly cost for administering a ballistic imaging system, the storage of cartridge cases and projectiles on a nationwide basis, and the costs to industry and consumers of doing so.

(6) How many revolvers, manually operated handguns, semiautomatic handguns, manually operated rifles, and semiautomatic rifles are sold in the United States each year, the percentage of crimes committed with revolvers, other manually operated handguns, and manually operated rifles as compared with semiautomatic handguns and semiautomatic rifles, and the percentage of each currently on record in the NIBIN system.

(7) Whether in countries where ballistic identification has been implemented, a shift has occurred in the number of semiautomatic handguns and semiautomatic rifles, compared with revolvers, other manually operated handguns, and manually operated rifles that are used to commit a crime.

(8) A comprehensive list of environmental and nonenvironmental factors, including modifications to a firearm, that can substantially alter or change the identifying marks on a cartridge case and projectile so as to preclude a scientifically reliable comparison between specimens and the stored image from the same firearm being admissible as evidence in a court of law.

(9) The technical improvements in database management that will be necessary to keep pace with system growth and the estimated cost of the improvements.

(10) What redundant or duplicate systems exist, or have existed, the ability of the various systems to share information, and the

cost and time it will take to integrate operating systems.

(11) Legal issues that need to be addressed at the Federal and State levels to codify the type of information that would be captured and stored as part of a national ballistic identification program and the sharing of the information between State systems and NIBIN.

(12) What storage and retrieval procedures guarantee the integrity of cartridge cases and projectiles for indefinite periods of time and insure proper chain of custody and admissibility of ballistic evidence or images in a court of law.

(13) The time, cost, and resources necessary to enter images of fired cartridge cases and fired projectiles into a ballistic imaging identification system of all new handguns and rifles sold in the United States and those possessed lawfully by firearms owners.

(14) Whether an effective procedure is available to collect fired cartridge cases and projectiles from privately owned handguns and rifles.

(15) Whether the cost of ballistic imaging technology is worth the investigative benefit to law enforcement officers.

(16) Whether State-based ballistic imaging systems, or a combination of State and Federal ballistic imaging systems that record and store cartridge cases and projectiles can be used to create a centralized list of firearms owners.

(17) The cost-effectiveness of using a Federal, NIBIN-based approach to using ballistic imaging technology as opposed to State-based initiatives.

SEC. 4. CONSULTATION.

In carrying out this Act, the National Research Council of the National Academy of Sciences shall consult with—

(1) Federal, State, and local officials with expertise in budgeting, administering, and using a ballistic imaging system, including the Bureau of Alcohol, Tobacco and Firearms, and the Federal Bureau of Investigation, and the Bureau of Forensic Services at the California Department of Justice, and the National Institute for Forensic Sciences in Brussels, Belgium;

(2) law enforcement officials who use ballistic imaging systems;

(3) entities affected by the actual and proposed uses of ballistic imaging technology, including manufacturers, distributors, importers, and retailers of firearms and ammunition, firearms purchasers and owners and their organized representatives, the Sporting Arms and Ammunition Manufacturers' Institute, Inc., and the National Shooting Sports Foundation, Inc.;

(4) experts in ballistics imaging and related fields, such as the Association of Firearm and Tool Mark Examiners, projectile recovery system manufacturers, and ballistic imaging device manufacturers;

(5) foreign officials administering ballistic imaging systems;

(6) individuals or organizations with significant expertise in the field of ballistic imaging technology, as the Attorney General deems necessary.

SEC. 5. REPORT.

Not later than 30 days after the National Research Council of the National Academy of Sciences completes the study conducted under section 3, the National Research Council shall submit to the Attorney General a report on the results of the study, and the Attorney General shall submit to the Congress a report, which shall be made public, that contains—

(1) the results of the study; and

(2) recommendations for legislation, if applicable.

SEC. 6. SUSPENSION OF USE OF FEDERAL FUNDS FOR BALLISTIC IMAGING TECHNOLOGY.

(a) IN GENERAL.—Notwithstanding any other provision of law, a State shall not use Federal funds for ballistic imaging technology until the report referred to in section 5 is completed and transmitted to the Congress.

(b) WAIVER AUTHORITY.—On request of a State, the Secretary of the Treasury may waive the application of subsection (a) to a use of Federal funds upon a showing that the use would be in the national interest.

SEC. 7. DEFINITIONS.

In this Act:

(1) The term ''ballistic imaging technology'' means software and hardware that records electronically, stores, retrieves, and compares the marks or impressions on the cartridge case and projectile of a round of ammunition fired from a handgun or rifle.

(2) The term ''handgun'' has the meaning given the term in section 921(a)(29) of title 18, United States Code.

(3) The term ''rifle'' has the meaning given the term in section 921(a)(7) of title 18, United States Code.

(4) The term ''cartridge case'' means the part of a fully assembled ammunition cartridge that contains the propellant and primer for firing.

(5) The terms ''manually operated handgun'' and ''manually operated rifle'' mean any handgun or rifle, as the case may be, in which all loading, unloading, and reloading of the firing chamber is accomplished through manipulation by the user.

(6) The term ''semiautomatic handgun'' means any repeating handgun which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, which requires a pull of the trigger to fire each cartridge.

(7) The term ''semiautomatic rifle'' has the meaning given the term in section 921(a)(28) of title 18, United States Code.

(8) The term ''projectile'' means that part of ammunition that is, by means of an explosive, expelled through the barrel of a handgun or rifle.

By Mrs. BOXER:

S. 981. A bill to limit the period for which the Federal Government may procure property or services using noncompetitive procedures during emergency and urgent situations; to the Committee on Governmental Affairs.

Mrs. BOXER. Mr. President, today I am introducing legislation is to ensure that American taxpayers and American businesses are protected when the Federal Government procures property or services.

The purpose of this legislation is to close certain loopholes that allow Federal agencies to enter into contracts through a process that does not ensure full and open competition. Current law provides several exceptions that allow Federal agencies to limit competition or provide a sole-source contract. My legislation does not eliminate any of these exceptions, but it does place a 90-day limitation on the broadest exceptions to ensure that a full and fair bidding process takes place as soon as possible.

This bill does not extend the 90-day limitation on sole-source or limited-source contracts when full and open competition is not practicable. For example, the legislation will continue to allow sole-source or limited-source contracts when there is a threat to the national security of the United States or when the property or service is only available from one party.

But we must take a common-sense approach to shield taxpayers from waste and abuse. This bill does just that. I have heard from people throughout my state who believe that the administration is abusing its authority in providing sole-source and limited-source contacts in Iraq.

One example is the sole-source contract worth up to $7 billion that was awarded earlier this year to Kellogg, Brown and Root—a subsidiary of Halliburton—to extinguish oil fires in Iraq. The exception under Federal law used to provide KBR with the sole-source contract was that a full and open bid process would cause unacceptable delays. While it is understandable that oil fires cannot be allowed to burn while an open bid process takes place, it is not acceptable that the term of this contract was 2 years.

Recently, the administration announced that this contract would be terminated and an open bid process take place. While I applaud this move, I fear it would not have happened without the outcry of the American people. My legislation will ensure that certain sole-source contracts will be limited to 90 days. During the 90-day period, a full and open competition would take place so that the long-term contract is awarded to the qualified low-bidder.

It is the responsibility of Congress to ensure that these contracts are awarded in a competitive manner whenever possible. This legislation is a step in the right direction.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the ''Business and Taxpayer Procurement Protection Act.''

SECTION 2. LIMITATION ON CONTRACTS AWARDED ON A NONCOMPETITIVE BASIS.

(a) IN GENERAL.—Notwithstanding any other provision of law or regulation, including the Federal Property and Administrative Services Act of 1949, section 2304 of title 10, United States Code, and the Federal Acquisition Regulation—

(1) any procurement for property or services that is not subject to competitive procedures under a provision of law or regulation set forth in subsection (b) may not exceed 90 days; and

(2) if any property or services procured under the limitations of paragraph (1) are required beyond the 90 days referred to in paragraph (1), such property or services shall—

(A) during the 90-day period, be the subject of a full and open competition in accordance with the appropriate law or regulation; and

(B) shall not be procured using procedures other than competitive procedures under a provision of law or regulation set forth in subsection (b).

(b) APPLICABILITY.—The provisions of law and regulations referred to in subsection (a) are the following:

(1) Subsections (c)(2), (c)(3)(A), (c)(7), and (d)(1)(B)(ii) of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

(2) Subsections (c)(2), (c)(3)(A), (c)(7), and (d)(1)(B)(ii) of section 2304 of title 10, United States Code.

(3) Any other provision of law or regulation that provides for the use of noncompetitive procedures for the same or a similar reason as those referred to in clauses (1) and (2).

SECTION 3. EFFECTIVE DATE.

This Act shall apply with respect to contracts entered into after the date of the enactment of this Act.

By Mrs. BOXER (for herself and Mr. SANTORUM):

S. 982. A bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes; to the Committee on Foreign Relations.

Mrs. BOXER. Mr. President, today I am reintroducing the Syria Accountability Act, a bill that aims to end Syrian support for terrorism by diplomatic and economic means.

It is well known that terrorist organizations like Hizballah, Hamas, and the Popular Front for the Liberation of Palestine maintain offices, training camps, and other facilities on Syrian territory and in areas of Lebanon occupied by the Syrian armed forces. We must address this issue not with saber rattling but by confronting the Government of Syria in a diplomatic way that shows the seriousness of our concerns.

The Syria Accountability Act works to achieve our foreign policy goals by expanding economic and diplomatic sanctions against Syria until the President certifies that Syria has ended its support of terrorism, withdrawn from Lebanon, ceased its chemical and biological weapons program, and no longer illegally imports Iraqi oil. The bill provides flexibility to the President by allowing him to choose from a variety of sanctions, as well as the authority to waive sanctions if it is in the interest of United States national security.

I hope this legislation will receive the support of the Administration and Congress because it provides the President with the flexibility to target specific sanctions against Syria, but in no way threatens or condones the use of military force against Syria.

By Mr. CHAFEE (for himself, Mr. REID, Mr. HATCH, Ms. MIKULSKI, Ms. COLLINS, Mr. LEAHY, Mr. WARNER, Mr. KENNEDY, Mr. VOINOVICH, Mr. BIDEN, Mr. ALLEN, Mrs. CLINTON, Mr. FITZGERALD, MRS. MURRAY, Ms. SNOWE, Mr. JOHNSON, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. REED, and Mr. CORZINE):

S. 983. A bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer; to the Committee on Health, Education, Labor, and Pensions.

Mr. CHAFEE. Mr. President, I am pleased to be joined today by Senator HARRY REID and others in introducing the Breast Cancer and Environmental Research Act of 2003. This bill would establish research centers that would be the first in the Nation to specifically study the environmental factors that may be related to the development of breast cancer. The lack of agreement within the scientific community and among breast cancer advocates on this question highlights the need for further study.

It is generally believed that the environment plays some role in the development of breast cancer, but the extent of that role is not understood. The Breast Cancer and Environmental Research Act of 2003 will enable us to conduct more conclusive and comprehensive research to determine the impact of the environment on breast cancer. Before we can find the answers, we must determine the right questions we should be asking.

While more research is being conducted into the relationship between breast cancer and the environment, there are still several issues that must be resolved to make this research more effective. They are as follows:

There is no known cause of breast cancer. There is little agreement in the scientific community on how the environment affects breast cancer. While studies have been conducted on the links between environmental factors like pesticides, diet, and electromagnetic fields, no consensus has been reached. There are other factors that have not yet been studied that could provide valuable information. While there is much speculation, it is clear that the relationship between environmental exposures and breast cancer is poorly understood.

There are challenges in conducting environmental research. Identifying linkages is difficult. Laboratory experiments and cluster analyses, such as those in Long Island, New York, cannot reveal whether an environmental exposure increases a woman's risk of breast cancer. Epidemiological studies must be designed carefully, because environmental exposures are difficult to measure.

Coordination between the National Institutes of Health, NIH, the National Cancer Institute, NCI, and the National Institute of Environmental Health Sciences, NIEHS, needs to occur. NCI and NIEHS are the two institutes in the NIH that fund most of the research related to breast cancer and the environment; however, comprehensive information is not currently available.

This legislation would establish eight Centers of Excellence to study these potential links. These ''Breast Cancer Environmental Research Centers'' would provide for multi-disciplinary research among basic, clinical, epidemiological and behavioral scientists interested in establishing outstanding, state-of-the-art research programs addressing potential links between the environment and breast cancer. The NIEHS would award grants based on a competitive peer-review process. This legislation would require each Center to collaborate with community organizations in the area, including those that represent women with breast cancer. The bill would authorize $30 million for the next five years for these grants.

''Genetics loads the gun, the environment pulls the trigger,'' as Ken Olden, the Director of NIEHS, frequently says. Many scientists believe that certain groups of women have genetic variations that may make them more susceptible to adverse environmental exposures. We need to step back and gather evidence before we come to conclusions—that is the purpose of this bill. People are hungry for information, and there is a lot of inconclusive data out there, some of which has no scientific merit whatsoever. We have the opportunity through this legislation to gather legitimate and comprehensive data from premier research institutions across the nation.

According to the American Cancer Society, each year 800 women in Rhode Island are diagnosed with breast cancer, and 200 women in my state will die of this terrible disease this year. We owe it to these women who are diagnosed with this life-threatening disease to provide them with answers for the first time.

I urge my colleagues to join me in supporting and cosponsoring this important legislation, and ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Breast Cancer and Environmental Research Act of 2003''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Breast cancer is the second leading cause of cancer deaths among American women.

(2) More women in the United States are living with breast cancer than any other cancer (excluding skin cancer). Approximately 3,000,000 women in the United States are living with breast cancer, 2,000,000 of which have been diagnosed and an estimated 1,000,000 who do not yet know that they have the disease.

(3) Breast cancer is the most commonly diagnosed cancer among women in the United States and worldwide (excluding skin cancer). In 2003, it is estimated that 258,600 new cases of breast cancer will be diagnosed among women in the United States, 211,300

cases of which will involve invasive breast cancer and 47,300 cases of which will involve ductal carcinoma in situ (DCIS).

(4) Breast cancer is the second leading cause of cancer death for women in the United States. Approximately 40,000 women in the United States die from the disease each year. Breast cancer is the leading cause of cancer death for women in the United States between the ages of 20 and 59, and the leading cause of cancer death for women worldwide.

(5) A woman in the United States has a 1 in 8 chance of developing invasive breast cancer in her lifetime. This risk was 1 in 11 in 1975. In 2001, a new case of breast cancer will be diagnosed every 2 minutes and a woman will die from breast cancer every 13 minutes.

(6) All women are at risk for breast cancer. About 90 percent of women who develop breast cancer do not have a family history of the disease.

(7) The National Action Plan on Breast Cancer, a public private partnership, has recognized the importance of expanding the scope and breadth of biomedical, epidemiological, and behavioral research activities related to the etiology of breast cancer and the role of the environment.

(8) To date, there has been only a limited research investment to expand the scope or coordinate efforts across disciplines or work with the community to study the role of the environment in the development of breast cancer.

(9) In order to take full advantage of the tremendous potential for avenues of prevention, the Federal investment in the role of the environment and the development of breast cancer should be expanded.

(10) In order to understand the effect of chemicals and radiation on the development of cancer, multi-generational, prospective studies are probably required.

SEC. 3. NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES; AWARDS FOR DEVELOPMENT AND OPERATION OF RESEARCH CENTERS REGARDING ENVIRONMENTAL FACTORS RELATED TO BREAST CANCER.

Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 285L et seq.) is amended by adding at the end the following section:

"SEC. 463B. RESEARCH CENTERS REGARDING ENVIRONMENTAL FACTORS RELATED TO BREAST CANCER.

"(a) IN GENERAL.—The Director of the Institute, based on recommendations from the Breast Cancer and Environmental Research Panel established under subsection (b) (referred to in this section as the 'Panel') shall make grants, after a process of peer review and programmatic review, to public or nonprofit private entities for the development and operation of not more than 8 centers for the purpose of conducting multidisciplinary and multi-institutional research on environmental factors that may be related to the etiology of breast cancer. Each such center shall be known as a Breast Cancer and Environmental Research Center of Excellence.

"(b) BREAST CANCER AND ENVIRONMENTAL RESEARCH PANEL.—

"(1) ESTABLISHMENT.—The Secretary shall establish in the Institute of Environmental Health Sciences a Breast Cancer and Environmental Research Panel.

"(2) COMPOSITION.—The Panel shall be composed of—

"(A) 9 members to be appointed by the Secretary, of which—

"(i) six members shall be appointed from among physicians, and other health professionals, who—

"(I) are not officers or employees of the United States;

"(II) represent multiple disciplines, including clinical, basic, and public health sciences;

"(III) represent different geographical regions of the United States;

"(IV) are from practice settings or academia or other research settings; and

"(V) are experienced in biomedical review; and

"(ii) three members shall be appointed from the general public who are representatives of individuals who have had breast cancer and who represent a constituency; and

"(B) such nonvoting, ex officio members as the Secretary determines to be appropriate.

"(3) CHAIRPERSON.—The members of the Panel appointed under paragraph (2)(A) shall select a chairperson from among such members.

"(4) MEETINGS.—The Panel shall meet at the call of the chairperson or upon the request of the Director, but in no case less often than once each year.

"(5) DUTIES.—The Panel shall—

"(A) oversee the peer review process for the awarding of grants under subsection (a) and conduct the programmatic review under such subsection;

"(B) make recommendations with respect to the funding criteria and mechanisms under which amounts will be allocated under this section; and

"(C) make final programmatic recommendations with respect to grants under this section.

"(c) COLLABORATION WITH COMMUNITY.—Each center under subsection (a) shall establish and maintain ongoing collaborations with community organizations in the geographic area served by the center, including those that represent women with breast cancer.

"(d) COORDINATION OF CENTERS; REPORTS.—The Director of the Institute shall, as appropriate, provide for the coordination of information among centers under subsection (a) and ensure regular communication between such centers, and may require the periodic preparation of reports on the activities of the centers and the submission of the reports to the Director.

"(e) REQUIRED CONSORTIUM.—Each center under subsection (a) shall be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute. Each center shall require collaboration among highly accomplished scientists, other health professionals and advocates of diverse backgrounds from various areas of expertise.

"(f) DURATION OF SUPPORT.—Support of a center under subsection (a) may be for a period not exceeding 5 years. Such period may be extended for one or more additional periods not exceeding 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director of the Institute and if such group has recommended to the Director that such period should be extended.

"(g) GEOGRAPHIC DISTRIBUTION OF CENTERS.—The Director of the Institute shall, to the extent practicable, provide for an equitable geographical distribution of centers under this section.

"(h) INNOVATIVE APPROACHES.—Each center under subsection (a) shall use innovative approaches to study unexplored or under-explored areas of the environment and breast cancer.

"(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $30,000,000 for each of the fiscal years 2004 through 2009. Such authorization is in addition to any other authorization of appropriations that is available for such purpose.".

Mr. REID. Mr. President, I am pleased to join Senator CHAFEE in reintroducing the Breast Cancer and Environmental Research Act. Senator CHAFEE and I serve together on the Environment and Public Works Committee where we have had the opportunity to take a closer look at different environment-related health concerns. After a number of children in the small town of Fallon, NV, were diagnosed with leukemia, the committee traveled to Nevada to investigate what environmental factors may have contributed to the cancer cluster.

The Fallon hearing reminded me how little we know about what causes cancer and what, if any, connection exists between the environment and cancer. Three decades have passed since President Nixon declared the "War on Cancer" and scientists are still struggling with these and other crucial unanswered questions about cancer. This is particularly true in the case of breast cancer. We still don't know what causes breast cancer. We don't know if the environment plays a role in the development of breast cancer, and if it does, we don't know how significant that role is. In our search for answers about breast cancer, we need to make sure we are asking the right questions.

To date, there has been only a limited research investment to study the role of the environment in the development of breast cancer. More research needs to be done to determine the impact of the environment on breast cancer. The Breast Cancer and Environmental Research Act would give scientists the tools they need to pursue a better understanding about what links between the environment and breast cancer may exist. Specifically, our bill would authorize $30 million to the National Institute of Environmental Health Sciences to establish eight Centers of Excellence that would focus on breast cancer and the environment.

In the year 2003 alone, it is estimated that 258,600 new cases of breast cancer will be diagnosed among women in the United States. In Nevada, an estimated 1400 new cases will be diagnosed in 2003, and tragically, approximately 300 women in Nevada will die of breast cancer this year. If we miss promising research opportunities because of Congress' failure to act, millions of women and their families will face critical unanswered questions about breast cancer. During the 107th Congress, almost half of the Senate cosponsored this important legislation. There is no reason we should not be able to work together during this session to pass this bill so we can find answers for the millions of Americans affected by breast cancer. I urge my colleagues to join in our quest for answers about this deadly disease and to support the Breast Cancer and Environmental Research Act.

By Mr. BAUCUS:

S. 984. A bill to direct the Secretary of the Interior to evaluate opportunities to enhance domestic oil and gas

production through the exchange of nonproducing Federal oil and gas leases located in the Lewis and Clark National Forest, in the Flathead National Forest, and on Bureau of Land Management land in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BAUCUS. Mr. President, I am introducing a bill today that I hope will take us one step closer to achieving permanent protections for Montana's magnificent Rocky Mountain Front.

The Front, as we call it back home, is part of one of the largest and most intact wild places left in the lower 48. To the North, the Front includes a 200 square mile area known as the Badger-Two Medicine in the Lewis and Clark National Forest. This area sits just south-east of Glacier National Park, one of our greatest national treasures. The Badger-Two Medicine area is sacred ground to the Blackfeet Tribe. In January of 2002, portions of the Badger-Two, known as the Badger-Two Medicine Blackfoot Traditional Cultural District, were declared eligible for listing in the National Register of Historic Places.

South of the Badger-Two, the Front includes a 400 square mile strip of national forest land and about 20 square miles of BLM lands, including three BLM Outstanding Natural Areas.

Not only does the Front still retain almost all its native species, but it also harbors the country's largest bighorn sheep herd and second largest elk herd. The Rocky Mountain Front supports one of the largest populations of grizzly bears south of Canada and is the only place in the lower 48 states where grizzly bears still roam from the mountains to their historic range on the plains.

Because of this exceptional habitat, the Front offers world renowned hunting, fishing and recreational opportunities. Sportsmen, local land owners, hikers, local communities and many other Montanans have worked for decades to protect and preserve the Front for future generations.

In short, a majority of Montanans feel very strongly that oil and gas development, and Montana's Rocky Mountain Front, just don't mix. The habitat is too rich, the landscape too important, to subject it to the roads, drills, pipelines, industrial equipment, chemicals, noise and human activity that come with oil and gas development.

Building upon a significant public and private conservation investment and following an extensive public comment process, the Lewis and Clark National Forest decided in 1997 to withdraw for 15 years 356,000 acres in the Front from any new oil and gas leasing. This was a significant first step in protecting the Front from development that I wholeheartedly supported.

However, in many parts of the Rocky Mountain Front, oil and gas leases exist that pre-date the 1997 decision or are located in the Badger-Two Medicine area, where the lease suspension could be lifted soon. These leaseholders have invested time and resources in acquiring their leases. Several leaseholders have applied to the federal government for permits to drill. These leases are the subject of my proposed bill.

History has shown that energy exploration and development in the Front is likely to result in expensive and time-consuming environmental studies and litigation. This process rarely ends with a solution that is satisfactory to the oil and gas lessee. For example, in the late 1980's both Chevron and Fina applied for permits to drill in the Badger Two Medicine portion of the Front.

After millions of dollars spent on studies and years of public debate, Chevron abandoned or assigned all of its lease rights, and Fina sold its lease rights back to the original owner.

Therefore, I think we should be fair to those leaseholders. We want them to continue to provide for our domestic oil and gas needs, but they are going to have a long, difficult and expensive road if they wish to develop oil and gas in the Rocky Mountain Front.

My legislation would direct the Interior Department to evaluate non-producing leases in the Rocky Mountain Front and look at opportunities to cancel those leases, in exchange for allowing leaseholders to explore for oil and gas somewhere else, namely in the Gulf of Mexico or in the State of Montana. In conducting this evaluation, the Secretary would have to consult with leaseholders, with the State of Montana, the public and other interested parties.

When Interior concludes this study in two years, the bill calls for the agency to make recommendations to Congress and the Energy and Natural Resources Committee on the advisability of pursuing lease exchanges in the Front and any changes in law and regulation needed to enable the Secretary to undertake such an exchange.

Finally, in order to allow the Secretary to conduct this study, my bill would continue the current lease suspension in the Badger-Two Medicine Area for three more years. This lease suspension would only apply to the Badger-Two Medicine Area, not the entire Front.

That's it, that's all my bill does. It doesn't predetermine any outcome, it doesn't impact any existing exploration activities or environmental processes. It just creates a process through which the federal government, the people of Montana and leaseholders can finally have a real, open and honest discussion about the fate of the Rocky Mountain Front.

I would also point out that the Administration recently completed an inventory of the onshore oil and gas reserves on federal lands in five basins in the Interior West, including the Rocky Mountain Front, also known as the Montana Thrust Belt. The Administration's study found that this area contains the smallest volumes of oil and gas resources of all five of the Western inventory areas. For example, the mean estimate of all natural gas reserves in the Uinta/Pinceance Basin in Colorado and Utah is 22 trillion cubic feet. In the Front, the mean estimate is only 8.6 trillion cubic feet.

Additionally, the study concluded that in reality, the vast majority of Federal lands in the interior West are available for leasing with few if any restrictions. Although a large percentage of federal lands in the Front are currently unavailable for leasing, many of those lands are unavailable because they lie under Glacier National Park, Indian lands, and already established wilderness areas, which comprise much of the Federal land in the Front. So, not only is the Front relatively poor in terms of oil and gas reserves, many of those reserves—by Congressional mandate, executive order or treaty—will never be available for leasing.

We should look for ways to fairly compensate leaseholders for investments they've made in their leases if they decide to leave the Front rather than waste years and millions fighting to explore for uncertain—and small—oil and gas reserves. A lot of Montanans just don't want to see the Front developed, and they will fight to protect it. Including me.

So, developers can wait years, or decades, or most likely never, for oil and gas to flow from the Front. Or we can look at ways to encourage domestic production much sooner, in much more cost effective, appropriate and efficient ways somewhere else.

That is what I hope this legislation will accomplish Mr. President, and I hope my colleagues in the Senate will support it.

By Mr. DODD (for himself, Ms. COLLINS, Mrs. CLINTON, Mr. CORZINE, Ms. CANTWELL, Mr. DURBIN, Mr. GRASSLEY, Mr. LEAHY, Ms. SNOWE, Mr. REED, Mr. BIDEN, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. LIEBERMAN, Mr. WARNER, Mr. JOHNSON, Mrs. MURRAY, Mr. CARPER, Mr. KERRY, Mr. BAUCUS, Mr. REID, Mr. SARBANES, and Mr. JEFFORDS):

S. 985. A bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes; to the Committee on Governmental Affairs.

Mr. DODD. Mr. President, I rise today to introduce legislation that is important to America's Federal law enforcement officers and the people they protect across the country. I am joined today by Senator COLLINS, Senator CLINTON, Senator CORZINE, Senator CANTWELL, Senator DURBIN, Senator GRASSLEY, Senator LEAHY, Senator SNOWE, Senator REED, Senator BIDEN, Senator FEINSTEIN, Senator SCHUMER,

Senator LIEBERMAN, Senator WARNER, Senator JOHNSON, Senator MURRAY, Senator CARPER, Senator KERRY, Senator BAUCUS, Senator REID, Senator SARBANES, and Senator JEFFORDS.

The legislation that we are offering will amend the Federal Law Enforcement Pay Reform Act of 1990 to ensure that the government treats Federal law enforcement officers fairly. This bill will partially increase the locality pay adjustments paid to Federal agents in certain high cost areas. These areas have pay disparities so high they are negatively affecting our Federal law enforcement officers, since locality pay adjustments have either not been increased since 1990, or have been increased negligibly.

All over America, Federal law enforcement personnel are enduring tremendous stress associated with our Nation's effort to protect citizens from the threat of terrorism. Unfortunately, that stress has been compounded by ongoing pressing concerns among many such personnel about their pay. I have heard from officers who have described long commutes, high personal debts, and in some cases, almost all-consuming concerns about financial insecurity. Many of these problems occur when agents or officers are transferred from low-cost parts of the country to high-cost areas. I have been told that some Federal officers are forced to separate from their families and rent rooms in the cities to which they have been transferred because they cannot afford to rent or buy homes large enough for a family.

Unfortunately, the raise in the cost of living in many cities across America has outstripped our Federal pay system. I recognize that this is a problem for other Federal employees and I am prepared to work with my colleagues to address this larger issue. The cost of living has also had a very negative impact on non-federal employees as well and I have consistently worked to ensure that all working Americans enjoy a truly livable wage. The legislation that we are introducing today in no way suggests that the needs of other workers should be ignored, but it acknowledges that as we continue to ask Federal law enforcement personnel to put in long hours and remain on heightened alert, we must provide them with a salary sufficient to allow them to focus on their vital work without nagging worries about how to provide their families with the essentials of food, clothing, and shelter.

The Federal Law Enforcement Officers Association, representing more than 19,000 Federal agents, along with the Fraternal Order of Police, National Association of Police Organizations, National Troopers Coalition, National Organization of Black Law Enforcement Executives, International Brotherhood of Police, and the Police Executive Research Forum have endorsed this legislative proposal.

In these difficult times, we must remain committed to recruiting, hiring, and retaining law enforcement officers of the highest caliber. However, we must also recognize that the Federal government is in competition with State and Local police departments that often pay more and provide better standards of living.

I urge all of my colleagues to join us in this effort. I hope that we can quickly pass this important legislation because it will improve the lives of the men and women who are dedicated to protecting us. In so doing, it will improve the Nation's domestic security.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADJUSTED DIFFERENTIALS.

(a) IN GENERAL.—Paragraph (1) of section 404(b) of the Federal Law Enforcement Pay Reform Act of 1990 (5 U.S.C. 5305 note) is amended by striking the matter after "follows:" and inserting the following:

"Area	Differential
Atlanta Consolidated Metropolitan Statistical Area	16.82%
Boston-Worcester-Lawrence, MA-NH-ME-CT-RI Consolidated Metropolitan Statistical Area	24.42%
Chicago-Gary-Kenosha, IL-IN-WI Consolidated Metropolitan Statistical Area	25.68%
Cincinnati-Hamilton, OH-KY-IN Consolidated Metropolitan Statistical Area	21.47%
Cleveland Consolidated Metropolitan Statistical Area	17.83%
Columbus Consolidated Metropolitan Statistical Area	16.90%
Dallas Consolidated Metropolitan Statistical Area	18.51%
Dayton Consolidated Metropolitan Statistical Area	15.97%
Denver-Boulder-Greeley, CO Consolidated Metropolitan Statistical Area	22.78%
Detroit-Ann Arbor-Flint, MI Consolidated Metropolitan Statistical Area	25.61%
Hartford, CT Consolidated Metropolitan Statistical Area	24.47%
Houston-Galveston-Brazoria, TX Consolidated Metropolitan Statistical Area	30.39%
Huntsville Consolidated Metropolitan Statistical Area	13.29%
Indianapolis Consolidated Metropolitan Statistical Area	13.38%
Kansas City Consolidated Metropolitan Statistical Area	14.11%
Los Angeles-Riverside-Orange County, CA Consolidated Metropolitan Statistical Area	27.25%
Miami-Fort Lauderdale, FL Consolidated Metropolitan Statistical Area	21.75%
Milwaukee Consolidated Metropolitan Statistical Area	17.45%
Minneapolis-St. Paul, MN-WI Consolidated Metropolitan Statistical Area	20.27%
New York-Northern New Jersey-Long Island, NY-NJ-CT-PA Consolidated Metropolitan Statistical Area	27.11%
Orlando, FL Consolidated Metropolitan Statistical Area	14.22%
Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD Consolidated Metropolitan Statistical Area	21.03%
Pittsburgh Consolidated Metropolitan Statistical Area	14.89%
Portland-Salem, OR-WA Consolidated Metropolitan Statistical Area	20.96%
Richmond Consolidated Metropolitan Statistical Area	16.46%
Sacramento-Yolo, CA Consolidated Metropolitan Statistical Area	20.77%
San Diego, CA Consolidated Metropolitan Statistical Area	22.13%
San Francisco-Oakland-San Jose, CA Consolidated Metropolitan Statistical Area	32.98%
Seattle-Tacoma-Bremerton, WA Consolidated Metropolitan Statistical Area	21.18%
St. Louis Consolidated Metropolitan Statistical Area	14.69%
Washington-Baltimore, DC-MD-VA-WV Consolidated Metropolitan Statistical Area	19.48%
Rest of United States Consolidated Metropolitan Statistical Area	14.19%".

(b) SPECIAL RULES.—For purposes of the provision of law amended by subsection (a)—

(1) the counties of Providence, Kent, Washington, Bristol, and Newport, RI, the counties of York and Cumberland, ME, and the city of Concord, NH, shall be treated as if located in the Boston-Worcester-Lawrence, MA-NH-ME-CT-RI Consolidated Metropolitan Statistical Area; and

(2) members of the Capitol Police shall be considered to be law enforcement officers within the meaning of section 402 of the Federal Law Enforcement Pay Reform Act of 1990.

(c) EFFECTIVE DATE.—The amendment made by subsection (a)—

(1) shall take effect as if included in the Federal Law Enforcement Pay Reform Act of 1990 on the date of the enactment of such Act; and

(2) shall be effective only with respect to pay for service performed in pay periods beginning on or after the date of the enactment of this Act.

Subsection (b) shall be applied in a manner consistent with the preceding sentence.

SEC. 2. SEPARATE PAY, EVALUATION, AND PROMOTION SYSTEM FOR FEDERAL LAW ENFORCEMENT OFFICERS.

(a) STUDY.—Not later than 6 months after the date of the enactment of this Act, the Office of Personnel Management shall study and submit to Congress a report which shall contain its findings and recommendations regarding the need for, and the potential benefits to be derived from, the establishment of a separate pay, evaluation, and promotion system for Federal law enforcement officers. In carrying out this subsection, the Office of Personnel Management shall take into account the findings and recommendations contained in the September 1993 report of the Office entitled "A Plan to Establish a New Pay and Job Evaluation System for Federal Law Enforcement Officers".

(b) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—If, after completing its report under subsection (a), the Office of Personnel Management considers it to be appropriate, the Office shall implement, within 12 months after the date of the enactment of this Act, a demonstration project to determine whether a separate system for Federal law enforcement officers (as described in subsection (a)) would result in improved Federal personnel management.

(2) APPLICABLE PROVISIONS.—Any demonstration project under this subsection shall be conducted in accordance with the provisions of chapter 47 of title 5, United States Code, except that a project under this subsection shall not be taken into account for purposes of the numerical limitation under section 4703(d)(2) of such title.

(3) PERMANENT CHANGES.—Not later than 6 months before the demonstration project's scheduled termination date, the Office of Personnel Management shall submit to Congress—

(A) its evaluation of the system tested under the demonstration project; and

(B) recommendations as to whether or not that system (or any aspects of that system) should be continued or extended to other Federal law enforcement officers.

(c) FEDERAL LAW ENFORCEMENT OFFICER DEFINED.—In this section, the term ''Federal law enforcement officer'' means a law enforcement officer as defined under section 8331(20) or 8401(17) of title 5, United States Code.

SEC. 3. LIMITATION ON PREMIUM PAY.

(a) IN GENERAL.—Section 5547 of title 5, United States Code, is amended—

(1) in subsection (a), by striking ''5545a,'';

(2) in subsection (c), by striking ''or 5545a''; and

(3) in subsection (d), by striking the period and inserting ''or a criminal investigator who is paid availability pay under section 5545a.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 1114 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1239).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 130—EXPRESSING THE SENSE OF THE SENATE THAT PUBLIC SERVANTS SHOULD BE COMMENDED FOR THEIR DEDICATION AND CONTINUED SERVICE TO THE NATION DURING PUBLIC SERVICE RECOGNITION WEEK

Mr. AKAKA (for himself, Mr. FITZGERALD, Ms. COLLINS, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. DURBIN, Mr. COLEMAN, and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 130

Whereas Public Service Recognition Week provides an opportunity to honor and celebrate the commitment of individuals who meet the needs of the Nation through work at all levels of government;

Whereas over 20,000,000 men and women work in government service in every city, county, and State across America and in hundreds of cities abroad;

Whereas Federal, State, and local officials perform essential services the Nation relies upon every day;

Whereas the United States of America is a great and prosperous Nation, and public service employees have contributed significantly to that greatness and prosperity;

Whereas the Nation benefits daily from the knowledge and skills of these highly trained individuals;

Whereas public servants—

(1) help the Nation recover from natural disasters and terrorist attacks;

(2) fight crime and fire;

(3) deliver the mail;

(4) teach and work in the schools;

(5) deliver social security and medicare benefits;

(6) fight disease and promote better health;

(7) protect the environment and national parks;

(8) defend and secure critical infrastructure;

(9) improve and secure transportation and the quality and safety of water and food;

(10) build and maintain roads and bridges;

(11) provide vital strategic and support functions to our military;

(12) keep the Nation's economy stable;

(13) defend our freedom; and

(14) advance United States interests around the world;

Whereas public servants at the Federal, State, and local level are the first line of defense in maintaining homeland security;

Whereas public servants at every level of government are hard-working men and women, committed to doing a good job regardless of the circumstances;

Whereas Federal, State, and local government employees have risen to the occasion and demonstrated professionalism, dedication, and courage while fighting the war against terrorism;

Whereas the men and women serving in the Armed Forces of the United States, as well as those Federal employees who provide support to their efforts, contribute greatly to the security of the Nation and the world;

Whereas May 5 through 11, 2003, has been designated Public Service Recognition Week to honor America's Federal, State, and local government employees; and

Whereas Public Service Recognition Week will be celebrated through job fairs, student activities, and agency exhibits: Now, therefore, be it

Resolved, That the Senate—

(1) commends government employees for their outstanding contributions to this great Nation;

(2) salutes their unyielding dedication and spirit for public service;

(3) honors those public servants who have given their lives in service to their country;

(4) calls upon a new generation of workers to consider a career in public service as an honorable profession; and

(5) encourages efforts to promote public service careers at all levels of government.

Mr. AKAKA. Mr. President. Today I rise to pay tribute to the hard-working men and women who dedicate their lives to public service. Whether it is on the Federal, State, or local level, public servants perform essential functions that Americans rely on every day. For this reason, it is a privilege to submit a resolution to honor these employees for Public Service Recognition Week. I am delighted to be joined in this effort by Senators FITZGERALD, COLLINS, LIEBERMAN, VOINOVICH, DURBIN, COLEMAN, and LEVIN.

Public Service Recognition Week takes place the week of May 5, 2003. Since 1985, the first week in May showcases the talented men and women who serve America as Federal, State and local government employees. Throughout the Nation and around the world, public employees use the week to educate their fellow citizens how government serves them, and how government services make life better for all of us.

For example, public servants help the Nation recover from natural disasters and terrorist attacks; fight crime and fire; deliver the mail; teach our children; provide local transportation; protect the environment; fight disease and promote better health; improve the quality and safety of water and food; and defend our freedom. Since September 11, 2001, public servants at the Federal, State, and local level worked around the clock to prevent terrorist attacks and reduce our vulnerability to future attacks in addition to carrying out their other job related responsibilities. Such dedication and hard work deserve our recognition.

I would like to pay particular attention to the men and women who serve in our armed forces, and the civilian employees who support their missions. These employees are key to the security and defense of our Nation. From the war against terrorism to Operation Iraqi Freedom, our military and civilian support staff show courage in the face of adversity. They too are ready, willing, and able to make this a safer world.

While Public Service Recognition Week represents an opportunity for us to honor and celebrate the commitment of individuals who serve the needs of the Nation as government and municipal employees, it is also a time to call on a new generation of Americans to consider public service. As my colleagues know, the Federal Government is facing a crisis in its recruitment and retention efforts. The problem is so critical that the General Accounting Office, GAO, has placed the so-called 'human capital crisis' on its High Risk List. According to the GAO, nearly 50 percent of the Federal workforce will be eligible to retire by 2005. Although no one knows how many will actually retire, this situation poses serious challenges for succession planning in addition to mission performance. Public Service Recognition Week provides an opportunity for individuals to gain a deeper understanding of the exciting and challenging work in the Federal Government and career opportunities available.

I invite my colleagues to honor the patriotic commitment to public service that our Federal employees exemplify and to join in the Federal Government's annual celebration. During the week there will be an extensive exhibit on the National Mall in Washington, D.C., showcasing many of our Federal agencies and branches of the military, as well as highlighting the services these agencies provide. In addition to the Mall exhibits, I encourage my colleagues to recognize Federal employees in their states, as well as State and local government employees, to let them know how much their work is appreciated.

SENATE RESOLUTION 131—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD AWARD THE PRESIDENTIAL MEDAL OF FREEDOM TO GENERAL RAYMOND G. DAVIS, USMC (RETIRED)

Mr. MILLER (for himself, Mr. BURNS, Mr. WARNER, Mr. CHAMBLISS, and Mr. ROBERTS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 131

Whereas General Raymond G. Davis courageously served his country as a Marine in World War II, Korea, and Vietnam during 33 years of highly distinguished service;

Whereas General Davis was presented with the Medal of Honor by President Harry Truman for his heroic action in Korea;

Whereas General Davis culminated his extraordinary career in the Marines by serving as Assistant Commandant to the Marine Corps in 1972;

Whereas General Davis has worked tirelessly on behalf of military veterans since his retirement;

Whereas General Davis' determination and initiative led to the approval of the Korean War Veterans Memorial design, construction, and dedication in July of 1995;

Whereas General Davis has devoted a significant amount of time and energy to the ongoing construction of a Georgia War Veterans Memorial Park in Rockdale County, Georgia; and

Whereas General Davis, as an active duty Marine and as a private citizen, has demonstrated exemplary courage, unwavering devotion to duty, inspiring leadership, and sound judgment: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should award the Presidential Medal of Freedom to General Raymond G. Davis, USMC (retired).

AMENDMENTS SUBMITTED & PROPOSED

SA 533. Mr. MCCONNELL (for Mr. LUGAR) proposed an amendment to the joint resolution S.J. Res. 3, expressing the sense of Congress with respect to human rights in Central Asia.

SA 534. Mr. MCCONNELL (for Mr. LUGAR) proposed an amendment to the joint resolution S.J. Res. 3, supra.

TEXT OF AMENDMENTS

SA 533. Mr. MCCONNELL (for Mr. LUGAR) proposed an amendment to the joint resolution S.J. Res. 3, expressing the sense of Congress with respect to human rights in Central Asia; as follows:

Strike all after the resolving clause and insert the following:

That it is the sense of Congress that—

(1) the governments of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan should accelerate democratic reforms and fulfill their human rights obligations, including, where appropriate, by—

(A) releasing from prison anyone jailed for peaceful political activism or the nonviolent expression of their political or religious beliefs;

(B) fully investigating any credible allegations of torture and prosecuting those responsible;

(C) permitting the free and unfettered functioning of independent media outlets, independent political parties, and nongovernmental organizations, including by easing registration processes;

(D) permitting the free exercise of religious beliefs and ceasing the persecution of members of religious groups and denominations that do not engage in violence or political change through violence;

(E) holding free, competitive, and fair elections; and

(F) making publicly available documentation of their revenues and punishing those engaged in official corruption;

(2) the President, the Secretary of State, and the Secretary of Defense should—

(A) continue to raise at the highest levels with the governments of the nations of Central Asia specific cases of political and religious persecution, and to urge greater respect for human rights and democratic freedoms at every diplomatic opportunity;

(B) take progress in meeting the goals specified in paragraph (1) into account when determining the scope and nature of our diplomatic and military relations and assistance with each of such governments;

(C) ensure that the provisions of foreign operations appropriations Acts are fully implemented to ensure that no United States assistance benefits security forces in Central Asia that are implicated in violations of human rights;

(D) press the Government of Turkmenistan to implement the helpful recommendations contained in the so-called ''Moscow Mechanism'' Report of the Organization for Security and Cooperation in Europe (OSCE) respect the right of all prisoners to due process and a fair trial and release democratic activists and their family members from prison;

(E) urge the Government of Russia not to extradite to Turkmenistan members of the political opposition of Turkmenistan;

(F) work with the Government of Kazakhstan to create a political climate free of intimidation and harassment, including releasing political prisoners and permitting the return of political exiles, and to reduce official corruption, including by urging the Government of Kazakhstan to cooperate with the ongoing Department of Justice investigation;

(G) support through United States assistance programs individuals, nongovernmental organizations, and media outlets in Central Asia working to build more open societies, to support the victims of human rights abuses, and to expose official corruption; and

(H) press the Government of Uzbekistan to implement fully the recommendations made to the Government of Uzbekistan by the United Nation's Special Rapporteur on Torture; and

(3) increased levels of United States assistance to the governments of the nations of Central Asia made possible by their cooperation in the war in Afghanistan can be sustained only if there is substantial and continuing progress towards meeting the goals specified in paragraph (1).

SA 534. Mr. MCCONNELL (for Mr. LUGAR) proposed an amendment to the joint resolution S.J. Res. 3, expressing the sense of Congress with respect to human rights in Central Asia; as follows:

Strike the preamble and insert the following:

Whereas the Central Asian nations of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan are providing the United States with assistance in the war in Afghanistan, from military basing and overflight rights to the facilitation of humanitarian relief;

Whereas in turn the United States victory over the Taliban in Afghanistan provides important benefits to the Central Asian nations by removing a regime that threatened their security and by significantly weakening the Islamic Movement of Uzbekistan, a terrorist organization that had previously staged armed raids from Afghanistan into the region;

Whereas the United States has consistently urged the nations of Central Asia to open their political systems and economies and to respect human rights, both before and since the attacks of September 11, 2001;

Whereas Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan are members of the United Nations and the Organization for Security and Cooperation in Europe (OSCE), both of which confer a range of obligations with respect to human rights on their members;

Whereas while the United States recognizes marked differences among the social structures and commitments to democratic and economic reform of the Central Asian nations, the United States notes nevertheless, according to the State Department Country Reports on Human Rights Practices, that all five governments of such nations, to differing degrees, restrict freedom of speech and association, restrict or ban the activities of human rights organizations and other non-governmental organizations, harass or prohibit independent media, imprison political opponents, practice arbitrary detention and arrest, and engage in torture and extrajudicial executions;

Whereas by continuing to suppress human rights and to deny citizens peaceful, democratic means of expressing their convictions, the nations of Central Asia risk fueling popular support for violent and extremist movements, thus undermining the goals of the war on terrorism;

Whereas President George W. Bush has made the defense of human dignity, the rule of law, limits on the power of the state, respect for women and private property, free speech, equal justice, religious tolerance strategic goals of United States foreign policy in the Islamic world, arguing that ''a truly strong nation will permit legal avenues of dissent for all groups that pursue their aspirations without violence''; and

Whereas Congress has expressed its desire to see deeper reform in Central Asia in past resolutions and other legislation, most recently conditioning assistance to Uzbekistan and Kazakhstan on their progress in meeting commitments to the United States on human rights and democracy: Now, therefore, be it

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 1, 2003, at 9:30 a.m. in SR–253 on pending committee business.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 1, 2003, at 2:30 p.m. in SR–253 on Nanotechnology.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Thursday, May 1, at 10:00 a.m. to consider Comprehensive Energy Legislation.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 1, 2003 at 10:00 a.m. to hold a Nomination Hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, May 1, 2003 at 10:00 a.m. for a hearing entitled ''Investing in Homeland Security: Streamlining and Enhancing Homeland Security Grant Programs.''

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

COMMITTEE ON THE JUDICIARY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Judicial Nominations'' on Thursday, May 1, 2003, at 10:30 a.m. in Dirksen Room 226.

I. Nominations: Carolyn B. Kuhl to be US Circuit Judge for the Ninth Circuit, John G. Roberts, Jr. to be US Circuit Judge for the District of Columbia Circuit, J. Leon Holmes to be US District Judge for the Eastern District of Arkansas, and Patricia Head Minaldi to be United States District Judge for the Western District of Louisiana.

II. Bills: S. Res. 75, A resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers [CAMPBELL, LEAHY, HATCH, BIDEN, DURBIN].

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate for a roundtable entitled ''SBA Re-Authorization: Credit Programs (Part II)'' and other matters on Thursday, May 1, 2003, beginning at 9:30 a.m. in room 428A of the Russell Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 1, 2003 at 2:30 p.m. to hold a closed mark-up.

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

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports for standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

AMENDED FROM 2002 4TH QUARTER—CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM OCT. 1, TO DEC. 31, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jon Kamarck:									
Japan	Dollar		1,356.00		7,155.21				8,511.21
Total			1,356.00		7,155.21				8,511.21

TED STEVENS,
Chairman, Committee on Appropriations, Apr. 2, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bill Nelson:									
Haiti	Dollar		46.00						46.00
Karen Cully:									
Haiti	Dollar						110.00		110.00
Senator John McCain:									
Germany	Euro		518.00						518.00
Senator Joseph I. Lieberman:									
Germany	Euro		600.00						600.00
Senator Jack Reed:									
Germany	Euro		476.95						476.95
Senator Lindsey Graham:									
Germany	Euro		650.00						650.00
Frederick M. Downey:									
Germany	Euro		632.00						632.00
Daniel C. Twining:									
Germany	Euro		720.00						720.00
Senator John Warner:									
Italy	Dollar		109.00						109.00
Qatar	Dollar		305.00						305.00
Pakistan	Dollar		46.00						46.00
Kuwait	Dollar		258.00						258.00
United Kingdom	Dollar		223.00						223.00
Senator Carl Levin:									
Qatar	Dollar		290.00						290.00
Pakistan	Dollar		46.00						46.00
Kuwait	Dollar		258.00						258.00
United Kingdom	Dollar		449.00						449.00
Senator Pat Roberts:									
Italy	Dollar		189.00						189.00
Qatar	Dollar		568.00						568.00
Pakistan	Dollar		320.00						320.00
Kuwait	Dollar		439.00						439.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2003—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United Kingdom	Dollar		449.00						449.00
Judith A. Ansley:									
Italy	Dollar		111.00						111.00
Qatar	Dollar		391.00						391.00
Pakistan	Dollar		87.00						87.00
Kuwait	Dollar		259.00						259.00
United Kingdom	Dollar		278.00						278.00
Richard D. DeBobes:									
Qatar	Dollar		393.00						393.00
Italy	Dollar		119.00						119.00
Pakistan	Dollar		67.00						67.00
Kuwait	Dollar		270.00						270.00
United Kingdom	Dollar		261.00						261.00
John F. Eisold:									
Italy	Dollar		59.00						59.00
Qatar	Dollar		305.50						305.50
Pakistan	Dollar		300.00						300.00
Kuwait	Dollar		303.00						303.00
United Kingdom	Dollar		295.00						295.00
Charles W. Alsup:									
Colombia	Peso		445.70		1,451.90		31.25		1,928.85
Evelyn N. Farkas:									
Colombia	Peso		385.12		1,451.90				1,837.02
Total			11,921.27		2,903.80		141.25		14,966.32

JOHN WARNER,
Chairman, Committee on Armed Services, Apr. 1, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE. UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 17504(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard Shelby:									
United States	Dollar				7,954.40				7,954.40
United Kingdom	Pound		772.00		3,041.39				3,813.39
Switzerland	Franc		952.00						952.00
Kathleen L. Casey:									
United States	Dollar				8,308.32				8,308.32
United Kingdom	Pound		1,144.00						1,144.00
Total			2,868.00		19,304.11				22,172.11

RICHARD SHELBY,
Chairman, Committee on Banking, Housing, and Urban Affairs, Mar. 19, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jo-Ellen Darcy:									
United States	Dollar				4,975.50				4,975.50
Chile	Peso		910.00						910.00
Patricia Doerr:									
United States	Dollar				5,718.50				5,718.50
Chile	Peso		910.00						910.00
Genevieve Erny:									
United States	Dollar				5,718.50				5,718.50
Chile	Peso		910.00						910.00
Edward Michaels:									
United States	Dollar				5,718.50				5,718.50
Chile	Peso		910.00						910.00
Christy Plumer:									
United States	Dollar				5,718.50				5,718.50
Chile	Peso		910.00						910.00
Senator James Jeffords:									
United States	Dollar				6,993.00				6,993.00
France	Euro		2,116.00				3,937.25		6,053.25
Edward Barron:									
United States	Dollar				6,993.00				6,993.00
France	Euro		2,116.00				3,937.25		6,053.25
Erik Smulson:									
United States	Dollar				6,993.00				6,993.00
France	Euro		2,116.00				3,937.25		6,053.25
Jeffrey Squires:									
United States	Dollar				6,846.36				6,846.36
France	Euro		2,116.00				3,937.25		6,053.25
Total			13,014.00		55,674.86		15,749.00		84,437.86

JAMES INHOFE,
Chairman, Committee on Evironment and Public Works, Apr. 24, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Joseph Biden:									
Switzerland	Dollar		1,262.80						1,262.80
Senator Lincoln Chafee:									
Panama	Dollar		174.00						174.00
Colombia	Dollar		175.00						175.00
Guyana	Dollar		66.00						66.00
Haiti	Dollar		234.00						234.00
Senator Christopher Dodd:									
Ireland	Dollar		439.00						439.00
Spain	Euro		240.00						240.00
United States	Dollar				4,663.24				4,663.24
Senator Russell Feingold:									
Botswana	Pula		262.00						262.00
South Africa	Rand		625.00						625.00
United States	Dollar				8,827.94				8,827.94
Jonah Blank:									
India	Dollar		3,900.00						3,900.00
Bangladesh	Dollar		210.00						210.00
Nepal	Dollar		890.00						890.00
Bhutan	Dollar		680.00						680.00
United States	Dollar				7,020.18				7.020.18
Deborah Brayton:									
Panama	Dollar		174.00						174.00
Colombia	Dollar		175.00						175.00
Guyana	Dollar		198.00						198.00
Haiti	Dollar		234.00						234.00
Michelle Gavin:									
Botswana	Pula		262.00						262.00
South Africa	Rand		625.00						625.00
United States	Dollar				8,827.94				8,827.94
Michael Haltzel:									
United Kingdom	Pound		1,197.00						1,197.00
United States	Dollar				5,823.63				5,823.63
Frank Jannuzi:									
South Korea	Won		646.00						646.00
China	Yuan		1,806.00						1,806.00
United States	Dollar				4,669.11				4,669.11
Jofi Joseph:									
Belgium	Euro		903.00						903.00
France	Euro		450.00						450.00
United States	Dollar				6,306.41				6,306.41
MaryEllen McGuire:									
Afghanistan	Dollar		1,016.00		800.00				1,816.00
United Arab Emirates	Dollar		856.00						856.00
United States	Dollar				6,578.48				6,578.48
Janice O'Connell:									
Spain	Euro		1,184.00						1,184.00
United States	Dollar				4,159.41				4,159.41
Jennifer Simon:									
France	Euro		632.00						632.00
United States	Dollar				6.020.69				6.020.69
Total			19,515.80		63,697.03				83,212.83

RICHARD LUGAR,
Chairman, Committee on Foreign Relations, Apr. 7, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON JUDICIARY FOR TRAVEL FROM OCT. 1, 2002 TO DEC. 31, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Chung [Sean] Woo:									
China	Yuan		1,407.00				350.00		1,757.00
Korea	Won		792.00				150.00		942.00
United States	Dollar				4,394.66				4,394.66
Total			2,199.00		4,394.66		500.00		7,093.66

ORRIN HATCH,
Chairman, Committee on Judiciary, Apr. 23, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
James Barnett			194.00						194.00
Ann O'Donnell			194.00						194.00
James Barnett			647.00						647.00
Laura Parker			264.00						264.00
Senator John D. Rockefeller			1,191.00						1,191.000
Senator Mike DeWine			725.00						725.00
Ann O'Donnell			694.00						694.00
Total			3,909.00						3,909.00

PAT ROBERTS,
Chairman, Committee on Intelligence, Mar. 26, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SENATOR TOM DASCHLE, DEMOCRATIC LEADER FOR TRAVEL FROM SEPT. 30 TO DEC. 31, 2002

Name	Country	Name of currency	Per diem (U.S. Dollar Equivalent)		Transportation (U.S. Dollar Equivalent)		Miscellaneous (U.S. Dollar Equivalent)		Total
Senator Joseph Lieberman:									
United States	Dollar				5,742.50				5,742.50
Israel	Shekel		2,368.00						2,368.00
Bahrain	Dinar		321.00						321.00
Saudi Arabia	Riyal		271.13						271.13
Fred Downey:									
United States	Dollar				5,990.50				5,990.50
Israel	Shekel		2,900.00						2,900.00
Bahrain	Dinar		321.00						321.00
Saudi Arabia	Riyal		171.00						171.00
Delegation Expenses:*									
Israel	Shekel						20,653.00		20,653.00
Saudi Arabia	Riyal						823.34		823.34
Total			6,352.13		11,733.00		21,476.34		39,561.47

*Delegation expenses include payments and reimbursements to the Department of State under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

TOM DASCHLE,
Democratic Leader, Mar. 31, 2003.

UNANIMOUS CONSENT AGREEMENT—S. 14

Mr. McCONNELL. Mr. President, I ask unanimous consent that on Tuesday, May 6, at a time to be determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to the consideration of calendar No. 79, S. 14, the energy bill; provided further, that no amendments be in order to the bill prior to Thursday, May 8, or one day following the report's availability, whichever is later.

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

EXECUTIVE SESSION

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

Mr. McCONNELL. Mr. President, in executive session, I ask unanimous consent that the Senate resume consideration of calendar No. 21, the nomination of Miguel Estrada.

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

The clerk will report the nomination.

The assistant legislative clerk read as follows:

Nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

CLOTURE MOTION

Mr. McCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada to be United States Circuit Judge for the District of Columbia Circuit.

Bill Frist, Orrin Hatch. Judd Gregg, Norm Coleman, John E. Sununu, John Cornyn, Larry E. Craig, Saxby Chambliss, Lisa Murkowski, Jim Talent, Olympia Snowe, Mike DeWine, Michael B. Enzi, Lindsey Graham, Jeff Sessions.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the live quorum under Rule XXII be waived.

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

EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to consider the following nominations on today's executive calendar: Calendar Nos. 56, 103, 157, 158, 159, 161, 162, 163, 164, and all nominations on the Secretary's desk in the Army and Marine Corps.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF ENERGY

Linton F. Brooks, of Virginia, to be Under Secretary for Nuclear Security, Department of Energy.

DEPARTMENT OF THE TREASURY

Mark W. Everson, of Texas, to be Commissioner of Internal Revenue for a term of five years.

DEPARTMENT OF DEFENSE

Lawrence Mohr, Jr., of South Carolina, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2003.

Sharon Falkenheimer, of Texas, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2007.

MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Henry P. Osman

The following named officer for appointment in the United States Marine Corps Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Douglas M. Stone

NAVY

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Thomas K. Burkhard

ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. James J. Lovelace, Jr.

TENNESSEE VALLEY AUTHORITY

Richard W. Moore, of Alabama, to be Inspector General, Tennessee Valley Authority. (New Position)

NOMINATIONS PLACED ON THE SECRETARY'S DESK

ARMY

PN208 Army nominations (68) beginning CURTIS J ALITX, and ending MARY J WYMAN, which nominations were received by the Senate and appeared in the Congressional Record of January 15, 2003

PN210 Army nominations (24) beginning RICHARD P BEIN, and ending KELLY E TAYLOR, which nominations were received by the Senate and appeared in the Congressional Record of January 15, 2003

PN211 Army nominations (18) beginning DEBORAH K BETTS, and ending DAVID WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of January 15, 2003

PN444 Army nominations of James R. Kerin, Jr., which was received by the Senate and appeared in the Congressional Record of March 26, 2003

PN462 Army nominations (60) beginning HENRY E ABERCROMBIE, and ending MICHELLE F YARBOROUGH, which nominations were received by the Senate and appeared in the Congressional Record of March 26, 2003

PN463 Army nominations (27) beginning MICHAEL P ARMSTRONG, and ending CRAIG M WHITEHILL, which nominations were received by the Senate and appeared in the Congressional Record of March 26, 2003

PN464 Army nominations (47) beginning JOHN F AGOGLIA, and ending JEFFREY R WITSKEN, which nominations were received by the Senate and appeared in the Congressional Record of March 26, 2003

PN465 Army nominations (320) beginning PAUL F ABEL, JR., and ending X4432, which nominations were received by the Senate and appeared in the Congressional Record of March 26, 2003

PN507 Army nominations of William T. Boyd, which nominations was received by the Senate and appeared in the Congressional Record of April 7, 2003

PN508 Army nominations (5) beginning RICHARD D DANIELS, and ending GEORGE G PERRY, III, which nominations were received by the Senate and appeared in the Congressional Record of April 7, 2003

PN509 Army nominations (5) beginning GARY L HAMMETT, and ending DAVID L SMITH, which nominations were received by the Senate and appeared in the Congressional Record of April 7, 2003

PN522 Army nominations (3) beginning EDWARD A HEVENER, and ending ZEB S REGAN, JR., which nominations were received by the Senate and appeared in the Congressional Record of April 10, 2003

MARINE CORPS

PN327 Marine Corps nominations of Kenneth O. Spittler, which was received by the Senate and appeared in the Congressional Record of February 11, 2003

PN329 Marine Corps nominations (3) beginning THOMAS DUHS, and ending WILLIAM M LAKE, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003

PN339 Marine Corps nominations (3) beginning PATRICK W BURNS, and ending DANIEL S RYMAN, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003

PN424 Marine Corps nominations (112) beginning DONALD J ANDERSON, and ending DONALD W ZAUTCKE, which nominations were received by the Senate and appeared in the Congressional Record of March 11, 2003

PN445 Marine Corps nominations (2) beginning SEAN T MULCAHY, and ending STEVEN H MATTOS, which nominations were received by the Senate and appeared in the Congressional Record of March 24, 2003

PN446 Marine Corps nomination of Franklin McLain, which was received by the Senate and appeared in the Congressional Record of March 24, 2003

PN447 Marine Corps nominations (29) beginning BRYAN DELGADO, and ending PAUL A ZACHARZUK, which nominations were received by the Senate and appeared in the Congressional Record of March 24, 2003

PN466 Marine Corps nomination of Michael H. Gamble, which was received by the Senate and appeared in the Congressional Record of March 26, 2003

PN467 Marine Corps nomination of Jeffrey L. Miller, which was received by the Senate and appeared in the Congressional Record of March 26, 2003

PN489 Marine Corps nomination of Barett R. Byrd, which was received by the Senate and appeared in the Congressional Record of April 2, 2003

PN510 Marine Corps nominations (99) beginning JEFFREY ACOSTA, and ending JOHN G WEMETT, which were received by the Senate and appeared in the Congressional Record of April 7, 2003

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

UNDERGROUND STORAGE TANK COMPLIANCE ACT OF 2003

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar item No. 25, S. 195.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 195) to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment.

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

⟦SECTION 1. SHORT TITLE.

⟦This Act may be cited as the ''Underground Storage Tank Compliance Act of 2003''.

⟦SEC. 2. LEAKING UNDERGROUND STORAGE TANKS.

⟦Section 9004 of the Solid Waste Disposal Act (42 U.S.C. 6991c) is amended by adding at the end the following:

⟦''(f) TRUST FUND DISTRIBUTION.—

⟦''(1) IN GENERAL.—

⟦''(A) AMOUNT AND PERMITTED USES OF DISTRIBUTION.—The Administrator shall distribute to States not less than 80 percent of the funds from the Trust Fund that are made available to the Administrator under section 9014(2)(A) for each fiscal year for use in paying the reasonable costs, incurred under a cooperative agreement with any State, of—

⟦''(i) actions taken by the State under section 9003(h)(7)(A);

⟦''(ii) necessary administrative expenses, as determined by the Administrator, that are directly related to corrective action and compensation programs under subsection (c)(1);

⟦''(iii) any corrective action and compensation program carried out under subsection (c)(1) for a release from an underground storage tank regulated under this subtitle to the extent that, as determined by the State in accordance with guidelines developed jointly by the Administrator and the State, the financial resources of the owner or operator of the underground storage tank (including resources provided by a program in accordance with subsection (c)(1)) are not adequate to pay the cost of a corrective action without significantly impairing the ability of the owner or operator to continue in business;

⟦''(iv) enforcement by the State or a local government of State or local regulations pertaining to underground storage tanks regulated under this subtitle; or

⟦''(v) State or local corrective actions carried out under regulations promulgated under section 9003(c)(4).

⟦''(B) USE OF FUNDS FOR ENFORCEMENT.—In addition to the uses of funds authorized under subparagraph (A), the Administrator may use funds from the Trust Fund that are not distributed to States under subparagraph (A) for enforcement of any regulation promulgated by the Administrator under this subtitle.

⟦''(C) PROHIBITED USES.—Except as provided in subparagraph (A)(iii), under any similar requirement of a State program approved under this section, or in any similar State or local provision as determined by the Administrator, funds provided to a State by the Administrator under subparagraph (A) shall not be used by the State to provide financial assistance to an owner or operator to meet any requirement relating to underground storage tanks under part 280 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

⟦''(2) ALLOCATION.—

⟦''(A) PROCESS.—Subject to subparagraph (B), in the case of a State with which the Administrator has entered into a cooperative agreement under section 9003(h)(7)(A), the Administrator shall distribute funds from the Trust Fund to the State using the allocation process developed by the Administrator.

⟦''(B) REVISIONS TO PROCESS.—The Administrator may revise the allocation process referred to in subparagraph (A) with respect to a State only after—

⟦''(i) consulting with—

⟦''(I) State agencies responsible for overseeing corrective action for releases from underground storage tanks;

⟦''(II) owners; and

⟦''(III) operators; and

⟦''(ii) taking into consideration, at a minimum—

⟦''(I) the total tax revenue contributed to the Trust Fund from all sources within the State;

⟦''(II) the number of confirmed releases from federally regulated underground storage tanks in the State;

⟦''(III) the number of federally regulated underground storage tanks in the State;

⟦''(IV) the percentage of the population of the State that uses groundwater for any beneficial purpose;

⟦''(V) the performance of the State in implementing and enforcing the program;

⟦''(VI) the financial needs of the State; and

⟦''(VII) the ability of the State to use the funds referred to in subparagraph (A) in any year.

⟦''(3) DISTRIBUTIONS TO STATE AGENCIES.—Distributions from the Trust Fund under this subsection shall be made directly to a State agency that—

⟦''(A) enters into a cooperative agreement referred to in paragraph (2)(A); or

⟦''(B) is enforcing a State program approved under this section.

⟦''(4) COST RECOVERY PROHIBITION.—Funds from the Trust Fund provided by States to owners or operators under paragraph (1)(A)(iii) shall not be subject to cost recovery by the Administrator under section 9003(h)(6).''.

⟦SEC. 3. INSPECTION OF UNDERGROUND STORAGE TANKS.

⟦Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—

⟦(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

⟦(2) by inserting before subsection (b) (as redesignated by paragraph (1)) the following:

⟦''(a) INSPECTION REQUIREMENTS.—Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act of 2003, and at least once every 2 years thereafter, the Administrator or a State with a program approved under section 9004, as appropriate, shall require that all underground storage tanks regulated under this subtitle undergo onsite inspections for compliance with regulations promulgated under section 9003(c).''.

⟦SEC. 4. OPERATOR TRAINING.

⟦Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

⟦''SEC. 9010. OPERATOR TRAINING.

⟦''(a) GUIDELINES.—

⟦''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act of 2003,

in cooperation with States, owners, and operators, the Administrator shall publish in the Federal Register, after public notice and opportunity for comment, guidelines that specify methods for training operators of underground storage tanks.

[''(2) CONSIDERATIONS.—The guidelines described in paragraph (1) shall take into account—

[''(A) State training programs in existence as of the date of publication of the guidelines;

[''(B) training programs that are being employed by owners and operators as of the date of enactment of this paragraph;

[''(C) the high turnover rate of operators;

[''(D) the frequency of improvement in underground storage tank equipment technology;

[''(E) the nature of the businesses in which the operators are engaged; and

[''(F) such other factors as the Administrator determines to be necessary to carry out this section.

[''(b) STATE PROGRAMS.—

[''(1) IN GENERAL.—Not later than 2 years after the date on which the Administrator publishes the guidelines under subsection (a)(1), each State shall develop and implement a strategy for the training of operators of underground storage tanks that is consistent with paragraph (2).

[''(2) REQUIREMENTS.—A State strategy described in paragraph (1) shall—

[''(A) be consistent with subsection (a);

[''(B) be developed in cooperation with owners and operators; and

[''(C) take into consideration training programs implemented by owners and operators as of the date of enactment of this subsection.

[''(3) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops and implements a strategy described in paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the strategy.''.

[SEC. 5. REMEDIATION OF MTBE CONTAMINATION.

[Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

[(1) in paragraph (7)(A)—

[(A) by striking ''paragraphs (1) and (2) of this subsection'' and inserting ''paragraphs (1), (2), and (12)''; and

[(B) by striking '', and including the authorities of paragraphs (4), (6), and (8) of this subsection'' and inserting ''and the authority under sections 9005(a) and 9011 and paragraphs (4), (6), and (8),''; and

[(2) by adding at the end the following:

[''(12) REMEDIATION OF MTBE CONTAMINATION.—

[''(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9014(2)(B) to carry out corrective actions with respect to a release of methyl tertiary butyl ether that presents a threat to human health or welfare or the environment.

[''(B) APPLICABLE AUTHORITY.—The Administrator or a State shall carry out subparagraph (A)—

[''(i) in accordance with paragraph (2), except that a release with respect to which a corrective action is carried out under subparagraph (A) shall not be required to be from an underground storage tank; and

[''(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).''.

[SEC. 6. RELEASE PREVENTION, COMPLIANCE, AND ENFORCEMENT.

[(a) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) (as amended by section 4) is amended by adding at the end the following:

[''SEC. 9011. USE OF FUNDS FOR RELEASE PREVENTION AND COMPLIANCE.

[''Funds made available under section 9014(2)(D) from the Trust Fund may be used to conduct inspections, issue orders, or bring actions under this subtitle—

[''(1) by a State, in accordance with a grant or cooperative agreement with the Administrator, of State regulations pertaining to underground storage tanks regulated under this subtitle; and

[''(2) by the Administrator, under this subtitle (including under a State program approved under section 9004).''.

[(b) GOVERNMENT-OWNED TANKS.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding at the end the following:

[''(i) GOVERNMENT-OWNED TANKS.—

[''(1) IMPLEMENTATION REPORT.—

[''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, each State shall submit to the Administrator an implementation report that—

[''(i) lists each underground storage tank described in subparagraph (B) in the State that, as of the date of submission of the report, is not in compliance with this subtitle; and

[''(ii) describes the actions that have been and will be taken to ensure compliance by the underground storage tank listed under clause (i) with this subtitle.

[''(B) UNDERGROUND STORAGE TANK.—An underground storage tank described in this subparagraph is an underground storage tank that is—

[''(i) regulated under this subtitle; and

[''(ii) owned or operated by the State government or any local government.

[''(C) PUBLIC AVAILABILITY.—The Administrator shall make each report received under subparagraph (A) available to the public on the Internet.

[''(2) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops an implementation report described in paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the implementation report.

[''(3) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.''.

[(c) INCENTIVES FOR PERFORMANCE.—Section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6991e) is amended by adding at the end the following:

[''(e) INCENTIVES FOR PERFORMANCE.—In determining the terms of a compliance order under subsection (a), or the amount of a civil penalty under subsection (d), the Administrator, or a State under a program approved under section 9004, may take into consideration whether an owner or operator—

[''(1) has a history of operating underground storage tanks of the owner or operator in accordance with—

[''(A) this subtitle; or

[''(B) a State program approved under section 9004;

[''(2) has repeatedly violated—

[''(A) this subtitle; or

[''(B) a State program approved under section 9004; or

[''(3) has implemented a program, consistent with guidelines published under section 9010, that provides training to persons responsible for operating any underground storage tank of the owner or operator.''.

[(d) AUTHORITY TO PROHIBIT CERTAIN DELIVERIES.—Section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6991e) (as amended by subsection (c)) is amended by adding at the end the following:

[''(f) AUTHORITY TO PROHIBIT CERTAIN DELIVERIES.—

[''(1) IN GENERAL.—Subject to paragraph (2), beginning 180 days after the date of enactment of this subsection, the Administrator or a State may prohibit the delivery of regulated substances to underground storage tanks that are not in compliance with—

[''(A) a requirement or standard promulgated by the Administrator under section 9003; or

[''(B) a requirement or standard of a State program approved under section 9004.

[''(2) LIMITATIONS.—

[''(A) SPECIFIED GEOGRAPHIC AREAS.—Subject to subparagraph (B), under paragraph (1), the Administrator or a State shall not prohibit a delivery if the prohibition would jeopardize the availability of, or access to, fuel in any specified geographic area.

[''(B) APPLICABILITY OF LIMITATION.—The limitation under subparagraph (A) shall apply only during the 180-day period following the date of a determination by the Administrator that exercising the authority of paragraph (1) is limited by subparagraph (A).

[''(C) GUIDELINES.—Not later than 18 months after the date of enactment of this subsection, the Administrator shall issue guidelines that define the term 'specified geographic area' for the purpose of subparagraph (A).

[''(3) AUTHORITY TO ISSUE GUIDELINES.—Subject to paragraph (2)(C), the Administrator, after consultation with States, may issue guidelines for carrying out this subsection.

[''(4) ENFORCEMENT, COMPLIANCE, AND PENALTIES.—The Administrator may use the authority under the enforcement, compliance, or penalty provisions of this subtitle to carry out this subsection.

[''(5) EFFECT ON STATE AUTHORITY.—Nothing in this subsection affects the authority of a State to prohibit the delivery of a regulated substance to an underground storage tank.''.

[(e) PUBLIC RECORD.—Section 9002 of the Solid Waste Disposal Act (42 U.S.C. 6991a) is amended by adding at the end the following:

[''(d) PUBLIC RECORD.—

[''(1) IN GENERAL.—The Administrator shall require each State and Indian tribe that receives Federal funds to carry out this subtitle to maintain, update at least annually, and make available to the public, in such manner and form as the Administrator shall prescribe (after consultation with States and Indian tribes), a record of underground storage tanks regulated under this subtitle.

[''(2) CONSIDERATIONS.—To the maximum extent practicable, the public record of a State or Indian tribe, respectively, shall include, for each year—

[''(A) the number, sources, and causes of underground storage tank releases in the State or tribal area;

[''(B) the record of compliance by underground storage tanks in the State or tribal area with—

[''(i) this subtitle; or

[''(ii) an applicable State program approved under section 9004; and

[''(C) data on the number of underground storage tank equipment failures in the State or tribal area.

[''(3) AVAILABILITY.—The Administrator shall make the public record of each State and Indian tribe under this section available to the public electronically.''.

[SEC. 7. FEDERAL FACILITIES.

[Section 9007 of the Solid Waste Disposal Act (42 U.S.C. 6991f) is amended by adding at the end the following:

[''(c) REVIEW OF, AND REPORT ON, FEDERAL UNDERGROUND STORAGE TANKS.—

[''(1) REVIEW.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in cooperation with each Federal agency that owns or operates 1 or more underground storage tanks or that manages land on which 1 or more underground storage tanks are located, shall review the status of compliance of those underground storage tanks with this subtitle.

[''(2) IMPLEMENTATION REPORT.—

[''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, each Federal agency described in paragraph (1) shall submit to the Administrator and to each State in which an underground storage tank described in paragraph (1) is located an implementation report that—

[''(i) lists each underground storage tank described in paragraph (1) that, as of the date of submission of the report, is not in compliance with this subtitle; and

[''(ii) describes the actions that have been and will be taken to ensure compliance by the underground storage tank with this subtitle.

[''(B) PUBLIC AVAILABILITY.—The Administrator shall make each report received under subparagraph (A) available to the public on the Internet.

[''(3) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.

[''(d) APPLICABILITY OF CERTAIN REQUIREMENTS.—Section 6001(a) shall apply to each department, agency, and instrumentality covered by subsection (a).''.

[SEC. 8. TANKS UNDER THE JURISDICTION OF INDIAN TRIBES.

[Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) (as amended by section 6(a)) is amended by adding at the end the following:

[''SEC. 9012. TANKS UNDER THE JURISDICTION OF INDIAN TRIBES.

[''(a) IN GENERAL.—The Administrator, in coordination with Indian tribes, shall—

[''(1) not later than 1 year after the date of enactment of this section, develop and implement a strategy—

[''(A) giving priority to releases that present the greatest threat to human health or the environment, to take necessary corrective action in response to releases from leaking underground storage tanks located wholly within the boundaries of—

[''(i) an Indian reservation; or

[''(ii) any other area under the jurisdiction of an Indian tribe; and

[''(B) to implement and enforce requirements concerning underground storage tanks located wholly within the boundaries of—

[''(i) an Indian reservation; or

[''(ii) any other area under the jurisdiction of an Indian tribe;

[''(2) not later than 2 years after the date of enactment of this section and every 2 years thereafter, submit to Congress a report that summarizes the status of implementation and enforcement of the underground storage tank program in areas located wholly within—

[''(A) the boundaries of Indian reservations; and

[''(B) any other areas under the jurisdiction of an Indian tribe; and

[''(3) make the report described in paragraph (2) available to the public on the Internet.

[''(b) NOT A SAFE HARBOR.—This section does not relieve any person from any obligation or requirement under this subtitle.

[''(c) STATE AUTHORITY.—Nothing in this section applies to any underground storage tank that is located in an area under the jurisdiction of a State, or that is subject to regulation by a State, as of the date of enactment of this section.''.

[SEC. 9. STATE AUTHORITY.

[Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) (as amended by section 8) is amended by adding at the end the following:

[''SEC. 9013. STATE AUTHORITY.

[''Nothing in this subtitle precludes a State from establishing any requirement that is more stringent than a requirement under this subtitle.''.

[SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

[Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) (as amended by section 9) is amended by adding at the end the following:

[''SEC. 9014. AUTHORIZATION OF APPROPRIATIONS.

[''There are authorized to be appropriated to the Administrator—

[''(1) to carry out subtitle I (except sections 9003(h), 9005(a), and 9011) $25,000,000 for each of fiscal years 2004 through 2008; and

[''(2) from the Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—

[''(A) to carry out section 9003(h) (except section 9003(h)(12)) $150,000,000 for each of fiscal years 2004 through 2008;

[''(B) to carry out section 9003(h)(12), $125,000,000 for each of fiscal years 2004 through 2008;

[''(C) to carry out section 9005(a)—

[''(i) $35,000,000 for each of fiscal years 2004 and 2005; and

[''(ii) $20,000,000 for each of fiscal years 2006 through 2009; and

[''(D) to carry out section 9011—

[''(i) $50,000,000 for fiscal year 2004; and

[''(ii) $30,000,000 for each of fiscal years 2005 through 2009.''.

[SEC. 11. CONFORMING AMENDMENTS.

[(a) DEFINITIONS.—Section 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991) is amended—

[(1) by striking ''For the purposes of this subtitle—'' and inserting ''In this subtitle:'';

[(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (10), (7), (4), (3), (8), (5), (2), and (6), respectively, and reordering the paragraphs so as to appear in numerical order;

[(3) by inserting before paragraph (2) (as redesignated by paragraph (2)) the following:

[''(1) INDIAN TRIBE.—

[''(A) IN GENERAL.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.

[''(B) INCLUSIONS.—The term 'Indian tribe' includes an Alaska Native village, as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).''; and

[(4) by inserting after paragraph (8) (as redesignated by paragraph (2)) the following:

[''(9) TRUST FUND.—The term 'Trust Fund' means the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986.''.

[(b) CONFORMING AMENDMENTS.—

[(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended in the table of contents—

[(A) in the item relating to section 9002, by inserting ''and public records'' after ''Notification''; and

[(B) by striking the item relating to section 9010 and inserting the following:

[''Sec. 9010. Operator training.
[''Sec. 9011. Use of funds for release prevention and compliance.
[''Sec. 9012. Tanks under the jurisdiction of Indian tribes.
[''Sec. 9013. State authority.
[''Sec. 9014. Authorization of appropriations.''.

[(2) Section 9002 of the Solid Waste Disposal Act (42 U.S.C. 6991a) is amended in the section heading by inserting ''AND PUBLIC RECORDS'' after ''NOTIFICATION''.

[(3) Section 9003(f) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)) is amended—

[(A) in paragraph (1), by striking ''9001(2)(B)'' and inserting ''9001(7)(B)''; and

[(B) in paragraphs (2) and (3), by striking ''9001(2)(A)'' each place it appears and inserting ''9001(7)(A)''.

[(4) Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended in paragraphs (1), (2)(C), (7)(A), and (11) by striking ''Leaking Underground Storage Tank Trust Fund'' each place it appears and inserting ''Trust Fund''.

[(5) Section 9009 of the Solid Waste Disposal Act (42 U.S.C. 6991h) is amended—

[(A) in subsection (a), by striking ''9001(2)(B)'' and inserting ''9001(7)(B)''; and

[(B) in subsection (d), by striking ''section 9001(1) (A) and (B)'' and inserting ''subparagraphs (A) and (B) of section 9001(10)''.

[SEC. 12. TECHNICAL AMENDMENTS.

[(a) Section 9001(4)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(4)(A)) (as amended by section 11(a)(2)) is amended by striking ''sustances'' and inserting ''substances''.

[(b) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking ''subsection (c) and (d) of this section'' and inserting ''subsections (c) and (d)''.

[(c) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended by striking ''in 9001(2) (A) or (B) or both'' and inserting ''in subparagraph (A) or (B) of section 9001(7)''.

[(d) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) (as amended by section 3) is amended—

[(1) in subsection (b), by striking ''study taking'' and inserting ''study, taking'';

[(2) in subsection (c)(1), by striking ''relevent'' and inserting ''relevant''; and

[(3) in subsection (c)(4), by striking ''Evironmental'' and inserting ''Environmental''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Underground Storage Tank Compliance Act of 2003''.

SEC. 2. LEAKING UNDERGROUND STORAGE TANKS.

Section 9004 of the Solid Waste Disposal Act (42 U.S.C. 6991c) is amended by adding at the end the following:

''(f) TRUST FUND DISTRIBUTION.—

''(1) IN GENERAL.—

''(A) AMOUNT AND PERMITTED USES OF DISTRIBUTION.—The Administrator shall distribute to States not less than 80 percent of the funds from the Trust Fund that are made available to the Administrator under section 9014(2)(A) for each fiscal year for use in paying the reasonable costs, incurred under a cooperative agreement with any State, of—

''(i) actions taken by the State under section 9003(h)(7)(A);

''(ii) necessary administrative expenses, as determined by the Administrator, that are directly related to corrective action and compensation programs under subsection (c)(1);

''(iii) any corrective action and compensation program carried out under subsection (c)(1) for a release from an underground storage tank regulated under this subtitle to the extent that, as determined by the State in accordance with guidelines developed jointly by the Administrator and the State, the financial resources of the owner or operator of the underground storage tank (including resources provided by a program in accordance with subsection (c)(1)) are not adequate to pay the cost of a corrective action without significantly impairing the ability of the owner or operator to continue in business;

''(iv) enforcement by the State or a local government of State or local regulations pertaining to underground storage tanks regulated under this subtitle; or

''(v) State or local corrective actions carried out under regulations promulgated under section 9003(c)(4).

''(B) USE OF FUNDS FOR ENFORCEMENT.—In addition to the uses of funds authorized under subparagraph (A), the Administrator may use funds from the Trust Fund that are not distributed to States under subparagraph (A) for enforcement of any regulation promulgated by the Administrator under this subtitle.

''(C) PROHIBITED USES.—Except as provided in subparagraph (A)(iii), under any similar requirement of a State program approved under this section, or in any similar State or local provision as determined by the Administrator, funds provided to a State by the Administrator under subparagraph (A) shall not be used by the State to provide financial assistance to an owner or operator to meet any requirement relating to underground storage tanks under part 280 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

''(2) ALLOCATION.—

''(A) PROCESS.—Subject to subparagraph (B), in the case of a State with which the Administrator has entered into a cooperative agreement under section 9003(h)(7)(A), the Administrator shall distribute funds from the Trust Fund to the State using the allocation process developed by the Administrator.

''(B) REVISIONS TO PROCESS.—The Administrator may revise the allocation process referred to in subparagraph (A) with respect to a State only after—

''(i) consulting with—

''(I) State agencies responsible for overseeing corrective action for releases from underground storage tanks;

''(II) owners; and

''(III) operators; and

''(ii) taking into consideration, at a minimum—

''(I) the total tax revenue contributed to the Trust Fund from all sources within the State;

''(II) the number of confirmed releases from federally regulated underground storage tanks in the State;

''(III) the number of federally regulated underground storage tanks in the State;

''(IV) the percentage of the population of the State that uses groundwater for any beneficial purpose;

''(V) the performance of the State in implementing and enforcing the program;

''(VI) the financial needs of the State; and

''(VII) the ability of the State to use the funds referred to in subparagraph (A) in any year.

''(3) DISTRIBUTIONS TO STATE AGENCIES.—Distributions from the Trust Fund under this subsection shall be made directly to a State agency that—

''(A) enters into a cooperative agreement referred to in paragraph (2)(A); or

''(B) is enforcing a State program approved under this section.

''(4) COST RECOVERY PROHIBITION.—Funds from the Trust Fund provided by States to owners or operators under paragraph (1)(A)(iii) shall not be subject to cost recovery by the Administrator under section 9003(h)(6).''.

SEC. 3. INSPECTION OF UNDERGROUND STORAGE TANKS.

Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting before subsection (b) (as redesignated by paragraph (1)) the following:

''(a) INSPECTION REQUIREMENTS.—Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act of 2003, and at least once every 2 years thereafter, the Administrator or a State with a program approved under section 9004, as appropriate, shall require that all underground storage tanks regulated under this subtitle undergo onsite inspections for compliance with regulations promulgated under section 9003(c).''.

SEC. 4. OPERATOR TRAINING.

Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

''SEC. 9010. OPERATOR TRAINING.

''(a) GUIDELINES.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act of 2003, in cooperation with States, owners, and operators, the Administrator shall publish in the Federal Register, after public notice and opportunity for comment, guidelines that specify methods for training operators of underground storage tanks.

''(2) CONSIDERATIONS.—The guidelines described in paragraph (1) shall take into account—

''(A) State training programs in existence as of the date of publication of the guidelines;

''(B) training programs that are being employed by owners and operators as of the date of enactment of this paragraph;

''(C) the high turnover rate of operators;

''(D) the frequency of improvement in underground storage tank equipment technology;

''(E) the nature of the businesses in which the operators are engaged; and

''(F) such other factors as the Administrator determines to be necessary to carry out this section.

''(b) STATE PROGRAMS.—

''(1) IN GENERAL.—Not later than 2 years after the date on which the Administrator publishes the guidelines under subsection (a)(1), each State shall develop and implement a strategy for the training of operators of underground storage tanks that is consistent with paragraph (2).

''(2) REQUIREMENTS.—A State strategy described in paragraph (1) shall—

''(A) be consistent with subsection (a);

''(B) be developed in cooperation with owners and operators; and

''(C) take into consideration training programs implemented by owners and operators as of the date of enactment of this subsection.

''(3) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops and implements a strategy described in paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the strategy.''.

SEC. 5. REMEDIATION OF MTBE CONTAMINATION.

Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A)—

(A) by striking ''paragraphs (1) and (2) of this subsection'' and inserting ''paragraphs (1), (2), and (12)''; and

(B) by striking '', and including the authorities of paragraphs (4), (6), and (8) of this subsection'' and inserting ''and the authority under sections 9005(a) and 9011 and paragraphs (4), (6), and (8),''; and

(2) by adding at the end the following:

''(12) REMEDIATION OF MTBE CONTAMINATION.—

''(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9014(2)(B) to carry out corrective actions with respect to a release of methyl tertiary butyl ether that presents a threat to human health or welfare or the environment.

''(B) APPLICABLE AUTHORITY.—The Administrator or a State shall carry out subparagraph (A)—

''(i) in accordance with paragraph (2), except that a release with respect to which a corrective action is carried out under subparagraph (A) shall not be required to be from an underground storage tank; and

''(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).''.

SEC. 6. RELEASE PREVENTION, COMPLIANCE, AND ENFORCEMENT.

(a) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) (as amended by section 4) is amended by adding at the end the following:

''SEC. 9011. USE OF FUNDS FOR RELEASE PREVENTION AND COMPLIANCE.

''Funds made available under section 9014(2)(D) from the Trust Fund may be used to conduct inspections, issue orders, or bring actions under this subtitle—

''(1) by a State, in accordance with a grant or cooperative agreement with the Administrator, of State regulations pertaining to underground storage tanks regulated under this subtitle; and

''(2) by the Administrator, under this subtitle (including under a State program approved under section 9004).''.

(b) GOVERNMENT-OWNED TANKS.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding at the end the following:

''(i) GOVERNMENT-OWNED TANKS.—

''(1) IMPLEMENTATION REPORT.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, each State shall submit to the Administrator an implementation report that—

''(i) lists each underground storage tank described in subparagraph (B) in the State that, as of the date of submission of the report, is not in compliance with this subtitle; and

''(ii) describes the actions that have been and will be taken to ensure compliance by the underground storage tank listed under clause (i) with this subtitle.

''(B) UNDERGROUND STORAGE TANK.—An underground storage tank described in this subparagraph is an underground storage tank that is—

''(i) regulated under this subtitle; and

''(ii) owned or operated by the State government or any local government.

''(C) PUBLIC AVAILABILITY.—The Administrator shall make each report received under subparagraph (A) available to the public on the Internet.

''(2) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops an implementation report described in paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the implementation report.

''(3) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.''.

(c) INCENTIVES FOR PERFORMANCE.—Section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6991e) is amended by adding at the end the following:

''(e) INCENTIVES FOR PERFORMANCE.—In determining the terms of a compliance order under subsection (a), or the amount of a civil penalty under subsection (d), the Administrator, or a State under a program approved under section 9004, may take into consideration whether an owner or operator—

''(1) has a history of operating underground storage tanks of the owner or operator in accordance with—

''(A) this subtitle; or

''(B) a State program approved under section 9004;

''(2) has repeatedly violated—

''(A) this subtitle; or

''(B) a State program approved under section 9004; or

''(3) has implemented a program, consistent with guidelines published under section 9010, that provides training to persons responsible for operating any underground storage tank of the owner or operator.''.

(d) AUTHORITY TO PROHIBIT CERTAIN DELIVERIES.—Section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6991e) (as amended by subsection (c)) is amended by adding at the end the following:

''(f) AUTHORITY TO PROHIBIT CERTAIN DELIVERIES.—

''(1) IN GENERAL.—Subject to paragraph (2), beginning 180 days after the date of enactment of this subsection, the Administrator or a State may prohibit the delivery of regulated substances to underground storage tanks that are not in compliance with—

''(A) a requirement or standard promulgated by the Administrator under section 9003; or

''(B) a requirement or standard of a State program approved under section 9004.

''(2) LIMITATIONS.—

''(A) SPECIFIED GEOGRAPHIC AREAS.—Subject to subparagraph (B), under paragraph (1), the Administrator or a State shall not prohibit a delivery if the prohibition would jeopardize the availability of, or access to, fuel in any specified geographic area.

''(B) APPLICABILITY OF LIMITATION.—The limitation under subparagraph (A) shall apply only during the 180-day period following the date of a determination by the Administrator that exercising the authority of paragraph (1) is limited by subparagraph (A).

''(C) GUIDELINES.—Not later than 18 months after the date of enactment of this subsection, the Administrator shall issue guidelines that define the term 'specified geographic area' for the purpose of subparagraph (A).

''(3) AUTHORITY TO ISSUE GUIDELINES.—Subject to paragraph (2)(C), the Administrator, after consultation with States, may issue guidelines for carrying out this subsection.

''(4) ENFORCEMENT, COMPLIANCE, AND PENALTIES.—The Administrator may use the authority under the enforcement, compliance, or penalty provisions of this subtitle to carry out this subsection.

''(5) EFFECT ON STATE AUTHORITY.—Nothing in this subsection affects the authority of a State to prohibit the delivery of a regulated substance to an underground storage tank.''.

(e) PUBLIC RECORD.—Section 9002 of the Solid Waste Disposal Act (42 U.S.C. 6991a) is amended by adding at the end the following:

''(d) PUBLIC RECORD.—

''(1) IN GENERAL.—The Administrator shall require each State and Indian tribe that receives Federal funds to carry out this subtitle to maintain, update at least annually, and make available to the public, in such manner and form as the Administrator shall prescribe (after consultation with States and Indian tribes), a record of underground storage tanks regulated under this subtitle.

''(2) CONSIDERATIONS.—To the maximum extent practicable, the public record of a State or Indian tribe, respectively, shall include, for each year—

''(A) the number, sources, and causes of underground storage tank releases in the State or tribal area;

''(B) the record of compliance by underground storage tanks in the State or tribal area with—

''(i) this subtitle; or

''(ii) an applicable State program approved under section 9004; and

''(C) data on the number of underground storage tank equipment failures in the State or tribal area.

''(3) AVAILABILITY.—The Administrator shall make the public record of each State and Indian tribe under this section available to the public electronically.''.

SEC. 7. FEDERAL FACILITIES.

Section 9007 of the Solid Waste Disposal Act (42 U.S.C. 6991f) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) APPLICABILITY OF SUBTITLE.—

''(1) IN GENERAL.—Section 6001(a) shall apply to each department, agency, and instrumentality in the executive, legislative, or judicial branch of the Federal Government having jurisdiction over—

''(A) any underground storage tank or underground storage tank system (as defined in section 280.12 of title 40, Code of Federal Regulations (or any successor regulation)); or

''(B) any release response activity relating to an underground storage tank or underground storage tank system.

''(2) REQUIREMENTS.—For purposes of this section, requirements respecting the control and abatement of solid waste or hazardous waste disposal and management referred to in section 6001(a) include requirements respecting—

''(A) control, installation, operation, management, or closure of any underground storage tank or underground storage tank system containing any regulated substance; and

''(B) release response activities relating to an activity described in subparagraph (A).''; and

(2) by adding at the end the following:

''(c) REVIEW OF, AND REPORT ON, FEDERAL UNDERGROUND STORAGE TANKS.—

''(1) REVIEW.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in cooperation with each Federal agency that owns or operates 1 or more underground storage tanks or that manages land on which 1 or more underground storage tanks are located, shall review the status of compliance of those underground storage tanks with this subtitle.

''(2) IMPLEMENTATION REPORT.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, each Federal agency described in paragraph (1) shall submit to the Administrator and to each State in which an underground storage tank described in paragraph (1) is located an implementation report that—

''(i) lists each underground storage tank described in paragraph (1) that, as of the date of submission of the report, is not in compliance with this subtitle; and

''(ii) describes the actions that have been and will be taken to ensure compliance by the underground storage tank with this subtitle.

''(B) PUBLIC AVAILABILITY.—The Administrator shall make each report received under subparagraph (A) available to the public on the Internet.

''(3) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.''.

SEC. 8. TANKS UNDER THE JURISDICTION OF INDIAN TRIBES.

Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) (as amended by section 6(a)) is amended by adding at the end the following:

''SEC. 9012. TANKS UNDER THE JURISDICTION OF INDIAN TRIBES.

''(a) IN GENERAL.—The Administrator, in coordination with Indian tribes, shall—

''(1) not later than 1 year after the date of enactment of this section, develop and implement a strategy—

''(A) giving priority to releases that present the greatest threat to human health or the environment, to take necessary corrective action in response to releases from leaking underground storage tanks located wholly within the boundaries of—

''(i) an Indian reservation; or

''(ii) any other area under the jurisdiction of an Indian tribe; and

''(B) to implement and enforce requirements concerning underground storage tanks located wholly within the boundaries of—

''(i) an Indian reservation; or

''(ii) any other area under the jurisdiction of an Indian tribe;

''(2) not later than 2 years after the date of enactment of this section and every 2 years thereafter, submit to Congress a report that summarizes the status of implementation and enforcement of the underground storage tank program in areas located wholly within—

''(A) the boundaries of Indian reservations; and

''(B) any other areas under the jurisdiction of an Indian tribe; and

''(3) make the report described in paragraph (2) available to the public on the Internet.

''(b) NOT A SAFE HARBOR.—This section does not relieve any person from any obligation or requirement under this subtitle.

''(c) STATE AUTHORITY.—Nothing in this section applies to any underground storage tank that is located in an area under the jurisdiction of a State, or that is subject to regulation by a State, as of the date of enactment of this section.''.

SEC. 9. STATE AUTHORITY.

Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) (as amended by section 8) is amended by adding at the end the following:

''SEC. 9013. STATE AUTHORITY.

''Nothing in this subtitle precludes a State from establishing any requirement that is more stringent than a requirement under this subtitle.''.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) (as amended by section 9) is amended by adding at the end the following:

''SEC. 9014. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Administrator—

''(1) to carry out subtitle I (except sections 9003(h), 9005(a), and 9011) $25,000,000 for each of fiscal years 2004 through 2008; and

''(2) from the Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—

''(A) to carry out section 9003(h) (except section 9003(h)(12)) $150,000,000 for each of fiscal years 2004 through 2008;

''(B) to carry out section 9003(h)(12), $125,000,000 for each of fiscal years 2004 through 2008;

''(C) to carry out section 9005(a)—

''(i) $35,000,000 for each of fiscal years 2004 and 2005; and

''(ii) $20,000,000 for each of fiscal years 2006 through 2009; and

''(D) to carry out section 9011—

''(i) $50,000,000 for fiscal year 2004; and

''(ii) $30,000,000 for each of fiscal years 2005 through 2009.''.

SEC. 11. CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991) is amended—

(1) by striking ''For the purposes of this subtitle—'' and inserting ''In this subtitle:'';

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (10), (7), (4), (3), (8), (5), (2), and (6), respectively, and reordering the paragraphs so as to appear in numerical order;

(3) by inserting before paragraph (2) (as redesignated by paragraph (2)) the following:

''(1) INDIAN TRIBE.—

''(A) IN GENERAL.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.

''(B) INCLUSIONS.—The term 'Indian tribe' includes an Alaska Native village, as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).''; and

(4) by inserting after paragraph (8) (as redesignated by paragraph (2)) the following:

''(9) TRUST FUND.—The term 'Trust Fund' means the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended in the table of contents—

(A) in the item relating to section 9002, by inserting ''and public records'' after ''Notification''; and

(B) by striking the item relating to section 9010 and inserting the following:

''Sec. 9010. Operator training.
''Sec. 9011. Use of funds for release prevention and compliance.
''Sec. 9012. Tanks under the jurisdiction of Indian tribes.
''Sec. 9013. State authority.
''Sec. 9014. Authorization of appropriations.''.

(2) Section 9002 of the Solid Waste Disposal Act (42 U.S.C. 6991a) is amended in the section heading by inserting ''AND PUBLIC RECORDS'' after ''NOTIFICATION''.

(3) Section 9003(f) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)) is amended—

(A) in paragraph (1), by striking ''9001(2)(B)'' and inserting ''9001(7)(B)''; and

(B) in paragraphs (2) and (3), by striking ''9001(2)(A)'' each place it appears and inserting ''9001(7)(A)''.

(4) Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended in paragraphs (1), (2)(C), (7)(A), and (11) by striking ''Leaking Underground Storage Tank Trust Fund'' each place it appears and inserting ''Trust Fund''.

(5) Section 9009 of the Solid Waste Disposal Act (42 U.S.C. 6991h) is amended—

(A) in subsection (a), by striking ''9001(2)(B)'' and inserting ''9001(7)(B)''; and

(B) in subsection (d), by striking ''section 9001(1) (A) and (B)'' and inserting ''subparagraphs (A) and (B) of section 9001(10)''.

SEC. 12. TECHNICAL AMENDMENTS.

(a) Section 9001(4)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(4)(A)) (as amended by section 11(a)(2)) is amended by striking ''sustances'' and inserting ''substances''.

(b) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking ''subsection (c) and (d) of this section'' and inserting ''subsections (c) and (d)''.

(c) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended by striking ''in 9001(2) (A) or (B) or both'' and inserting ''in subparagraph (A) or (B) of section 9001(7)''.

(d) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) (as amended by section 3) is amended—

(1) in subsection (b), by striking ''study taking'' and inserting ''study, taking'';

(2) in subsection (c)(1), by striking ''relevent'' and inserting ''relevant''; and

(3) in subsection (c)(4), by striking ''Evironmental'' and inserting ''Environmental''.

Mr. MCCONNELL. I ask unanimous consent that the committee substitute be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 195), as amended, was read the third time and passed.

PARTICIPATION OF TAIWAN IN THE WORLD HEALTH ORGANIZATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 61, S. 243.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 243) concerning participation of Taiwan in the World Health Organization.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 243) was read the third time and passed, as follows:

S. 243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONCERNING THE PARTICIPATION OF TAIWAN IN THE WORLD HEALTH ORGANIZATION (WHO).

(a) FINDINGS.—The Congress makes the following findings:

(1) Good health is important to every citizen of the world and access to the highest standards of health information and services is necessary to improve the public health.

(2) Direct and unobstructed participation in international health cooperation forums and programs is beneficial for all parts of the world, especially with today's greater potential for the cross-border spread of various infectious diseases such as the human immunodeficiency virus (HIV), tuberculosis, and malaria.

(3) Taiwan's population of 23,500,000 people is greater than that of three-fourths of the member states already in the World Health Organization (WHO).

(4) Taiwan's achievements in the field of health are substantial, including one of the highest life expectancy levels in Asia, maternal and infant mortality rates comparable to those of western countries, the eradication of such infectious diseases as cholera, smallpox, and the plague, and the first to eradicate polio and provide children with hepitis B vaccinations.

(5) The United States Centers for Disease Control and Prevention and its Taiwan counterpart agencies have enjoyed close collaboration on a wide range of public health issues.

(6) In recent years Taiwan has expressed a willingness to assist financially and technically in international aid and health activities supported by the WHO.

(7) On January 14, 2001, an earthquake, registering between 7.6 and 7.9 on the Richter scale, struck El Salvador. In response, the Taiwanese government sent 2 rescue teams, consisting of 90 individuals specializing in firefighting, medicine, and civil engineering. The Taiwanese Ministry of Foreign Affairs also donated $200,000 in relief aid to the Salvadoran Government.

(8) The World Health Assembly has allowed observers to participate in the activities of the organization, including the Palestine Liberation Organization in 1974, the Order of Malta, and the Holy See in the early 1950s.

(9) The United States, in the 1994 Taiwan Policy Review, declared its intention to support Taiwan's participation in appropriate international organizations.

(10) Public Law 106–137 required the Secretary of State to submit a report to the Congress on efforts by the executive branch to support Taiwan's participation in international organizations, in particular the WHO.

(11) In light of all benefits that Taiwan's participation in the WHO can bring to the state of health not only in Taiwan, but also regionally and globally, Taiwan and its 23,500,000 people should have appropriate and meaningful participation in the WHO.

(12) On May 11, 2001, President Bush stated in his letter to Senator Murkowski that the United States ''should find opportunities for Taiwan's voice to be heard in international organizations in order to make a contribution, even if membership is not possible'', further stating that his Administration ''has focused on finding concrete ways for Taiwan to benefit and contribute to the WHO''.

(13) In his speech made in the World Medical Association on May 14, 2002, Secretary of Health and Human Services Tommy Thompson announced ''America's work for a healthy world cuts across political lines. That is why my government supports Taiwan's efforts to gain observership status at the World Health Assembly. We know this is a controversial issue, but we do not shrink from taking a public stance on it. The people of Taiwan deserve the same level of public health as citizens of every nation on earth, and we support them in their efforts to achieve it''.

(14) The Government of the Republic of China on Taiwan, in response to an appeal from the United Nations and the United States for resources to control the spread of HIV/AIDS, donated $1,000,000 to the Global Fund to Fight AIDS, Tuberculosis and Malaria in December 2002.

(b) PLAN.—The Secretary of State is authorized—

(1) to initiate a United States plan to endorse and obtain observer status for Taiwan at the annual week-long summit of the World Health Assembly in May 2003 in Geneva, Switzerland; and

(2) to instruct the United States delegation to Geneva to implement that plan.

(c) REPORT.—Not later than 14 days after the date of the enactment of this Act, the Secretary of State shall submit a report to Congress in unclassified form describing the action taken under subsection (b).

HUMAN RIGHTS IN CENTRAL ASIA

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 63, S.J. Res. 63.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 63) expressing the sense of the Congress with respect to human rights in Central Asia.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. MCCONNELL. I ask unanimous consent that the Lugar amendment, which is at the desk, be agreed to; further, that the joint resolution, as amended, be read a third time and passed and the motion to reconsider be laid upon the table; further, that the amendment to the preamble be agreed to, the preamble, as amended, be agreed to, and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The amendment (No. 533) was agreed to, as follows:

Strike all after the resolving clause and insert the following:

That it is the sense of Congress that—

(1) the governments of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and

Uzbekistan should accelerate democratic reforms and fulfill their human rights obligations, including, where appropriate, by—

(A) releasing from prison anyone jailed for peaceful political activism or the nonviolent expression of their political or religious beliefs;

(B) fully investigating any credible allegations of torture and prosecuting those responsible;

(C) permitting the free and unfettered functioning of independent media outlets, independent political parties, and non-governmental organizations, including by easing registration processes;

(D) permitting the free exercise of religious beliefs and ceasing the persecution of members of religious groups and denominations that do not engage in violence or political change through violence;

(E) holding free, competitive, and fair elections; and

(F) making publicly available documentation of their revenues and punishing those engaged in official corruption;

(2) the President, the Secretary of State, and the Secretary of Defense should—

(A) continue to raise at the highest levels with the governments of the nations of Central Asia specific cases of political and religious persecution, and to urge greater respect for human rights and democratic freedoms at every diplomatic opportunity;

(B) take progress in meeting the goals specified in paragraph (1) into account when determining the scope and nature of our diplomatic and military relations and assistance with each of such governments;

(C) ensure that the provisions of foreign operations appropriations Acts are fully implemented to ensure that no United States assistance benefits security forces in Central Asia that are implicated in violations of human rights;

(D) press the Government of Turkmenistan to implement the helpful recommendations contained in the so-called ''Moscow Mechanism'' Report of the Organization for Security and Cooperation in Europe (OSCE) respect the right of all prisoners to due process and a fair trial and release democratic activists and their family members from prison;

(E) urge the Government of Russia not to extradite to Turkmenistan members of the political opposition of Turkmenistan;

(F) work with the Government of Kazakhstan to create a political climate free of intimidation and harassment, including releasing political prisoners and permitting the return of political exiles, and to reduce official corruption, including by urging the Government of Kazakhstan to cooperate with the ongoing Department of Justice investigation;

(G) support through United States assistance programs individuals, nongovernmental organizations, and media outlets in Central Asia working to build more open societies, to support the victims of human rights abuses, and to expose official corruption; and

(H) press the Government of Uzbekistan to implement fully the recommendations made to the Government of Uzbekistan by the United Nation's Special Rapporteur on Torture; and

(3) increased levels of United States assistance to the governments of the nations of Central Asia made possible by their cooperation in the war in Afghanistan can be sustained only if there is substantial and continuing progress towards meeting the goals specified in paragraph (1).

The amendment (No. 534) was agreed to, as follows:

Strike the preamble and insert the following:

Whereas the Central Asian nations of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan are providing the United States with assistance in the war in Afghanistan, from military basing and overflight rights to the facilitation of humanitarian relief;

Whereas in turn the United States victory over the Taliban in Afghanistan provides important benefits to the Central Asian nations by removing a regime that threatened their security and by significantly weakening the Islamic Movement of Uzbekistan, a terrorist organization that had previously staged armed raids from Afghanistan into the region;

Whereas the United States has consistently urged the nations of Central Asia to open their political systems and economies and to respect human rights, both before and since the attacks of September 11, 2001;

Whereas Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan are members of the United Nations and the Organization for Security and Cooperation in Europe (OSCE), both of which confer a range of obligations with respect to human rights on their members;

Whereas while the United States recognizes marked differences among the social structures and commitments to democratic and economic reform of the Central Asian nations, the United States notes nevertheless, according to the State Department Country Reports on Human Rights Practices, that all five governments of such nations, to differing degrees, restrict freedom of speech and association, restrict or ban the activities of human rights organizations and other non-governmental organizations, harass or prohibit independent media, imprison political opponents, practice arbitrary detention and arrest, and engage in torture and extrajudicial executions;

Whereas by continuing to suppress human rights and to deny citizens peaceful, democratic means of expressing their convictions, the nations of Central Asia risk fueling popular support for violent and extremist movements, thus undermining the goals of the war on terrorism;

Whereas President George W. Bush has made the defense of human dignity, the rule of law, limits on the power of the state, respect for women and private property, free speech, equal justice, religious tolerance strategic goals of United States foreign policy in the Islamic world, arguing that ''a truly strong nation will permit legal avenues of dissent for all groups that pursue their aspirations without violence''; and

Whereas Congress has expressed its desire to see deeper reform in Central Asia in past resolutions and other legislation, most recently conditioning assistance to Uzbekistan and Kazakhstan on their progress in meeting commitments to the United States on human rights and democracy: Now, therefore, be it

The preamble, as amended, was agreed to.

The joint resolution, as amended, with its preamble, as amended, was read the third time and passed, as follows:

S.J. Res. 3

Whereas the Central Asian nations of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan are providing the United States with assistance in the war in Afghanistan, from military basing and overflight rights to the facilitation of humanitarian relief;

Whereas in turn the United States victory over the Taliban in Afghanistan provides important benefits to the Central Asian nations by removing a regime that threatened their security and by significantly weakening the Islamic Movement of Uzbekistan, a terrorist organization that had previously staged armed raids from Afghanistan into the region;

Whereas the United States has consistently urged the nations of Central Asia to open their political systems and economies and to respect human rights, both before and since the attacks of September 11, 2001;

Whereas Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan are members of the United Nations and the Organization for Security and Cooperation in Europe (OSCE), both of which confer a range of obligations with respect to human rights on their members;

Whereas while the United States recognizes marked differences among the social structures and commitments to democratic and economic reform of the Central Asian nations, the United States notes nevertheless, according to the State Department Country Reports on Human Rights Practices, that all five governments of such nations, to differing degrees, restrict freedom of speech and association, restrict or ban the activities of human rights organizations and other non-governmental organizations, harass or prohibit independent media, imprison political opponents, practice arbitrary detention and arrest, and engage in torture and extrajudicial executions;

Whereas by continuing to suppress human rights and to deny citizens peaceful, democratic means of expressing their convictions, the nations of Central Asia risk fueling popular support for violent and extremist movements, thus undermining the goals of the war on terrorism;

Whereas President George W. Bush has made the defense of human dignity, the rule of law, limits on the power of the state, respect for women and private property, free speech, equal justice, religious tolerance strategic goals of United States foreign policy in the Islamic world, arguing that ''a truly strong nation will permit legal avenues of dissent for all groups that pursue their aspirations without violence''; and

Whereas Congress has expressed its desire to see deeper reform in Central Asia in past resolutions and other legislation, most recently conditioning assistance to Uzbekistan and Kazakhstan on their progress in meeting commitments to the United States on human rights and democracy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of Congress that—

(1) the governments of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan should accelerate democratic reforms and fulfill their human rights obligations, including, where appropriate, by—

(A) releasing from prison anyone jailed for peaceful political activism or the nonviolent expression of their political or religious beliefs;

(B) fully investigating any credible allegations of torture and prosecuting those responsible;

(C) permitting the free and unfettered functioning of independent media outlets, independent political parties, and non-governmental organizations, including by easing registration processes;

(D) permitting the free exercise of religious beliefs and ceasing the persecution of members of religious groups and denominations that do not engage in violence or political change through violence;

(E) holding free, competitive, and fair elections; and

(F) making publicly available documentation of their revenues and punishing those engaged in official corruption;

(2) the President, the Secretary of State, and the Secretary of Defense should—

(A) continue to raise at the highest levels with the governments of the nations of Central Asia specific cases of political and religious persecution, and to urge greater respect for human rights and democratic freedoms at every diplomatic opportunity;

(B) take progress in meeting the goals specified in paragraph (1) into account when determining the scope and nature of our diplomatic and military relations and assistance with each of such governments;

(C) ensure that the provisions of foreign operations appropriations Acts are fully implemented to ensure that no United States assistance benefits security forces in Central Asia that are implicated in violations of human rights;

(D) press the Government of Turkmenistan to implement the helpful recommendations contained in the so-called ''Moscow Mechanism'' Report of the Organization for Security and Cooperation in Europe (OSCE) respect the right of all prisoners to due process and a fair trial and release democratic activists and their family members from prison;

(E) urge the Government of Russia not to extradite to Turkmenistan members of the political opposition of Turkmenistan;

(F) work with the Government of Kazakhstan to create a political climate free of intimidation and harassment, including releasing political prisoners and permitting the return of political exiles, and to reduce official corruption, including by urging the Government of Kazakhstan to cooperate with the ongoing Department of Justice investigation;

(G) support through United States assistance programs individuals, nongovernmental organizations, and media outlets in Central Asia working to build more open societies, to support the victims of human rights abuses, and to expose official corruption; and

(H) press the Government of Uzbekistan to implement fully the recommendations made to the Government of Uzbekistan by the United Nation's Special Rapporteur on Torture; and

(3) increased levels of United States assistance to the governments of the nations of Central Asia made possible by their cooperation in the war in Afghanistan can be sustained only if there is substantial and continuing progress towards meeting the goals specified in paragraph (1).

OTTAWA NATIONAL WILDLIFE REFUGE COMPLEX EXPANSION AND DETROIT RIVER INTERNATIONAL WILDLIFE REFUGE EXPANSION ACT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 67, H.R. 289.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 289) to expand the boundaries of the Ottawa National Wildlife Refuge Complex and a Detroit River International Wildlife Refuge.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 289) was passed.

COMMEMORATING THE 140TH ANNIVERSARY OF THE EMANCIPATION PROCLAMATION

Mr. McCONNELL. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 81, S. Con. Res. 15, which was reported earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 15) commemorating the 140th anniversary of the issuance of the Emancipation Proclamation.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCONNELL. I ask unanimous consent the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related to this matter be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 15) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 15

Whereas Abraham Lincoln, the sixteenth President of the United States, issued a proclamation on September 22, 1862, declaring that on the first day of January, 1863, ''all persons held as slaves within any State or designated part of a State the people whereof shall then be in rebellion against the United States shall be then, thenceforward, and forever free'';

Whereas the proclamation declared ''all persons held slaves within the insurgent States''—with the exception of Tennessee, southern Louisiana, and parts of Virginia, then within Union lines—''are free'';

Whereas, for two and half years, Texas slaves were held in bondage after the Emancipation Proclamation became official and only after Major General Gordon Granger and his soldiers arrived in Galveston, Texas, on June 19, 1865, were African-American slaves in that State set free;

Whereas slavery was a horrendous practice and trade in human trafficking that continued until the passage of the Thirteenth Amendment to the United States Constitution ending slavery on December 18, 1865;

Whereas the Emancipation Proclamation is historically significant and history is regarded as a means of understanding the past and solving the challenges of the future;

Whereas one hundred and forty years after President Lincoln's Emancipation Proclamation, African Americans have integrated into various levels of society; and

Whereas commemorating the 140th anniversary of the Emancipation Proclamation highlights and reflects the suffering and progress of the faith and strength of character shown by slaves and their descendants as an example for all people of the United States, regardless of background, religion, or race: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the historical significance of the 140th anniversary of the Emancipation Proclamation as an important period in the Nation's history; and

(2) encourages its celebration in accordance with the spirit, strength, and legacy of freedom, justice, and equality for all people of America and to provide an opportunity for all people of the United States to learn more about the past and to better understand the experiences that have shaped the Nation.

COMMEMORATION OF LAW ENFORCEMENT OFFICERS

Mr. McCONNELL. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 82, S. Res. 75, which was reported earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 75) commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEAHY. Mr. President, I am happy that the Senate is passing S. Res. 75, a resolution that would designate May 15, 2003, as National Peace Officers Memorial Day. Senator CAMPBELL and I introduced this resolution to keep alive in the memory of all Americans the sacrifice and commitment of those law enforcement officers who lost their lives serving their communities. We are joined by 20 cosponsors, including Judiciary Committee Chairman HATCH, and Judiciary Committee members BIDEN, DURBIN, SCHUMER and KOHL.

I commend Senator CAMPBELL for his leadership in this issue. As a former deputy sheriff, he has experienced firsthand the risks faced by law enforcement officers every day while they protect our communities. I also want to thank each of our nation's brave law enforcement officers for the jobs they do. They are real-life heroes, too many of whom often give the ultimate sacrifice, and they remind us of how important it is to support our state and local police.

Currently, more than 850,000 men and women who serve this Nation as our guardians of law and order do so at a great risk. Each year, 1 in 15 officers is assaulted, 1 in 46 officers is injured, and 1 in 5,255 officers is killed in the line of duty somewhere in America every other day. After the hijacked planes hit the World Trade Center in New York City on September 11, 72 peace officers died while trying to ensure that their fellow citizens in those buildings got to safety. That act of terrorism resulted in the highest number

of peace officers ever killed in a single incident in the history of this country.

In 2002, over 152 law enforcement officers died while serving in the line of duty, well below the decade-long average of 165 deaths annually, and a major drop from 2001 when a total of 237 officers were killed. A number of factors contributed to this reduction including better equipment and the increased use of bullet-resistant vests, improved training, longer prison terms for violent offenders, and advanced emergency medical care. And, in total, more than 16,700 men and women have made the ultimate sacrifice.

National Peace Officers Memorial Day will provide the people of the United States with the opportunity to honor that extraordinary service and sacrifice. More than 15,000 peace officers are expected to gather in Washington to join with the families of their fallen comrades who, by their last full measure of devotion to their responsibilities and the right and security of their fellow citizens, have rendered a dedicated service to our nation. I look forward to passage of this important resolution, a fitting tribute for this special and solemn occasion.

Mr. MCCONNELL. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statement related to this matter be printed in the RECORD.

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

The resolution (S. Res. 75) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 75

Whereas the well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 700,000 men and women, at great risk to their personal safety, presently serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front line in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas more than 145 peace officers across the Nation were killed in the line of duty during 2002, well below the decade-long average of 165 deaths annually, and a major drop from 2001 when 230 officers were killed, including 72 officers in the September 11th terrorist attacks;

Whereas a number of factors contributed to this reduction in deaths, including better equipment and the increased use of bullet-resistant vests, improved training, longer prison terms for violent offenders, and advanced emergency medical care;

Whereas every year, 1 out of every 9 peace officers is assaulted, 1 out of every 25 peace officers is injured, and 1 out of every 4,400 peace officers is killed in the line of duty somewhere in America every other day; and

Whereas on May 15, 2003, more than 15,000 peace officers are expected to gather in Washington, D.C. to join with the families of their recently fallen comrades to honor those comrades and all others who went before them: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes May 15, 2003, as Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled in the line of duty; and

(2) calls upon the people of the United States to observe this day with appropriate ceremonies and respect.

AUTHORIZATION FOR COMMITTEE TO FILE

Mr. MCCONNELL. I ask unanimous consent that notwithstanding the Senate's adjournment, the Commerce Committee have from 10 a.m. until 12 noon on Friday, May 2, to file S. 824, the FAA reauthorization bill.

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

Mr. REID. Would the distinguished majority whip yield?

Mr. MCCONNELL. I yield.

Mr. REID. Mr. President, we have completed a number of unanimous consent requests this evening. A number of them—about 10 in number—deal with various positions that have been confirmed by the Senate this evening. These we read off by virtue of numbers. We do this almost every night, but I think sometimes we fail to realize these are real people and they are more than just numbers. The people on this list that we have read off today, they will have celebrations tonight. These are extremely important days in the life of every one of these people whose names we have read off today.

I think it does us good to once in a while just pause and recognize that the things we do here deal with more than just numbers. I ask we all once in a while stop and join in the celebration of these victories that these people have.

It is difficult, with the present situation—present situation? I think it has been going on for 20 years, how difficult it is to get nominations that the President sends to us, Democrat or Republican. The process is not very good.

We are now into the second year of this administration and we are just getting approved people he submitted earlier—some of whom he didn't submit earlier—just because the process is so slow. I hope someday a bipartisan commission or some organization can be set up so we can do this separate and apart from the situation that involves the judiciary. But just on nominations that come from the President, we need a system that works much better, more quickly than what we have.

I don't want to prolong the point other than to say congratulations to all these people who have been approved tonight.

Mr. MCCONNELL. Mr. President, let me say to my friend, the assistant Democratic leader, his points are well made both on the congratulations that are certainly due these individuals who have been confirmed tonight and on the need to improve the process by which we get individuals confirmed here in the Senate. I must say, without the able and effective assistance of the assistant Democratic leader, we would not have been able to clear some of these nominations tonight. I thank him for his perseverance in making that possible.

ORDERS FOR MONDAY, MAY 5, 2003

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until noon, Monday, May 5. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 12:45, with the time equally divided between the majority leader and Senator DORGAN or their designees, provided that at 12:45 the Senate proceed to executive session to consider Executive Calendar No. 34, the nomination of Deborah Cook to be United States Circuit Judge for the Sixth Circuit as provided under the previous order.

I further ask unanimous consent that upon the completion of the vote on the Cook nomination, the Senate resume consideration of the nomination of Miguel Estrada, with the remaining time until 6 p.m. equally divided between the chairman and ranking member of the Judiciary Committee, provided further that at 6 p.m. the Senate proceed to a cloture vote on the Estrada nomination.

Mr. REID. No objection.

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

PROGRAM

Mr. MCCONNELL. Mr. President, for the information of all Senators, on Monday the Senate will be in a period of morning business until 12:45. Following morning business, the Senate will begin consideration of the Cook nomination to the Sixth Circuit. Under the agreement entered into earlier today, there will be up to 4 hours of debate on the nomination prior to a vote on confirmation. Therefore, the first vote on Monday will occur at 4:45 p.m.

Upon the disposition of the Cook nomination, the Senate will debate the nomination of Miguel Estrada until 6 p.m. At 6 p.m., the Senate will conduct its fifth cloture vote on the Estrada nomination.

In addition to judicial nominations, the Senate may proceed to any of the following items next week: The NATO expansion bill, the energy bill, the bioshield legislation, the State Department authorization bill, the FISA legislation, and any other items that can be cleared for floor action. Therefore, I encourage our colleagues to prepare for a very busy week, with numerous rollcall votes occurring throughout next week.

ADJOURNMENT UNTIL MONDAY, MAY 5, 2003

Mr. McCONNELL. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:38 p.m., adjourned until Monday, May 5, 2003, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate May 1, 2003:

THE JUDICIARY

D. MICHAEL FISHER, OF PENNSYLVANIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE CAROL LOS MANSMANN, DECEASED.

ROGER T. BENITEZ, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–273, APPROVED NOVEMBER 2, 2002.

LARRY ALAN BURNS, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–273, APPROVED NOVEMBER 2, 2002.

KATHLEEN CARDONE, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–273, APPROVED NOVEMBER 2, 2002.

JAMES I. COHN, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–273, APPROVED NOVEMBER 2, 2002.

MARCIA A. CRONE, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–273, APPROVED NOVEMBER 2, 2002.

DALE S. FISCHER, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–273, APPROVED NOVEMBER 2, 2002.

WILLIAM Q. HAYES, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–273, APPROVED NOVEMBER 2, 2002.

JOHN A. HOUSTON, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–273, APPROVED NOVEMBER 2, 2002.

FRANK MONTALVO, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–273, APPROVED NOVEMBER 2, 2002.

R. DAVID PROCTOR, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–273, APPROVED NOVEMBER 2, 2002.

XAVIER RODRIGUEZ, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS, VICE EDWARD C. PRADO.

DANA MAKOTO SABRAW, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–273, APPROVED NOVEMBER 2, 2002.

EARL LEROY YEAKEL III, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS, VICE JAMES R. NOWLIN, RETIRED.

DEPARTMENT OF JUSTICE

GRETCHEN C. F. SHAPPERT, OF NORTH CAROLINA, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS, VICE ROBERT J. CONRAD, JR.

DEPARTMENT OF STATE

GEORGE A. KROL, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BELARUS.

DEPARTMENT OF DEFENSE

THOMAS W. O'CONNELL, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE BRIAN E. SHERIDAN.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JEFFERSON L. SEVERS

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

AMADO F. ABAYA
DOUGLAS J. ADKISSON
NEAL D. AGAMAITE
CHRISTOPHER J. ATKINSON
CHARLES F. BABB
WILLIAM H. BAXTER
JOHN E. CAGE
WILLIAM C. CHAMBERS
GRANT A. DUNN
WILLIAM D. ERWIN
JON R. GABRIELSON
FRANK E. GIANOCARO
RICKY L. GILBERT
GREGORY S. GORDON
LANCE A. HARPEL
CHRISTOPHER C. HARRINGTON
SCOTT A. HARVEY
FRASER P. HUDSON
SEAN D. KEARNS
LARRY D. KNOCK
JEFFREY D. LAMB
JEFFREY E. LAMPHEAR
THOMAS A. MAYS
ROY W. MCKAY
BRIAN A. MINARD
WILLIAM J. OSSENFORT
JAMES D. OZOLS
ADAM D. PALMER
JOHN J. PUDLOSKI
KENNETH W. RICE
STEVEN M. RIEDEL
MATTHEW P. ROBERTS
MATTHEW I. SAVAGE
BRIAN J. SHEAKLEY
TRAVIS D. SISK
LOREN J. SMITH
DEAN M. SPRINGSTUBE
TORY J. SWANSON
SHANNON J. WELLS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

DANFORD S. K. AFONG
PHILIP G. ALVAREZ
DAN L. AMMONS
MARK D. ANDERSON
JAMES A. ANTONELLIS
ROBERT M. ARAKI
DOUGLAS J. ASBJORNSEN
CLAYTON B. AUSTIN
WILLIAM P. AUVIL
KURT F. BAKER
MICHAEL S. BARRY
LYNETTE M. BASON
ROBERT A. BERNARDON
ROBERT M. BOLAND
SUZANNE BONNER
DERRICK S. BOONE
FREDERICK BOURASSA
EARL R. BOWEN
CHARLES S. BOWERS III
EDWARD P. BRANDS
GREGORY D. BRANNON
JAMES B. BRIDGE
JOSEPH L. BRIDGE
JAMES W. BROWN
PHILIP A. BUCHIARELLI
JACK W. BURGESS
SCOTT R. BUTLER
GARY M. BUTTER
MARK S. CAMPAGNA
JEFFREY F. CAMPBELL
STEVEN E. CAMPBELL
TIMOTHY G. CANOLL
CHARLES K. CARODINE
CHARLES L. CARTLEDGE
DAVID A. CASE
CHARLES E. CASH
SILVIA K. CHANG
JOHN C. COCHRANE JR.
ARTHUR C. CODY
PETER D. COFFIN
ROBERT J. COLE
STARLING T. CORUM
DAVID R. COUGHLIN
IAIN A. CURRIE
IRISH O. CURRY
JOHN R. CYRMIQUELON JR.
WILLIAM K. DAILEY
MARC L. DAPAS
TIMOTHY A. DEAK
PAUL A. DENHAM
JOHN R. DENICOLA
GREGORY A. DEVER
RODOLFO R. DIAZ JR.
KENNETH T. DICKERSON
KELVIN N. DIXON
CHRISTOPHER A. DOERING
GREGORY W. EATON
MARK E. ECKEL
SANDRA N. ELLIS
BENEDICT A. ENG
STEPHEN B. ENGELHARDT
KEVIN M. ERNST
DOUGLAS J. EVANS
GARY W. EVANS
CHRISTOPHER L. EVERSON
MICHAEL R. EWING
RANDAL D. FARLEY
LYNNE A. FARLOW
DANIEL C. FINK
GERALD N. FITZMORRIS
NEIL K. FLINT
JEROME D. FRECHETTE
MICHAEL E. FREDETTE
JOHN T. FRIEDLANDER
JAMES J. FRITSCHE
JEFFERY E. FROST
DAVID B. GARVEY
PETER D. GATES
MADISON B. GENTSCH
JEFFREY L. GIDEON
DONALD P. GLANDEN
DAVID N. GLASS
CRAIG W. GOODMAN
TONY A. GRAYSON
ROBERT L. GREENE
WILLIAM S. J. GRIPMAN
MICHAEL R. GUIMOND
MICHAEL W. GULLEDGE
PATTI R. GUREKIAN
BRUCE B. GUTHRIE
ANTHONY R. HALL
MARK D. HARPER
FRANK E. HARRIS
DAVID J. HARRISON
ROBERT L. HAWKINS
SHERRILL J. HAZARD III
STEPHEN C. HEID
RICHARD A. HENNING
MICHAEL V. HENSON
PAUL G. HILLENBRAND
MARK M. HODGE
WILLIAM J. HOLLMAN
EDWARD F. HOLSTEIN II
MICHAEL W. HOPPE
KATHRYN C. HOWELL
ROGER B. HOYT
CLARENCE G. HULL IV
TIMOTHY P. HUNT
GORDON J. JACOBSON
JEFFREY C. JAEGER
JAMES B. JONES
RANDALL E. JONES
JOHN W. JUDGE
CLIFFORD Y. KAISER
MARK W. KAMINSKI
CHARLES B. KENNEDY
BYRON W. KING
RODNEY J. KING
FARIS A. KIRKLAND
PHILIP A. KUMLER
CHARLES J. LABEE III
JOHN H. LACKIE
SCOTT J. LANDIS
SANFORD D. LANSING
JOSEPH R. LAWRENCE
DOUGLAS E. LEMASTERS
JOHN T. LINDGREN IV
WALLACE H. LLOYD III
PETER J. LOHR
DEBORAH A. LYLE
MORGAN E. MAHONEY
ANDREW J. MAKAR
MARK MCDONAGH
JAMES L. MCGINLEY
MARTIN H. MCKOWN JR.
ROCK E. MCNULTY
MATHEW W. MERRIMAN
ROBERT H. G. MEYERS
THOMAS M. MILLARD
IRA L. MINOR JR.
JAMES E. MITCHELL
CLARENCE T. MORGAN
JOHNNY D. MORGAN
ELISA R. MORRELL
MARK F. MORRIS
MATTHEW B. MOURY
MARTIN W. MULLAN
ROBERT D. MURO
KATHRYNE O. MURPHEY
ROBERT F. MURPHY
LLOYD M. MUSTIN II
SAMUEL L. NETH
ALVIN E. NIX JR.
ANNE J. NOLAN
STEVEN D. OAKS
DAVID J. OCONNOR JR.
DAVID J. OESER
DIANNE M. OHNSTAD
LAWRENCE E. OLSEN
KAY M. OSBORNE
LUTHER M. OTT
DAVID F. OZEROFF
DAVID B. PABINQUIT
THOMAS R. PARRY
RICHARD G. PATSY
CHRISTOPHER J. PAUL
THOMAS J. PAULOSKI
KURT E. PAVLAT
PHILIP C. PEYTON
WILLIAM J. PFLUGRATH
KENNETH R. PHILLIPS
DAVID S. PICOU
BRYAN A. PLATON
KENNETH E. POSEY
ROBERTO N. POSSUMATO
DANIEL PRIJIC
LYNNE E. PUCKETT
CHARLES L. RATTE
MARK R. REID
JOSEPH E. REYNOLDS
DAVID L. RICHARDS
PETER G. ROSS
ROBERT R. ROSSETTI
VINCENT E. ROTHWALL
STEPHEN H. ROUSSEAU
ADALBERTO RUIZ III
FRANK R. RUSSO JR.
CRAIG J. RYNIEWICZ
JOHN C. SADLER
TERRY R. SARGENT

RICHARD A. SCHOENBERG JR.
JAMES S. SCHWARTZ
JAN SCHWARZENBERG
JOHN A. SEVERINO
JOSEPH S. SHELLENBERGER
ANDREW P. SHELTER
BILLY J. SHILLING
TRACY L. SKEELS
DONALD E. SMALLWOOD JR.
DAVID P. SMITH
JEFFREY R. SMITH
JON C. SMITH
MICHAEL W. SMITH
WARREN T. SMITH
JOHN G. SPEAR
JONATHAN H. STAIRS
MICHAEL L. STANFORD
KURT A. STONEY
JOHN W. SWAIN
WILLIAM F. SWINTON
DONALD S. THIESSE
WILLIAM H. THOMPSON
JAMES E. TORMEY JR.
DAVID A. TOWNSEND
GLENN M. TRACY
DAVID W. TRUMPOLDT
GREGORY E. UPRIGHT
CHARLES R. VALENTINO
SCOTT R. VASINA
JOYCE L. VIETTI
HENRY R. VITALI JR.
RICHARD K. VOGEL
THEODORE J. WADDELL III
RICHARD E. WAKELAND
STEVEN J. WALTER
CHRISTOPHER R. WANSTALL
JOHN G. WATSON
PAUL S. WEHR
LAWRENCE E. WEILL
PAUL W. WERNER
JOSEPH C. WESTON
RICHARD T. WHEATLEY
TIMOTHY G. WILD
DAVID S. WILSON
NELSON W. C. WINBUSH
THEODORE A. WYKA

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

SCOTT F. BOHNENKAMP
DONALD J. BURNS
ROBERT D. BUXTON
KATHY L. CALLAHANARAGON
STEPHEN P. CARMICHAEL
RICHARD S. CLINE
JOHN E. COLE
KATHLEEN FARRELL
MICHAEL J. FITZGERALD
GERALD D. GOLDEN
MICHAEL D. HERMAN
GARY N. HETZEL
EUGENE S. HOWARD
LOTHROP S. LITTLE
LYNN A. MCCARTHY
ROBERT B. MONROE
CHRISTOPHER A. PATTON
ELIEZER J. PEREZVERGARA
MICHAEL S. REMINGTON
ROBERT J. SHEA
RANDALL C. SNYDER
ANDREW J. TURNLEY
CHRISTOPHER L. WALL

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

CHARLES L. COLLINS
WILLIAM C. DOSKOCIL
HAROLD A. KOUSSA
RICHARD H. LAGDON JR.
RICHARD D. MARKINGCAMUTO
CHARLES D. MASSEY
DONALD S. MUEHLBACH JR.
RONALD E. OROURKE
GREGG R. PELOWSKI
ROBERT V. PELTIER
ROBERT S. ROSEN
CHARLOTTE V. SCOTTMCKNIGHT
JEFFREY C. SEN
ROBERT L. SKINNER
CYNTHIA R. SUGIMOTO

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

GREGORY S. ADAMS
HARRY W. ALLEN
RICHARD C. BAFFA
DANIEL A. BUBACZ
HENRY S. DOMERACKI
ALEXANDER DREW
LANCE B. GORDON
BRIAN J. HICKMAN
RONALD L. HOOVER
JAMES A. JACKMORE JR.
ANTHONY H. JOHNSON
HOWARD T. KAUDERER
RAYMOND KELLER JR.
LEEROY LANCE JR.
DENNIS L. LOVEJOY
PATRICIA A. LUCAS
C. C. MAGRUDER
THOMAS C. MALONEY JR.
DAVID W. MAREADY
MARK D. NEY
GARY R. REEVES
CHARLES T. ROBERTS
JOHN A. RODGAARD
STEPHAN A. ROGGE
JOHN VOLKOFF
KEVIN C. WARNKE
MICHAEL K. WEBB
PATRICIA G. WILLIAMS
PETER A. WITHERS

CONFIRMATIONS

Executive nominations confirmed by the Senate May 1, 2003:

DEPARTMENT OF ENERGY

LINTON F. BROOKS, OF VIRGINIA, TO BE UNDER SECRETARY FOR NUCLEAR SECURITY, DEPARTMENT OF ENERGY.

DEPARTMENT OF THE TREASURY

MARK W. EVERSON, OF TEXAS, TO BE COMMISSIONER OF INTERNAL REVENUE FOR A TERM OF FIVE YEARS.

DEPARTMENT OF DEFENSE

LAWRENCE MOHR, JR., OF SOUTH CAROLINA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

SHARON FALKENHEIMER, OF TEXAS, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

TENNESSEE VALLEY AUTHORITY

RICHARD W. MOORE, OF ALABAMA, TO BE INSPECTOR GENERAL, TENNESSEE VALLEY AUTHORITY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

EDWARD C. PRADO, OF TEXAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. HENRY P. OSMAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. DOUGLAS M. STONE

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. THOMAS K. BURKHARD

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES J. LOVELACE, JR.

ARMY NOMINATIONS BEGINNING CURTIS J ALITZ AND ENDING MARY J WYMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 15, 2003.

ARMY NOMINATIONS BEGINNING RICHARD P BEIN AND ENDING KELLY E TAYLOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 15, 2003.

ARMY NOMINATIONS BEGINNING DEBORAH K BETTS AND ENDING DAVID WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 15, 2003.

ARMY NOMINATION OF JAMES R. KERIN, JR.

ARMY NOMINATIONS BEGINNING HENRY E ABERCROMBIE AND ENDING MICHELLE F YARBOROUGH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 26, 2003.

ARMY NOMINATIONS BEGINNING MICHAEL P ARMSTRONG AND ENDING CRAIG M WHITEHILL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 26, 2003.

ARMY NOMINATIONS BEGINNING JOHN F AGOGLIA AND ENDING JEFFREY R WITSKEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 26, 2003.

ARMY NOMINATIONS BEGINNING PAUL F ABEL, JR. AND ENDING X4432, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 26, 2003.

ARMY NOMINATION OF WILLIAM T. BOYD.

ARMY NOMINATIONS BEGINNING RICHARD D. DANIELS AND ENDING GEORGE G. PERRY III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 7, 2003.

ARMY NOMINATIONS BEGINNING GARY L. HAMMETT AND ENDING DAVID L. SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 7, 2003.

ARMY NOMINATIONS BEGINNING EDWARD A. HEVENER AND ENDING ZEB S. REGAN, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 10, 2003.

MARINE CORPS NOMINATION OF KENNETH O. SPITTLER.

MARINE CORPS NOMINATIONS BEGINNING THOMAS DUHS AND ENDING WILLIAM M. LAKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

MARINE CORPS NOMINATIONS BEGINNING PATRICK W. BURNS AND ENDING DANIEL S. RYMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

MARINE CORPS NOMINATIONS BEGINNING DONALD J ANDERSON AND ENDING DONALD W ZAUTCKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 11, 2003.

MARINE CORPS NOMINATIONS BEGINNING SEAN T. MULCAHY AND ENDING STEVEN H. MATTOS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 24, 2003.

MARINE CORPS NOMINATION OF FRANKLIN MCLAIN.

MARINE CORPS NOMINATIONS BEGINNING BRYAN DELGADO AND ENDING PAUL A. ZACHARZUK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 24, 2003.

MARINE CORPS NOMINATION OF MICHAEL H. GAMBLE.

MARINE CORPS NOMINATION OF JEFFREY L. MILLER.

MARINE CORPS NOMINATION OF BARETT R. BYRD.

MARINE CORPS NOMINATIONS BEGINNING JEFFREY ACOSTA AND ENDING JOHN G WEMETT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 7, 2003.