United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *109th* CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, FRIDAY, APRIL 15, 2005 *No. 45*

House of Representatives

The House was not in session today. Its next meeting will be held on Monday, April 18, 2005, at 2 p.m.

Senate

FRIDAY, APRIL 15, 2005

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, our sure refuge, teach us how to live this day. Give us a relaxed attitude that lengthens life. Make us like trees that bear lifegiving fruit. Keep us calm when we feel indignation. Grant that our work will bring freedom and not captivity. Look with favor upon the Members of the Senate and bless them according to their needs. Move their minds to discover Your purposes.

Keep alive in each of us the grace of Your spirit, lest we lose the awareness of Your presence in our lives.

We pray this in the name of the Master Teacher. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHNNY ISAKSON 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 15, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. ISAKSON thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will again consider the emergency supplemental appropriations bill. Although no rollcall votes will occur during today's session, we expect amendments will be considered over the course of the day.

In a minute, I will call up a couple of amendments on behalf of other Senators so that we can continue to make headway on the bill. Senators should be aware that we expect the Senate to return on Monday to the bill, and I hope we will have several votes Monday evening to advance this bill. The bill has been pending for a week, and it is time for us to work towards completing action on this very important bill that addresses funding for our troops overseas.

I had appealed to the body to defer and postpone most of the immigration amendments—again, this is a broad category of amendments—but I have not been successful in convincing colleagues on both sides of the aisle to postpone those to a time when we can in a comprehensive way address immigration, a hugely important issue to America, to our people, and something we all hear about as we go back to our States and talk with our constituents. It is an issue we absolutely must address. Now is not the time because this is an emergency bill, a supplemental bill, and there is a time to do it later.

In spite of that, there are several amendments that have been brought forward that are pending which we will address; and in a few moments, I will be laying out how we might do that.

Before doing that, Mr. President, I wish to comment on a separate issue that has to do with Sudan and what is going on in that part of the world now.

SUDAN AID WORKER

Mr. FRIST. Mr. President, as my colleagues know, I have a special interest in Sudan. I have spent much time there on an annual basis for the last several years participating in various types of work—mission work, some medical work, as well as a Senator.

Three weeks ago, a USAID team member working in the Darfur region of Sudan was shot and wounded. By now, most Americans know the Darfur region is a huge region, about the size of France, in the western part of Sudan, a vast country in and of itself.

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

This USAID worker was traveling in a clearly marked four-vehicle convoy on a road that was considered safe and secure. The convoy was ambushed, and the 26-year-old aid worker was shot in the face. As a result of that attack, she has lost vision in her right eye and has had and will continue to have to undergo facial reconstruction.

First and foremost, our thoughts and prayers go out to this courageous and compassionate young woman and to her family whom we all know must be in tremendous grief. What happened is a tragedy that deeply troubles us all.

I am informed that the shooting was not random. The attackers intentionally targeted the humanitarian convoy in order to intimidate the world. For 2 years, the jingaweit death squads have terrorized the people. With the backing of the Government, these criminals have killed nearly 50,000 innocent Darfur Africans.

A British Parliamentary report issued last month says as many as 300,000 Sudanese may have died since the Khartoum Government started the fighting 2 years ago.

The exact numbers, as always, are difficult to confirm. Access to these areas is very limited. Khartoum simply does not want the world to know what those numbers are.

It was just last August that I made a trip to the region. I was denied permission by Khartoum to travel to Darfur properly. Nevertheless, I went and spent time just to the west, in the adjacent country of Chad, and went along that Chad-Darfur border. I wanted to see with my own eyes so I could come back and report, which I did, my observations in a part of the world where, to my interpretation, to our interpretation, there is genocide occurring.

We visited refugee camps on that Chad-Sudan border. We met with survivors. They told us the heartrending stories of women and girls being abused, mass rapes, land destroyed, crops destroyed, villages burned, water supplies actively polluted. As a product of all that, there is the forced displacement, moving out of villages, out of homes of over 1.2 million people.

It is clear, as I mentioned, that what is going on—the destruction, the death, the killing—is genocide. This body has said that. The jingaweit are killing the Darfur people because they are ethnically different and because they do not support Khartoum.

Since October of last year, the State Department has formally recognized the conditions in Darfur as genocide. Congress has also acted, placing sanctions on Sudan's Government and authorizing about $100 million in aid.

This week, at a special international donors conference for Sudan, the United States pledged $1.7 billion in aid over the next 2 years, more than any other country. As a condition of that aid, the Khartoum Government must demonstrate that it is taking action to stop, to end, to terminate this killing.

The United States, under President Bush's leadership, has led on this issue from the beginning. The United States has provided over 70 percent of the supplies going to the survivors now in Darfur and eastern Chad, and the United States has been providing assistance to the region, indeed, for years.

Robert Zoellick, our Deputy Secretary of State, is currently traveling in the region to observe the situation on the ground. What he will see when he is there and what he will report back, I am sure, when he comes back to us, no doubt, will deeply disturb him, as it did me and others in this body who have traveled to that region.

In the last Congress, I worked with a number of our colleagues—Senators BROWNBACK, FEINGOLD, BIDEN, LUGAR, and before that, former Senator Helms and many others—to enact a bill called the Sudan Peace Act. That bill provided the framework for the peace negotiations in Sudan between the northern and southern regions.

In addition, last year, we in this body voted unanimously to urge the Secretary of State to take appropriate actions within the United Nations to suspend Sudan's membership on the U.N. Human Rights Commission.

While I am heartened by the aid pledges made this week by the international community, a lot more work absolutely must be done. Global pressure must be brought to bear.

I urge the United Nations to formally recognize the reality of the crisis in Darfur. What is happening there is genocide. The Khartoum Government will not stop this killing until it is faced with stiff international pressure.

Every day the world fails to act, Khartoum gets closer to its genocidal goal, and every day the world fails to act, it compounds its shame. We must not let this happen. We cannot fail the Darfur people. They are pleading for our help, and, indeed, they are pleading for their lives.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 1268, which the clerk will report:

The assistant bill clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Mikulski amendment No. 387, to revise certain requirements for H–2B employers and require submission of information regarding H–2B nonimmigrants.

Feinstein amendment No. 395, to express the sense of the Senate that the text of the REAL ID Act of 2005 should not be included in the conference report.

Bayh amendment No. 406, to protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation.

Durbin amendment No. 427, to require reports on Iraqi security services.

Salazar amendment No. 351, to express the sense of the Senate that the earned income tax credit provides critical support to many military and civilian families.

Dorgan/Durbin amendment No. 399, to prohibit the continuation of the independent counsel investigation of Henry Cisneros past June 1, 2005, and request an accounting of costs from GAO.

Reid amendment No. 445, to achieve an acceleration and expansion of efforts to reconstruct and rehabilitate Iraq and to reduce the future risks to United States Armed Forces personnel and future costs to United States taxpayers, by ensuring that the people of Iraq and other nations do their fair share to secure and rebuild Iraq.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

AMENDMENT NO. 432

(Purpose: To simplify the process for admitting temporary alien agricultural workers under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, to increase access to such workers, and for other purposes.)

Mr. FRIST. Mr. President, I ask unanimous consent the pending amendments be set aside. On behalf of Senator CHAMBLISS and others, I call up amendment No. 432.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. CHAMBLISS, for himself, and Mr. KYL, proposes an amendment numbered 432.

Mr. FRIST. I ask unanimous consent the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. FRIST. I ask unanimous consent the amendment be set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 375, AS MODIFIED

(Purpose: To provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program and the Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.)

Mr. FRIST. On behalf of Mr. CRAIG and others, I call up amendment No. 375.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. CRAIG, for himself, and Mr. KENNEDY, proposes an amendment numbered 375, as modified.

Mr. FRIST. I ask unanimous consent the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

AMENDMENT NO. 432

CLOTURE MOTION

Mr. FRIST. I call for the regular order on the Chambliss amendment. I now send a cloture motion to the desk to the Chambliss amendment.

The ACTING PRESIDENT pro tempore. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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 the pending Chambliss amendment to Calendar No. 67, H.R. 1268.

Bill Frist, Saxby Chambliss, Mitch McConnell, Elizabeth Dole, Larry Craig, Judd Gregg, Norm Coleman, Trent Lott, Arlen Specter, George V. Voinovich, Bob Bennett, Pete Domenici, Pat Roberts, Orrin Hatch, Richard Burr, John Cornyn, James Talent, Chuck Hagel.

AMENDMENT NO. 375

CLOTURE MOTION

Mr. FRIST. I ask we resume the Craig amendment, and I send a cloture motion to the desk to the Craig amendment.

The ACTING PRESIDENT pro tempore. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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 the pending Craig amendment to Calendar No. 67, H.R. 1268.

Bill Frist, Larry Craig, Mitch McConnell, Elizabeth Dole, Judd Gregg, Saxby Chambliss, Trent Lott, George V. Voinovich, Arlen Specter, Bob Bennett, Pete Domenici, Pat Roberts, John E. Sununu, Orrin Hatch, Richard Burr, John Cornyn, James Talent, Chuck Hagel.

CLOTURE MOTION

Mr. FRIST. I now send a cloture motion to the desk to the underlying bill.

The ACTING PRESIDENT pro tempore. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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 Calendar No. 67, H.R. 1268.

Bill Frist, Mitch McConnell, Elizabeth Dole, Olympia Snowe, Norm Coleman, Pat Roberts, Orrin Hatch, John Cornyn, Craig Thomas, Michael Enzi, Larry E. Craig, Trent Lott, George V. Voinovich, Bob Bennett, Pete Domenici, Richard Burr, James Talent.

Mr. FRIST. I ask unanimous consent that the live quorums, with respect to the four pending cloture motions, be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. For the information of Senators, we now have four cloture motions filed in relation to the emergency supplemental. They are filed on the Mikulski amendment on H–2B visas, the Chambliss AgJOBS amendment, the Craig AgJOBS amendment, and to the underlying emergency supplemental.

This will ensure votes in relation to the three amendments and then allow the Senate to move toward finishing the bill. I remind my colleagues we will be able to consider additional amendments either Monday evening or after the cloture votes have occurred on Tuesday.

I thank my colleagues and hope we can move quickly next week to pass this important bill in order to provide the appropriate resources to our troops. The cloture motions are filed to further the bringing of this bill to closure. It is an important bill to support our troops in Afghanistan and Iraq—indeed, around the world—and also the important tsunami relief.

With what I have outlined, we will be able to take what are now still more than two pages of amendments, outside of the many immigration amendments that have emerged in the period over the last several days, and give them some order so we can bring this bill to closure. Again, I want to reaffirm our commitment to address immigration in the future. It is a very important issue, but we will be having these three cloture votes on the immigration issues I briefly outlined, and we have filed cloture on the underlying bill, which does allow us to stay on amendments, germane amendments that were laid down to changing, altering, improving this bill as we go forward.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

AMENDMENT NO. 340

Mr. DEWINE. Mr. President, I call up amendment No. 340 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, the pending amendments are set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, Mr. DURBIN, and Mr. COLEMAN, proposes an amendment numbered 340.

Mr. DEWINE. I ask unanimous consent the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the period of continued TRICARE coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days)

At the appropriate place, insert the following:

SEC. ___. INCREASED PERIOD OF CONTINUED TRICARE COVERAGE OF CHILDREN OF MEMBERS OF THE UNIFORMED SERVICES WHO DIE WHILE SERVING ON ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.

(a) PERIOD OF ELIGIBILITY.—Section 1079(g) of title 10, United States Code, is amended—

(1) by inserting ''(1)'' after ''(g)''; and

(2) by striking the second sentence and inserting the following:

''(2) In addition to any continuation of eligibility for benefits under paragraph (1), when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for such benefits during the three-year period beginning on the date of the member's death, except that, in the case of such a dependent who is a child of the deceased, the period of continued eligibility shall be the longer of the following periods beginning on such date:

''(A) Three years.

''(B) The period ending on the date on which the child attains 21 years of age.

''(C) In the case of a child of the deceased who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of the child's support, the period ending on the earlier of the following dates:

''(i) The date on which the child ceases to pursue such a course of study, as determined by the administering Secretary.

''(ii) The date on which the child attains 23 years of age.

''(3) For the purposes of paragraph (2)(C), a child shall be treated as being enrolled in a full-time course of study in an institution of higher education during any reasonable period of transition between the child's completion of a full-time course of study in a secondary school and the commencement of an enrollment in a full-time course of study in an institution of higher education, as determined by the administering Secretary.

''(4) No charge may be imposed for any benefits coverage under this chapter that is provided for a child for a period of continued eligibility under paragraph (2), or for any benefits provided to such child during such period under that coverage.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 2001, and shall apply with respect to deaths occurring on or after such date.

Mr. DEWINE. Mr. President, this amendment is cosponsored by Senator

DURBIN, Senator COLEMAN, Senator DOLE, Senator KENNEDY, Senator SALAZAR, and Senator CORZINE. This amendment is designed to improve the health care access for those children who have lost a parent on active military duty.

To understand the need for this amendment, we have to look at the current status of the law, to understand the problem, to understand why we need to change it. Currently, the dependent child—children of a deceased service member—will receive medical benefits under the TRICARE prime, for 3 years after that service member has died, at no cost. But following that period, the dependent child may continue to receive TRICARE prime at the retiree dependent premium rate available to children until the age of 21, or 23 if enrolled in school. But they have to pay for it.

Also, if a dependent child's military parent dies, that child moves down on the food chain, in terms of availability of services. What that means is that if, for example, there is a doctor's appointment opening, an Active-Duty dependent would get preference to schedule that appointment over the dependent child whose parent has died in service.

Let me state that again. Let me make sure my colleagues understand me. To take one example, if there is a doctor's appointment opening and your parent is alive, you get preference over a child whose parent was killed in Iraq or killed in Afghanistan.

That is simply not fair. That is not right. I don't think any Member of the Senate, who really understands that, would say that is right. Our amendment would change that. What our amendment will do is put the surviving children of service members killed in service to our country in the same position as if their parent would have lived and continued to serve in the military. It puts them in no better position, but it puts them in the same position. That is all this amendment does. That is the right thing to do.

What our amendment would do simply is to extend TRICARE prime to every dependent child of a deceased service member at no cost—the same thing as if the parent would have lived—until the dependent's age of 21, or 23 if the dependent attends college. It is the same as if the service member were still alive.

Maintaining this level of TRICARE coverage guarantees the surviving dependents will continue to have access to some of the best doctors this country has to offer and would receive adequate health care and treatment.

This is the right thing to do, it is fair, and it is just. I believe it is what the American people, if they understood the issue, if the issue was explained to them, would clearly want us to do. To do any less for the surviving children of our service members who have been killed in service to our country is simply not right.

I ask unanimous consent that two letters of support be printed in the RECORD.

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

RESERVE OFFICERS ASSOCIATION
OF THE UNITED STATES,
Washington, DC, April 11, 2005.

Hon. MIKE DEWINE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DEWINE: The Reserve Officers Association, representing 75,000 Reserve Component members, supports your amendment to the emergency supplemental appropriation, SR 109–052, to increase the period of continued TRICARE coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days.

The Department of Defense (DoD) has relied heavily on the Guard and Reserve to provide almost half of the troop support for Iraq and Afghanistan and this does not even take into consideration the number of members who have volunteered for duty during this time. It has been announced that this level of Reserve Component support has become the norm.

Your bill will provide a limited entitlement, in keeping with business case principles, that allows a member to serve their country knowing that their family will be taken care of if they give the ultimate sacrifice—their life.

The Active and Reserve Components, are entering into a new phase of protracted warfare and we need to update our outdated personnel practices to reflect this new environment. Congressional support for our nation's military men and women in the Guard and Reserve is and always will be appreciated.

Sincerely,

ROBERT A. MCINTOSH,
Major General (Ret), USAFR, Executive Director.

NATIONAL MILITARY FAMILY
ASSOCIATION,
April 10, 2005.

Senator MIKE DEWINE,
U.S. Senate,
Washington DC

DEAR SENATOR DEWINE: The National Military Family Association (NMFA) is a national nonprofit membership organization whose sole focus is the military family. NMFA's mission is to serve the families of the seven uniformed services through education, information, and advocacy. On behalf of NMFA and the families it serves, I would like to thank you for introducing important amendments in The Emergency Supplemental Wartime Appropriations Act, to enhance benefits for survivors of those servicemembers who have made the supreme sacrifice for their Nation.

NMFA strongly believes that all servicemembers deaths should be treated equally. Servicemembers are on duty 24 hours a day, 7 days a week, 365 days a year. Through their oath, each servicemember's commitment is the same. The survivor benefit package should not create inequities by awarding different benefits to families who lose a servicemember in a hostile zone versus those who lose their loved one in a training mission preparing for service in a hostile zone. To the family, there is no difference. Your amendment would extend the death gratuity increase proposed by the Administration to survivors of all active duty deaths, not just those that are combat related.

NMFA also supports the amendment you propose to extend the TRICARE Prime medical benefit to any dependent child of a deceased servicemember at not cost until the age of 21 or 23 if enrolled in school. This is a benefit that would have been available to these children had their servicemember parent lived and remained on active duty. The freedom from worrying about copays and deductibles when a child needs to see a doctor is very important for the surviving parent.

Thank your for your support and interest in military families. If NMFA can be of any assistance to you in other areas concerning military families, please feel free to contact Kathy Moakler in the Government Relations Department at 703.931.6632.

Sincerely,

CANDACE A. WHEELER,
Chairman/Chief Executive Officer.

Mr. DEWINE. Mr. President, one letter is from the Reserve Officers Association and one is from the National Military Family Association.

I wish to share an excerpt from the letter from the ROA. Regarding health care benefits, it reads in part as follows:

> Your bill will provide a limited entitlement in keeping with business case principles that allows a member to serve their country knowing that their family will be taken care of if they give the ultimate sacrifice—their life.

We owe the families of those who have lost loved ones in active duty our gratitude and our support. It is time to do a better job of caring for these families. It is time to ensure that this Congress does what is right. I ask my colleagues to stand with me and with my other colleagues to support these families and do our part as they have done theirs.

As I said, I am joined in this amendment by Senators DURBIN, COLEMAN, DOLE, KENNEDY, SALAZAR, and CORZINE. We believe this is the equitable thing to do, it is the fair thing to do, and it is the right thing to do.

Again, to repeat: All it does is put this child who has lost a parent in Iraq, who lost a parent in Afghanistan, who has lost a parent in service to our country, in the same position that child would have been if that parent would have continued to serve in the military and would have continued to live.

Today, without this amendment, that child is discriminated against. After 3 years, that child has to pay for his or her own premium, that family has to pay the premium and, not only that, even if they pay the premium, they are put in a different position than if the parent would have lived. The child of a person in the military who lives is in a better position than a child of a person in the military who is deceased, and that is wrong. This amendment corrects that.

I ask unanimous consent that this amendment be set aside for the moment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 342

Mr. DEWINE. Mr. President, I now ask that my amendment No. 342 be called up.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, and Mr. BINGAMAN, Mr. COLEMAN, Mr. NELSON, Mr. MARTINEZ, Mr. CORZINE, Mr. CHAFEE, Mr. DODD, Mr. DURBIN, Mr. ALEXANDER, Mr. MARTINEZ, Mr. SMITH, Mr. SPECTER, Mr. KENNEDY, Mr. LAUTENBERG, and Mr. OBAMA, proposes an amendment numbered 342.

Mr. DEWINE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate $10,000,000 to provide assistance to Haiti using Child Survival and Health Programs funds, $21,000,000 to provide assistance to Haiti using Economic Support Fund funds, and $10,000,000 to provide assistance to Haiti using International Narcotics Control and Law Enforcement funds, to be designated as an emergency requirement)

On page 183, after line 23, add the following:

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

For necessary expenses to provide assistance to Haiti under chapter 1 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, $10,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ASSISTANCE TO HAITI

SEC. 2105. (a)(1) The total amount appropriated by this chapter under the heading ''ECONOMIC SUPPORT FUND'' is increased by $21,000,000. Of the total amount appropriated under that heading, $21,000,000 shall be available for necessary expenses to provide assistance to Haiti.

(2) Of the funds made available under paragraph (1), up to $10,000,000 may be made available for election assistance in Haiti.

(3) Of the funds made available under paragraph (1), up to $10,000,000 may be made available for public works programs in Haiti.

(4) Of the funds made available under paragraph (1), up to $1,000,000 may be made available for administration of justice programs in Haiti.

(5) The amount made available under paragraph (1) is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b)(1) The total amount appropriated by this chapter under the heading ''INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT'' is increased by $10,000,000. Of the total amount appropriated under that heading, $10,000,000 shall be available for necessary expenses to provide assistance to Haiti.

(2) Of the funds made available under paragraph (1), up to $5,000,000 may be made available for training and equipping the Haitian National Police.

(3) Of the funds made available under paragraph (1), up to $5,000,000 may be made available to provide additional United States civilian police in support of the United Nations Stabilization Mission in Haiti.

(4) The amount made available under paragraph (1) is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Mr. DEWINE. Mr. President, this amendment is cosponsored by Senators BINGAMAN, COLEMAN, NELSON, CORZINE, DOLE, CHAFEE, DODD, DURBIN, ALEXANDER, MARTINEZ, SMITH, SPECTER, KENNEDY, LAUTENBERG, and OBAMA. It will provide additional emergency assistance to Haiti. Unfortunately, the fact is that the bill before us now contains virtually no additional economic assistance to Haiti, the poorest country in our hemisphere.

Haiti today is on the brink of collapse. Elections are scheduled in November, but there is grave social unrest and horrible poverty that is spinning Haiti back into its previous cycles of violence and instability. Haiti is our neighbor to the south, about an hour and a half plane trip from Miami. Twice in the last decade, American marines, American troops, have had to go to Haiti.

There is an interim government in Haiti, a government that was supported and is supported and backed by the United States and by the international community, but the situation is very precarious. That interim government is scheduled to give way to a permanent government after elections that are now scheduled for November of this year. There is an international peacekeeping force in Haiti, but there is significant violence, and the government is, quite frankly, tottering.

Money is needed in this emergency supplemental for emergency reasons in Haiti. We cannot wait for the normal appropriations process. First of all, money is needed for the elections. The United States will have to contribute toward these elections. We will have to take the lead, and other countries, of course, will participate, if elections are going to be held.

Those elections were not scheduled when the last appropriations bill went through this Congress. No one could have totally foreseen what the exact situation would have been in Haiti when the last appropriations bill was approved by this Congress. The violence has continued. The international peacekeeping force has not been as aggressive as some of us would have liked to have seen it, and therefore violence has continued. Some of the pro-Aristide forces are responsible for some of the violence, and some of the old regime people dating back to Baby Doc are responsible for some of the violence. The situation is not good.

Some of this money, quite frankly, needs to be used for humanitarian assistance. Some of the money needs to be used to train the police. Some of the money needs to be used to deal with the unemployment situation.

My colleagues and I—a long bipartisan list that I have read with seven Republicans have sponsored this amendment—are working with the chairman of the subcommittee and with the chairman of the full committee to see what funds might be available and what we might be able to work out with regard to this amendment.

If the United States does not stay engaged in Haiti, the day will not be far off when there will be more chaos in Haiti than there already is, and the government may fall. American troops may be back in Haiti at great cost to us, potential lives as well as money, and we may once again see more people flooding toward the United States. This will be money that is very well spent, and, quite frankly, I believe we have no choice but to spend this money.

I ask unanimous consent that this amendment be set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I wish to talk now about two other amendments, one of which has already been offered and one which will be offered that I have cosponsored.

Haiti is not the only emergency need that cannot wait another 6 or 9 months for funding. I wish to first talk about an amendment that Senator KOHL and I sponsored and that Senator COCHRAN has been very helpful in regard to.

Our amendment provides additional emergency money for food aid. The President in his budget requested $150 million in additional emergency food aid in this bill. Quite frankly, we need to do more. Accounts have been drained, and over 17 million people are in need of emergency food aid in the world. That is a very conservative estimate.

Last week, the United Nations World Food Program announced that it would be forced to cut rations to Darfur to make their supplies last. As Senator FRIST so eloquently spoke just a few moments ago, the people in this part of the world suffered through genocide, and now they will starve. In addition, the U.S. Agency for International Development has been forced to cut programs in Sudan and Angola, Nicaragua, Rwanda, Ghana, Eritrea—all food programs.

We know, of course, about the high-profile food aid emergencies, such as the people affected by the tsunami in Southeast Asia and the people in Darfur, but what we really do not hear so much about is the need for food as a result of the locust infestation that swept through Africa last year, devastating crops, and what we do not hear about is the devastating floods in Bangladesh that leave women and children without any means of survival. We cannot tell these 17 million starving people of the world to wait. We can't tell them to wait for the regular appropriations cycle because, frankly, by then, for them at least, it will be too late.

When this amendment comes to the floor, the amendment sponsored by

Senator KOHL and me, I urge my colleagues to support this amendment to provide this emergency food. It is lifesaving. It will make a difference. Lives are, in fact, saved.

Finally, I am cosponsoring an amendment offered by Senator CORZINE, together with Senators BROWNBACK and DURBIN, that would provide $93.5 million to address the crisis in the Darfur region of Sudan.

Again, I thank my colleague, Senator FRIST, who has on many occasions been to Sudan and has personally done humanitarian work there, and who has been so very active on the floor of the Senate as well. I thank him for his eloquent words a few minutes ago and for his great leadership.

I also thank my other colleagues who have taken the lead in this area and for their comments on the floor about this particular amendment and the dire situation in Darfur. They have been deeply committed to helping this troubled region of our world, and I commend them for their work.

The amendment would provide $52 million in assistance for the African Union. The African Union is trying to stop the genocide, and we have a moral obligation to support their mission.

This amendment also addresses the overwhelming humanitarian crisis in Darfur—providing $40.5 million for international disaster assistance. The United Nations International Children's Fund estimates that they only have access to 5 to 10 percent of Darfur and only can get into 5 or 10 percent, and they have access only to one-third of the millions of people living in the region. Children's lives depend on our vote on this amendment.

This amendment is budget neutral.

I urge all of my colleagues who have raised their voices on the floor in opposition to the crimes being committed in Darfur to vote for this amendment and to vote for the accompanying amendment containing the Darfur Accountability Act. The genocide in Darfur must end, and it must end now.

I understand that we cannot address every problem in the world in this particular bill and that some things will have to wait for the regular appropriations cycle, but the things that I have come to the floor to talk about this morning simply will not wait. Lives are at stake if we do not address them in this bill, and lives will, in fact, be lost. Each one of the items that I have talked about is a matter of crisis, a matter of emergency.

They need to be included in this bill.

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

The ACTING PRESIDENT pro tempore.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 451

Mr. SCHUMER. Mr. President, I send an amendment to the desk, and I ask unanimous consent that Senators MIKULSKI, STABENOW, DODD, BOXER, DORGAN, LIEBERMAN, CLINTON, and AKAKA be added as cosponsors of this amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Ms. MIKULSKI, Ms. STABENOW, Mr. DODD, Mrs. BOXER, Mr. DORGAN, Mr. LIEBERMAN, Mrs. CLINTON, and Mr. AKAKA, proposes an amendment numbered 451.

Mr. SCHUMER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits)

On page 231, between lines 3 and 4, insert the following:

SEC. 6047.(a) Congress finds that—

(1) the prices of gasoline and crude oil have a direct and substantial impact on the financial well-being of families of the United States, the potential for national economic recovery, and the economic security of the United States;

(2) on April 12, 2005, crude oil prices closed at the exceedingly high level of $51.86 per barrel and the price of crude oil has remained above $50 per barrel since February 22, 2005;

(3) on April 11, 2005, the Energy Information Administration announced that the national price of gasoline, at $2.28 per gallon—

(A) had set a new record high for a 4th consecutive week;

(B) was $0.49 higher than last year; and

(C) could reach even higher levels in the near future;

(4) despite the severely high, sustained price of crude oil—

(A) the Organization of Petroleum Exporting Countries (referred to in this section as ''OPEC'') has refused to adequately increase production to calm global oil markets and officially abandoned its $22–$28 price target; and

(B) officials of OPEC member nations have publicly indicated support for maintaining oil prices of $40–$50 per barrel;

(5) the Strategic Petroleum Reserve (referred to in this section as ''SPR'') was created to enhance the physical and economic security of the United States;

(6) the law allows the SPR to be used to provide relief when oil and gasoline supply shortages cause economic hardship;

(7) the proper management of the resources of the SPR could provide gasoline price relief to families of the United States and provide the United States with a tool to counterbalance OPEC supply management policies;

(8) the Administration's current policy of filling the SPR despite the fact that the SPR is more than 98 percent full has exacerbated the rising price of crude oil and record high retail price of gasoline;

(9) in order to combat high gasoline prices during the summer and fall of 2000, President Clinton released 30,000,000 barrels of oil from the SPR, stabilizing the retail price of gasoline;

(10) increasing vertical integration has allowed—

(A) the 5 largest oil companies in the United States to control almost as much crude oil production as the Middle Eastern members of OPEC, over of domestic refiner capacity, and over 60 percent of the retail gasoline market; and

(B) the top 10 oil companies in the world to make more than $100,000,000,000 in profit and in some instances to post record-breaking fourth quarter earnings that were in some cases more than 200 percent higher than the previous year;

(11) the Administration has failed to manage the SPR in a manner that would provide gasoline price relief to working families; and

(12) the Administration has failed to adequately demand that OPEC immediately increase oil production in order to lower crude oil prices and safeguard the world economy.

(b) It is the sense of Congress that the President should—

(1) directly confront OPEC and challenge OPEC to immediately increase oil production; and

(2) direct the Federal Trade Commission and Attorney General to exercise vigorous oversight over the oil markets to protect the people of the United States from price gouging and unfair practices at the gasoline pump.

(c)(1) For the period beginning on the date of enactment of this Act and ending on the date that is 30 days after the date of enactment of this Act—

(A) deliveries of oil to the SPR shall be suspended; and

(B) 1,000,000 barrels of oil per day shall be released from the SPR.

(2) If necessary to lower the burden of gasoline prices on the economy of the United States and to circumvent the efforts of OPEC to reap windfall crude oil profits, 1,000,000 barrels of oil per day shall be released from the Strategic Petroleum Reserve for an additional 30 days.

Mr. SCHUMER. Mr. President, the amendment I have offered will allow the Federal Government to take long overdue action to curb the record high gasoline prices that are plaguing American consumers at the pump. As my colleagues are aware, for weeks, oil and gasoline prices have been placing an immense burden on working families. They are burning a hole in every wallet and pocketbook in America, and they are threatening our fragile recovery. The March numbers showed that consumers are not spending on other things because of the high prices of gasoline and other petroleum products. It is time this body took action to protect our Nation's economic security from sky-high oil prices and the whims of the OPEC cartel.

This amendment would provide the American consumer with relief by halting the diversion of oil from markets to the Strategic Petroleum Reserve, and by releasing an amount of oil from the reserve through a swap program in order to increase supply, quell the markets, and bring down prices at the pump.

What we are faced with is the simple market economics of supply and demand. If demand goes up, price goes up. If supply goes up, price goes down. At a

time when we are facing record-breaking gasoline prices, it is unfathomable that the Federal Government would actually be taking oil off the market and exacerbating the high costs of working families.

The price of crude oil has remained at near record highs for the first half of 2005. Oil has been trading at over $50 a barrel since February 22. The prices have already burdened Americans, particularly in my home State of New York and the Northeast where we rely on home heating oil to heat our homes, as people have done throughout the winter.

I know a lot of these families were hoping for a quick spring so they could enjoy relief from the high energy prices. Unfortunately, that has not been the case, as the increased burden of oil costs has just moved from the home and now, as we approach spring, to the highway. As Americans are beginning to plan for their summer vacations and road trips, the price of gasoline has reached a record high for the fourth week in a row.

The Energy Information Administration predicted that the current price of $2.28 a gallon—that is 49 cents, just about half a dollar up from last year—could give way to even higher prices in the future.

We know who is being hurt by these oil prices, and we know who is benefiting—OPEC. OPEC made over $300 billion in oil revenue last year. They stand to gain much more if the price stays in the stratosphere. And they have a policy which they keep changing. Originally, they said $22 to $28 a barrel would be their policy. Now they say they are comfortable at oil remaining at $40 to $50 permanently. I know who will not be comfortable—American families who depend on affordable oil to commute to work, heat their homes, and provide for their energy needs.

Some of my colleagues may be asking: Didn't OPEC agree to increase production by 500,000 barrels a day? The reality is that OPEC's pledge to increase production on paper has not reduced prices at the pump. OPEC cut a million barrels in the face of rising prices, and now they say they are going to raise it 500,000 barrels. But we are not sure this is happening because it may be a paper transaction. When it comes to the talk of increasing production by another 500,000 barrels, an increase that might actually result in a production raise, it is no surprise that OPEC members are balking. Venezuela, Nigeria, and Libya—all have indicated they would oppose such an increase. That is another reason we should use the SPR because there is a division in OPEC, and we can strengthen the hands of those more responsible nations that want to increase production to meet the increasing demand in the world.

What has the administration done on this? It has continued its policy of taking oil off the market and placing it in the SPR. This policy, which further tightens the oil market by taking much-needed supplies out of commerce, is slated to take an average of 85,000 barrels a day off the market during the height of the driving season.

I understand some of my colleagues are convinced the SPR should not be touched, even to safeguard our economic security. I would argue that the concerns to this degree do not properly balance America's physical security needs against our economic security needs. The SPR is now 98 percent full. We are not recommending a sale but, rather, a swap so the oil would be replaced presumably at a lower price, and we would have the full amount of oil in the SPR once again.

The administration has these tools, and yet we are letting OPEC control the whole show. If we showed them we meant business, that we were willing to mix in, they would be far more reticent, far more reluctant to raise the price at will in the light of increasing demand from China, India, our country, and other places.

It is about time we did this. I urge my colleagues to join me in protecting the pocketbook of working families from OPEC's profiteering by supporting the amendment.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I want to make some remarks today on the Defense supplemental we have before us. It is critical we pass that legislation. I have been exceedingly disappointed that critical legislation to support our troops who are serving us in Iraq and Afghanistan and other areas around the world is being held up by what now appears to be a prolonged and extensive debate on immigration. More than that, we are being asked to vote on a very significant immigration legislation. No. 1, the AgJOBS bill is 105 pages. As I read it, Mr. President, as I know you have, it is breathtakingly deficient. It will undermine our current immigration system, make it much worse. It is an abomination. Yet I understand at one point the sponsors, Senators CRAIG and KENNEDY, said they had over 60 Senators prepared to vote for it. Now, they are peeling off right and left and we may certainly hope there are not votes sufficient to pass this legislation we will be voting on now on a defense bill.

I was in an Immigration Subcommittee hearing yesterday, chaired by Senator CORNYN who chairs the Judiciary Subcommittee on Immigration. It was a very informative and important hearing. He has been working on this for many months now, trying to hammer out something that makes sense for America. Yet now we are rushing through to vote on this bill. I want to share some thoughts about it.

I want to strongly oppose the AgJOBS Act. I oppose it, not only because it has nothing to do with the money we need to support our troops in Iraq and will no doubt, and already has, slow down the bill, but because it undermines the rule of law by rewarding illegal aliens with amnesty. It creates no mechanisms in the law that will help bring integrity to a system that is failing badly. It is a huge step backward. It would be a disaster, if you want to know the truth.

It contains a host of bad provisions that should not be law and, as a result, has even lost the support of much of the agriculture community the sponsors claim to be so much in need of it.

It will provide amnesty to 1 million illegal aliens and their families in addition, illegal aliens who broke the immigration law to come here illegally and then again broke the law by working here illegally. The AgJOBS bill will treat unfairly those people who come to the United States legally to work in agriculture, and do their work and comply with the rules dutifully. They do not benefit at all from this amnesty. Only illegals can benefit from its passage. That is a fundamental principle a great nation ought to think about. This is not an itty-bitty matter. We are going to provide a benefit to somebody who violates a law and deny it to somebody who complies with the law? What kind of policy can that be? How can one justify such a policy?

Under the AgJOBS bill, illegal aliens are granted not only the right to stay here and work here, but they are put on the road to citizenship, a virtual guaranteed path to citizenship unless they get arrested for a felony—not arrested, you have to be convicted of a felony. Or if you are convicted of three misdemeanors, that can get you out—three or more.

As I noted, the legal farm workers under the current H–2A program will get nothing. They are certainly not put on a road to citizenship. Legal workers will not become permanent resident workers and then citizens under the AgJOBS bill. If the AgJOBS bill passes, we will state to the world that America is in fact rewarding people who break the law to the disadvantage of those who follow it.

The sponsors of the amendment say this is not amnesty, it is earned legalization; it is adjustment of status; it is rehabilitation. Those are misnomers, to say the least. The AgJOBS bill is amnesty, plain and simple. It will give illegal aliens the very thing they broke the law to get, the ability to live and work inside the United States without having to wait in line the same as everybody else to get it. The amnesty contained in AgJOBS does not stop there. It goes even further and gives illegal aliens a direct path from their new legal status to U.S. citizenship.

Getting rewarded by being handed the exact thing you broke the law to get plus the ability to get citizenship is amnesty, I think, under any definition of it. It even goes far beyond the proposals President Bush has made that some have called amnesty, and he says it is not.

I am somewhat dubious about some of the ideas he has proposed. But his principles are clearly violated by this AgJOBS bill. Make no mistake about it, President Bush, for all his commitment to improving the ability of people to come to America to work, has never announced principles as breathtakingly broad as this.

Let us remind ourselves that criminal laws are involved here. Title 8, section 1325 of the United States Code says illegal entry into the United States is a misdemeanor on the first offense, a felony thereafter. Coming here illegally, regardless of why you came, is a criminal offense. Oftentimes, false documents and papers are submitted and filed. That is a criminal offense also.

Not only does it provide amnesty to illegal aliens who are already working here, it gives amnesty to the illegal alien's family, if their family is also illegally here. But if their family is still abroad and not here, the AgJOBS amendment allows the illegal alien to send for their family and bring them here, cutting in line ahead of others who made the mistake of trying to comply with our laws rather than break them.

According to a Pew report, there are at least 840,000 illegal immigrant workers who would be eligible for amnesty under this bill. Adding in one spouse and a minor child for each of those, the estimate can easily increase to 3 million immigrants—3 million, all of whom are defined only in the agricultural community, not in any other community in the country where it seems to me we would have a very difficult time on principle defining why agriculture workers get such beneficial treatment compared to any other worker who might be here.

Not only does AgJOBS give amnesty to the current people who are in our country illegally, but it extends that amnesty to illegal aliens who once worked in America but have already gone home. It actually encourages them to come back to the United States and puts them on a route that leads them to full citizenship. These are people who have returned home to their country, and we are putting them ahead of lawful workers who come here and may also want to be citizens one day.

The AgJOBS amendment will create a category of ''lawful, temporary resident status'' of agricultural workers who have worked at least 100 days in the 18 months prior to December 31, 2004. These are supposed to be workers who were here working, contributing to our economy, but they only have to work 100 days.

You have to read these acts. You can't just believe what you hear about them. I was trying to study it last night and things kept hitting me that almost take your breath away. One hundred workdays—do you know how that is defined in the act? An individual who is employed 1 or more hours in agriculture per day, that is a workday. For literally as many or as few as 100 hours of agricultural work in 18 months you are put on this track. That is not good policy. I don't know who wrote this bill. The details of it are extremely troubling.

Because the bill now only applies to agricultural workers, it is true the entire illegal population that is estimated to be in our country of 8 to 10 million will not be legalized under the bill. However, we can be quite sure the majority of those 1.2 million illegal agricultural workers will apply for amnesty if this amendment is passed.

Again I ask, what real principle can we stand on to say we need to give these people who are here illegally preference over people who might be working in some other industry?

Under the AgJOBS bill, an illegal alien is not deportable as soon as his paperwork is filed. No factfinding or adjudication on the application is necessary. It kicks in a protection that he cannot be deported. Maybe he has been charged with a felony, but the trial hasn't come along yet. It seems to me the procedure is guaranteed to go forward and they will be able to be put on this track. After the illegal alien gets the first round of amnesty, being granted temporary legal status under the AgJOBS bill, the bill gives them the opportunity to continue working in agriculture and apply for permanent resident status here in the United States. Thereafter that puts you in a position to become a citizen—guaranteed, unless you get in some big trouble.

There is no limit on the number of individuals who would be allowed to adjust to lawful permanent residence and eventually become citizens. If the illegal alien who meets the bill criteria has already left the United States, the legislation actually would encourage them to come back through the border to become a lawful temporary worker. As I read the legislation, they are allowed to do that by filing a petition. I believe it is called a preliminary petition. This petition is pretty interesting. The petition fundamentally is filed at the border with an officer, it says. And who is the officer? An officer is a member of a farm workers organization or an employer group, both of which are not representing the interests of the citizens of the United States but both of which have a special interest in having the alien come into the country. That is how they make their money. And they have to accept it if he produces virtually any document at all that would say he or she has worked in the country at sometime previously.

Later on my breath was taken away where it says in this act that the documents filed by the illegal alien are confidential. Read this:

> Except as otherwise provided in this section, the Secretary [that's the Secretary of Homeland Security, who is supposed to be supervising all of this, under his jurisdiction] nor any official or employee of the Homeland Security or Bureau or Agency thereof may use the information furnished by the applicant pursuant to an application under this section. . . .

It goes on to say:

> Files and records prepared for the purposes of this section by qualified designated entities [these are these employer groups. These are the farm worker organizations] are confidential, and the Secretary shall not have access to such files or records relating to the alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph 6.

Great Scott, you mean you file an application that is supposed to justify you to come into the country, and it is supposed to allow you to come in here, but the drafters of this legislation are so distrustful of our Government and the Secretary of Homeland Security that he is not even able to see the documents? I don't know how this became the policy of the United States.

The fundamental principle is that no nation is required to allow anyone to come into their country because they have sovereignty over their country. They set standards and try to adhere to them. Wise countries such as ours are very generous about how many people are allowed to come in. Some are far more strict—most are, in fact, more strict than are we. But no one has a right, automatically, to enter somebody's country. You enter by permission of that country. I don't think there would be anything wrong to ask the applicant to at least file a petition so the designated governmental official in charge of the operation can see it, instead of it being secret from them.

Frank Gaffney recently wrote a column entitled ''Stealth Amnesty.'' He is the president of the Center for Security Policy. We do have some security problems involving terrorism involved around our country. He summarized the AgJOBS bill by saying this:

> By the legislation's own terms, an illegal alien will be turned into ''an alien lawfully admitted for temporary residence'' . . .

Just by fiat.

Provided they had managed to work unlawfully in an agricultural job in the United States for a minimum of 100 hours; in other words, for 2½ weeks during 18 months prior to August 31, 2003.

I will continue to talk about the bizarre nature of this application process. Someone who is even not in the country who wants to come back into the country, as I understand it, who has worked in our country illegally for some period of time and have returned to their country, they want to come back; they file an application, a preliminary application, I believe the phrase is. They do not file it with the Government, they file it with a farm workers group or an employer group,

both of which do not have a real interest in seeing that the laws of the United States are enforced.

It goes on. It is difficult to understand. I read from page 24 of the 205-page bill:

. . . the Secretary shall not have access to such files or records relating to the alien without the consent of the alien, except as allowed by a court order.

It goes on to say that ''neither the Secretary nor any official'' shall ''use the information furnished by the applicant pursuant to an application filed under this section,'' provided they cannot use it ''for any purpose other than to make a determination on the application or for enforcement.''

Then it goes on to state that ''nothing in this section shall be construed to limit the use or release for immigration enforcement purposes or law enforcement purposes'' of information contained in files and records of the Department of Homeland Security but that does not give them the ability to use the information contained in the paperwork filed with the employer group. Those papers the employer does not give to the Department of Homeland Security are kept secret and not available to law enforcement, the bill goes on to add that no information in the application can be used ''other than information furnished by an applicant pursuant to the application or any other information derived from the application that is not available for any other source.''

I was a prosecutor. I know how hard it was to handle these things. This bill will create a situation that makes these documents virtually unusable in making sure this system has integrity. Why do we want to do that? What possible reason do we want to have in legislation of this kind that would say when you come here and you present documentation into evidence that justifies coming here to do that—why shouldn't the information you present in your application be part of the files of the Government, be reviewable at any time by any agency of the Government, for any purpose for which they want to use it? Everybody else has to do that.

Before you can be a Senator, you have to disclose all your finances. That does not take me long, but for some people it takes a long time. We have to do that, but somebody who is not even a citizen, not even a resident of this country, can keep information secret even though they are asking to become legal permanent residents eligible for citizenship.

Mr. President, I will quote from an article by Mr. Frank Gaffney. This confirms what I have been saying, which is undisputable about the bill. We are not at a time in our history when we should be doing this. It is exactly opposite of what we should be doing if we want to create a new system of immigration that allows more people to come here legally, to work as their schedules are fit, with employers who may need them.

We can do that. We should do that. We can do better about that. We can improve current law. But to just willy-nilly allow people who could very well be very marginal part-time employees, who never worked much—to give them permanent resident status and citizenship for violating our laws is thunderously erroneous, in my view. It is just not good.

Mr. Gaffney goes on to say:

Once so transformed—What he means by that is once you have been transformed from an illegal person to a legal person by filing an application—they can stay in the U.S. indefinitely while applying for permanent resident status. From there, it is a matter of time before they can become citizens, so long as they work in the agricultural sector for 675 hours over the next six years.

But you only have to work, really, 2,000 hours, or 1 year out of 6 years, but you have to stay in the agricultural sector.

Some have called this creating indentured servants. Why isn't it a form of indentured servitude? You have to come here. You are required to work for 6 years in agriculture. You cannot take some other type employment.

The Craig[-Kennedy] bill would confer this amnesty as an exchange for indentured servitude. The amnesty will be conferred—Mr. Gaffney goes on to say—not only on farmworking illegal aliens who are in this country—estimates of those eligible run to more than 800,000. It would also extend the opportunity to those who otherwise qualified but had previously left the United States. No one knows how many would fall in this category and want to return as legal workers. But, a safe bet is that there are hundreds of thousands of them.

If any were needed, S. 1645 [the AgJOBS bill] offers a further incentive to the illegals: Your family can stay, as well. Alternatively, if they are not with you, [and you are in the United States] you can bring them in, too—cutting in line ahead of others who made the mistake of abiding by, rather than ignoring, our laws.

So the system would work this way. I do not think anyone would dispute this. Someone is here illegally. They are working in agricultural work. By the way, it defines, at the beginning of this legislation, what an ''employer'' means in agricultural employment. And it says:

The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

So you have to work for an agricultural employer, but that does not indicate to me that you have to be working in agriculture. Maybe the company has some workers who are agricultural, and 90 percent of them are not. Maybe you could work for them the way this thing is written, regardless.

But the way this system would work is if they were here illegally over a period of 18 months—if they were here just 18 months—and had worked 100 hours in agricultural employment during that 18 months, the Secretary shall make them a lawful temporary resident—required to, unless they committed a serious crime or something.

Then, over the next 6 years, if they were to work in agriculture for up to 2,060 hours—that is about 1 year's work—over 6 years in agriculture, they become a legal permanent resident. Then if you just hang along there for 5 years, you can become a citizen.

Now, I do not see where this can be supported by somebody saying they earned their citizenship. Citizenship should not be bought and paid for in labor. Why? Well, they worked for compensation, they wanted to work for compensation, this is not something we forced them to come here and do, they were paid like every other American is paid. You earn your pay for the work you perform. I do not know that you should earn additional benefits because you work. All the while, of course, the lawful H–2A workers are still required to go home when their time is up. They only receive pay for working, why should we give illegal workers more than that.

The AgJOBS amendment goes so far as to provide free legal counsel to illegal aliens who want to receive this amnesty. All Americans don't get free legal counsel. There is no notice in this bill that suggests they have to have any low-income level or have no assets to get the legal services this bill gives to illegal alien workers. It provides that the Legal Services Corporation can expend their funds and shall not be prevented from providing legal assistance directly related to an application for adjustment of status under this section.

Again, we are now giving them free legal status, free legal services, and we are allowing them to go to these groups, these farmworker organizations or employer groups, to help them with that. The AgJOBS amendment provides all that in that fashion.

Let me talk about another item in this amendment an item that restricts the rights of employers. I don't know how every State does it. I think probably a substantial number of States, like my State of Alabama, have laws that provide for employment at will; that is, unless an employee has a contract, they work for the company and they can leave the company whenever they want and the company can terminate them whenever they want. That is Alabama law. I am rather certain of that. But if you come in under this act, you get an enhanced protection over American citizens. Prohibition: No alien granted temporary resident status under subsection (a) may be terminated from employment by any employer during the period of temporary resident status except for just cause. And they set up an administrative law process, an arbitration proceeding to have all these trials. The burden of

proof is on the employer to demonstrate just cause for termination, and he has the burden to prove it by a preponderance of the evidence.

Once again, we are entering into a complex legal deal here we need to avoid, providing legal rights and protections to noncitizens who have violated the law that are not available to American citizens.

Presumably, there are two farmworkers on this farm somewhere. One of them is an American citizen—in Alabama, let us say—and the boss wants to fire one of them. If he fires the temporary resident alien, he has to go through arbitration and hire a lawyer and defend himself and be sued. As a matter of fact, it goes on to say that doesn't end it. That is one additional remedy the worker can have. He can still sue the employer for any kind of fraud, abuse or harassment or any other thing that some trial lawyer may pursue. So it doesn't end it. The evidence apparently can be utilized from that trial into a next trial.

I am concerned about that. I believe it is an unnecessary litigation that is going to impact our country adversely. That is why you will see that agricultural groups are not supporting this AgJOBS bill.

What we really should do is follow the recommendations made to us over the years by immigration commissions of Congress that have been created for the specific purpose of providing advice and counsel to us on how to effect immigration reform. In 1992, 6 years after the last illegal alien agricultural worker amnesty passed in 1986 as part of the Immigration Reform and Control Act, the IRCA, the Commission on Agricultural Workers issued a report to Congress that studied the effects of the 1986 agricultural amnesty called the Special Agricultural Worker Program.

One of the first things the Commission acknowledged was the number of workers given amnesty under the bill had been severely underestimated. The Commission reported the SAW Program legalized many more farmworkers than expected:

> It appears that the number of undocumented workers who had worked in seasonal agricultural services prior to the IRCA was generally underestimated.

What else did the Commission find? Did it suggest that this solved the problem of workers in America in agricultural industry? Did it fix the problem that they tried to fix in 1986?

They say this:

> Six years after the IRCA was signed into law, the problems within the system of agricultural labor continued to exist. In most areas, an increasing number of newly arriving unauthorized workers compete for available jobs, reducing the number of workers available to all harvest workers—

That is, those who were given amnesty and those who are citizens—

> and contributing to lower annual earnings.

Did the Commission recommend we pass a second legalization program such as AgJOBS? What did they say that might help us on that? They said this:

> A worker specific and/or industry specific legalization program, as contained in the IRCA, should not be the basis of future immigration policy.

This was 6 years after we did the last one. They had a commission study it. This is what they concluded. What do they suggest we ought to do? What did the Commission recommend? They said the only way to have structure and a stable agricultural market was to increase enforcement of our immigration laws, including employer sanctions, and reduce illegal immigration:

> Illegal immigration must be curtailed. This should be accomplished with more effective border controls, better internal apprehension mechanisms, and enhanced enforcement of employer sanctions. The U.S. Government should also develop better employment eligibility and identification systems, including fraud-proof work authorization documents for all persons legally authorized to work in the United States so that employer sanctions can more effectively deter the employment of unauthorized workers.

That is what they recommended. That is what we haven't done. In fact, we are in an uproar over this rather minor Sensenbrenner language the House put on their bill that deals with national security and a way to make ID secure and other matters consistent with recommendations of the 9/11 Commission. So it appears that the Senate does not want to do that but what we want to do is continue to pass these amnesty bills. This should not be happening.

Restoring our ability and commitment to successfully enforce our immigration laws is the only long-term solution. A real solution will not reward illegal behavior by handing out amnesty to people here illegally, but instead will require effective control of our borders, active policing in the interior, and participation among all levels of law enforcement. Of course, it includes improving the laws that we have to allow, where needed, more people to come legally in a system that actually works. But to have any system at all, of course, that must be created with an enforcement mechanism that works. We have never created such a mechanism and now it is time to do so.

I introduced a bill last Congress—and will introduce, again—that would strengthen the United States' ability to enforce our immigration laws. The Homeland Security Enhancement Act would clarify for law enforcement officers of a State, county, and city that they do have authority to enforce immigration violations while carrying out their routine duties.

They don't have authority to deport or try, but they have a responsibility, in most instances, to detain people they identify as being here in violation of the law and contact Federal officials to process that individual after that. They have been told, and been confused about, what their authority is. I have written a law review article on it, aided by my assistant here, my counsel, Cindy Hayden. We researched the law and came to that conclusion.

The law provides the authority, in virtually every instance, but lawyers have confused cities and counties and police and sheriffs, and they are not participating in anything the way they would like. We are not talking about forcing them to do anything. We are trying to make sure we pass legislation that clarifies existing law and makes it clear they have the ability to serve and assist our country. It would increase the amount of information regarding deportable illegal aliens entered into the FBI National Crime Information Center database, making the information more readily available to local officials.

This is a big, big deal. In the hearing Senator CORNYN chaired yesterday, we had a person from the Department of Homeland Security who is in charge of detention and removal, and what we learned was that over 80 percent of the people who are detained, processed and found to be here illegally are released on bail while the government arranges for their deportation. It is not surprising they don't show up to be deported. Even after they are given a hearing and found to be here in violation of the law, they are consistently released on bail, and 80 percent of those don't show up to be deported. Then, we now have some 400,000 absconders. Now, Mr. President, if a Senator gets a DUI in Kansas or someplace and you don't show up for court, they put your name in the database, and if you get stopped for speeding somewhere in some other State, they will pick it up. So they are a fugitive, but their information is not being put into the NCIC.

I know police officers. I was a prosecutor for over 15 years. I asked them about this. They tell me they do not even bother to call the Federal Immigration officials if they apprehend someone that is illegally here because they won't come and get them. So they have just given up. They are prepared to help. What a great asset that would be. But, no, we have not seen fit to do that.

But more importantly, the 400,000 absconders are not in the National Crime Information Center computer. So when a State officer apprehends someone, and they have a name and they want to run it through the wanted persons database they would use for an American citizen, they run the birth date, the driver's license, or other identifying characteristics, and it tells them whether there is a warrant out for their arrest.

That is how most people are caught today who violate the law and who are fugitives. Most of them are caught in simple traffic stops. Don't tell them because they will quit speeding. But that is how we catch them—when they get in a fight somewhere and the police runs their name and there is a warrant out in Texas for them for assault or something.

We raised Cain last year about that and asked the tough questions of a number of the Department officials. They said they would try. So out of 400,000, we learned there are about 40,000 of those names they found time to put in the NCI Center computer system that is available at city, county, and police offices out in the country. That indicates to me how confused we are about how to make this system work.

I want to say this. I absolutely believe that we have one big problem on our minds; that is, we think it cannot be done. We think we cannot enforce immigration laws, that we might as well just quit. Well, under our present way of doing so, that is correct. However, if we create a more generous way for people to come here legally that is simple and understandable, and if we enhance our enforcement abilities and if we quit rewarding those who come illegally, you will begin to see the numbers change. As a matter of fact, there is a tipping point out there I am absolutely convinced exists.

If we enhance the enforcement of those who come illegally, we quit providing those who are here illegally with benefits, we increase border enforcement, and we enhance the way for people to come here legally to work, and we make that easier and will get more support from countries from which these people come, we can tip this thing. As the number that come into the country illegally goes down, and as our enforcement effort and officers are increased, you will have a tremendous change in the number of enforcement officers per illegal. That is when you make progress. That is what happened in crime.

The crime rate has been dropping for the last 20 years. As it drops, we don't fire policemen. We have gotten more policemen per crime, so they have more time to work on crime. They are doing a better job of apprehending repeat offenders and putting them in jail. The crime rate has broken. Instead of going up, as it did in the 1960s and 1970s, it has been going down for over 20 years. We can do that here. It will affirm America's commitment to the rule of law. To do that, we are going to need additional bedspace for detention, and we cannot continue to release people who have been apprehended on the street so they just disappear again. We have to require the Federal Government to receive and process people who have been apprehended by local law enforcement. We need to make sure the system provides them a fair hearing, but it also needs to be a prompt hearing. If someone is in violation of the law, the system should work rapidly and not with great expense. Those are some of the things I am concerned about in the bill I have offered. But there are many other problems of a similar nature that need to be dealt with.

We are a nation of immigrants. America openly welcomes legal immigrants and new citizens who have the character, integrity, the decency, and the work ethic that have made this country great. But they are concerned, rightly, about the politicians in Washington who talk as though they hear them when they cry out for a system that works, and we say we are working on it. What do we do? We came up with an AgJOBS bill that absolutely goes in the wrong direction. The same people who are supporting that bill, for the most part—although not Senator LARRY CRAIG—are opposing my bill, for example, that would enhance law enforcement authority for local officers, and they wonder if we have any commitment at all here to enforce the law. They have every right to do so because I will tell you, from my experience in talking with police officers in my State, nothing is being done. Until we put our minds to it, nothing will be done.

How do we go from here? What should we do? In my view, we need to pass this emergency supplemental to support our troops. We need to reject all immigration amendments on it. We need to follow President Bush's lead and have a serious debate and discussion on this issue.

We need to agree on certain principles about how it will be conducted. We are going to have a legal system that works. We are going to be humane in how we treat people who come here. We are going to consider American needs. It is not going to be an unlimited number. And we are going to create a legal system that works.

We can do that, and we should do that. A lot of work is going on toward that end right now. Senator KYL and Senator CHAMBLISS have a major bill to deal with some of these issues. Senator CORNYN, a former justice of the Texas Supreme Court, a former attorney general of Texas, is doing a real good job in managing the Immigration Subcommittee of the Judiciary Committee and is considering all these issues. Then sometime later this year, I think, we might as well get serious, bring something up and try to make some progress. Who knows, maybe even the President should appoint an independent commission of people who understand this issue—we have had commissions before—and make some specific recommendations about how we ought to proceed. That could work, in my view.

Right now the American people lack confidence in us, and they have every right to lack confidence in us because we have created a system that is flawed, it is not working. It is an abomination, really.

I want to share this information with my colleagues. Farmers who are supposed to be benefiting from this act, the agriculture workers amnesty legislation, do not want it. Maybe some farm groups in Washington or lobbyists are for it. Maybe some big agricultural entities want it. But I have in my hands an open letter from the Southeastern Farmers Coalition. It is signed by a list of organizations and individual H–2A program participants, people who utilize farm workers from out of the country who are ''the overwhelming majority of H–2A program users in the country.''

The list of signatories to this letter is expansive, including the North Carolina Growers Association, the Mid-Atlantic Solutions, the Georgia Peach Council, AgWorks, the Georgia Fruit and Vegetable Association, the Virginia Agricultural Growers Association, the Vidalia Onion Business Council—I am sure that is a sweet group—and the Kentucky-Tennessee Growers Association.

The letter states:

> Farmers in the Southeastern United States are opposed to Senate bill S. 1645 introduced by Ted Kennedy and Larry Craig. It is an amnesty for illegal farm-workers. It does not reform the H–2A program. Please oppose this legislation.

The text of the letter, which asks me to oppose the bill, says:

> [AgJOBS] is nothing more than a veiled amnesty. While everyone, it seems, agrees that the H–2A program desperately needs reform, this legislation does not fix the two most onerous problems with the program: the adverse effect wage rate and the overwhelming litigation brought by Legal Services groups against farmers using the H–2A program.

In fact, it explicitly provides for more such litigation. The letter goes on to say:

> The Craig-Kennedy-Berman reform package provides a private right of action provision that goes far beyond legitimate worker protections and expands Legal Services' attorneys ability to sue growers in several critical areas. These lawyers, who have harassed program users with meritless lawsuits for years, will continue to attack small family farmers under the new statute.

Supporters of Craig-Kennedy-Berman have endorsed this alleged reform believing in a misguided fashion that it will bring stability to the agricultural labor market. It will not. It will create greater instability. As illegal farm workers earn amnesty, they will abandon their farm jobs for work in other industries.

Continuing this letter:

> Many of the attached signatories have been actively involved in negotiations surrounding this legislation. The following groups have broken ranks with the American Farm Bureau.

As a matter of fact, I think the Farm Bureau has now switched sides on this bill, and they are no longer endorsing it. They are not supporting it now. They have changed their position.

They continue:

> You are likely to hear that the majority of agriculture supports this bill. The industry, in fact, is split.

But, in fact, the trend has been the other way against it.

They go on:

> History has demonstrated that the amnesty granted under the Immigration Reform and Control Act of 1986 was a dismal failure for agriculture employers. Farm workers abandoned agricultural employment

shortly after gaining amnesty and secured jobs in other industries.

I also received a letter last week from two growers in Alabama who favor improving the ability to utilize foreign workers. They strongly support that. But still they asked me to oppose the AgJOBS legislation.

Tom Bentley of Bentley Farms, which grows, packs, and ships peaches from Thorsby, AL, and Henry Williams, head of the Alabama Growers Association, write:

In the coming days, you may be asked to vote on legislation offered by Senator Larry Craig and Senator Edward Kennedy that purports to significantly reform the present H–2A agricultural worker program by providing an earned amnesty to hundreds of thousands of undocumented farm workers now present in the United States.

Despite claims that this bill is bipartisan and represents the interests of all agricultural employers, growers in the Southeastern United States do not support the passage of this legislation.

This bill is not H–2A reform as touted, it is simply an amnesty bill for a selected group of workers.

If farmers who make up a majority of H–2A employers are opposed to AgJOBS because it is amnesty for illegal workers and it does not reform the H–2A program, why should we pass it? Who supports this amendment? I believe the supporters who are advocating it are really not in touch with the desires of the American people and the desires of the farmers they claim to represent. In fact, I am not sure the authors understand just how far this bill goes and just how many serious problems exist within it.

I do not think that I am out of touch with the American people. I certainly believe the principles I have advocated are consistent with the rule of law that I cherish in our country, and I am troubled to see it eroded in this fashion. I believe reform is necessary. I believe we can achieve reform. I believe we need to spend some time on it. I do not think it can be done piecemeal. I originally thought it had to be done comprehensively. Then somebody convinced me we could break it up. But the more I look at it, the more I see the nature of it. Why would we want to spend all this time on one group of workers, agricultural workers? There are other workers who are facing the same challenge. Why not fix this problem in a generous way for foreign workers to come and work, a generous way to achieve citizenship, a focus on the real needs of America, not just laboring immigrants. We need people who have Ph.D.s, brain power, scientific people who may cure cancer one day. We need more of those kinds of people, too.

We need to look at it comprehensively. Draw up a system that works. But one that allows us to honor the heritage we have been given as Americans, the heritage that draws so many people—our heritage of the rule of law—is being eroded terribly today.

I thank the Presiding Officer for the time, and I yield the floor.

Mr. REID. Mr. President, I have an amendment that is pending. The distinguished majority leader will make the decision as to what votes are going to occur on Monday evening. I want to get my debate out of the way, hoping this amendment, which is probably germane postcloture—maybe we could do it at that time and get it over with.

Over this past recess I had the good fortune to travel to the Middle East. I visited Nevada troops in Kuwait before they went to Iraq. It was a great trip for me, one I will never forget. But I saw firsthand what has been accomplished in the face of very difficult and dangerous conditions in Iraq. I was also able to see that every American should be very proud of the unheralded service these courageous service men and women perform each day.

The 1864th Transportation Unit from Nevada hauls the goods from Kuwait to Iraq. This is where we hear about some vehicles needing more armor. These vehicles need more armor, but when they get an order they get in the truck and off they go, men and women.

I also received briefings on the status of our efforts to secure and rebuild Iraq. During a helicopter flight over Baghdad, it was very clear that big city one time was in shambles. The process of rebuilding Iraq has started, thanks to generous assistance of the U.S. taxpayers, but a lot of it doesn't show.

The amendment I offer today seeks to honor the sacrifices of our troops and taxpayers on behalf of the Iraqi people and ensures that other nations of the world keep their commitment in this worthwhile effort.

I want to spend a few minutes discussing the details of what we and other nations around the world are doing to secure and rebuild Iraq.

Presently, there are more than 150,000 Coalition troops in Iraq. More than 130,000 of them are Americans, such as the 1864th I saw in Kuwait that drives on a continual basis into the middle of Iraq.

Since the beginning of this war, more than half a million U.S. military personnel have served in Iraq. The story is remarkable. It is remarkable because it is similar to the international effort to rebuild Iraq.

While this Nation has appropriated more than $20 billion in direct assistance for Iraqi reconstruction, the rest of the world combined has produced about half of that. When I say ''produced,'' it is only in talk. Even more startling is the fact that the vast majority of the commitments made by these other countries have been in the form of loans and credits rather than hard cash such as we have provided. In short, this Nation has done more than its fair share to secure and rebuild Iraq.

As I noted at the outset, it was clear from my recent trip that a great deal more needs to be done in construction, and that is an understatement. We are not as far along as the administration promised we would be at this point of the conflict; and the cost to the U.S. taxpayers of our country for operations in Iraq has far exceeded the estimates the administration provided us prior to the start of this war.

The failure of the international community to keep its commitment is one reason why reconstruction developments in Iraq have not proceeded as they should. According to the State Department's sixth quarterly report, the international community has actually delivered only $1 billion of the $13.5 billion promised.

As for the cost to the U.S. taxpayers of the Iraq reconstruction, administration officials declared that Iraq itself could cover a substantial portion of these costs. Shortly after the war started, Deputy Defense Secretary Wolfowitz told the House Budget Committee, ''There's lots of money to pay for this. It doesn't have to be U.S. taxpayer money. We are dealing with a country that can easily finance its own reconstruction, and relatively soon.'' U.S. AID Director Andrew Natsios was even more explicit in his statement nearly a month later:

The rest of the rebuilding of Iraq will be done by other countries who have already made pledges, Britain, Germany, Norway, Japan, Canada, and Iraqi oil revenues, eventually in several years, when it's up and running and there's a new government that's been democratically elected, will finish the job with their own revenues. They're going to get in $20 billion a year in oil revenues. But the American part of this will be $1.7 billion. We have no plans for any further-on funding for this.

I think it's fair for the American people to ask why the Iraq reconstruction has not proceeded as promised by this administration? Why, when the United States military and our taxpayers have done so much, the international community has done so little, failing to keep even its relatively modest reconstruction commitment? Any why have the administration's statements that the people of Iraq and other nations would cover the bulk of that country's reconstruction costs proven to be so wrong?

I think it is time we restored some equity, fairness, and shared sacrifice with other nations on the reconstruction efforts.

I haven't talked about the deaths of our soldiers, the sacrifices they have made being wounded. I am talking today only about money. The commitment other countries have made has been very small in actual personnel, very large in talk and very short in dollars. and our taxpayers have more than lived up to their commitment to the people of Iraq. It's long past time that the rest of the world do the same. That's what my amendment seeks to do.

My amendment is quite straightforward. This amendment does not affect roughly $17 billion of the $20 billion that Congress has appropriated for Iraq reconstruction assistance. the administration is free to do with that

amount as they see fit and when they see fit.

And it gives the President two clear options that he could take to gain access to the remaining $3 billion.

First, the President can easily gain unfettered access to the remaining funds by merely certifying that other nations who have made financial commitments to help Iraq at the Madrid Donor's Conference and in other donor meetings since 2003 have fulfilled those commitments.

Second, if the President is unable to make that certification, this amendment provides him with yet another way to gain access to and spend the remaining funds we have appropriated. he can simply certify to the Congress that: No. 1, his representatives have made a good faith effort to persuade other nations to follow through on their previous financial commitments to Iraq; No. 2, the sale of Iraqi oil or other Iraqi sources of revenue should not be used to reimburse the United States Government for our reconstruction assistance; and No. 3, despite the failure of these other nations to live up to their financial promises and the inability of Iraq to reimburse us for a significant portion of our reconstruction costs, continued American spending on Iraqi reconstruction is in the national security interests of the United States.

These are very simple, clear and straightforward certifications. The amendment does not require others to pay for U.S. military operations, nor does it seek to shut down the reconstruction process.

I recall what the military commanders on the ground have said about the importance of delivering reconstruction aid as a means of putting a dent into the insurgency. As the former Commander of the First Calvary in Baghdad often talked about, where reconstruction efforts were successful and where the citizens had power, clean water and basic services, the attacks against American forces went down.

Let us be clear. I am not arguing against continuing to help the Iraqi people with the reconstruction of their country. I am not in favor of putting insurmountable hurdles in front of the President as he seeks to carry out these efforts.

Rather, I am simply saying that in light of all that America's troops and taxpayers have done for the people of Iraq and the world, it seems only reasonable to expect that other nations will live up to their commitments and that this administration would want to hold them accountable.

We should be looking for ways to strengthen the President's negotiating hand when dealing with these other countries, and that's what this amendment does.

Passing this amendment gives the President greater leverage in getting other nations to follow through on their previous commitments. The President can cite this Congressional action, highlight the fact that the Congress is closely monitoring the international contributions coming into Iraq, and let them know that there is growing concern in the Congress about their inability to live up to their past promises.

For those who argue that passing this amendment will slow down the reconstruction, nothing could be further from the truth. As I've already stated, the State Department and AID cannot spend the money they already have.

Through six quarterly reports, the U.S. has spent only $4.209 billion in Iraq, an average of $701.5 million per quarter. At this rate, it will take over 5 years for all the money to be spent.

In other words, at the current pace, the Bush administration would be over before we would spend their reconstruction money that we have already provided last year.

If this amendment passes, the reconstruction money will flow unaffected for many years, perhaps through the end of President Bush's term. At that point, he or a future President merely needs to issue a certification to ensure the continued flow of the money.

Iraq needs to become the world's concern, not strictly our concern. We owe that to our soldiers and to the American taxpayers who have been both patient and generous and have borne an unusually high burden. If you want to support the troops, our taxpayers, and give the administration the leverage to get the rest of the world to live up to their commitments, this amendment should be supported.

HIGHWAYS

Briefly, we need to a highway bill. We have received all kinds of letters from different entities saying we must do a highway bill. According to a report by the American Association of State Highway and Transportation officials, the uncertainty caused by the short-term extensions to the surface transportation program has cost billions of dollars in project delays and thousand and thousands of jobs. This is an alarm.

I have letters from over 20 groups ranging from state and local governments to major trade associations, all urging immediate consideration of this important bill. When we finish the supplemental, I urge the majority leader to move forward on the highway bill.

Yesterday, Senators BAUCUS, INOUYE, JEFFORDS, SARBANES, and I sent a letter to the majority leader requesting that he bring the surface transportation reauthorization bill to the floor for consideration prior to the completion of this April work period. I hope we can do that. It is so important.

Senator BAUCUS and Senator BOND, the people leading that subcommittee, have done a wonderful job. We have a bill ready to go. I hope we can do that soon.

I ask unanimous consent a letter from 18 trade associations be printed in the RECORD in addition to a letter from virtually all State and local government organizations, the National Governors Association, and the letter I previously mentioned from the Democratic leaders.

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

APRIL 13, 2005.

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

DEAR SENATORS FRIST and REID: With the 109th Congress well underway, we urge you to schedule Senate floor consideration of legislation to reauthorize the federal highway and transit programs for this month. The Transportation Equity Act for the 21st Century (TEA–21) expired September 30, 2003, and the programs continue to operate under a series of extensions. The Senate has repeatedly expressed its will about the importance of addressing the nation's transportation challenges and there is no substantive reason to delay consideration of this bill.

TEA–21 reauthorization may be one of the few measures the Senate will consider this year that will pass with overwhelming bipartisan support. This board support, combined with the May 31 expiration of the latest short-term extension of the highway and transit program, presents a compelling case for Senate action so that conference negotiations may begin with the House of Representatives, which approved its multi-year reauthorization bill March 10.

The nation's surface transportation infrastructure needs and safety concerns continue to grow, yet lack of a long-term funding commitment by the Federal government is impeding states' ability to plan and let transportation improvement projects that will help create American jobs, ease pollution creating traffic congestion and address highway safety. With substantial groundwork completed on TEA–21 reauthorization over the last two years, the authorizing committees with jurisdiction over the legislation are well prepared for Senate consideration of a reauthorization bill.

We urge you to schedule TEA–21 reauthorization legislation for Senate floor action as soon as possible and allow the Senate to again work its will on this critical matter.

Sincerely,

American Road & Transportation Builders Association, Associated General Contractors of America, U.S. Chamber of Commerce, American Association of State Highway & Transportation Officials, Associated Equipment Distributors, Association of Equipment Manufacturers, International Union of Operating Engineers, National Ready Mixed Concrete Association, American Public Transportation Association, American Concrete Pipe Association, American Concrete Pavement Association, National Utility Contractors Association, Portland Cement Association, National Asphalt Pavement Association, United Brotherhood of Carpenters and Joiners of America, American Society of Civil Engineers, National Stone, Sand & Gravel Association, Laborers-Employers Cooperation and Education Trust.

APRIL 12, 2005.

Hon. BILL FRIST,
Office of the Senate Majority Leader, Capitol Building, Washington, DC.

DEAR MAJORITY LEADER FRIST: On behalf of the nation's state and local governments, we

want to take this opportunity to urge you to schedule consideration of SAFETEA, the Senate version of the reauthorization of the highway and transit programs, at the earliest possible date. This legislation needs to be passed by the Senate and sent to a conference committee as soon as possible. As you know, TEA–21 expired on September 30, 2003 and the current extension expires on May 31, 2005. In order to plan for, maintain, and build our nation's transportation infrastructure, state and local governments need a multi-year reauthorization passed in the very near term.

Thank you for your consideration to this matter.

Respectfully,

RAYMOND C. SCHEPPACH,
Executive Director, National Governors' Association.
WILLIAM T. POUND,
Executive Director, National Conference of State Legislatures.
DANIEL M. SPRAGUE,
Executive Director, Council of State Government.
LARRY E. NAAKE,
Executive Director, National Association of Counties.
J. THOMAS COCHRAN,
Executive Director, U.S. Conference of Mayors.
DONALD J. BORUT,
Executive Director, National League of Cities.
ROBERT O'NEIL,
Executive Director, International City/County Management Association.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, April 14, 2005.

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

DEAR SENATOR FRIST AND SENATOR REID: On behalf of the nation's governors, we write to urge the Senate to complete action on the surface transportation reauthorization bill and begin conference before the current extension expires on May 31, 2005. Congress' series of successive short-term extensions of TEA–21 have burdened State transportation planning and programming, and can only be addressed by passing a long-term bill.

We encourage the Senate to consider and expeditiously complete its work on S. 732 so that the Senate and House bills may be conferenced and a law enacted.

Additional information and specifics regarding the governors' position on surface transportation reauthorization can be found in the attached NGA Policy which was revised and reaffirmed on March 1, 2005 at the NGA Winter Meeting.

Sincerely.

MARK R. WARNER,
Governor of Virginia.
MIKE HUCKABEE,
Governor of Arkansas.

U.S. SENATE,
Washington, DC, April 14, 2005.

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

DEAR MAJORITY LEADER: We write to request floor consideration of the surface transportation reauthorization bill prior to the completion of this April work period.

As you know, a well-maintained surface transportation system is critical to our nation's economy. Long-term transportation planning is essential to the continued maintenance and improvement of the system. Unfortunately, for the past 18 months, the Federal surface transportation program has operated under a series of short-term extensions denying states the ability to make and to execute long-term transportation plans.

Because of this continuing uncertainty, many states have had to slow or to stop entirely progress on many important transportation projects. Further extensions will only exacerbate these delays costing billions of dollars in project delays and thousands of jobs.

The current program extension expires on May 31, 2005. In order to complete work on this important legislation before this deadline, the full Senate must consider the measure prior to the end of the April work period. Recognizing this urgency, each of the committees of jurisdiction will be ready for Senate floor debate in the near future.

We are ready and committed to moving this process forward in the bipartisan spirit this bill has traditionally enjoyed. We look forward to an open and vigorous debate of the surface transportation reauthorization before the end of this April work period.

Sincerely,

HARRY REID,
MAX BAUCUS,
DANIEL INOUYE,
JIM JEFFORDS,
PAUL SARBANES.

As we all know, the current Federal surface transportation program expired 18 months ago, and the program has operated under a series of short term extensions since then, with the latest set to expire on May 31 of this year. While these extensions have helped the Federal program limp along, they have denied States the ability to make long-term transportation planning decisions essential to the continued maintenance and improvement of the system. In addition, the lack of a permanent reauthorization bill has caused many States to slow or stop entirely progress on many important transportation projects.

According to a report by the American Association of State Highway and Transportation Officials, the uncertainty caused by the short term extensions has cost billions of dollars in project delays and thousands of jobs.

Mr. President, I stand ready and committed to moving this process forward in the bipartisan spirit that this bill has always enjoyed. I urge the majority leader to bring the surface transportation reauthorization bill up for floor consideration before the end of the April work period for the good of the country and the workers that so desperately depend upon its future.

Mr. KERRY. Mr. President, earlier this week I was proud to submit into the RECORD several e-mails from the more than 2,000 I had received from military families around the country. These e-mails detailed the proud service that America's military families make every day. The e-mails are full of their pride and understanding of service. And I know my colleagues join me in expressing our thanks to them for all they do.

I submitted these e-mails because they put a human face on the sacrifices we speak about so often. I have come to learn that one of the stories relayed to me about a Home Depot employee does not reflect Home Depot's policies. In fact, Home Depot is a strong supporter of its mobilized employees. The company was recognized last year by the Department of Defense for its support to service members, including a program to give hiring preferences to injured service members who want to work for the company. Its ''Project Home Front'' contributed tools and volunteers to help military spouses make home repairs while their loved ones were deployed. And, as a model for others to emulate, Home Depot makes up any salary lost by mobilized employees. I am happy to set the record straight on the contributions Home Depot makes to the brave Americans who work for it and serve in the National Guard and Reserves. I regret the unfortunate oversight and thank Home Depot for their support of America's military.

The stories we received are snapshots of what service means to families across this great land. America's military families are partners in the defense of this country and we have to listen to them. Taking care of their needs is not sentimentalism it's a practical investment in our national security. Given the millions spent to recruit and train the men and women of the United States military, our modest investment in military families is a smart way to retain the force.

I thank my colleagues for their continued interest and support on these issues, and I thank Home Depot for its support of America's heroes.

MORNING BUSINESS

Mr. MCCONNELL. I ask unanimous consent there now be 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.

IBRAHIM PARLAK

Mr. LEVIN. Mr. President: I would like to bring my colleagues' attention to a situation facing one of my constituents, Ibrahim Parlak, who, up until a year ago, was living the American dream. After moving to this country in 1991, through hard work and dedication, he worked his way up from being a busboy to owning his own restaurant, Café; Gulistan, in Harbert, MI. Mr. Parlak has spent over a decade of hard, honest work and has led an upstanding life with his family and community. However, now, he may be deported.

Ibrahim Parlak, a Kurd born in southern Turkey, came to the United States seeking asylum in 1991. In his asylum application, Mr. Parlak disclosed that he had been associated with the Kurdistan Worker's Party (PKK) in

the 1980s, that he was involved in an armed skirmish at the Turkish border in 1988, and that he had been imprisoned in Turkey as a result of these facts. In 1992, Mr. Parlak was granted asylum due to the persecution and torture that he suffered at the hands of the Turkish government. The Immigration and Naturalization Service believed that Mr. Parlak had a credible fear of returning to Turkey.

In 1993, Mr. Parlak wanted to take the next step and become a United States citizen. However, when he filled out his application to become a lawful permanent resident, he did not check a box stating that he had been ''arrested, cited, charged, indicted, fined or imprisoned for violating any law or ordinance, excluding traffic violations,'' in or outside of the United States. Mr. Parlak has stated that due to his limited English skills, he misunderstood the form, and believed that the question related only to his activities since he entered the United States. Again, Mr. Parlak had already given the Government the information surrounding his 1988 arrest and conviction in his earlier asylum application. He had also provided documents at the time of his asylum, in Turkish, that described the Turkish government's view of his association with the PKK.

Last July, the Department of Homeland Security (DHS) detained Mr. Parlak and DHS is now moving to deport Mr. Parlak, claiming a deliberate misrepresentation of facts. Further, the Department of Homeland Security states that Mr. Parlak has been convicted of an aggravated felony after admission to the United States because, in 2004, the now-disbanded Turkish Security Court reopened his case from 1990 and re-sentenced him for the crime of Kurdish separatism. The ''new'' sentence imposed by the Security Court required less jail time than Mr. Parlak had already served, and the Security Court closed its file on Mr. Parlak. Turkey does not seek his extradition and has, in fact, no interest in his return and will not issue a special passport for that purpose.

Despite his strong ties to his community and the lack of evidence that he is a flight risk, Mr. Parlak continues to be held in prison without bond. The Department of Homeland Security says that Mr. Parlak is a ''terrorist,'' and therefore cannot be released. This ''terrorist'' designation is based solely on Mr. Parlak's association with the PKK in the 1980s. However, not only did Mr. Parlak outline his involvement with the PKK in his asylum application, at the time Mr. Parlak was associated with the PKK, it was not designated as a terrorist organization. The State Department did not add the PKK to its list of terrorist organizations until 1996.

I am concerned with the fact that the government continues to detain and is attempting to deport this model immigrant over activities he disclosed in his application for asylum, an application which, again, was granted. While it may be disputed why the box was not checked accurately, it is incongruous to conclude that he was intentionally hiding those facts from the Department of Justice in 1993, when he detailed them explicitly to the Department of Justice in 1991.

Mr. President, Mr. Parlak is a good man and should be given the chance to remain in the United States and continue the life that he has built for his community, his daughter and himself all these years. Our history is built upon the courage and hard work of immigrants who opposed brutal oppression and fled to our country seeking a new life. Ibrahim Parlak is one of them.

DRU'S LAW

Mr. DORGAN. I rise today to describe S. 792, a bipartisan piece of legislation called ''Dru's Law,'' which I introduced in the Senate yesterday.

This bill seeks to fill some gaping holes in our criminal justice system, made tragically evident by a recent tragedy in North Dakota.

In November 2003, Dru Sjodin, a student at the University of North Dakota, was abducted in the parking lot of a Grand Forks shopping mall. She was found in a ditch in Minnesota some 6 months later.

A suspect was eventually arrested and is awaiting trial. There is abundant evidence that he was responsible for Dru's abduction. The alleged assailant, Alfonso Rodriguez, Jr., had been released from prison only 6 months earlier, having served a 23-year sentence for rape in Minnesota. And what's more, Minnesota authorities had known that he was at high risk of committing another sexual assault if released.

The Minnesota Department of Corrections had rated Rodriguez as a ''type 3'' offender—meaning that he was at the highest risk for reoffending. In an evaluation conducted in January 2003, a prison psychiatrist wrote that Rodriguez had demonstrated ''a willingness to use substantial force, including the use of a weapon, in order to gain compliance from his victims.''

Despite this determination, the Minnesota Department of Corrections released Rodriguez in May 2003, and essentially washed its hands of the case. Since Rodriguez had served the full term of his sentence, the Department of Corrections imposed no further supervision on him at all.

The Minnesota Department of Corrections could have recommended that the State Attorney General seek what is known as a ''civil commitment.'' Under this procedure, a State court would have required Rodriguez to be confined as long as he posed a sufficient threat to the public, even if he had served his original sentence. But the State Attorney General was never notified that Rodriguez was getting out, and there was no chance for the Minnesota courts to consider the case.

So upon his release, Mr. Rodriguez went to live in Crookston, MN, completely unsupervised, a short distance from the Grand Forks shopping mall where Dru Sjodin was abducted.

To make matters worse, while Mr. Rodriguez registered as a sex offender in Minnesota, there was no indication of his release for nearby North Dakota communities. I suspect that most Americans would be surprised to learn that there is currently no national sex offender registry available to the public. So sex offender registries currently stop at State lines. Each State has its own sex offender registry, which tracks only its own residents.

For all intents and purposes, Rodriguez was free to prey on nearby communities in North Dakota, without fear of recognition.

This situation is simply unacceptable. We must do better. A recent study found that 72 percent of ''highest risk'' sexual offenders reoffend within 6 years of being released. And the Bureau of Justice Statistics has determined that sex offenders released from prison are over ten times more likely to be arrested for a sexual crime than individuals who have no record of sexual assault. We cannot just release such individuals with no supervision whatsoever, and let them prey upon an unsuspecting public.

Today, I am reintroducing legislation that will hopefully help to prevent such breakdowns in our criminal justice system, and that will give our citizens the tools to better protect themselves from sexual offenders.

This bill is cosponsored by Senator SPECTER, the new chairman of the Senate Judiciary Committee. It also has a growing list of bipartisan cosponsors, which currently includes Senators CONRAD, DAYTON, COLEMAN, LUGAR, JOHNSON, and DURBIN.

The bill does the following three things:

First, it requires the Justice Department to create a national sex offender database accessible to the public through the Internet—with data drawn from the FBI's existing National Sex Offender Registry. This public website would allow users to specify a search radius across State lines, providing much more complete information on nearby sex offenders.

Second, it requires State prisons to notify States attorneys whenever ''high risk'' offenders are about to be released, so that States attorneys can consider petitioning the courts for continued confinement of the offender. The ''civil commitment'' option is available under the law in many States, if an individual is deemed a continuing threat to the public safety. In the Dru Sjodin case, prison officials did not alert the States attorney of Rodriguez' impending release. If they had done so, this tragedy might have been avoided.

Third, it requires states to monitor ''high-risk'' offenders who are released after serving their full sentence—and

are otherwise not subject to probation or other supervision—for a period of no less than 1 year.

The cost of these steps would be shared by the Federal Government and the States. The Federal Government would bear the cost of maintaining the national sex offender registry, and the States would bear the cost of supervising high risk offenders upon their release from prison.

To ensure compliance with these measures, the legislation would reduce Federal funding for prison construction by 25 percent for those States that did not comply, and would reallocate such funds to States that do comply with those provisions. This will be the ''stick'' that some States may need to ensure that they comply with these important protections.

I should note that this identical legislation was passed in the Senate toward the conclusion of the 108th Congress. It passed by unanimous consent, with the support of Senator HATCH, who was then the Chairman of the Judiciary Committee, and also with the support of Senator LEAHY, who was—and remains—the ranking member of the committee.

Regrettably, the House of Representatives did not act on Dru's Law before adjourning in the last Congress, and so we must start the legislative process on this bill again in the 109th Congress. But I am committed to getting this done, and I expect that the House will pass Dru's Law in this Congress.

Our thoughts and prayers go to Dru Sjodin's family. I cannot guarantee that that passage of the legislation we are introducing today will prevent such tragedies from ever occurring again. But I believe that it will be a significant step toward making our neighborhoods safer for our loved ones.

In recent weeks, we have had some very sad reminders of the need for such legislation. In February, 9-year-old Jessica Lunsford was abducted and murdered in Florida by a previously convicted sexual offender. The offender fled across State lines to Georgia, where he was apprehended. He has now confessed to this brutal crime. Had he not been arrested, he might well have offended again. This was, again, a reminder that while sex offender registries currently stop at State lines, sex offenders do not.

Mark Lunsford, Jessica's father, has written in strong support of this bill.

I look forward to working with my colleagues, on a bipartisan basis, to secure passage of this bill.

I ask unanimous consent that the full 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. 792

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 ''Dru Sjodin National Sex Offender Public Database Act of 2005'' or ''Dru's Law''.

SEC. 2. DEFINITION.

In this Act:

(1) CRIMINAL OFFENSE AGAINST A VICTIM WHO IS A MINOR.—The term ''criminal offense against a victim who is a minor'' has the same meaning as in section 170101(a)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(a)(3)).

(2) MINIMALLY SUFFICIENT SEXUAL OFFENDER REGISTRATION PROGRAM.—The term ''minimally sufficient sexual offender registration program'' has the same meaning as in section 170102(a) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14072(a)).

(3) SEXUALLY VIOLENT OFFENSE.—The term ''sexually violent offense'' has the same meaning as in section 170101(a)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(a)(3)).

(4) SEXUALLY VIOLENT PREDATOR.—The term ''sexually violent predator'' has the same meaning as in section 170102(a) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14072(a)).

SEC. 3. AVAILABILITY OF THE NSOR DATABASE TO THE PUBLIC.

(a) IN GENERAL.—The Attorney General shall—

(1) make publicly available in a registry (in this Act referred to as the ''public registry'') from information contained in the National Sex Offender Registry, via the Internet, all information described in subsection (b); and

(2) allow for users of the public registry to determine which registered sex offenders are currently residing within a radius, as specified by the user of the public registry, of the location indicated by the user of the public registry.

(b) INFORMATION AVAILABLE IN PUBLIC REGISTRY.—With respect to any person convicted of a criminal offense against a victim who is a minor or a sexually violent offense, or any sexually violent predator, required to register with a minimally sufficient sexual offender registration program within a State, including a program established under section 170101 of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(b)), the public registry shall provide, to the extent available in the National Sex Offender Registry—

(1) the name and any known aliases of the person;

(2) the date of birth of the person;

(3) the current address of the person and any subsequent changes of that address;

(4) a physical description and current photograph of the person;

(5) the nature of and date of commission of the offense by the person;

(6) the date on which the person is released from prison, or placed on parole, supervised release, or probation; and

(7) any other information the Attorney General considers appropriate.

SEC. 4. RELEASE OF HIGH RISK INMATES.

(a) CIVIL COMMITMENT PROCEEDINGS.—

(1) IN GENERAL.—Any State that provides for a civil commitment proceeding, or any equivalent proceeding, shall issue timely notice to the attorney general of that State of the impending release of any person incarcerated by the State who—

(A) is a sexually violent predator; or

(B) has been deemed by the State to be at high-risk for recommitting any sexually violent offense or criminal offense against a victim who is a minor.

(2) REVIEW.—Upon receiving notice under paragraph (1), the State attorney general shall consider whether or not to institute a civil commitment proceeding, or any equivalent proceeding required under State law.

(b) MONITORING OF RELEASED PERSONS.—

(1) IN GENERAL.—Each State shall intensively monitor, for not less than 1 year, any person described under paragraph (2) who—

(A) has been unconditionally released from incarceration by the State; and

(B) has not been civilly committed pursuant to a civil commitment proceeding, or any equivalent proceeding under State law.

(2) APPLICABILITY.—Paragraph (1) shall apply to—

(A) any sexually violent predator; or

(B) any person who has been deemed by the State to be at high-risk for recommitting any sexually violent offense or criminal offense against a victim who is a minor.

(c) COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have not more than 3 years from the date of enactment of this Act in which to implement the requirements of this section.

(2) INELIGIBILITY FOR FUNDS.—A State that fails to implement the requirements of this section, shall not receive 25 percent of the funds that would otherwise be allocated to the State under section 20106(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13706(b)).

(3) REALLOCATION OF FUNDS.—Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.

HONORING OUR ARMED FORCES

SERGEANT JAMES SHAWN LEE

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Mount Vernon. Sergeant Lee, 26 years old, died on April 6 in a military helicopter crash near Ghazni city, 80 miles southwest of Kabul. With his entire life before him, Jimmy Shawn risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A 1997 graduate of Mount Vernon High School, Jimmy Shawn had served in the Marines for 8 years. Friends and family describe him as a man who grew up longing to serve God and country. Jimmy was a devout Christian who aspired to travel the world as a missionary. His half-sister, Destiny Dowden, recounted that Jimmy Shawn was ''the most honest, loving, giving and fun-loving person I ever met.'' His mother shared her pride in Jimmy Shawn's accomplishments, calling him ''our family's hero.''

Jimmy Shawn was killed while serving his country in Operation Enduring Freedom. This brave young soldier leaves behind his mother, Becky Blanchard and his half-sister, Destiny Dowden.

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

Jimmy Shawn was known for his deep faith, his dedication to his family and his love of country. Today and always, Jimmy Shawn will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Jimmy Shawn's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Jimmy Shawn's actions will live on far longer than any record of these words.

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

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Jimmy Shawn.

PROTECTING HONEST TAXPAYERS

Mr. LEVIN. Mr. President, today when so many Americans have to dig deep to pay the taxes owed to Uncle Sam, it is particularly appropriate that we focus on the hundreds of billions of dollars the U.S. Treasury is shortchanged each year by those who abuse the tax system. Because it's not just the Treasury that is shortchanged; it's honest taxpayers throughout this country who end up picking up the tab.

Tax cheats are an insult to the men and women who serve in our military, the children who attend our schools, and the millions who rely on Social Security. Tax cheats make it harder to maintain our highways, protect our borders, advance medical research, and inspect our food. Not only do they drain money from the Treasury, they help deepen the deficit ditch that threatens the economic well-being of our children and grandchildren. They also shift a huge burden onto the backs of the honest taxpayers in this country.

It is also particularly appropriate to focus on the need to crack down on tax cheats during this time of year when Congressional appropriators decide how to direct the Nation's resources. Just last month, the IRS updated its estimate of the Nation's ''tax gap''—the difference between the amount of taxes owed by taxpayers and the amount collected. The total tax gap in 2001 is now estimated to have been between $312 billion and $353 billion, and some experts believe it's even higher. $350 billion is more than the government spent on all of Medicare last year. It is three-quarters of the size of the Federal deficit.

In fact, the tax gap is so huge that each individual U.S. taxpayer is now forced to pay more than $2,000 in taxes annually to make up for the taxpayers cheating Uncle Sam. The plain truth is that tax evaders are hurting honest Americans—not only by shrinking available resources for essential government services, but also by literally sticking honest Americans with the tax bill they've dodged.

One of the greatest dodges is abusive tax shelters. For more than 2 years, as ranking member of the U.S. Permanent Subcommittee on Investigations, I've been investigating the abusive tax shelters being developed and sold by professional firms such as accounting firms, law firms and banks. Our investigation found tax shelter promoters knowingly selling dubious tax shelters to hundreds of U.S. taxpayers, in part, because they knew the IRS lacked the resources to stop them.

One of the tax shelters examined by the subcommittee, called ''BLIPS,'' was sold to people facing large tax bills by accounting giant KPMG. The IRS is now tracking down the hundreds of individuals who bought BLIPS or a similar tax dodge. This abusive tax shelter was included in the $3.2 billion settlement announced by the IRS just last month. This successful settlement shows how huge the tax shelter problem is, and how much can be done when the IRS enforces the law. It also shows how critical it is for Congress to provide the IRS with adequate enforcement dollars to crack down on abusive tax shelters, the promoters who push them, and the taxpayers who evade their tax obligations.

The IRS also needs significant resources to track tax dodgers who hide their income in tax havens. An estimated 1 to 2 million individuals dodge U.S. taxes by depositing funds in offshore bank accounts in tax havens with secrecy laws that impede IRS review. A recent study found that, in 2003, U.S. multinational corporations shifted $75 billion in domestic profits to tax havens, leading to an estimated tax revenue loss of $10 to $20 billion. In addition, the Government Accountability Office has found that 59 of the top 100 Federal contractors owned tax haven subsidiaries, raising tax questions that the IRS simply doesn't have the resources to unravel. U.S. tax dollars hidden in a tax haven leaves more honest taxpayers to make up the difference.

Despite these and other growing tax shelter and tax haven abuses, the resources made available to the IRS for tax enforcement have been reduced over the past decade. Since fiscal year 1996, for example, the number of IRS enforcement personnel has declined by 20 percent. The IRS audit rate for businesses has dropped to just two audits for every 1,000 businesses in 2003, a decline of 62 percent in 6 years. In addition to fewer audits, there have been fewer penalties, fewer tax evasion prosecutions, and virtually no effort to prosecute corporate tax crimes. Corporations used to pay 35 percent of our nation's tax bill, but now they pay less than 10 percent. In a 2004 study that Senator DORGAN and I requested, the Government Accountability Office found that 94 percent of corporations who filed income tax returns with the IRS from 1996 to 2000 paid taxes of less than 5 percent of their income, and 60 percent didn't pay any Federal corporate income tax at all.

Last year, the IRS obtained sufficient funds for a slight increase in its enforcement efforts. The result was a $43.1 billion increase in enforcement revenue a jump of 15 percent over the previous year. The lesson here, which is consistent with years of data, is that a relatively small increase in tax enforcement resources pays for itself many times over by increasing the amount of revenue collected. In fact, for every dollar invested in IRS' budget, the service yields more than $4 dollars in enforcement revenue. Beyond the additional revenues collected, increased IRS enforcement deters those who might otherwise have dodged their tax obligations and reassures honest taxpayers that compliance with the law is not a chump's game. I can't think of many better investments to build respect for the law and respect for the honest Americans who play by the rules and meet their tax obligations.

President Bush has apparently come around to a similar conclusion. In a budget otherwise full of cutbacks, President Bush has advocated allocating $6.9 billion to tax enforcement efforts in FY 2006, with an emphasis on high-income individuals and corporations. This reflects an increase of nearly 8 percent over last year's budget. Congress should support this request and provide the funds needed to stop tax evasion and ensure tax fairness. Otherwise honest taxpayers will continue to shoulder more and more of the tax burden left by abusive tax shelters and tax haven gamesmanship. It is time to take action against the tax cheats who not only undermine the integrity of the Federal tax system, but also hike the tax bills for honest taxpayers.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Health, Education, Labor, and Pensions.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 1134) ''To amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.''.

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–1745. A communication from the Acting Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to contractual offset agreements, memoranda of understanding, and waivers for foreign-produced goods; to the Committee on Appropriations.

EC–1746. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, a report entitled ''Legislative Recommendations 2005''; to the Committee on Rules and Administration.

EC–1747. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Extension of Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans'' (DFARS Case 2004-D029) received on April 13, 2005; to the Committee on Armed Services.

EC–1748. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Contractor Performance of Acquisition Functions Closely Associated with Inherently Governmental Functions'' (DFARS Case 2004-D021) received on April 13, 2005; to the Committee on Armed Services.

EC–1749. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Contractor Performance of Security-Guard Functions'' (DFARS Case 2004-D032) received on April 13, 2005; to the Committee on Armed Services.

EC–1750. A communication from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''31 CFR part 542: Syrian Sanctions Regulations'' received on April 11, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1751. A communication from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Administrative Collection of Civil Penalties in the Iranian Assets Control Regulations, the Libyan Sanctions Regulations, and the Iraqi Sanctions Regulations'' received on April 11, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1752. A communication from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Commission Guidance Regarding Prohibited Conduct in Connection with IPO Allocations'' received on April 11, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1753. A communication from the Director, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, a report entitled ''Plan Colombia/Andean Ridge Counterdrug Initiative Semi-Annual Obligation Report, 3rd and 4th Quarters Fiscal Year 2004''; to the Committee on the Judiciary.

EC–1754. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department's 2004 fiscal year report on the Uniformed Services Employment and Reemployment Rights Act of 1994; to the Committee on Veterans' Affairs.

EC–1755. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the Administration's report entitled ''Performance Profiles of Major Energy Producers 2003''; to the Committee on Energy and Natural Resources.

EC–1756. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Virginia Regulatory Program'' (VA–121–FOR) received on April 11, 2005; to the Committee on Energy and Natural Resources.

EC–1757. A communication from the Secretary, Department of Agriculture, transmitting, pursuant to law, the Department's annual report entitled ''Assessment of the Cattle, Hog, Poultry, and Sheep Industries''; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1758. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Bovine Spongiform Encephalopathy; Minimal Risk Regions and Importation of Commodities; Finding of No Significant Impact and Affirmation of Final Rule'' (APHIS Docket No. 03–080–7) received on April 11, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1759. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's fiscal year 2004 report relative to the Medical Device User Fee and Modernization Act of 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–1760. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's report entitled ''American Indian and Alaska Native Head Start Facilities''; to the Committee on Health, Education, Labor, and Pensions.

EC–1761. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''West Nile Virus Prevention and Control: Ensuring the Safety of the Blood Supply and Assessing Pesticide Spraying''; to the Committee on Health, Education, Labor, and Pensions.

EC–1762. A communication from the Acting Assistant Secretary, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Procedures for the Handling of Discrimination Complaints Under Section 6 of the Pipeline Safety Improvement Act of 2002'' (RIN1218–AC12) received on April 11, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1763. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Uniform Compliance Date for Food Labeling Regulations'' (Docket No. 2000N–1596) received on April 11, 2005.

EC–1764. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Food Additives Permitted in Feed and Drinking Water of Animals: Poly(2-vinylpyridine-co-styrene); Salts of Volatile Fatty Acids'' received on April 13, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1765. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Clinical Chemistry and Clinical Toxicology Devices; Instrumentation for Clinical Multiplex Test Systems'' received on April 13, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1766. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Clinical Chemistry and Clinical Toxicology Devices; Drug Metabolizing Enzyme Genotyping System'' received on April 13, 2005; to the Committee on Health, Education, Labor, and Pensions.

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. DURBIN:

S. 811. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SPECTER:

S. 812. A bill to amend the Internal Revenue Code of 1986 to impose a flat tax only on individual taxable earned income and business taxable income, and for other purposes; to the Committee on Finance.

By Mr. SPECTER:

S. 813. A bill to amend part D of title XVIII of the Social Security Act to authorize the Secretary of Health and Human Services to negotiate for lower prices for medicare prescription drugs; to the Committee on Finance.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 814. A bill to amend the Mineral Leasing Act to promote the development of Federal coal resources; to the Committee on Energy and Natural Resources.

By Mr. THOMAS (for himself, Ms. SNOWE, Mr. ENZI, Mr. BINGAMAN, Mr. ALEXANDER, Mr. TALENT, Mr. ENSIGN, and Mr. SMITH):

S. 815. A bill to amend the Internal Revenue Code of 1986 to allow a 15-year applicable recovery period for depreciation of certain electric transmission property; to the Committee on Finance.

By Mr. REID (for Mrs. CLINTON):

S. 816. A bill to establish the position of Northern Border Coordinator in the Department of Homeland Security; to the Committee on Homeland Security and Governmental Affairs.

By Ms. STABENOW (for herself, Mr. GRAHAM, and Mr. BAYH):

S. 817. A bill to amend the Trade Act of 1974 to create a Special Trade Prosecutor to ensure compliance with trade agreements, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. SALAZAR, Mr. THUNE, Mr. DORGAN, Mr. ENZI, Mr. JOHNSON, Mr. DAYTON, and Mr. HARKIN):

S. 818. A bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for a packer to own, feed, or control livestock intended for slaughter; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSON:

S. 819. A bill to authorize the Secretary of the Interior to reallocate costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 820. A bill to promote the development of health care cooperatives that will help businesses to pool the health care purchasing power of employers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. STEVENS (for himself, Mr. BAUCUS, Mr. BURNS, Mr. BENNETT, Mr. INOUYE, Mr. THOMAS, Ms. MURKOWSKI, Ms. MIKULSKI, Mr. DOMENICI, Mr. SALAZAR, Mr. COCHRAN, and Mrs. FEINSTEIN):

S. 821. A bill to require the Secretary of the Treasury to mint coins in commemoration of the founding of America's National Parks, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 822. A bill to prevent the retroactive application of changes to Trans-Alaska Pipeline Quality Bank valuation methodologies; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR:

S. Res. 111. A resolution urging the United States to increase its efforts to ensure democratic reform in the Kyrgyz Republic; considered and agreed to.

By Mr. DODD (for himself, Mr. ALEXANDER, Mr. BAYH, Mr. BINGAMAN, Ms. CANTWELL, Mr. COLEMAN, Ms. COLLINS, Mr. DAYTON, Mr. DURBIN, Mr. INOUYE, Mr. JOHNSON, Ms. LANDRIEU, Mr. LEVIN, Mr. LIEBERMAN, Mrs. MURRAY, Mr. SALAZAR, Mr. SANTORUM, Mr. SCHUMER, and Ms. SNOWE):

S. Res. 112. A resolution designating the third week of April in 2005 as ''National Shaken Baby Syndrome Awareness Week''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 154

At the request of Mr. JOHNSON, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 154, a bill to grant a Federal charter to the National American Indian Veterans, Incorporated.

S. 313

At the request of Mr. LUGAR, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 313, a bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations.

S. 337

At the request of Mr. GRAHAM, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 337, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for nonregular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 347

At the request of Mr. NELSON of Florida, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 347, a bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care operations and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes .

S. 375

At the request of Mr. BAYH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 375, a bill to amend the Public Health Service Act to provide for an influenza vaccine awareness campaign, ensure a sufficient influenza vaccine supply, and prepare for an influenza pandemic or epidemic, to amend the Internal Revenue Code of 1986 to encourage vaccine production capacity, and for other purposes.

S. 495

At the request of Mr. CORZINE, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 537

At the request of Mr. BINGAMAN, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 537, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 558

At the request of Mr. REID, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 627

At the request of Mr. HATCH, the names of the Senator from Kentucky (Mr. BUNNING), the Senator from Michigan (Ms. STABENOW), the Senator from North Carolina (Mrs. DOLE) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 702

At the request of Mr. BAUCUS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 702, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. 709

At the request of Mr. DEWINE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 709, a bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals, and for other purposes.

S. 765

At the request of Mr. WARNER, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 765, a bill to preserve mathematics- and science-based industries in the United States.

AMENDMENT NO. 443

At the request of Mr. DURBIN, the names of the Senator from Michigan

(Mr. LEVIN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment No. 443 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN:

S. 811. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DURBIN. Mr. President, today I am introducing a bill that will honor Abraham Lincoln with a commemorative coin and provide funds to the Abraham Lincoln Bicentennial Commission, which has been charged by Congress with planning the celebration of Lincoln's bicentennial in 2009.

The bill authorizes the Treasury to mint 500,000 one dollar silver coins. The design, which will represent the life and legacy of Abraham Lincoln, will be selected by the Secretary after consultation with the Commission of Fine Arts and the ALBC and reviewed by the Citizens Coinage Advisory Committee.

The coins will be sold for face value plus a $10 surcharge and the cost of designing and issuing them. All funds collected by the surcharge will be provided to the ALBC to further its work.

Abraham Lincoln was one of our greatest leaders, demonstrating enormous courage and strength of character during the Civil War, perhaps the greatest crisis in our Nation's history. Lincoln was born in Kentucky, grew to adulthood in Indiana, achieved fame in Illinois, and led the Nation in Washington, D.C. He rose to the Presidency through a combination of honesty, integrity, intelligence, and commitment to the United States.

Adhering to the belief that all men are created equal, Lincoln led the effort to free all slaves in the United States. Despite the great passions aroused by the Civil War, Lincoln had a generous heart and acted with malice toward none and with charity for all. Lincoln made the ultimate sacrifice for the country he loved, dying from an assassin's bullet on April 15, 1865. All Americans could benefit from studying the life of Abraham Lincoln, As we near the bicentennial of Lincoln's birth, we should recognize his great achievement in ensuring that the United States remained one Nation, united and inseparable.

By Mr. SPECTER:

S. 812. A bill to amend the Internal Revenue Code of 1986 to impose a flat tax only on Individual taxable earned income and business taxable income, and for other purposes; to the Committee on Finance.

Mr. SPECTER. Mr. President, this week, American taxpayers face another Federal income tax deadline. The date of April 15 stabs fear, anxiety, and unease into the hearts of millions of Americans. Every year during ''tax season,'' millions of Americans spend their evenings poring over page after page of IRS instructions, going through their records looking for information and struggling to find and fill out all the appropriate forms on the Federal tax returns. Americans are intimidated by the sheer number of different tax forms and their instructions, many of which they may be unsure whether they need to file. Given the approximately 325 possible forms, not to mention the instructions that accompany them, simply trying to determine which form to file can in itself be a daunting and overwhelming task. According to a 2002 study conducted by the Tax Foundation, American taxpayers, including businesses, spend more than 5.8 billion hours and $194 billion each year in complying with tax laws. That works out to more than $2,400 per U.S. household. Much of this time is spent burrowing through IRS laws and regulations which fill 17,000 pages and have grown from 744,000 words in 1955 to over 6.9 million words in 2000. By contrast, the Pledge of Allegiance has only 31 words, the Gettysburg Address has 267 words, the Declaration of Independence has about 1,300 words, and the Bible has only about 1,773,000 words.

The majority of taxpayers still face filing tax forms that are far too complicated and take far too long to complete. According to the estimated preparation time listed on the forms by the IRS, the 2004 Form 1040 is estimated to take 13 hours and 35 minutes to complete. Moreover this does not include the estimated time to complete the accompanying schedules, such as Schedule A, for itemized deductions, which carries an estimated preparation time of 5 hours, 37 minutes, or Schedule D, for reporting capital gains and losses, shows an estimated preparation time of 6 hours, 10 minutes. Moreover, this complexity is getting worse each year. Just from 2000 to 2004 the estimated time to prepare Form 1040 jumped 34 minutes.

It is no wonder that well over half of all taxpayers, 56 percent according to a recent survey, now hire an outside professional to prepare their tax returns for them. However, the fact that only about 30 percent of individuals itemize their deductions shows that a significant percentage of our taxpaying population believes that the tax system is too complex for them to deal with. We all understand that paying taxes will never be something we enjoy, but neither should it be cruel and unusual punishment. Further, the pace of change to the Internal Revenue Code is brisk—Congress made about 9,500 tax code changes in the past thirteen years. And we are far from being finished. Year after year, we continue to ask the same question—isn't there a better way?

My flat tax legislation would make filing a tax return a manageable chore, not a seemingly endless nightmare, for most taxpayers. My flat tax legislation will fundamentally revise the present tax code, with its myriad rates, deductions, and instructions. This legislation would institute a simple, flat 20 percent tax rate for all individuals and businesses. This proposal is not cast in stone, but is intended to move the debate forward by focusing attention on three key principles which are critical to an effective and equitable taxation system: simplicity, fairness and economic growth.

My flat tax plan would eliminate the kinds of frustrations I have outlined above for millions of taxpayers. This flat tax would enable us to scrap the great majority of the IRS rules, regulations and instructions and delete most of the 6.9 million words in the Internal Revenue Code. Instead of billions of hours of non-productive time spent in compliance with, or avoidance of, the tax code, taxpayers would spend only the small amount of time necessary to fill out a postcard-sized form. Both business and individual taxpayers would thus find valuable hours freed up to engage in productive business activity, or for more time with their families, instead of poring over tax tables, schedules and regulations.

My flat tax proposal is dramatic, but so are its advantages: a taxation system that is simple, fair and designed to maximize prosperity for all Americans. A summary of the key advantages are:

Simplicity: A 10-line postcard filing would replace the myriad forms and attachments currently required, thus saving Americans up to 5.8 billion hours they currently spend every year in tax compliance.

Cuts Government: The flat tax would eliminate the lion's share of IRS rules, regulations and requirements, which have grown from 744,000 words in 1955 to 6.9 million words and 17,000 pages currently. It would also allow us to slash the mammoth IRS bureaucracy of approximately 117,000 employees, creating opportunities to put their expertise to use elsewhere in the government or in private industry.

Promotes Economic Growth: Economists estimate a growth due to a flat tax of over $2 trillion in national wealth over seven years, representing an increase of approximately $7,500 in personal wealth for every man, woman and child in America. This growth would also lead to the creation of 6 million new jobs.

Increases Efficiency: Investment decisions would be made on the basis of productivity rather than simply for tax

avoidance, thus leading to even greater economic expansion.

Reduces Interest Rates: Economic forecasts indicate that interest rates would fall substantially, by as much as two points, as the flat tax removes many of the current disincentives to savings.

Lowers compliance costs: Americans would be able to save or invert up to $194 billion they currently spend every year in tax compliance.

Decreases fraud: As tax loopholes are eliminated and the tax code is simplified, there will be far less opportunity for tax avoidance and fraud, which now amounts to over $120 billion in uncollected revenue annually.

Reduces IRS costs: Simplification of the tax code will allow us to save significantly on the $10 billion annual budget currently allocated to the Internal Revenue Service.

The most dramatic way to illustrate the flat tax is to consider that the income tax form for the flat tax is printed on a postcard—it will allow all taxpayers to file their April 15 tax returns on a simple 10-line postcard. This postcard will take 15 minutes to fill out.

At my town hall meetings across Pennsylvania, there is considerable public support for fundamental tax reform.

This is a win-win situation for America because it lowers the tax burden on the taxpayers in the lower brackets. For example in the 2004 tax year, the standard deduction is $4,850 for a single taxpayer, $7,150 for a head of household and $9,700 for a married couple filing jointly, while the personal exemption for individuals and dependents is $3,100. Thus, under the current tax code, a family of four which does not itemize deductions would pay taxes on all income over $22,100—that is personal exemptions of$12,400 and a standard deduction of $9,700. By contrast, under my flat tax bill, that same family would receive a personal exemption of $30,000, and would pay tax on only income over that amount.

The tax loopholes enable write-offs of some $393 billion a year. What is eliminated under the flat tax are the loopholes, the deductions in this complicated code which can be deciphered, interpreted, and found really only by the $500–an-hour lawyers. That money is lost to the taxpayers. $120 billion would be saved by the elimination of fraud because of the simplicity of the Tax Code, the taxpayer being able to find out exactly what they owe.

This bill is modeled after a proposal organized and written by two very distinguished professors of law from Stanford University, Professor Hall and Professor Rabushka. Their model was first introduced in the Congress in the fall of 1994 by Majority Leader Richard Armey. I introduced the flat tax bill—the first one in the Senate—on March 2, 1995, Senate bill 488. On October 27, 1995, I introduced a Sense of the Senate Resolution calling on my colleagues to expedite Congressional adoption of a flat tax. The Resolution, which was introduced as an amendment to pending legislation, was not adopted. I reintroduced my legislation in the 105th Congress with slight modifications to reflect inflation-adjusted increases in the personal allowances and dependent allowances. I re-reintroduced the bill on April 15, 1999—income tax day—in a bill denominated as S. 822. I then introduced my flat tax legislation as an amendment to S. 1429, the Tax Reconciliation bill; the amendment was not adopted. During the 108th Congress, I introduced my flat tax legislation once again on April 11, 2003. On May 14, 2003, I offered an amendment to the Tax Reconciliation legislation urging the Senate to hold hearings and consider legislation providing for a flat tax; this amendment passed by a vote of 70 to 30 on May 15, 2003. I then testified on this issue at a subsequent hearing held by the Joint Economic Committee on November 5, 2003.

Over the years and prior to my legislative efforts on behalf of flat tax reform, I have devoted considerable time and attention to analyzing our nation's tax code and the policies which underlie it. I began the study of the complexities of the tax code over 40 years ago as a law student at Yale University. I included some tax law as part of my practice in my early years as an attorney in Philadelphia. In the spring of 1962, I published a law review article in the Villanova Law Review, ''Pension and Profit Sharing Plans: Coverage and Operation for Closely Held Corporations and Professional Associations,'' 7 Villanova L. Rev. 335, which in part focused on the inequity in making tax-exempt retirement benefits available to some kinds of businesses but not others. It was apparent then, as it is now, that the very complexities of the Internal Revenue Code could be used to give unfair advantage to some. Einstein himself is quoted as saying ''the hardest thing in the world to understand is the income tax.''

The Hall-Rabushka model envisioned a flat tax with no deductions whatever. After considerable reflection, I decided to include in the legislation limited deductions for home mortgage interest for up to $100,000 in borrowing and charitable contributions up to $2,500. While these modifications undercut the pure principle of the flat tax by continuing the use of tax policy to promote home buying and charitable contributions, I believe that those two deductions are so deeply ingrained in the financial planning of American families that they should be retained as a matter of fairness and public policy—and also political practicality. With those two deductions maintained, passage of a modified flat tax will be difficult, but without them, probably impossible.

In my judgment, an indispensable prerequisite to enactment of a modified flat tax is revenue neutrality. Professor Hall advised that the revenue neutrality ofthe Hall-Rabushka proposal, which uses a 19 percent rate, is based on a well-documented model founded on reliable governmental statistics. My legislation raises that rate from 19 percent to 20 percent to accommodate retaining limited home mortgage interest and charitable deductions.

This proposal taxes business revenues fully at their source, so that there is no personal taxation on interest, dividends, capital gains, gifts or estates. Restructured in this way, the tax code can become a powerful incentive for savings and investment—which translates into economic growth and expansion, more and better jobs, and raising the standard of living for all Americans.

The key advantages of this flat tax plan are threefold: First, it will dramatically simplify the payment of taxes. Second, it will remove much of the IRS regulatory morass now imposed on individual and corporate taxpayers, and allow those taxpayers to devote more of their energies to productive pursuits. Third, since it is a plan which rewards savings and investment, the flat tax will spur economic growth in all sectors of the economy as more money flows into investments and savings accounts.

Professors Hall and Rabushka have projected that within seven years of enactment, this type of a flat tax would produce a 6 percent increase in output from increased total work in the U.S. economy and increased capital formation. The economic growth would mean a $7,500 increase in the personal income of all Americans. No one likes to pay taxes. But Americans will be much more willing to pay their taxes under a system that they believe is fair, a system that they can understand, and a system that they recognize promotes rather than prevents growth and prosperity. My flat tax legislation will afford Americans such a tax system.

I ask unanimous consent that a copy of my flat tax postcard, a variety of specific cases that illustrate the fairness and simplicity of this flat tax, and an example flat tax table be printed in the RECORD following my statement.

I ask unanimous consent that the text of this bill be printed in the RECORD.

2004 Individual Tax Return

---

rm 1 **Individual Wage Tax** **200**

first name and initial (if joint return, also give spouse's name and initial) Your social security number

e address (number and street including apartment number or rural route) Spouse's social security number

town, or post office, state, and ZIP code

Wages, salary, pension and retirement benefits	1_____
Personal allowance (enter only one)	
-- $20,000 for married filing jointly	
-- $10,000 for single	
-- $15,000 for single head of household	2_____
Number of dependents, not including spouse, multiplied by $5,000	3_____
Mortgage interest on debt up to $100,000 for owner-occupied home	4_____
Cash or equivalent charitable contributions (up to $2,500)	5_____
Total allowances and deductions (lines 2, 3, 4 and 5)	6_____
Taxable compensation (line 1 less line 6, if positive; otherwise zero)	7_____
Tax (20% of line 7)	8_____
Tax withheld by employer	9_____
Tax or refund due (difference between lines 8 and 9)	10_____

A variety of specific cases illustrate the fairness and simplicity of this flat tax:

CASE #1 -- Married couple with two children, rents home, yearly income $35,000:

Under Current Law:

Income	$35,000
Four personal exemptions	$12,400
Standard deduction	$ 9,700
Taxable income	$12,900
Tax due under current rates	$ 1,290
Marginal rate	10.0%
Effective tax rate	3.6%

Under Flat Tax:

Personal allowance	$20,000	
Two dependents	$10,000	
Taxable income	$5,000	
Tax due under flat tax	$1,000	******Decrease of* $290*****
Effective tax rate	2.9%	

CASE #2 -- Single individual, rents home, yearly income $50,000.

Under Current Law:

Income	$50,000
One personal exemption	$ 3,100
Standard deduction	$ 4,850
Taxable income	$42,050
Tax due under current rates	$ 7,250
Marginal rate	17.2%
Effective rate	14.5%

Under Flat Tax:

Personal allowance	$10,000	
Taxable income	$40,000	
Tax due under flat tax	$8,000	******Increase of* $750 *****
Effective rate	16.0%	

CASE #3 -- Married couple with no children, $150,000 mortgage at 9%, yearly income $75,000:

Under Current Law:

Income	$75,000

Two personal exemptions	$ 6,200
Home mortgage deduction	$13,500
State & local taxes	$ 3,000
Charitable deduction	$ 1,500
Taxable income	$50,800
Tax due under current rates	$6,905
Marginal rate	13.6%
Effective tax rate	9.2%

Under Flat Tax:

Personal allowance	$20,000
Home mortgage deduction	$9,000
Charitable deduction	$ 1,500
Taxable income	$44,500
Tax due under flat tax	$8,900
Effective tax rate	11.8%

****Increase of $1,995****

CASE #4 -- Married couple with three children, $250,000 mortgage at 9%, yearly income $125,000:

Under Current Law:

Income	$125,000
Five personal exemptions	$15,500
Home mortgage deduction	$22,500
State & local taxes	$5,000
Retirement fund deductions	$6,000
Charitable deductions	$ 2,500
Taxable income	$73,500
Tax due under current rates	$11,850
Marginal rate	16.1%
Effective tax rate	9.5%

Under Flat Tax:

Personal allowance	$20,000
Three dependents	$15,000
Home mortgage deduction	$9,000
Charitable deduction	$2,500
Taxable income	$78,500
Tax due under flat tax	$15,700
Effective tax rate	12.6%

****Increase of $3,850****

ANNUAL TAXES UNDER 20% FLAT TAX FOR MARRIED COUPLE WITH TWO CHILDREN FILING JOINTLY

Income	Home Mortgage*	Deductible Mtg Interest	Charitable Contribution*	Personal Allowance (w/ children)	Taxable Income	Effective Tax Rate	Taxes Owed
<30,000					0	0%	None
30,000	60,000	5,400	600	30,000	0	0%	None
40,000	80,000	7,200	800	30,000	2,000	1%	400
50,000	100,000	9,000	1,000	30,000	10,000	4%	2,000
60,000	120,000	9,000	1,200	30,000	19,800	6.6%	3,960
70,000	140,000	9,000	1,400	30,000	29,600	8.6%	5,920
80,000	160,000	9,000	1,600	30,000	39,400	9.9%	7,880
90,000	180,000	9,000	1,800	30,000	49,200	10.9%	9,840
100,000	200,000	9,000	2,000	30,000	59,000	11.8%	11,800
125,000	250,000	9,000	2,500	30,000	83,500	13.4%	16,700
150,000	300,000	9,000	2,500	30,000	108,500	14.5%	21,700
200,000	400,000	9,000	2,500	30,000	158,500	15.9%	31,700
250,000	500,000	9,000	2,500	30,000	208,500	16.7%	41,700
500,000	1,000,000	9,000	2,500	30,000	458,500	18.3%	91,700
1,000,000	2,000,000	9,000	2,500	30,000	958,500	19.2%	191,700

* Assumes home mortgage of twice annual income at a rate of 9% and charitable contributions up to 2% of annual income

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

S. 812

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; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Flat Tax Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

(c) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. FLAT TAX ON INDIVIDUAL TAXABLE EARNED INCOME AND BUSINESS TAXABLE INCOME.

(a) IN GENERAL.—Subchapter A of chapter 1 of subtitle A is amended to read as follows:

''Subchapter A—Determination of Tax Liability

''PART I—TAX ON INDIVIDUALS

''SEC. 1. TAX IMPOSED.

''(a) IMPOSITION OF TAX.—There is hereby imposed on every individual a tax equal to 20 percent of the taxable earned income of such individual.

''(b) TAXABLE EARNED INCOME.—For purposes of this section, the term 'taxable earned income' means the excess (if any) of—

''(1) the earned income received or accrued during the taxable year, over

''(2) the sum of—

''(A) the standard deduction,

''(B) the deduction for cash charitable contributions, and

''(C) the deduction for home acquisition indebtedness, for such taxable year.

''(c) EARNED INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'earned income' means wages, salaries, or professional fees, and other amounts received from sources within the United States as compensation for personal services actually rendered, but does not include that part of compensation derived by the taxpayer for personal services rendered by the taxpayer to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

''(2) TAXPAYER ENGAGED IN TRADE OR BUSINESS.—In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of the taxpayer's share of the net profits of such trade or business, shall be considered as earned income.

''SEC. 2. STANDARD DEDUCTION.

''(a) IN GENERAL.—For purposes of this subtitle, the term 'standard deduction' means the sum of—

''(1) the basic standard deduction, plus

''(2) the additional standard deduction.

''(b) BASIC STANDARD DEDUCTION.—For purposes of subsection (a), the basic standard deduction is—

''(1) 200 percent of the dollar amount in effect under paragraph (3) of the taxable year in the case of—

''(A) a joint return, or

''(B) a surviving spouse (as defined in section 5(a)),

''(2) $15,000 in the case of a head of household (as defined in section 5(b)), or

''(3) $10,000 in any other case.

''(c) ADDITIONAL STANDARD DEDUCTION.—For purposes of subsection (a), the additional standard deduction is $5,000 for each dependent (as defined in section 6)—

''(1) whose earned income for the calendar year in which the taxable year of the taxpayer begins is less than the basic standard deduction specified in subsection (b)(3), or

''(2) who is a child of the taxpayer and who—

''(A) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or

''(B) is a student who has not attained the age of 24 at the close of such calendar year.

''(d) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2006, each dollar amount contained in subsections (b) and (c) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment for the calendar year in which the taxable year begins.

''(2) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

''(A) the CPI for the preceding calendar year, exceeds

''(B) the CPI for calendar year 2005.

''(3) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

''(4) CONSUMER PRICE INDEX.—For purposes of paragraph (3), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor. For purposes of the preceding sentence, the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1986 shall be used.

''(5) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

''SEC. 3. DEDUCTION FOR CASH CHARITABLE CONTRIBUTIONS.

''(a) GENERAL RULE.—For purposes of this part, there shall be allowed as a deduction any charitable contribution (as defined in subsection (b)) not to exceed $2,500 ($1,250, in the case of a married individual filing a separate return), payment of which is made within the taxable year.

''(b) CHARITABLE CONTRIBUTION DEFINED.—For purposes of this section, the term 'charitable contribution' means a contribution or gift of cash or its equivalent to or for the use of the following:

''(1) A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

''(2) A corporation, trust, or community chest, fund, or foundation—

''(A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States,

''(B) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals,

''(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual, and

''(D) which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph (B). Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph.

''(3) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

''(A) organized in the United States or any of its possessions, and

''(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

''(4) In the case of a contribution or gift by an individual, a domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

''(5) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

For purposes of this section, the term 'charitable contribution' also means an amount treated under subsection (d) as paid for the use of an organization described in paragraph (2), (3), or (4).

''(c) DISALLOWANCE OF DEDUCTION IN CERTAIN CASES AND SPECIAL RULES.—

''(1) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS.—

''(A) GENERAL RULE.—No deduction shall be allowed under subsection (a) for any contribution of $250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

''(B) CONTENT OF ACKNOWLEDGMENT.—An acknowledgment meets the requirements of this subparagraph if it includes the following information:

''(i) The amount of cash contributed.

''(ii) Whether the donee organization provided any goods or services in consideration, in whole or in part, for any contribution described in clause (i).

''(iii) A description and good faith estimate of the value of any goods or services referred to in clause (ii) or, if such goods or services consist solely of intangible religious benefits, a statement to that effect.

For purposes of this subparagraph, the term 'intangible religious benefit' means any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context.

''(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

''(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

''(ii) the due date (including extensions) for filing such return.

''(D) SUBSTANTIATION NOT REQUIRED FOR CONTRIBUTIONS REPORTED BY THE DONEE ORGANIZATION.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

''(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases.

''(2) DENIAL OF DEDUCTION WHERE CONTRIBUTION FOR LOBBYING ACTIVITIES.—No deduction shall be allowed under this section for a contribution to an organization which conducts activities to which section 11(d)(2)(C)(i) applies on matters of direct financial interest to the donor's trade or business, if a principal purpose of the contribution was to avoid Federal income tax by securing a deduction for such activities under this section which would be disallowed by reason of section 11(d)(2)(C) if the donor had conducted such activities directly. No deduction shall be allowed under section 11(d) for any amount for which a deduction is disallowed under the preceding sentence.

''(d) AMOUNTS PAID TO MAINTAIN CERTAIN STUDENTS AS MEMBERS OF TAXPAYER'S HOUSEHOLD.—

''(1) IN GENERAL.—Subject to the limitations provided by paragraph (2), amounts paid by the taxpayer to maintain an individual (other than a dependent, as defined in section 6, or a relative of the taxpayer) as a member of such taxpayer's household during the period that such individual is—

''(A) a member of the taxpayer's household under a written agreement between the taxpayer and an organization described in paragraph (2), (3), or (4) of subsection (b) to implement a program of the organization to provide educational opportunities for pupils or students in private homes, and

''(B) a full-time pupil or student in the twelfth or any lower grade at an educational organization located in the United States which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, shall be treated as amounts paid for the use of the organization.

''(2) LIMITATIONS.—

''(A) AMOUNT.—Paragraph (1) shall apply to amounts paid within the taxable year only to the extent that such amounts do not exceed $50 multiplied by the number of full calendar months during the taxable year which fall within the period described in paragraph (1). For purposes of the preceding sentence, if 15 or more days of a calendar month fall within such period such month shall be considered as a full calendar month.

''(B) COMPENSATION OR REIMBURSEMENT.—Paragraph (1) shall not apply to any amount paid by the taxpayer within the taxable year if the taxpayer receives any money or other property as compensation or reimbursement for maintaining the individual in the taxpayer's household during the period described in paragraph (1).

''(3) RELATIVE DEFINED.—For purposes of paragraph (1), the term 'relative of the taxpayer' means an individual who, with respect to the taxpayer, bears any of the relationships described in subparagraphs (A) through (G) of section 6(d)(2).

''(4) NO OTHER AMOUNT ALLOWED AS DEDUCTION.—No deduction shall be allowed under subsection (a) for any amount paid by a taxpayer to maintain an individual as a member of the taxpayer's household under a program described in paragraph (1)(A) except as provided in this subsection.

''(e) DENIAL OF DEDUCTION FOR CERTAIN TRAVEL EXPENSES.—No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel.

''(f) DISALLOWANCE OF DEDUCTIONS IN CERTAIN CASES.—For disallowance of deductions for contributions to or for the use of Communist controlled organizations, see section 11(a) of the Internal Security Act of 1950 (50 U.S.C. 790).

''(g) TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF INSTITUTIONS OF HIGHER EDUCATION.—

''(1) IN GENERAL.—For purposes of this section, 80 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.

''(2) AMOUNT DESCRIBED.—For purposes of paragraph (1), an amount is described in this paragraph if—

''(A) the amount is paid by the taxpayer to or for the benefit of an educational organization—

''(i) which is described in subsection (d)(1)(B), and

''(ii) which is an institution of higher education (as defined in section 3304(f)), and

''(B) such amount would be allowable as a deduction under this section but for the fact that the taxpayer receives (directly or indirectly) as a result of paying such amount the right to purchase tickets for seating at an athletic event in an athletic stadium of such institution.

If any portion of a payment is for the purchase of such tickets, such portion and the remaining portion (if any) of such payment shall be treated as separate amounts for purposes of this subsection.

''(h) OTHER CROSS REFERENCES.—

''(1) For treatment of certain organizations providing child care, see section 501(k).

''(2) For charitable contributions of partners, see section 702.

''(3) For treatment of gifts for benefit of or use in connection with the Naval Academy as gifts to or for the use of the United States, see section 6973 of title 10, United States Code.

''(4) For treatment of gifts accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency, as gifts to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.

''(5) For treatment of gifts of money accepted by the Attorney General for credit to the 'Commissary Funds, Federal Prisons' as gifts to or for the use of the United States, see section 4043 of title 18, United States Code.

''(6) For charitable contributions to or for the use of Indian tribal governments (or subdivisions of such governments), see section 7871.

''SEC. 4. DEDUCTION FOR HOME ACQUISITION INDEBTEDNESS.

''(a) GENERAL RULE.—For purposes of this part, there shall be allowed as a deduction all qualified residence interest paid or accrued within the taxable year.

''(b) QUALIFIED RESIDENCE INTEREST DEFINED.—The term 'qualified residence interest' means any interest which is paid or accrued during the taxable year on acquisition indebtedness with respect to any qualified residence of the taxpayer. For purposes of the preceding sentence, the determination of whether any property is a qualified residence of the taxpayer shall be made as of the time the interest is accrued.

''(c) ACQUISITION INDEBTEDNESS.—

''(1) IN GENERAL.—The term 'acquisition indebtedness' means any indebtedness which—

''(A) is incurred in acquiring, constructing, or substantially improving any qualified residence of the taxpayer, and

''(B) is secured by such residence.

Such term also includes any indebtedness secured by such residence resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence (or this sentence); but only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness.

''(2) $100,000 LIMITATION.—The aggregate amount treated as acquisition indebtedness for any period shall not exceed $100,000 ($50,000 in the case of a married individual filing a separate return).

''(d) TREATMENT OF INDEBTEDNESS INCURRED ON OR BEFORE OCTOBER 13, 1987.—

''(1) IN GENERAL.—In the case of any pre-October 13, 1987, indebtedness—

''(A) such indebtedness shall be treated as acquisition indebtedness, and

''(B) the limitation of subsection (c)(2) shall not apply.

''(2) REDUCTION IN $100,000 LIMITATION.—The limitation of subsection (c)(2) shall be reduced (but not below zero) by the aggregate amount of outstanding pre-October 13, 1987, indebtedness.

''(3) PRE-OCTOBER 13, 1987, INDEBTEDNESS.—The term 'pre-October 13, 1987, indebtedness' means—

''(A) any indebtedness which was incurred on or before October 13, 1987, and which was secured by a qualified residence on October 13, 1987, and at all times thereafter before the interest is paid or accrued, or

''(B) any indebtedness which is secured by the qualified residence and was incurred after October 13, 1987, to refinance indebtedness described in subparagraph (A) (or refinanced indebtedness meeting the requirements of this subparagraph) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

''(4) LIMITATION ON PERIOD OF REFINANCING.—Subparagraph (B) of paragraph (3) shall not apply to any indebtedness after—

''(A) the expiration of the term of the indebtedness described in paragraph (3)(A), or

''(B) if the principal of the indebtedness described in paragraph (3)(A) is not amortized over its term, the expiration of the term of the first refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such first refinancing).

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED RESIDENCE.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (C), the term 'qualified residence' means the principal residence of the taxpayer.

''(B) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If a married couple does not file a joint return for the taxable year—

''(i) such couple shall be treated as 1 taxpayer for purposes of subparagraph (A), and

''(ii) each individual shall be entitled to take into account ½ of the principal residence unless both individuals consent in writing to 1 individual taking into account the principal residence.

''(C) PRE-OCTOBER 13, 1987, INDEBTEDNESS.—In the case of any pre-October 13, 1987, indebtedness, the term 'qualified residence' has the meaning given that term in section 163(h)(4), as in effect on the day before the date of enactment of this subparagraph.

''(2) SPECIAL RULE FOR COOPERATIVE HOUSING CORPORATIONS.—Any indebtedness secured by stock held by the taxpayer as a tenant-stockholder in a cooperative housing corporation shall be treated as secured by the house or apartment which the taxpayer is entitled to occupy as such a tenant-stockholder. If stock described in the preceding sentence may not be used to secure indebtedness, indebtedness shall be treated as so secured if the taxpayer establishes to the satisfaction of the Secretary that such indebtedness was incurred to acquire such stock.

''(3) UNENFORCEABLE SECURITY INTERESTS.—Indebtedness shall not fail to be treated as secured by any property solely because, under any applicable State or local homestead or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted.

''(4) SPECIAL RULES FOR ESTATES AND TRUSTS.—For purposes of determining whether any interest paid or accrued by an estate or trust is qualified residence interest, any residence held by such estate or trust shall be treated as a qualified residence of such estate or trust if such estate or trust establishes that such residence is a qualified residence of a beneficiary who has a present interest in such estate or trust or an interest in the residuary of such estate or trust.

''SEC. 5. DEFINITIONS AND SPECIAL RULES.

''(a) DEFINITION OF SURVIVING SPOUSE.—

''(1) IN GENERAL.—For purposes of this part, the term 'surviving spouse' means a taxpayer—

''(A) whose spouse died during either of the taxpayer's 2 taxable years immediately preceding the taxable year, and

''(B) who maintains as the taxpayer's home a household which constitutes for the taxable year the principal place of abode (as a member of such household) of a dependent—

''(i) who (within the meaning of section 6, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B)) is a son, stepson, daughter, or stepdaughter of the taxpayer, and

''(ii) with respect to whom the taxpayer is entitled to a deduction for the taxable year under section 2.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over one-half of the cost of maintaining the household during the taxable year is furnished by such individual.

''(2) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of this part a taxpayer shall not be considered to be a surviving spouse—

''(A) if the taxpayer has remarried at any time before the close of the taxable year, or

''(B) unless, for the taxpayer's taxable year during which the taxpayer's spouse died, a joint return could have been made under the provisions of section 6013 (without regard to subsection (a)(3) thereof).

''(3) SPECIAL RULE WHERE DECEASED SPOUSE WAS IN MISSING STATUS.—If an individual was in a missing status (within the meaning of section 6013(f)(3)) as a result of service in a combat zone and if such individual remains in such status until the date referred to in subparagraph (A) or (B), then, for purposes of paragraph (1)(A), the date on which such individual dies shall be treated as the earlier of the date determined under subparagraph (A) or the date determined under subparagraph (B):

''(A) The date on which the determination is made under section 556 of title 37 of the United States Code or under section 5566 of title 5 of such Code (whichever is applicable) that such individual died while in such missing status.

''(B) Except in the case of the combat zone designated for purposes of the Vietnam conflict, the date which is 2 years after the date designated as the date of termination of combatant activities in that zone.

''(b) DEFINITION OF HEAD OF HOUSEHOLD.—

''(1) IN GENERAL.—For purposes of this part, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of such individual's taxable year, is not a surviving spouse (as defined in subsection (a)), and either—

''(A) maintains as such individual's home a household which constitutes for more than one-half of such taxable year the principal place of abode, as a member of such household, of—

''(i) a qualifying child of the individual (as defined in section 6(c), determined without regard to section 6(e)), but not if such child—

''(I) is married at the close of the taxpayer's taxable year, and

''(II) is not a dependent of such individual by reason of section 6(b)(2) or 6(b)(3), or both, or

''(ii) any other person who is a dependent of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such person under section 2, or

''(B) maintains a household which constitutes for such taxable year the principal place of abode of the father or mother of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such father or mother under section 2.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over one-half of the cost of maintaining the household during the taxable year is furnished by such individual.

''(2) DETERMINATION OF STATUS.—For purposes of this subsection—

''(A) an individual who is legally separated from such individual's spouse under a decree of divorce or of separate maintenance shall not be considered as married,

''(B) a taxpayer shall be considered as not married at the close of such taxpayer's taxable year if at any time during the taxable year such taxpayer's spouse is a nonresident alien, and

''(C) a taxpayer shall be considered as married at the close of such taxpayer's taxable year if such taxpayer's spouse (other than a spouse described in subparagraph (B)) died during the taxable year.

''(3) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of this part, a taxpayer shall not be considered to be a head of a household—

''(A) if at any time during the taxable year the taxpayer is a nonresident alien, or

''(B) by reason of an individual who would not be a dependent for the taxable year but for—

''(i) subparagraph (H) of section 6(d)(2), or

''(ii) paragraph (3) of section 6(d).

''(c) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of this part, an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 7703(b).

''SEC. 6. DEPENDENT DEFINED.

''(a) IN GENERAL.—For purposes of this subtitle, the term 'dependent' means—

''(1) a qualifying child, or

''(2) a qualifying relative.

''(b) EXCEPTIONS.—For purposes of this section—

''(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

''(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

''(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—

''(A) IN GENERAL.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

''(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—

''(i) for the taxable year of the taxpayer, the child has the same principal place of abode as the taxpayer and is a member of the taxpayer's household, and

''(ii) the taxpayer is a citizen or national of the United States.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

''(A) who bears a relationship to the taxpayer described in paragraph (2),

''(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

''(C) who meets the age requirements of paragraph (3), and

''(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

''(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

''(A) a child of the taxpayer or a descendant of such a child, or

''(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

''(3) AGE REQUIREMENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

''(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

''(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

''(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

''(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

''(i) a parent of the individual, or

''(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

''(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

''(i) the parent with whom the child resided for the longest period of time during the taxable year, or

''(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

''(d) QUALIFYING RELATIVE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

''(A) who bears a relationship to the taxpayer described in paragraph (2),

''(B) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

''(C) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

''(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

''(A) A child or a descendant of a child.

''(B) A brother, sister, stepbrother, or stepsister.

''(C) The father or mother, or an ancestor of either.

''(D) A stepfather or stepmother.

''(E) A son or daughter of a brother or sister of the taxpayer.

''(F) A brother or sister of the father or mother of the taxpayer.

''(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

''(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

''(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

''(A) no one person contributed over one-half of such support,

''(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

''(C) the taxpayer contributed over 10 percent of such support, and

''(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

''(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

''(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

''(ii) the income arises solely from activities at such workshop which are incident to such medical care.

''(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

''(i) which provides special instruction or training designed to alleviate the disability of the individual, and

''(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

''(5) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

''(A) payments to a spouse which are includible in the gross income of such spouse shall not be treated as a payment by the payor spouse for the support of any dependent, and

''(B) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

''(e) SPECIAL RULE FOR DIVORCED PARENTS.—

''(1) IN GENERAL.—Notwithstanding subsection (c)(1)(B), (c)(4), or (d)(1)(C), if—

''(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

''(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

''(ii) who are separated under a written separation agreement, or

''(iii) who live apart at all times during the last 6 months of the calendar year, and

''(B) such child is in the custody of 1 or both of the child's parents for more than one-half of the calendar year, such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

''(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

''(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that the noncustodial parent shall be entitled to any deduction allowable under section 2 for such child, and in the case of such a decree or agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year, or

''(B) the custodial parent signs a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year.

For purposes of subparagraph (A), amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

''(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

''(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

''(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

''(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

''(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) CHILD DEFINED.—

''(A) IN GENERAL.—The term 'child' means an individual who is—

''(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

''(ii) an eligible foster child of the taxpayer.

''(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer, shall be treated as a child of such individual by blood.

''(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

''(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

''(A) is a full-time student at an educational organization described in section 3(d)(1)(B), or

''(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 3(d)(1)(B) or of a State or political subdivision of a State.

''(3) DETERMINATION OF HOUSEHOLD STATUS.—An individual shall not be treated as a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

''(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

''(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of subsections (c)(1)(D) and (d)(1)(C), in the case of an individual who is—

''(A) a child of the taxpayer, and

''(B) a student, amounts received as scholarships for study at an educational organization described in section 3(d)(1)(B) shall not be taken into account.

''(6) TREATMENT OF MISSING CHILDREN.—

''(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

''(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

''(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping, shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the child is kidnapped.

''(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

''(i) the deduction under section 2(c), and

''(ii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 5).

''(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

''(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

''(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping, shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

''(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

''PART II—TAX ON BUSINESS ACTIVITIES

''Sec. 11. Tax imposed on business activities.

''SEC. 11. TAX IMPOSED ON BUSINESS ACTIVITIES.

''(a) TAX IMPOSED.—There is hereby imposed on every person engaged in a business activity located in the United States a tax equal to 20 percent of the business taxable income of such person.

''(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the person engaged in the business activity, whether such person is an individual, partnership, corporation, or otherwise.

''(c) BUSINESS TAXABLE INCOME.—

''(1) IN GENERAL.—For purposes of this section, the term 'business taxable income' means gross active income reduced by the deductions specified in subsection (d).

''(2) GROSS ACTIVE INCOME.—For purposes of paragraph (1), the term 'gross active income' means gross income other than investment income.

''(d) DEDUCTIONS.—

''(1) IN GENERAL.—The deductions specified in this subsection are—

''(A) the cost of business inputs for the business activity,

''(B) the compensation (including contributions to qualified retirement plans but not including other fringe benefits) paid for employees performing services in such activity, and

''(C) the cost of personal and real property used in such activity.

''(2) BUSINESS INPUTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(A), the term 'cost of business inputs' means—

''(i) the actual cost of goods, services, and materials, whether or not resold during the taxable year, and

''(ii) the actual cost, if reasonable, of travel and entertainment expenses for business purposes.

''(B) PURCHASES OF GOODS AND SERVICES EXCLUDED.—Such term shall not include purchases of goods and services provided to employees or owners.

''(C) CERTAIN LOBBYING AND POLITICAL EXPENDITURES EXCLUDED.—

''(i) IN GENERAL.—Such term shall not include any amount paid or incurred in connection with—

''(I) influencing legislation,

''(II) participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office,

''(III) any attempt to influence the general public, or segments thereof, with respect to elections, legislative matters, or referendums, or

''(IV) any direct communication with a covered executive branch official in an attempt to influence the official actions or positions of such official.

''(ii) EXCEPTION FOR LOCAL LEGISLATION.—In the case of any legislation of any local council or similar governing body—

''(I) clause (i)(I) shall not apply, and

''(II) such term shall include all ordinary and necessary expenses (including, but not limited to, traveling expenses described in subparagraph (A)(iii) and the cost of preparing testimony) paid or incurred during the taxable year in carrying on any trade or business—

''(aa) in direct connection with appearances before, submission of statements to, or sending communications to the committees, or individual members, of such council or body with respect to legislation or proposed legislation of direct interest to the taxpayer, or

''(bb) in direct connection with communication of information between the taxpayer and an organization of which the taxpayer is a member with respect to any such legislation or proposed legislation which is of direct interest to the taxpayer and to such organization, and that portion of the dues so paid or incurred with respect to any organization of which the taxpayer is a member which is attributable to the expenses of the activities carried on by such organization.

''(iii) APPLICATION TO DUES OF TAX-EXEMPT ORGANIZATIONS.—Such term shall include the portion of dues or other similar amounts paid by the taxpayer to an organization which is exempt from tax under this subtitle which the organization notifies the taxpayer under section 6033(e)(1)(A)(ii) is allocable to expenditures to which clause (i) applies.

''(iv) INFLUENCING LEGISLATION.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'influencing legislation' means any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of legislation.

''(II) LEGISLATION.—The term 'legislation' has the meaning given that term in section 4911(e)(2).

''(v) OTHER SPECIAL RULES.—

''(I) EXCEPTION FOR CERTAIN TAXPAYERS.—In the case of any taxpayer engaged in the trade or business of conducting activities described in clause (i), clause (i) shall not apply to expenditures of the taxpayer in conducting such activities directly on behalf of another person (but shall apply to payments by such other person to the taxpayer for conducting such activities).

''(II) DE MINIMIS EXCEPTION.—

''(aa) IN GENERAL.—Clause (i) shall not apply to any in-house expenditures for any taxable year if such expenditures do not exceed $2,000. In determining whether a taxpayer exceeds the $2,000 limit, there shall not be taken into account overhead costs otherwise allocable to activities described in subclauses (I) and (IV) of clause (i).

''(bb) IN-HOUSE EXPENDITURES.—For purposes of provision (aa), the term 'in-house expenditures' means expenditures described in subclauses (I) and (IV) of clause (i) other than payments by the taxpayer to a person engaged in the trade or business of conducting activities described in clause (i) for the conduct of such activities on behalf of the taxpayer, or dues or other similar amounts paid or incurred by the taxpayer which are allocable to activities described in clause (i).

''(III) EXPENSES INCURRED IN CONNECTION WITH LOBBYING AND POLITICAL ACTIVITIES.—Any amount paid or incurred for research for, or preparation, planning, or coordination of, any activity described in clause (i) shall be treated as paid or incurred in connection with such activity.

''(vi) COVERED EXECUTIVE BRANCH OFFICIAL.—For purposes of this subparagraph, the term 'covered executive branch official' means—

''(I) the President,

''(II) the Vice President,

''(III) any officer or employee of the White House Office of the Executive Office of the President, and the 2 most senior level officers of each of the other agencies in such Executive Office, and

''(IV) any individual serving in a position in level I of the Executive Schedule under section 5312 of title 5, United States Code, any other individual designated by the President as having Cabinet level status, and any immediate deputy of such an individual.

''(vii) SPECIAL RULE FOR INDIAN TRIBAL GOVERNMENTS.—For purposes of this subparagraph, an Indian tribal government shall be treated in the same manner as a local council or similar governing body.

''(viii) CROSS REFERENCE.—

''For reporting requirements and alternative taxes related to this subsection, see section 6033(e).

''(e) CARRYOVER OF EXCESS DEDUCTIONS.—

''(1) IN GENERAL.—If the aggregate deductions for any taxable year exceed the gross active income for such taxable year, the amount of the deductions specified in subsection (d) for the succeeding taxable year (determined without regard to this subsection) shall be increased by the sum of—

''(A) such excess, plus

''(B) the product of such excess and the 3-month Treasury rate for the last month of such taxable year.

''(2) 3-MONTH TREASURY RATE.—For purposes of paragraph (1), the 3-month Treasury rate is the rate determined by the Secretary based on the average market yield (during any 1-month period selected by the Secretary and ending in the calendar month in which the determination is made) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 months or less.''

(b) CONFORMING REPEALS AND REDESIGNATIONS.—

(1) REPEALS.—The following subchapters of chapter 1 of subtitle A and the items relating to such subchapters in the table of subchapters for such chapter 1 are repealed:

(A) Subchapter B (relating to computation of taxable income).

(B) Subchapter C (relating to corporate distributions and adjustments).

(C) Subchapter D (relating to deferred compensation, etc.).

(D) Subchapter G (relating to corporations used to avoid income tax on shareholders).

(E) Subchapter H (relating to banking institutions).

(F) Subchapter I (relating to natural resources).

(G) Subchapter J (relating to estates, trusts, beneficiaries, and decedents).

(H) Subchapter L (relating to insurance companies).

(I) Subchapter M (relating to regulated investment companies and real estate investment trusts).

(J) Subchapter N (relating to tax based on income from sources within or without the United States).

(K) Subchapter O (relating to gain or loss on disposition of property).

(L) Subchapter P (relating to capital gains and losses).

(M) Subchapter Q (relating to readjustment of tax between years and special limitations).

(N) Subchapter S (relating to tax treatment of S corporations and their shareholders).

(O) Subchapter T (relating to cooperatives and their patrons).

(P) Subchapter U (relating to designation and treatment of empowerment zones, enterprise communities, and rural development investment areas).

(Q) Subchapter V (relating to title 11 cases).

(R) Subchapter W (relating to District of Columbia Enterprise Zone).

(2) REDESIGNATIONS.—The following subchapters of chapter 1 of subtitle A and the items relating to such subchapters in the table of subchapters for such chapter 1 are redesignated:

(A) Subchapter E (relating to accounting periods and methods of accounting) as subchapter B.

(B) Subchapter F (relating to exempt organizations) as subchapter C.

(C) Subchapter K (relating to partners and partnerships) as subchapter D.

SEC. 3. REPEAL OF ESTATE AND GIFT TAXES.

Subtitle B (relating to estate, gift, and generation-skipping taxes) and the item relating to such subtitle in the table of subtitles is repealed.

SEC. 4. ADDITIONAL REPEALS.

Subtitles H (relating to financing of presidential election campaigns) and J (relating to coal industry health benefits) and the items relating to such subtitles in the table of subtitles are repealed.

SEC. 5. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act apply to taxable years beginning after December 31, 2005.

(b) REPEAL OF ESTATE AND GIFT TAXES.—The repeal made by section 3 applies to estates of decedents dying, and transfers made, after December 31, 2005.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but in any event not later than 90 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

By Mr. SPECTER:

S. 813. A bill to amend part D of title XVIII of the Social Security Act to authorize the Secretary of Health and Human Services to negotiate for lower prices for medicare prescription drugs; to the Committee on Finance.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce the Prescription Drug and Health Improvement Act of 2005 to reduce the high prices of prescription drugs for Medicare beneficiaries. I introduced a similar version of this bill in the 108th Congress, S. 2766. To increase the likelihood that this bill may become law this bill does not include a costly provision which would have closed the gap in prescription drug costs for Medicare beneficiaries.

Americans, specifically senior citizens, pay the highest prices in the world for brand-name prescription drugs. With 45 million uninsured Americans and many more senior citizens without an adequate prescription drug benefit, filling a doctor's prescription is unaffordable for many people in this country. The United States has the greatest health care system in the world; however, too many seniors are forced to make difficult choices between life-sustaining prescription drugs and daily necessities.

The Centers for Medicare and Medicaid Services estimate that in 2004 per capita spending on prescription drugs rose approximately 12 percent, with a similar rate of growth expected for this year. Much of the increase in drug spending is due to higher utilization and the shift from older, lower cost drugs to newer, higher cost drugs. However, rapidly increasing drug prices are a critical component.

High drug prices, combined with the surging older population, are also taking a toll on State budgets and private sector health insurance benefits. Medicaid spending on prescription drugs increased at an average annual rate of nearly 19 percent between 1998 and 2002. Until lower priced drugs are available, pressures will continue to squeeze public programs at both the State and Federal level.

To address these problems, my legislation would reduce the high prices of prescription drugs to seniors by repealing the prohibition against interference by the Secretary of HHS with negotiations between drug manufacturers, pharmacies, and prescription drug plan sponsors and instead authorize the Secretary to negotiate contracts with manufacturers of covered prescription drugs. It will allow the Secretary of HHS to use Medicare's large beneficiary population to leverage bargaining power to obtain lower prescription drug prices for Medicare beneficiaries.

Price negotiations between the Secretary of HHS and prescription drug manufacturers would be analogous to the ability of the Secretary of Veterans Affairs to negotiate prescription drug prices with manufacturers. This bargaining power enables veterans to receive prescription drugs at a significant cost savings. According to the National Association of Chain Drug Stores, the average ''cash cost'' of a prescription in 2001 was $40.22. The average cost in the Veterans Affairs (VA) health care system in fiscal year 2001 was $22.87.

In the 108th Congress, in my capacity as chairman of the Veterans' Affairs Committee, I introduced the Veterans Prescription Drugs Assistance Act, S. 1153, which was reported out of committee, but was not considered before the full Senate. In the 109th Congress, I have again introduced the Veterans Prescription Drugs Assistance Act, S. 614.

This legislation will broaden the ability of veterans to access the Veterans Affairs' Prescription Drug Program. Under my bill, all Medicare-eligible veterans will be able to purchase medications at a tremendous price reduction through the Veterans Affairs' Prescription Drug Program. In many cases, this will save veterans who are Medicare beneficiaries up to 50 percent on the cost of prescribed medications, a significant savings for veterans. Similar savings may be available to America's seniors from the savings achieved using the HHS bargaining power, like the Veterans Affairs bargaining power for the benefit of veterans. These savings may provide America's seniors with fiscal relief from the increasing costs of prescription drugs.

I believe this bill can provide desperately needed access to inexpensive, effective prescription drugs for America's seniors. The time has come for concerted action in this arena. I urge my colleagues to move this legislation forward promptly.

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. 813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.

(a) IN GENERAL.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended by striking subsection (i) (relating to noninterference) and by inserting the following:

''(i) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—In order to ensure that beneficiaries enrolled under prescription drug plans and MA–PD plans pay the lowest possible price, the Secretary shall have authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers of covered part D drugs, consistent with the requirements and in furtherance of the goals of providing quality care and containing costs under this part.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2066).

(c) HHS REPORTS COMPARING NEGOTIATED PRESCRIPTION DRUG PRICES AND RETAIL PRESCRIPTION DRUG PRICES.—Beginning in 2007, the Secretary of Health and Human Services shall regularly, but in no case less often than quarterly, submit to Congress a report that compares the prices for covered part D drugs (as defined in section 1860D–2(e) of the Social Security Act (42 U.S.C. 1395w–102(e)) negotiated by the Secretary pursuant to section 1860D–11(i) of such Act (42 U.S.C. 1395w–111(i)), as amended by subsection (a), with the average price a retail pharmacy would charge an individual who does not have health insurance coverage for purchasing the same strength, quantity, and dosage form of such covered part D drug.

By Mr. THOMAS (for himself, Ms. SNOWE, Mr. ENZI, Mr. BINGAMAN, Mr. ALEXANDER, Mr. TALENT, Mr. ENSIGN, and Mr. SMITH):

S. 815. A bill to amend the Internal Revenue Code of 1986 to allow a 15-year applicable recovery period for depreciation of certain electric transmission property; to the Commission on Finance.

Mr. THOMAS. Mr. President, today I rise to introduce a bill to encourage the construction of electric transmission lines. One of the biggest energy problems our country faces is a lack of electric transmission capacity. Recently, my home State of Wyoming joined forces with Utah, Nevada, and California in a partnership to create a new transmission line—the Frontier Line—to send coal-generated electricity to the West Coast.

Demand for electricity in the West has grown by 60 percent in the last two decades, while transmission capacity has grown by only 20 percent. But ours is certainly not the only region affected. Energy production and distribution is a serious issue affecting all Americans. From our dependence on foreign oil and natural gas, to limited refining capacity and distribution ability, never mind development of nontraditional fuels, we need to get our energy house in order. I have long-favored a comprehensive energy policy and will continue to champion that cause because it is badly needed and the right thing to do.

One piece of any energy policy needs to be providing for electric transmission capacity. If we're producing a surplus in one area of the country but can't convey it to other areas that need it, it doesn't do anyone any good. The bill I introduce today will help alleviate the problem by making it less expensive to invest in electric transmission lines that we badly need.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi) and by inserting '', and'', and by adding at the end the following new clause:

''(vii) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale the original use of which commences with the taxpayer after the date of the enactment of this clause.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) of the Internal Revenue Code of 1986 is amended by inserting after the item relating to subparagraph (E)(vi) the following:

''(E)(vii) ..... 30.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

By Mr. REID (for Mrs. CLINTON):

S. 816. A bill to establish the position of Northern Border Coordinator in the Department of Homeland Security; to the Committee on Homeland Security and Governmental Affairs.

Mr. REID (for Mrs. CLINTON). 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. 816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NORTHERN BORDER COORDINATOR.

(a) IN GENERAL.—Title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.) is amended—

(1) in section 402—

(A) by redesignating paragraph (8) as paragraph (9); and

(B) by inserting after paragraph (7) the following:

''(8) Increasing the security of the border between the United States and Canada and the ports of entry located along that border, and improving the coordination among the agencies responsible for maintaining that security.''; and

(2) in subtitle C, by adding at the end the following:

''SEC. 431. NORTHERN BORDER COORDINATOR.

''(a) IN GENERAL.—There shall be within the Directorate of Border and Transportation Security the position of Northern Border Coordinator, who shall be appointed by the Secretary and who shall report directly to the Under Secretary for Border and Transportation Security.

''(b) RESPONSIBILITIES.—The Northern Border Coordinator shall be responsible for—

''(1) increasing the security of the border, including ports of entry, between the United States and Canada;

''(2) improving the coordination among the agencies responsible for the security described under paragraph (1);

''(3) serving as the primary liaison with State and local governments and law enforcement agencies regarding security along the border between the United States and Canada; and

''(4) serving as a liaison with the Canadian government on border security.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 430 the following:

''Sec. 431. Northern Border Coordinator.''.

By Ms. STABENOW (for herself, Mr. GRAHAM, and Mr. BAYH):

S. 817. A bill to amend the Trade Act of 1974 to create a Special Trade Prosecutor to ensure compliance with trade agreements, and for other purposes; to the Committee on Finance.

Ms. STABENOW. Mr. President, I rise to introduce a bill on behalf of myself and Senators GRAHAM and BAYH.

This bill would create an ambassador-level position within the office of the U.S. Trade Representative entitled: Special Trade Prosecutor. This individual would be appointed by the President and confirmed by the Senate, with the authority to ensure compliance with trade agreements to protect our manufacturers against unfair trade practices.

In practical terms, this prosecutor will have the authority to investigate and recommend prosecuting cases before the World Trade Organization and under trade agreements to which the United States is a party.

Why this bill? At this time?

We have an Executive Branch that is organized in such a way as to make prosecution of unfair trade cases unlikely at best. When you couple this with the fact that our government has sat idle as our domestic manufacturing base has eroded due to unfair trade practices, it becomes very clear that we have put our manufacturers in an impossible situation.

Under the current structure of the office of the U.S. Trade Representative, we are asking our Trade Representative to do too much. Quite simply, the office is not able to deliver.

The current structure demands that they negotiate trade agreements with foreign nations and simultaneously enforce other agreements with those same countries—all without damaging the U.S.'s ability to negotiate the next trade deal.

It's not working. And, while significant portions of our trade imbalances are not caused by lax enforcement, much of it is.

In February, the Department of Commerce reported that the merchandise trade deficit reached a record level of $666.2 billion in the 2004, a 21.7 percent increase since 2003.

If we can address any portion of this deficit we must do it. This bill represents a straight-forward, commonsense solution.

There are many U.S. industries facing unfair trade practices and this bill represents an institutional change that will allow the U.S. to thoroughly and vigorously investigate and prosecute these cases.

For instance, China is a textbook case of how a foreign government has used a network of illegal subsidies and government interventions in order to destroy foreign competition, both in the United States as well as in many other countries.

According to the U.S. China Economic and Security Commission, these actions have gone virtually unchallenged by the U.S. government, despite the fact that China's actions are in clear violations of both U.S. trade law and WTO rules.

These ''anti-competitive actions by China's government include currency manipulation (estimated to provide as much as a 40 percent subsidy for Chinese exporters), illegal direct government subsidies of its money losing state-owned textile and apparel sectors, illegal export tax rebates (13 percent) and the deliberate extension of

billions of dollars in non-performing (''free money'') loans by China's central banks in order to award a competitive advantage against foreign competition.''

The Commission goes on to say that ''in the case of China, the dramatic increase in subsidies has caused Chinese prices to drop by an average of 58 percent over the past two years in those product areas where quotas have been removed. As a result, China has gained a near monopoly share in these products over the last 24 months, taking 60 percent of the market.''

However, the U.S. government has failed to file any complaints at the WTO, despite the Chinese government's repeated and widespread violations of WTO rules.

Our government's inaction is costing us millions of American jobs, crippling our manufacturing sector, distorting trade and investment patterns globally, and leaving hundreds of millions of Chinese workers vulnerable and mistreated.

Let me give you a concrete example of the violations that are occurring.

Counterfeit automotive products are a big problem in my home State of Michigan. Not only does it kill American jobs, but it has the potential to kill Americans as cheap shoddy automotive products replace legitimate ones of higher-quality.

The American automotive parts and components industry looses an estimated $12 billion in sales on a global basis to counterfeiting.

And, we don't even keep statistics on the potential loss of life.

As many have said, we should understand that, if left unchecked, penetration by counterfeit automotive products, as well as other manufactured goods, has the potential to undermine the public's confidence and trust in what they are buying. We can't let that happen.

In Michigan, we lost 51,000 manufacturing jobs between 1989 and 2003 due to China's unfair trade practices, according to the Economic Policy Institute.

Unfortunately, the plant closings continue in Michigan and around the Nation. Over the past three months we see example after example of the damage a ''wait and see'' attitude has on workers in this country.

We should not be shirking our responsibilities to enforce trade rules. This Bill helps us reverse the course upon which we find ourselves—it helps us save American jobs.

I believe in trade and the benefits it can have for our manufacturers, farmers, and other industries. But, we need to have fair trade first and foremost.

A Special Trade Prosecutor would have the power to stand up for our manufacturers and farmers and make sure that other countries are holding up their end of their trade agreements.

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. 817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREATION OF SPECIAL TRADE PROSECUTOR.

(a) ESTABLISHMENT OF POSITION.—Section 141(b)(2) of the Trade Act of 1974 (19 U.S.C. 2171(b)(2)) is amended to read as follows:

''(2) There shall be in the Office 3 Deputy United States Trade Representatives, 1 Chief Agricultural Negotiator, and 1 Special Trade Prosecutor. The 3 Deputy United States Trade Representatives, the Chief Agricultural Negotiator, and the Special Trade Prosecutor shall be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rulemaking power of the Senate, any nomination of a Deputy United States Trade Representative, the Chief Agricultural Negotiator, or the Special Trade Prosecutor submitted to the Senate for its advice and consent, and referred to a committee, shall be referred to the Committee on Finance. Each Deputy United States Trade Representative, the Chief Agricultural Negotiator, and the Special Trade Prosecutor shall hold office at the pleasure of the President and shall have the rank of Ambassador.''.

(b) FUNCTIONS OF POSITION.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended by adding at the end the following new paragraph:

''(6) The principal function of the Special Trade Prosecutor shall be to ensure compliance with trade agreements relating to United States manufactured goods and services. The Special Trade Prosecutor shall have the authority to investigate and recommend prosecuting cases before the World Trade Organization and under trade agreements to which the United States is a party. The Special Trade Prosecutor shall recommend administering United States trade laws relating to foreign government barriers to United States goods and services. The Special Trade Prosecutor shall perform such other functions as the United States Trade Representative may direct.''.

By Mr. JOHNSON:

S. 819. A bill to authorize the Secretary of the Interior to reallocate costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes; to the Committee on Energy and Natural Resources.

Mr. JOHNSON. Mr. President, I rise today to introduce legislation that codifies an agreement between the City of Rapid City, SD and the Rapid Valley Water Conservancy District for a water service contract. The renegotiated agreement reallocates the costs of the Pactola Dam to better reflect the City's growing need for municipal water supply and the Rapid Valley District's decreasing demand for irrigation.

The legislation implements an agreement to improve upon the current municipal, industrial, irrigation, recreation, and wildlife requirements of Rapid City and the Rapid Valley District. It is my hope that this legislation can be quickly approved to facilitate the completion of this contract.

I ask unanimous consent that the text of the Pactola Reservoir Reallocation Authorization Act be printed in the RECORD.

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

S. 819

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 ''Pactola Reservoir Reallocation Authorization Act of 2005''.

SEC. 2. FINDINGS.

Congress finds that—

(1) it is appropriate to reallocate the costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes; and

(2) section 302 of the Department of Energy Organization Act (42 U.S.C. 7152) prohibits such a reallocation of costs without congressional approval.

SEC. 3. REALLOCATION OF COSTS OF PACTOLA DAM AND RESERVOIR, SOUTH DAKOTA.

The Secretary of the Interior may, as provided in the contract of August 2001 entered into between Rapid City, South Dakota, and the Rapid Valley Conservancy District, reallocate, in a manner consistent with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), the construction costs of Pactola Dam and Reservoir, Rapid Valley Unit, Pick-Sloan Missouri Basin Program, South Dakota, from irrigation purposes to municipal, industrial, and fish and wildlife purposes.

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 820. A bill to promote the development of health care cooperatives that will help businesses to pool the health care purchasing power of employers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, today, along with my colleague from Maine, Senator COLLINS, I am introducing legislation to help businesses form group-purchasing cooperatives to obtain enhanced benefits, to reduce health care rates, and to improve quality for their employees' health care.

High health care costs are burdening businesses and employees across the Nation. These costs are digging into profits and preventing access to affordable health care. Too many patients feel trapped by the system, with decisions about their health dictated by costs rather than by what they need.

Nationally, the annual average cost to an employer for an employee's health care is $6,348. In my home State of Wisconsin it is even higher—the average cost there is $7,618. We must curb these rapidly increasing health care costs. I strongly support initiatives to ensure that everyone has access to health care. It is crucial that we support successful local initiatives to reduce health care premiums and to improve the quality of employees' health care.

By using group purchasing to obtain rate discounts, some employers have been able to reduce the cost of health

care premiums for their employees. According to the National Business Coalition on Health, there are nearly 80 employer-led coalitions across the United States that collectively purchase health care. Through these pools, businesses are able to proactively challenge high costs and inefficient delivery of health care and share information on quality. These coalitions represent over 10,000 employers nationwide.

Improving the quality of health care will also lower the cost of care. By investing in the delivery of quality health care, we will be able to lower long term health care costs. Effective care, such as quality preventive services, can reduce overall health care expenditures. Health purchasing coalitions help promote these services and act as an employer forum for networking and education on health care cost containment strategies. They can help foster a dialogue with health care providers, insurers, and local HMOs.

Health care markets are local. Problems with cost, quality, and access to health care are felt most intensely in the local markets. Health care coalitions can function best when they are formed and implemented locally. Local employers of large and small businesses have formed health care coalitions to track health care trends, create a demand for quality and safety, and encourage group purchasing.

In Wisconsin, there have been various successful initiatives that have formed health care purchasing cooperatives to improve quality of care and to reduce cost. For example, the Employer Health Care Alliance Cooperative, an employer-owned and employer-directed not-for-profit cooperative, has developed a network of health care providers in Dane County and 12 surrounding counties on behalf of its 160 member employers. Through this pooling effort, employers are able to obtain affordable, high-quality health care for their 87,500 employees and dependents.

This legislation seeks to build on successful local initiatives, such as the Alliance, that help businesses to join together to increase access to affordable and high-quality health care.

The Promoting Health Care Purchasing Cooperatives Act would authorize grants to a group of businesses so that they could form group-purchasing cooperatives to obtain enhanced benefits, reduce health care rates, and improve quality.

This legislation offers two separate grant programs to help different types of businesses pool their resources and bargaining power. Both programs would aid businesses to form cooperatives. The first program would help large businesses that sponsor their own health plans, while the second program would help small businesses that purchase their health insurance.

My bill would enable larger businesses to form cost-effective cooperatives that could offer quality health care through several ways. First, they could obtain health services through pooled purchasing from physicians, hospitals, home health agencies, and others. By pooling their experience and interests, employers involved in a coalition could better address essential issues, such as rising health insurance rates and the lack of comparable health care quality data. They would be able to share information regarding the quality of these services and to partner with these health care providers to meet the needs of their employees.

For smaller businesses that purchase their health insurance, the formation of cooperatives would allow them to buy health insurance at lower prices through pooled purchasing. Also, the communication within these cooperatives would provide employees of small businesses with better information about the health care options that are available to them. Finally, coalitions would serve to promote quality improvements by facilitating partnerships between their group and the health care providers.

By working together, the group could develop better quality insurance plans and negotiate better rates.

This legislation also tries to alleviate the burden that our Nation's farmers face when trying to purchase health care for themselves, their families, and their employees. Because the health insurance industry looks upon farming as a high-risk profession, many farmers are priced out of, or simply not offered, health insurance. By helping farmers join cooperatives to purchase health insurance, we will help increase their health insurance options.

Past health purchasing pool initiatives have focused only on cost and have tried to be all things for all people. My legislation creates an incentive to join the pools by giving grants to a group of similar businesses to form group-purchasing cooperatives. The pools are also given flexibility to find innovative ways to lower costs, such as enhancing benefits, for example, more preventive care, and improving quality. Finally, the cooperative structure is a proven model, which creates an incentive for businesses to remain in the pool because they will be invested in the organization.

I am pleased that this bill is supported by the National Business Coalition on Health, an organization that already understands that allowing businesses to come together to increase their health care purchasing power can lead to an increase in health care quality, and a decrease in health care costs.

We must reform health care in America and give employers and employees more options. This legislation, by providing for the formation of cost-effective coalitions that will also improve the quality of care, contributes to this essential reform process. I urge my colleagues to join me in cosponsoring this proposal to improve the quality and costs of health care.

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. 820

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 ''Promoting Health Care Purchasing Cooperatives Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Health care spending in the United States has reached 15 percent of the Gross Domestic Product of the United States, yet 45,000,000 people, or 15.6 percent of the population, remains uninsured.

(2) After nearly a decade of manageable increases in commercial insurance premiums, many employers are now faced with consecutive years of double digit premium increases.

(3) Purchasing cooperatives owned by participating businesses are a proven method of achieving the bargaining power necessary to manage the cost and quality of employer-sponsored health plans and other employee benefits.

(4) The Employer Health Care Alliance Cooperative has provided its members with health care purchasing power through provider contracting, data collection, activities to enhance quality improvements in the health care community, and activities to promote employee health care consumerism.

(5) According to the National Business Coalition on Health, there are nearly 80 employer-led coalitions across the United States that collectively purchase health care, proactively challenge high costs and the inefficient delivery of health care, and share information on quality. These coalitions represent more than 10,000 employers.

(b) PURPOSE.—It is the purpose of this Act to build off of successful local employer-led health insurance initiatives by improving the value of their employees' health care.

SEC. 3. GRANTS TO SELF INSURED BUSINESSES TO FORM HEALTH CARE COOPERATIVES.

(a) AUTHORIZATION.—The Secretary of Health and Human Services (in this Act referred to as the ''Secretary''), acting through the Director of the Agency for Healthcare Research and Quality, is authorized to award grants to eligible groups that meet the criteria described in subsection (d), for the development of health care purchasing cooperatives. Such grants may be used to provide support for the professional staff of such cooperatives, and to obtain contracted services for planning, development, and implementation activities for establishing such health care purchasing cooperatives.

(b) ELIGIBLE GROUP DEFINED.—

(1) IN GENERAL.—In this section, the term ''eligible group'' means a consortium of 2 or more self-insured employers, including agricultural producers, each of which are responsible for their own health insurance risk pool with respect to their employees.

(2) NO TRANSFER OF RISK.—Individual employers who are members of an eligible group may not transfer insurance risk to such group.

(c) APPLICATION.—An eligible group desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

(d) CRITERIA.—

(1) FEASIBILITY STUDY GRANTS.—

(A) IN GENERAL.—An eligible group may submit an application under subsection (c)

for a grant to conduct a feasibility study concerning the establishment of a health insurance purchasing cooperative. The Secretary shall approve applications submitted under the preceding sentence if the study will consider the criteria described in paragraph (2).

(B) REPORT.—After completion of a feasibility study under a grant under this section, an eligible group shall submit to the Secretary a report describing the results of such study.

(2) GRANT CRITERIA.—The criteria described in this paragraph include the following with respect to the eligible group:

(A) The ability of the group to effectively pool the health care purchasing power of employers.

(B) The ability of the group to provide data to employers to enable such employers to make data-based decisions regarding their health plans.

(C) The ability of the group to drive quality improvement in the health care community.

(D) The ability of the group to promote health care consumerism through employee education, self-care, and comparative provider performance information.

(E) The ability of the group to meet any other criteria determined appropriate by the Secretary.

(e) COOPERATIVE GRANTS.—After the submission of a report by an eligible group under subsection (d)(1)(B), the Secretary shall determine whether to award the group a grant for the establishment of a cooperative under subsection (a). In making a determination under the preceding sentence, the Secretary shall consider the criteria described in subsection (d)(2) with respect to the group.

(f) COOPERATIVES.—

(1) IN GENERAL.—An eligible group awarded a grant under subsection (a) shall establish or expand a health insurance purchasing cooperative that shall—

(A) be a nonprofit organization;

(B) be wholly owned, and democratically governed by its member-employers;

(C) exist solely to serve the membership base;

(D) be governed by a board of directors that is democratically elected by the cooperative membership using a 1-member, 1-vote standard; and

(E) accept any new member in accordance with specific criteria, including a limitation on the number of members, determined by the Secretary.

(2) AUTHORIZED COOPERATIVE ACTIVITIES.—A cooperative established under paragraph (1) shall—

(A) assist the members of the cooperative in pooling their health care insurance purchasing power;

(B) provide data to improve the ability of the members of the cooperative to make data-based decisions regarding their health plans;

(C) conduct activities to enhance quality improvement in the health care community;

(D) work to promote health care consumerism through employee education, self-care, and comparative provider performance information; and

(E) conduct any other activities determined appropriate by the Secretary.

(g) REVIEW.—

(1) IN GENERAL.—Not later than 1 year after the date on which grants are awarded under this section, and every 2 years thereafter, the Secretary shall study programs funded by grants under this section and provide to the appropriate committees of Congress a report on the progress of such programs in improving the access of employees to quality, affordable health insurance.

(2) SLIDING SCALE FUNDING.—The Secretary shall use the information included in the report under paragraph (1) to establish a schedule for scaling back payments under this section with the goal of ensuring that programs funded with grants under this section are self sufficient within 10 years.

SEC. 4. GRANTS TO SMALL BUSINESSES TO FORM HEALTH CARE COOPERATIVES.

The Secretary shall carry out a grant program that is identical to the grant program provided in section 3, except that an eligible group for a grant under this section shall be a consortium of 2 or more employers, including agricultural producers, each of which—

(1) have 99 employees or less; and

(2) are purchasers of health insurance (are not self-insured) for their employees.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

From the administrative funds provided to the Secretary, the Secretary may use not more than a total of $60,000,000 for fiscal years 2006 through 2015 to carry out this Act.

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 822. A bill to prevent the retroactive application of changes to Trans-Alaska Pipeline Quality Bank valuation methodologies; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, I rise today for myself and fellow Alaska Senator TED STEVENS to introduce legislation concerning a complex issue, the Quality Bank that is used to facilitate payments between shippers using the Trans-Alaska Oil Pipeline System to reflect variations in the value of different crude oil streams that are injected into the pipeline.

Since its opening in June 1977, the Trans-Alaska Pipeline System, TAPS, has carried crude oil from Alaska's North Slope to Valdez where the oil is shipped to market. The pipeline carries crude oil from various sources and of varying quality—the oil injected into the line before the pipeline's Pump Station One near Deadhorse, AK, and commingled as the blended stream of oil travels south to Valdez. The TAPS Quality Bank was established to compensate producers of higher quality crude oil for the difference in the value of the crude injected at the North Slope and that of the lower-quality commingled stream received in Valdez, since each shipper receives a quantity of the blended stream equivalent to the amount it injected into the line.

Companies injecting low-quality crude oil pay into the Quality Bank, while companies injecting high quality crude receive a payment from the Quality Bank. In addition, between the North Slope and Valdez, two refineries, Flint Hills and Petro Star, withdraw a portion of the common stream from TAPS, partially refine the crude oil into products such as gasoline, diesel and jet fuel, and reinject into TAPS the other components of crude left over after their refinery processes. Each fuel extracted from the crude is called a ''cut.'' To compensate producers for the loss in value of the crude oil because of what is removed by these refineries, refiners also pay into the Quality Bank. The objective of the Quality Bank is to make monetary adjustments so that each shipper is in the same economic position it would enjoy if it received the same oil in Valdez that it delivered to TAPS on the state's North Slope.

The methodology used to determine Quality Bank payments has been a subject of controversy since the Quality Bank's creation. The problem arises because there is no independent market for the crude injected on the North Slope and thus no way to objectively determine its value. The methodology is set by the Federal Energy Regulatory Commission. Since the early 1980s, FERC-approved methodologies have been challenged in court and revised multiple times. In 1993, the majority of North Slope shippers proposed and FERC approved a settlement calling for the use of a ''distillation'' methodology, which would value crude oil based on the market price of various cuts created when the components are separated based on different boiling points—the distillation process. This methodology replaced the former ''gravity'' methodology where oil was valued based on its relative gravity.

Since 1993, disputes have focused largely on the valuation of cuts at the highest boiling points—the ''Heavy Distillate'' cut that evaporates at temperatures between 350 and 650 degrees F. and the Resid, residual, cut, which includes the portion remaining after distillation of all other cuts at boiling points up to 1050 degrees F. Two additional cuts are also at issue, the VGO and Naptha cuts.

In 1997, responding to a D.C. Circuit Court of Appeals ruling, FERC approved a settlement with a revised valuation methodology for Distillate and Resid. Under the FERC order, the new valuation methodologies were to be applied on a prospective basis only. Later, the D.C. Circuit in 1999 told FERC to revise some particular details of the Resid valuation and also held that FERC had ''failed to provide an adequate explanation'' as to why the new methodology should not be made retroactive to 1993.

Responding to the ruling, the Administrative Law Judge, who in 1997 had decided that all changes should only apply prospectively, reversed his position and released a decision in August 2004 calling for changes in the Resid and Heavy Distillate cuts to be applied retroactively, in the case of Resid to as far back as 1993. In addition, the administrative law judge decided to apply new valuations for VGO and Naptha, prospectively. Currently, the judge's decision is awaiting a final decision by the FERC on whether to impose the Initial Decision or alter it.

There are clearly major public policy implications resulting from this Quality Bank issue. While the bank is a ''zero sum'' game as far as money paid in and out of the bank is concerned, the impacts on the parties and thus on the citizens of Alaska are anything but equal.

For decades Alaskans suffered under the impacts of having to import all refined fuel products into the State from West Coast refineries. Besides higher prices caused by transportation, that left the State wholly dependent on fuel supplies that needed to travel at least 2,000 miles on average to reach Alaska consumers—sometimes through bad weather and difficult sea conditions. With the construction of in-State refineries, Alaskans finally saw greater security of supply, less dependence upon weather for shipment arrivals, and the possibility of lower fuel prices because of potentially reduced transportation costs. The greater dependability of fuel supplies improved aviation freight shipments at the Anchorage and Fairbanks international airports, helping create jobs in air freight and related industries.

But the decision of the Administrative Law Judge to apply new Quality Bank methodology assessments retroactively, places the economics of in-State refineries at risk. That in turn not only impacts the job security for the roughly 400 Alaskans who work at the refineries, but also threatens the State's energy and economic security.

The problem is that both of the refineries must make long- and short-term business decisions based on crude costs when they process crude oil into product. Refineries optimize their production slates based on current market realities. It is difficult for them to operate, given low profit margins, if oil values can change years later as a result of Quality Bank decisions. They simply have no way to make rational business decisions when the value of their products can be determined retroactively long after they can protect themselves for perceived mistakes in FERC-approved valuation methodologies. This certainly threatens the ability of the refineries to attract capital, money needed for them to modernize and meet new ultra-low sulfur diesel ''clean fuel'' requirements soon to go into effect.

The State's Congressional Delegation last fall in report language added to the Federal budget expressed its concern with the equity of long retroactive Quality Bank valuation adjustments. Last autumn we urged FERC to look carefully at the justice of the Initial Decision of the Administrative Law Judge in this case and we encouraged all of the eight parties that includes the State of Alaska, to reach an out-of-court settlement of the 1993 case to bring finality to this complex case before it harms instate refinery capabilities. At the time we avoided a legislative solution to this purely Alaskan case. We are renewing our pleas for action in a letter sent to FERC on Thursday.

In the intervening six months, while one mediation session has occurred, the parties report little or no progress toward reaching a mutually agreeable settlement. While opinions may differ on whether Congress should intervene to settle the on-going case, there is little doubt that Congress should step forward to prevent such an arcane dispute from ever again threatening Alaska's energy industry.

For that reason prior to the next mediation session, today we introduce legislation to limit the ability of FERC in the future to make retroactive the impacts of future Quality Bank valuation methodology changes. By this legislation, after December 31, 2005, FERC still will be able to change the methodology for determining the value of oil flowing through the pipeline but will not be permitted to apply changes to Quality Bank valuation methodologies on anything other than a prospective basis.

We have proposed this provision to prevent this legal nightmare from happening again. This provision will first eliminate the perverse current incentive for all sides to promote further litigation regarding Quality Bank valuations based on the expectation of a retroactive application of changes that would result in a large economic windfall. The retroactive application of valuation methodology changes encourages the sides in a dispute to sue in hopes of gaining a larger benefit in the future. This is a ''lottery,'' however, that Alaskans are guaranteed to lose.

By setting December 31, 2005, as the date that FERC can no longer apply Quality Bank valuation methodologies on a retroactive basis, the legislation will put the FERC and the litigants on record that the current dispute must be resolved by the end of this year.

Requiring FERC to apply valuation methodology changes in connection with any future disputes on a prospective basis only will eliminate the risk and uncertainty associated with the prospect of nearly unlimited retroactive application of Quality Bank payment methodology changes. That will allow all Quality Bank participants to be able to conduct business with the certainty of knowing that prices received and paid for oil today cannot be altered years down the road. In addition, this will eliminate the strong incentive that currently exists for some parties to engage in endless litigation, in hopes of gaining windfall benefits from retroactive application changes.

While we continue to call on all sides in the current dispute to compromise and settle this case now, this bill will discourage if not eliminate this type of dispute in the future—a benefit for all Alaskans.

Mr. STEVENS. Mr. President, I join my colleague, Senator LISA MURKOWSKI, in introducing legislation pertaining to the Trans Alaska Pipeline System (TAPS) and the Quality Bank.

The Quality Bank was created to balance accounts among oil producers on Alaska's North Slope who produce crude oil of different quality and value from different oil fields. When the oil is delivered at Pump Station No. 1, it is commingled and transported by TAPS to Valdez, Alaska, where it is shipped by tanker to the lower 48 States.

This Quality Bank accounting concept also applies to oil refineries in my State who receive needed crude oil from TAPS, refine various petroleum products and return the balance of the crude oil to the pipeline. The methodology used to determine these payments has been the subject of dispute since the Bank's inception, creating uncertainty in the market and a chilling effect on business investment in Alaska.

In 1989, a legal proceeding was initiated at the Federal Energy Regulatory Commission (FERC) that in 1993 changed the methodology under which ''Quality Banks'' in Alaska were operated. After 15 long and protracted years of legal proceedings before FERC, an Administrative Law Judge issued an Initial Decision proposing to replace the Quality Bank methodology that the parties assumed they were operating under since 1993. It proposes instead a new complex set of valuations that the parties could not have predicted and that have very large financial impacts, especially on refiners. Significantly, this decision also proposes to apply the most significant of these new valuations retroactively, all the way back to 1993.

The Administrative Law Judge's decision to apply this new methodology retroactively puts Alaska's in-State refineries at risk at a time when the United States can ill afford to lose its limited refining capacity.

Given the Potential impact should FERC decide to adopt the ALJ's decision, Congress included legislative language in the Fiscal Year 2005 Consolidated Appropriations conference report expressing its concern over this issue. Congress urged FERC to carefully Consider the specific equities of this case to prevent special hardship, inequity, or an unfair distribution of burdens to any party, to assess the equity of assigning retroactivity, and to resolve this matter in a fair and equitable manner.

In addition, the State's Congressional Delegation urged the parties to reach a settlement to end over 15 years of litigation and bring finality to this issue. Despite repeated calls for settlement, the parties appear to have made little or no progress towards this end.

The issue of retroactivity and its application in the aforementioned case is problematic given the lack of clear Congressional action on the subject. Congress' silence on the subject has given the parties incentive to prolong litigation and pursue appeals until they receive a ruling which is beneficial to them.

To remedy this situation and prevent similar disputes in the future, we are introducing this legislation to limit FERC's ability to assign retroactivity in matters pertaining to the Quality Bank. This legislation is necessary to limit business uncertainty associated with the use of the Trans Alaska Pipeline System, and to ensure continued

domestic refinery activity in order to protect national fuel supplies.

SUBMITTED RESOLUTIONS

S. RES. 111

Whereas on August 31, 1991, the Kyrgyz Republic declared independence from the Soviet Union;

Whereas the Kyrgyz Republic was ruled by President Askar Akayev from October 1991 to April 2005;

Whereas the Kyrgyz Republic held a first round of parliamentary elections on February 27, 2005;

Whereas the United States Government recognized several areas of improvement in the parliamentary elections in the Kyrgyz Republic, including competitive elections and the active participation of civil society, but it noted the elections fell short of the commitments of the Kyrgyz Republic to the Organization for Security and Cooperation in Europe (OSCE) and other international entities to fully meet the accepted criteria for democratic elections;

Whereas nation-wide demonstrations sparked by the flawed parliamentary elections in the Kyrgyz Republic led to the departure of President Akayev and the collapse of his government on March 22, 2005;

Whereas Askar Akayev officially resigned as President of the Kyrgyz Republic on April 4, 2005;

Whereas the Kyrgyz people, through their actions, have created an opportunity for a democratic and stable future for the Kyrgyz Republic;

Whereas the interim government in the Kyrgyz Republic can earn the confidence of the Kyrgyz people and the international community by abiding by its commitment to hold free and fair presidential elections on July 10, 2005, and by ensuring that the members of the new parliament in the Kyrgyz Republic represent the choice of the Kyrgyz people;

Whereas the interim government in the Kyrgyz Republic can move towards resolving the political crisis in the Kyrgyz Republic in a way that confirms the will of the Kyrgyz people by working closely with its immediate neighbors and with the OSCE;

Whereas the United States strongly supports efforts by the OSCE to work with the Kyrgyz people to strengthen democratic institutions in the Kyrgyz Republic, which will provide the foundation for political stability in the Kyrgyz Republic;

Whereas the United States and the Kyrgyz Republic value a good relationship;

Whereas the United States provides humanitarian assistance, nonlethal military assistance, and assistance to support economic and political reforms as part of the democratic transition process in the Kyrgyz Republic; and

Whereas security in the Kyrgyz Republic remains a top concern of the United States due to its strong support of the United States in the global war on terrorism: Now, therefore, be it

Resolved, That the Senate—

(1) welcomes the official resignation of Askar Akayev as President of the Kyrgyz Republic;

(2) acknowledges and welcomes the close relationship formed between the United States and the Kyrgyz Republic since it declared independence from the Soviet Union on August 31, 1991;

(3) supports the sovereignty, independence, and territorial integrity of the Kyrgyz Republic;

(4) urges the continuation of strong support for democratic reform, including respect for the rule of law and human rights, in the Kyrgyz Republic;

(5) urges the interim government in the Kyrgyz Republic to move swiftly toward the democratic government ratified by the Kyrgyz people by holding free, fair, and transparent presidential elections on July 10, 2005, and by ensuring that the new parliament in the Kyrgyz Republic represents the choice of the Kyrgyz people; and

(6) urges the people of the Kyrgyz Republic to take advantage of the readiness of the Organization for Security and Cooperation in Europe (OSCE) to expand its assistance in preparing for free and fair presidential elections in the Kyrgyz Republic as the foundation of political legitimacy and stability in the Kyrgyz Republic.

SENATE RESOLUTION 112—DESIGNATING THE THIRD WEEK OF APRIL IN 2005 AS ''NATIONAL SHAKEN BABY SYNDROME AWARENESS WEEK''

Mr. DODD (for himself, Mr. ALEXANDER, Mr. BAYH, Mr. BINGAMAN, Ms. CANTWELL, Mr. COLEMAN, Ms. COLLINS, Mr. DAYTON, Mr. DURBIN, Mr. INOUYE, Mr. JOHNSON, Ms. LANDRIEU, Mr. LEVIN, Mr. LIEBERMAN, Mrs. MURRAY, Mr. SALAZAR, Mr. SANTORUM, Mr. SCHUMER, and Ms. SNOWE) submitted the following resolution; which was considered and agreed to:

S. RES. 112

Whereas the month of April has been designated ''National Child Abuse Prevention Month'' as an annual tradition that was initiated in 1979 by former President Jimmy Carter;

Whereas the most recent National Child Abuse and Neglect Data System (NCANDS) figures show that almost 900,000 children were victims of abuse and neglect in the United States in 2002, causing unspeakable pain and suffering to our most vulnerable citizens;

Whereas among the children who are victims of abuse and neglect, nearly 4 children die each day in this country;

Whereas children age 1 and younger accounted for 41.2 percent of child abuse and neglect fatalities in 2002, and children age 4 and younger accounted for 76.1 percent of all child abuse and neglect fatalities in 2002;

Whereas abusive head trauma, including the trauma known as Shaken Baby Syndrome, is recognized as the leading cause of death of physically abused children;

Whereas Shaken Baby Syndrome is a totally preventable form of child abuse, caused by a caregiver losing control and shaking a baby that is usually less than 1 year in age;

Whereas Shaken Baby Syndrome can result in loss of vision, brain damage, paralysis, seizures, or death;

Whereas a 2003 report in the Journal of the American Medical Association estimates that, in the United States, an average of 300 children will die each year, and 600 to 1,200 more will be injured, of whom ⅔ will be babies or infants under 1 year in age, as a result of Shaken Baby Syndrome, with many cases resulting in severe and permanent disabilities;

Whereas medical professionals believe that thousands of additional cases of Shaken Baby Syndrome are being misdiagnosed or not detected;

Whereas Shaken Baby Syndrome often results in permanent, irreparable brain damage or death to an infant and may result in more than $1,000,000 in medical costs to care for a single, disabled child in just the first few years of life;

Whereas the most effective solution for ending Shaken Baby Syndrome is to prevent such abuse, and it is clear that the minimal costs of education and prevention programs may prevent enormous medical and disability costs and untold grief for many families;

Whereas prevention programs have demonstrated that educating new parents about the danger of shaking young children and how they can help protect their child from injury can bring about a significant reduction in the number of cases of Shaken Baby Syndrome;

Whereas education programs have been shown to raise awareness and provide critically important information about Shaken Baby Syndrome to parents, caregivers, daycare workers, child protection employees, law enforcement personnel, health care professionals, and legal representatives;

Whereas efforts to prevent Shaken Baby Syndrome are supported by advocacy groups across the United States that were formed by parents and relatives of children who have been killed or injured by shaking, such as the National Shaken Baby Coalition, the Shaken Baby Association, the SKIPPER (Shaking Kills: Instead Parents Please Educate and Remember) Initiative, the Shaken Baby Alliance, Shaken Baby Prevention, Inc., A Voice for Gabbi, Don't Shake Jake, and the Kierra Harrison Foundation, whose mission is to educate the general public and professionals about Shaken Baby Syndrome and to increase support for victims and victim's families in the health care and criminal justice systems;

Whereas child abuse prevention programs and ''National Shaken Baby Syndrome Awareness Week'' are supported by the National Shaken Baby Coalition, the National Center on Shaken Baby Syndrome, the Children's Defense Fund, the American Academy of Pediatrics, the Child Welfare League of America, Prevent Child Abuse America, the National Child Abuse Coalition, the National Exchange Club Foundation, the American Humane Association, the American Professional Society on the Abuse of Children, the Arc of the United States, the Association of University Centers on Disabilities, Children's Healthcare is a Legal Duty, Family Partnership, Family Voices, National Alliance of Children's Trust and Prevention Funds, United Cerebral Palsy, the National Association of Children's Hospitals and related institutions, Never Shake a Baby Arizona/Prevent Child Abuse Arizona, the Center for Child Protection and Family Support, and many other organizations;

Whereas a 2000 survey by Prevent Child Abuse America shows that half of all Americans believe that of all the public health issues facing this country, child abuse and neglect is the most important;

Whereas Congress previously designated the third week of April 2001 as ''National Shaken Baby Syndrome Awareness Week 2001''; and

Whereas Congress strongly supports efforts to protect children from abuse and neglect: Now, therefore, be it

Resolved, That the Senate—

(1) designates the third week of April in 2005 as ''National Shaken Baby Syndrome Awareness Week''; and

(2) encourages the people of the United States to remember the victims of Shaken Baby Syndrome and to participate in educational programs to help prevent Shaken Baby Syndrome.

AMENDMENTS SUBMITTED AND PROPOSED

SA 447. Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) submitted an

amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 448. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 449. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 450. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 451. Mr. SCHUMER (for himself, Ms. MIKULSKI, Ms. STABENOW, Mr. DODD, Mrs. BOXER, Mr. DORGAN, Mr. LIEBERMAN, Mrs. CLINTON, Mr. AKAKA, Mr. DURBIN, and Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 1268, supra.

SA 452. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra.

SA 453. Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ROBERTS, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 454. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 455. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 456. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 457. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 458. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 459. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 460. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 461. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 462. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 463. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 464. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 465. Mr. BYRD (for himself, Mr. CRAIG, Mr. DORGAN, Mr. BAUCUS, Mr. LEAHY, Mrs. FEINSTEIN, Mr. OBAMA, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 447. Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

OPERATIONS AND MAINTENANCE, GENERAL

For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency repair of the Fern Ridge Dam, Oregon, $31,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 448. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 199, strike line 13 and all that follows through page 200, line 13.

SA 449. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 196, strike lines 4 through 17.
On page 202, strike lines 1 through 13.

SA 450. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 166, strike lines 8 through 20.

SA 451. Mr. SCHUMER (for himself, Ms. MIKULSKI, Ms. STABENOW, Mr. DODD, Mrs. BOXER, Mr. DORGAN, Mr. LIEBERMAN, Mrs. CLINTON, Mr. AKAKA, Mr. DURBIN, and Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047.(a) Congress finds that—

(1) the prices of gasoline and crude oil have a direct and substantial impact on the financial well-being of families of the United States, the potential for national economic recovery, and the economic security of the United States;

(2) on April 12, 2005, crude oil prices closed at the exceedingly high level of $51.86 per barrel and the price of crude oil has remained above $50 per barrel since February 22, 2005;

(3) on April 11, 2005, the Energy Information Administration announced that the national price of gasoline, at $2.28 per gallon—

(A) had set a new record high for a 4th consecutive week;

(B) was $0.49 higher than last year; and

(C) could reach even higher levels in the near future;

(4) despite the severely high, sustained price of crude oil—

(A) the Organization of Petroleum Exporting Countries (referred to in this section as ''OPEC'') has refused to adequately increase production to calm global oil markets and officially abandoned its $22–$28 price target; and

(B) officials of OPEC member nations have publicly indicated support for maintaining oil prices of $40–$50 per barrel;

(5) the Strategic Petroleum Reserve (referred to in this section as ''SPR'') was created to enhance the physical and economic security of the United States;

(6) the law allows the SPR to be used to provide relief when oil and gasoline supply shortages cause economic hardship;

(7) the proper management of the resources of the SPR could provide gasoline price relief to families of the United States and provide the United States with a tool to counterbalance OPEC supply management policies;

(8) the Administration's current policy of filling the SPR despite the fact that the SPR

is more than 98 percent full has exacerbated the rising price of crude oil and record high retail price of gasoline;

(9) in order to combat high gasoline prices during the summer and fall of 2000, President Clinton released 30,000,000 barrels of oil from the SPR, stabilizing the retail price of gasoline;

(10) increasing vertical integration has allowed—

(A) the 5 largest oil companies in the United States to control almost as much crude oil production as the Middle Eastern members of OPEC, over of domestic refiner capacity, and over 60 percent of the retail gasoline market; and

(B) the top 10 oil companies in the world to make more than $100,000,000,000 in profit and in some instances to post record-breaking fourth quarter earnings that were in some cases more than 200 percent higher than the previous year;

(11) the Administration has failed to manage the SPR in a manner that would provide gasoline price relief to working families; and

(12) the Administration has failed to adequately demand that OPEC immediately increase oil production in order to lower crude oil prices and safeguard the world economy.

(b) It is the sense of Congress that the President should—

(1) directly confront OPEC and challenge OPEC to immediately increase oil production; and

(2) direct the Federal Trade Commission and Attorney General to exercise vigorous oversight over the oil markets to protect the people of the United States from price gouging and unfair practices at the gasoline pump.

(c)(1) For the period beginning on the date of enactment of this Act and ending on the date that is 30 days after the date of enactment of this Act—

(A) deliveries of oil to the SPR shall be suspended; and

(B) 1,000,000 barrels of oil per day shall be released from the SPR.

(2) If necessary to lower the burden of gasoline prices on the economy of the United States and to circumvent the efforts of OPEC to reap windfall crude oil profits, 1,000,000 barrels of oil per day shall be released from the Strategic Petroleum Reserve for an additional 30 days.

SA 452. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. ADJUSTMENT OF STATUS.

(a) ADJUSTMENT OF STATUS.—

(1) ELIGIBILITY.—The Secretary of Homeland Security (referred to in this section as the ''Secretary'') shall adjust the status of any alien described in subsection (b) to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for adjustment before April 1, 2006; and

(B) is otherwise eligible to receive an immigrant visa, has not been convicted of an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act), and is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility—

(i) the grounds of inadmissibility specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply; and

(ii) the Secretary, in the unreviewable discretion of the Secretary, may waive the grounds of inadmissibility specified in paragraphs (1)(A)(i) and (6)(C) of such section 212(a) for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(2) INAPPLICABILITY OF CERTAIN PROVISIONS.—

(A) IN GENERAL.—In determining the eligibility of an alien described in subsection (b) or (d) for adjustment of status under this section or other relief necessary to establish eligibility for such adjustment, the provisions of section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) shall not apply.

(B) REAPPLICATION FOR ADMISSION.—An alien who would otherwise be inadmissible under subparagraph (A) or (C) of section 212(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)) may apply for the Secretary's consent to reapply for admission without regard to the requirement that the consent be granted prior to the date of the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, in order to qualify for the exception to those grounds of inadmissibility set forth in subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—

(A) IN GENERAL.—An alien present in the United States who has been ordered excluded, deported, removed, or to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1).

(B) REQUIREMENTS.—An alien described in subparagraph (A)—

(i) may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate the order described in subparagraph (A); and

(ii) may be required to seek a stay of such order in accordance with subsection (c) to prevent the execution of that order pending the adjudication of the application for adjustment of status.

(C) EFFECT OF DECISION BY SECRETARY.—If the Secretary denies a stay of a final order of exclusion, deportation, or removal, or if the Secretary renders a final administrative decision to deny the application for adjustment of status, the order shall be effective and enforceable to the same extent as if the application had not been made. If the Secretary grants the application for adjustment of status, the Secretary shall cancel the order.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Except as provided under paragraphs (2) and (3), the benefits provided under subsection (a) shall apply to any alien who—

(A) is a national of Liberia; and

(B) has been physically present in the United States for a continuous period, beginning not later than January 1, 2005, and ending not earlier than the date on which the application for adjustment under subsection (a) is filed.

(2) EFFECT OF ABSENCES.—An alien described in paragraph (1) shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

(3) LIMITATION.—Subsection (a) shall not apply to an alien lawfully admitted for permanent residence, unless the alien is applying for such relief in deportation or removal proceedings.

(c) STAY OF REMOVAL AND WORK AUTHORIZATION.—

(1) IN GENERAL.—The Secretary shall provide, by regulation, for an alien subject to a final order of exclusion, deportation, or removal to seek a stay of such order based on the filing of an application under subsection (a). Nothing in this section shall require the Secretary to stay the removal of an alien who is ineligible for adjustment of status under this section.

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision in the Immigration and Nationality Act, the Secretary shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except if the Secretary has rendered a final administrative determination to deny the application.

(3) WORK AUTHORIZATION.—

(A) IN GENERAL.—The Secretary may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an ''employment authorized'' endorsement or other appropriate documentation signifying authorization of employment.

(B) PENDING APPLICATIONS.—If an application under subsection (a) is pending for a period exceeding 180 days and has not been denied, the Secretary shall authorize such employment.

(d) SPOUSES, CHILDREN, AND UNMARRIED SONS AND DAUGHTERS.—

(1) ADJUSTMENT OF STATUS.—The Secretary shall adjust the status of any alien to that of an alien lawfully admitted for permanent residence if—

(A) the alien is the spouse, child, or unmarried son or daughter of an alien lawfully admitted for permanent residence under subsection (a), if—

(i) in the case of such a spouse, stepchild, or unmarried stepson or stepdaughter, the qualifying marriage was entered into before the date of enactment of this Act; and

(ii) in the case of such an unmarried son or daughter, the son or daughter is required to establish that he or she has been physically present in the United States for a continuous period, beginning not later than January 1, 2005, and ending not earlier than the date the application for adjustment under this subsection is filed, except that an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days;

(B) the alien entered the United States on or before the date of enactment of this Act;

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed;

(D) the alien is otherwise eligible to receive an immigrant visa, has not been convicted of an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act) and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds of inadmissibility specified in paragraphs (4), (5), (6)(A), and (7)(A) of section

212(a) of the Immigration and Nationality Act shall not apply, and the Secretary may, in his unreviewable discretion, waive the grounds of inadmissibility specified in paragraphs (1)(A)(i) and (6)(C) of such section 212(a) for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest; and

(E) the alien applies for such adjustment before April 1, 2006.

(2) ELIGIBILITY OF CERTAIN SPOUSES AND CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.—

(A) IN GENERAL.—In accordance with regulations to be promulgated by the Secretary and the Secretary of State, upon approval of an application for adjustment of status to that of an alien lawfully admitted for permanent residence under subsection (a), an alien who is the spouse or child of the alien granted such status may be issued a visa for admission to the United States as an immigrant following to join the principal applicant, if the spouse or child—

(i) meets the requirements in subparagraph (A) and (D) of paragraph (1); and

(ii) applies for such a visa within a time period to be established by regulation.

(B) FEES.—

(i) IN GENERAL.—The Secretary of State may retain fees to recover the cost of immigrant visa application processing and issuance for certain spouses and children of aliens whose applications for adjustment of status under subsection (a) have been approved.

(ii) AMOUNT; AVAILABILITY.—Fees collected under this subparagraph—

(I) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of such processing and issuance; and

(II) shall be available until expended for the same purposes of such appropriation to support consular activities.

(e) ADMINISTRATIVE REVIEW.—The Secretary shall provide to applicants for adjustment of status under this section the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255); or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Secretary as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—If an alien is granted the status of having been lawfully admitted for permanent residence or an immigrant classification under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—

(1) DEFINITIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in this section.

(2) SAVINGS PROVISION.—Nothing in this section shall be construed to repeal, amend, alter, modify, effect, or restrict the powers, duties, function, or authority of the Secretary in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization.

(3) EFFECT OF ELIGIBILITY FOR ADJUSTMENT OF STATUS.—Eligibility to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude an alien from seeking any status under any other provision of law for which the alien may otherwise be eligible.

(i) ADMISSIONS.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, be admitted to, be paroled into, or otherwise return to the United States, or to apply for or pursue an application for adjustment of status under this section without the express authorization of the Secretary.

SA 453. Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ROBERTS, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after ''SEC.'' in the matter proposed to be inserted and insert the following:

___. (a) Notwithstanding any other provision of law, beginning in fiscal year 2005 and thereafter, none of the funds made available by this or any other Act shall be used to pay the salaries or expenses of any employee of any agency or office to implement or enforce section 908(b)(1)(A) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(1)(A)) or any other provision of law in a manner other than a manner that permits payment by the purchaser of an agricultural commodity or product to the seller, and receipt of the payment by the seller, at any time prior to—

(1) the transfer of the title of the commodity or product to the purchaser; and

(2) the release of control of the commodity or product to the purchaser.

(b) Notwithstanding any other provision of law, beginning in fiscal year 2005 and thereafter, none of the funds made available by this or any other Act shall be used to pay the salaries or expenses of any employee of any agency or office that refuses to authorize the issuance of a general license for travel-related transactions listed in subsection (c) of section 515.560 of title 31, Code of Federal Regulations, for travel to, from, or within Cuba undertaken in connection with sales and marketing, including the organization and participation in product exhibitions, and the transportation by sea or air of products pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000.

(c) Notwithstanding any other provision of law, beginning in fiscal year 2005 and thereafter, none of the funds made available by this or any other Act shall be used to pay the salaries or expenses of any employee of any agency or office that restricts the direct transfers from a Cuban financial institution to a United States financial institution executed in payment for a product authorized for sale under the Trade Sanctions Reform and Export Enhancement Act of 2000.

SA 454. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

REPORT ON AFGHAN SECURITY FORCES TRAINING

SEC. 1122. (a) Notwithstanding any other provision of law, not later than 60 days after the date on which the initial obligation of funds made available in this Act for training Afghan security forces is made, the Secretary of Defense, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that includes the following:

(1) An assessment of whether the individuals who are providing training to Afghan security forces with assistance provided by the United States have proven records of experience in training law enforcement or security personnel.

(2) A description of the procedures of the Department of Defense and Department of State to ensure that an individual who receives such training—

(A) does not have a criminal background;

(B) is not connected to any criminal or terrorist organization, including the Taliban;

(C) is not connected to drug traffickers; and

(D) meets certain age and experience standards;

(3) A description of the procedures of the Department of Defense and Department of State that—

(A) clearly establish the standards an individual who will receive such training must meet;

(B) clearly establish the training courses that will permit the individual to meet such standards; and

(C) provide for certification of an individual who meets such standards.

(4) A description of the procedures of the Department of Defense and Department of State to ensure the coordination of such training efforts between these two Departments.

(5) The number of trained security personnel needed in Afghanistan, an explanation of how such number was determined, and a schedule for training that number of people.

(6) A description of the methods that will be used by the Government of Afghanistan to maintain and equip such personnel when such training is completed.

(7) A description of how such training efforts will be coordinated with other training programs being conducted by the governments of other countries or international organizations in Afghanistan.

(b) Not less frequently than once each year the Secretary of Defense, in conjunction with the Secretary of State, shall submit a report to the appropriate congressional committees that describes the progress made to meet the goals and schedules set out in the report required by subsection (a).

(c) In this section the term ''appropriate congressional committees'' means the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate and the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives.

SA 455: Mr. COBURN submitted an amendment intended to be proposed by

him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table, as follows:

On page 208, strike lines 19 through 22.

SA 456. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, after line 23, insert the following:

UNITED NATIONS HEADQUARTERS RENOVATION LOAN

SEC. 2105. (a) Notwithstanding any other provision of law, and subject to subsection (b), no loan in excess of $600,000,000 may be made available by the United States for renovation of the United Nations headquarters building located in New York, New York.

(b) No loan may be made available by the United States for renovation of the United Nations headquarters building located in New York, New York until after the date on which the President certifies to Congress that the renovation project has been fairly and competitively bid and that such bid is a reasonable cost for the renovation project.

SA 457. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 171, line 2 strike ''$150,000,000'' and all through line 6 and insert in lieu thereof the following:

''$458,000,000 to remain available until expended: *Provided*, That from this amount, to the maximum extent possible, funding shall be restored to the previously approved fiscal year 2005 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).''.

SA 458. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 171, line 2 strike ''$150,000,000'' and all through line 6 and insert in lieu thereof the following:

''$470,000,000 to remain available until expended: *Provided*, That from this amount, to the maximum extent possible, funding shall be restored to the previously approved fiscal year 2005 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).''.

SA 459. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

SEC. 1122. (a) Subsection (o) of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234; 5 U.S.C. App. 3 section 8G note), as amended by section 1203(j) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) is amended by striking ''obligated'' and inserting ''expended''.

(b) Subsection (f)(1) of such section is amended in the matter preceding subparagraph (A) by inserting ''appropriated funds by the Coalition Provisional Authority in Iraq during the period from May 1, 2003 through June 28, 2004 and'' after ''expenditure of''.

(c) Notwithstanding any other provision of law, of the amount appropriated in chapter 2 of title II of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1224) under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE'' and under the subheading ''IRAQ RELIEF AND RECONSTRUCTION FUND'', $50,000,000 shall be available to carry out section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234). Such amount shall be in addition to any other amount available for such purpose and available until the date of the termination of the Office of the Special Inspector General for Iraq Reconstruction.

SA 460. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 191, between lines 8 and 9, insert the following:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

OPERATIONS AND MAINTENANCE, GENERAL

For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency work on the Los Angeles-Long Beach Harbor, Mojave River Dam, Port San Luis, and Santa Barbara Harbor, $7,500,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 461. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 191, between lines 8 and 9, insert the following:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CONSTRUCTION, GENERAL

The project for navigation, Los Angeles Harbor, California, authorized by section 101(b)(5) of the Water Resources Development Act of 2000 (114 Stat. 2577) is modified to authorize the Secretary of the Army to carry out the project at a total cost of $222,000,000.

SA 462. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making

emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 191, between lines 8 and 9, insert the following:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CONSTRUCTION, GENERAL

For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency construction at Lower Santa Ana River Reaches 1 and 2 of the Santa Ana River Project, Prado Dam of the Santa Ana River Project, San Timoteo of the Santa Ana River Project, Murrieta Creek, and Santa Paula Creek, $12,500,000, to remain available until expended: *Provided,* That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 463. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

AUDITS OF DEFENSE CONTRACTS IN IRAQ AND AFGHANISTAN

SEC. 1122. (a)(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Director of the Defense Contract Audit Agency, shall submit to the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives a report that lists and describes audits conducted by the Defense Contract Audit Agency of task or delivery order contracts and other contracts related to security and reconstruction activities in Iraq and Afghanistan.

(2) The Secretary of Defense shall identify in the report submitted under paragraph (1)—

(A) any such task or delivery order contract or other contract that the Director of the Defense Contract Audit Agency determines involves costs that are unjustified, unsupported, or questionable, including any charges assessed on goods or services not provided in connection with such task or delivery order contract or other contract; and

(B) the amount of the unjustified, unsupported, or questionable costs and the percentage of the total value of such task or delivery order contract or other contract that such costs represent.

(3) The Secretary of Defense shall submit to the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives an update of the report submitted under paragraph (1) every 90 days thereafter.

(b) In the event that any costs under a contract are identified by the Director of the Defense Contract Audit Agency as unjustified, unsupported, or questionable pursuant to subsection (a)(2), the Secretary of Defense shall withhold from amounts otherwise payable to the contractor under such contract a sum equal to 115 percent of the total amount of such costs.

(c) Upon a subsequent determination by the Director of the Defense Contract Audit Agency that any unjustified, unsupported, or questionable cost for which an amount payable was withheld under subsection (b) has been justified, supported, or answered, as the case may be, the Secretary of Defense may release such amount for payment to the contractor concerned.

(d) In each report or update submitted under subsection (a), the Secretary of Defense shall describe each action taken under subsection (b) or (c) during the period covered by such report or update.

SA 464. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

REQUESTS FOR FUTURE FUNDING FOR MILITARY OPERATIONS IN AFGHANISTAN AND IRAQ

SEC. 1122. (a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Defense Appropriations Act, 2004 (Public Law 108–87) and the Department of Defense Appropriations Act, 2005 (Public Law 108–287) each contain a sense of the Senate provision urging the President to provide in the annual budget requests of the President for a fiscal year under section 1105(a) of title 31, United States Code, an estimate of the cost of ongoing military operations in Iraq and Afghanistan in such fiscal year.

(2) The budget for fiscal year 2006 submitted to Congress by the President on February 7, 2005, requests no funds for fiscal year 2006 for ongoing military operations in Iraq or Afghanistan.

(3) According to the Congressional Research Service, there exists historical precedent for including the cost of ongoing military operations in the annual budget requests of the President following initial funding for such operations by emergency or supplemental appropriations Acts, including—

(A) funds for Operation Noble Eagle, beginning in the budget request of President George W. Bush for fiscal year 2005;

(B) funds for operations in Kosovo, beginning in the budget request of President George W. Bush for fiscal year 2001;

(C) funds for operations in Bosnia, beginning in budget request of President Clinton for fiscal year 1997;

(D) funds for operations in Southwest Asia, beginning in the budget request of President Clinton for fiscal year 1997;

(E) funds for operations in Vietnam, beginning in the budget request of President Johnson for fiscal year 1966; and

(F) funds for World War II, beginning in the budget request of President Roosevelt for fiscal year 1943.

(4) The Senate has included in its version of the fiscal year 2006 budget resolution, which was adopted by the Senate on March 17, 2005, a reserve fund of $50,000,000,000 for overseas contingency operations, but the determination of that amount could not take into account any Administration estimate on the projected cost of such operations in fiscal year 2006.

(5) In February 2005, the Congressional Budget Office estimated that fiscal year 2006 costs for ongoing military operations in Iraq and Afghanistan could total $65,000,000,000.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) any request for funds for a fiscal year after fiscal year 2006 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code;

(2) the President should submit to Congress, not later than September 1, 2005, an amendment to the budget of the President for fiscal year 2006 that was submitted to Congress under section 1105(a) of title 31, United States Code, setting forth detailed cost estimates for ongoing military operations overseas during such fiscal year; and

(3) any funds provided for a fiscal year for ongoing military operations overseas should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such appropriations Acts.

(c) ADDITIONAL REQUIREMENTS FOR CERTAIN REPORTS.—(1) Each semiannual report to Congress required under a provision of law referred to in paragraph (2) shall include, in addition to the matters specified in the applicable provision of law, the following:

(A) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Enduring Freedom.

(B) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Iraqi Freedom.

(C) An estimate of the reasonably foreseeable costs for ongoing military operations to be incurred during the 12-month period beginning on the date of such report.

(2) The provisions of law referred to in this paragraph are as follows:

(A) Section 1120 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1219; 10 U.S.C. 113 note).

(B) Section 9010 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1008; 10 U.S.C. 113 note).

SA 465. Mr. BYRD (for himself, Mr. CRAIG, Mr. DORGAN, Mr. BAUCUS, Mr. LEAHY, Mrs. FEINSTEIN, Mr. OBAMA, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for

the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 187, after line 4, insert the following:

REDUCTION IN FUNDING FOR DIPLOMATIC AND CONSULAR PROGRAMS

The amount for ''Diplomatic and Consular Programs'' under chapter 2 of title II shall be $357,700,000.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', for the hiring of Border Patrol agents and related mission support expenses and continued operation of unmanned aerial vehicles along the Southwest Border, $179,745,000, to remain available until September 30, 2006.

CUSTOMS AND BORDER PROTECTION

CONSTRUCTION

For an additional amount for ''Construction'', $67,438,000, to remain available until expended.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', for the enforcement of immigration and customs laws, detention and removal, and investigations, including the hiring of immigration investigators, enforcement agents, and deportation officers, and the provision of detention bed space, $128,000,000, to remain available until September 30, 2006.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $10,471,000, to remain available until September 30, 2006.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For an additional amount ''Acquisition, Construction, Improvements, and Related Expenses'', for the provision of training at the Border Patrol Academy, $3,959,000, to remain available until expended.

EXECUTIVE SESSION

NOMINATION DISCHARGED

Mr. MCCONNELL. Mr. President, as in executive session, I ask unanimous consent the Banking Committee be discharged from further consideration of PN 76, Pamela Hughes Patenaude, to be an Assistant Secretary of Housing and Urban Development; I further ask consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Pamela Hughes Patenaude, of New Hampshire, to be an Assistant Secretary of Housing and Urban Development.

LEGISLATION SESSION

Mr. MCCONNELL. I finally ask consent that the Senate then resume legislation.

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

ENSURING DEMOCRATIC REFORM IN THE KURDISH REPUBLIC

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 111 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 111) urging the United States to increase its efforts to ensure democratic reform in the Kurdish Republic.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LUGAR. Mr. President, this resolution urges the United States to increase its efforts to ensure democratic reform in the Kyrgyz Republic.

The Kyrgyz Republic has held two rounds of parliamentary elections, the first on February 27 the second on March 13. While both election rounds showed progress toward the goal of a free, fair, and transparent election process, the elections fell short of the Kyrgyz Republic's Organization for Security and Cooperation in Europe's OSCE and international commitments to fully meet the accepted criteria for democratic elections.

Violations included instances of vote buying, questionable disqualification of candidates and interference with the media.

Inspired by the recent revolutions in Ukraine and Georgia, the people of the Kyrgyz Republic rose against their corrupt government to demand respect for their democratic rights. Nationwide demonstrations sparked by the flawed parliamentary elections led to the departure of President Askar Akayev on March 22. The opposition moved quickly to consolidate control and established an interim government. On April 4, President Akayev officially resigned. But the situation remains fluid. The outcome in the Kyrgyz Republic is critically important for its future, and for people living in the Central Asia region, who hope for a democratic future.

The United States and the Kyrgyz Republic have formed a close relationship since it declared independence from the Soviet Union in 1991. The United States has provided humanitarian assistance, nonlethal military assistance, and assistance to support economic and political reforms. The Kyrgyz Republic also hosts a U.S. military base that provides crucial support to Operation Enduring Freedom in Afghanistan.

However, while the Kyrgyz Republic has advanced quickly in the area of democratic reform since 1991, it has experienced setbacks in recent years. I urge the United States in my resolution to continue its strong support for democratic reform in the Kyrgyz Republic, including respect for the rule of law and human rights.

I also call upon the interim government in the Kyrgyz Republic to move swiftly toward democratic government ratified by the Kyrgyz people by holding free, fair, and transparent presidential elections on July 10, and by ensuring that the new parliament represents the choice of the Kyrgyz people. The United States must provide strong leadership in countries where democracy is still taking root.

I ask my colleagues to support this resolution.

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 111) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 111

Whereas on August 31, 1991, the Kyrgyz Republic declared independence from the Soviet Union;

Whereas the Kyrgyz Republic was ruled by President Askar Akayev from October 1991 to April 2005;

Whereas the Kyrgyz Republic held a first round of parliamentary elections on February 27, 2005;

Whereas the United States Government recognized several areas of improvement in the parliamentary elections in the Kyrgyz Republic, including competitive elections and the active participation of civil society, but it noted the elections fell short of the commitments of the Kyrgyz Republic to the Organization for Security and Cooperation in Europe (OSCE) and other international entities to fully meet the accepted criteria for democratic elections;

Whereas nation-wide demonstrations sparked by the flawed parliamentary elections in the Kyrgyz Republic led to the departure of President Akayev and the collapse of his government on March 22, 2005;

Whereas Askar Akayev officially resigned as President of the Kyrgyz Republic on April 4, 2005;

Whereas the Kyrgyz people, through their actions, have created an opportunity for a democratic and stable future for the Kyrgyz Republic;

Whereas the interim government in the Kyrgyz Republic can earn the confidence of the Kyrgyz people and the international community by abiding by its commitment to hold free and fair presidential elections on July 10, 2005, and by ensuring that the members of the new parliament in the Kyrgyz Republic represent the choice of the Kyrgyz people;

Whereas the interim government in the Kyrgyz Republic can move towards resolving the political crisis in the Kyrgyz Republic in a way that confirms the will of the Kyrgyz people by working closely with its immediate neighbors and with the OSCE;

Whereas the United States strongly supports efforts by the OSCE to work with the

Kyrgyz people to strengthen democratic institutions in the Kyrgyz Republic, which will provide the foundation for political stability in the Kyrgyz Republic;

Whereas the United States and the Kyrgyz Republic value a good relationship;

Whereas the United States provides humanitarian assistance, nonlethal military assistance, and assistance to support economic and political reforms as part of the democratic transition process in the Kyrgyz Republic; and

Whereas security in the Kyrgyz Republic remains a top concern of the United States due to its strong support of the United States in the global war on terrorism: Now, therefore, be it

Resolved, That the Senate—

(1) welcomes the official resignation of Askar Akayev as President of the Kyrgyz Republic;

(2) acknowledges and welcomes the close relationship formed between the United States and the Kyrgyz Republic since it declared independence from the Soviet Union on August 31, 1991;

(3) supports the sovereignty, independence, and territorial integrity of the Kyrgyz Republic;

(4) urges the continuation of strong support for democratic reform, including respect for the rule of law and human rights, in the Kyrgyz Republic;

(5) urges the interim government in the Kyrgyz Republic to move swiftly toward the democratic government ratified by the Kyrgyz people by holding free, fair, and transparent presidential elections on July 10, 2005, and by ensuring that the new parliament in the Kyrgyz Republic represents the choice of the Kyrgyz people; and

(6) urges the people of the Kyrgyz Republic to take advantage of the readiness of the Organization for Security and Cooperation in Europe (OSCE) to expand its assistance in preparing for free and fair presidential elections in the Kyrgyz Republic as the foundation of political legitimacy and stability in the Kyrgyz Republic.

NATIONAL SHAKEN BABY SYNDROME AWARENESS WEEK

Mr. MCCONNELL. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 112, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 112) designating the third week of the April, 2005, as National Shaken Baby Syndrome Awareness Week.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD: Mr. President, I rise today, along with my colleague Senator ALEXANDER, in support of the resolution the Senate has passed to proclaim the third week of April of 2005 as Shaken Baby Syndrome Awareness Week. I would like to recognize the many groups, particularly the National Shaken Baby Coalition and the SKIPPER Initiative, who support this effort to increase awareness of one of the most devastating forms of child abuse, one that results in the death or lifelong disability of too many children each year.

We must recognize child abuse and neglect as the public health problem it is, one that is linked with a host of other problems facing our country and one that needs the comprehensive approach of our entire public health system to solve. The month of April has been designated National Child Abuse Prevention Month as an annual tradition that was initiated in 1979 by former President Jimmy Carter. In 2005, April will again be National Child Abuse Prevention Month.

The tragedy of child abuse is well documented. According to the National Child Abuse and Neglect Data System, NCANDS, almost 900,000 children were victims of abuse and neglect in the United States in 2002, causing unspeakable pain and suffering to our most vulnerable citizens. Each day, nearly four of these children die as a result of this abuse. Most experts are certain that cases of child abuse and neglect are in fact underreported.

Very young children are particularly vulnerable to the pain of child abuse and neglect. In 2002, children age 1 and younger accounted for 41.2 percent of child abuse and neglect deaths in 2002, and children age 4 and younger accounted for 76.1 percent of all child abuse and neglect deaths.

Abusive head trauma, including the trauma known as shaken baby syndrome, is recognized as the leading cause of death of physically abused children, especially young children. Shaken baby syndrome is a totally preventable form of child abuse that results from a caregiver losing control and shaking a baby, usually an infant who is less than 1 year old. This severe shaking can kill the baby, or it can cause loss of vision, brain damage, paralysis, and seizures, resulting in lifelong disabilities and causing untold grief for many families. If a child survives shaken baby syndrome, the resulting medical costs to care for a single, disabled child in just the first few years of life may exceed $1,000,000.

Too many families have experienced the pain of shaken baby syndrome. A 2003 report in the Journal of the American Medical Association estimates that, in the United States, an average of 300 children will die each year, and 600 to 1,200 more will be injured, of whom ⅔ will be babies or infants under 1 year in age, as a result of shaken baby syndrome. Medical professionals believe that thousands more cases of shaken baby syndrome are being misdiagnosed or not detected.

Families should be spared the needless tragedy of shaken baby syndrome. The most effective solution to ending Shaken Baby Syndrome is to prevent such abuse, and it is clear that the minimal costs of educational and prevention programs may help to protect our young children and stop this tragedy from occurring. In 1995, the U.S. Advisory Board on Child Abuse and Neglect recommended a universal approach to the prevention of child fatalities that would reach out to all families through the implementation of several key strategies. Such efforts began by providing services such as home visitation by trained professionals or paraprofessionals, hospital-linked outreach to parents of infants and toddlers, community-based programs designed for the specific needs of neighborhoods, and effective public education campaigns.

Pevention programs like the ones recommended by the U.S. Advisory Board on Child Abuse and Neglect have demonstrated that educating new parents about the danger of shaking young children and how they can help protect their child from injury can bring about a significant reduction in the number of cases of shaken baby syndrome. In 1998, Dr. Mark Dias started the Upstate New York SBS Prevention Project at Children's Hospital of Buffalo. It uses a simple 11-minute video to educate new parents before they leave the hospital. Since that time, the number of shaken baby incidents in the Buffalo area has dropped by nearly 50 percent: none of the perpetrators have been identified as participants in the hospital education program. Hospitals around the country, including several in my own State of Connecticut, have adopted programs similar to these to educate new parents about the dangers of shaking young children.

I urge the Senate to adopt this resolution designating the third week of April of 2005 and 2006 as National Shaken Baby Syndrome Awareness Week, and to take part in the many local and national activities and events recognizing the month of April as National Child Abuse Prevention Month.

The prevention of shaken baby syndrome is supported by advocacy groups across the United States that were formed by parents and relatives of children who have been killed or injured by shaking. I ask unanimous consent that a list of groups supporting this resolution be printed in the RECORD.

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

GROUPS SUPPORTING ''NATIONAL SHAKEN BABY SYNDROME AWARENESS WEEK''

The National Shaken Baby Coalition
The National Center on Shaken Baby Syndrome
The Children's Defense Fund
The American Academy of Pediatrics
The Child Welfare League of America Prevent Child Abuse America
The National Child Abuse Coalition
The National Exchange Club Foundation
The American Humane Association
The American Professional Society on the Abuse of Children
The Arc of the United States
The Association of University Centers on Disabilities
Children's Healthcare is a Legal Duty
Family Partnership
Family Voices
National Alliance of Children's Trust and Prevention Funds
United Cerebral Palsy
The National Association of Children's Hospitals and Related Institutions
Never Shake a Baby Arizona/Prevent Child Abuse Arizona
The Center for Child Protection and Family Support

Mr. MCCONNELL. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 112) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 112

Whereas the month of April has been designated ''National Child Abuse Prevention Month'' as an annual tradition that was initiated in 1979 by former President Jimmy Carter;

Whereas the most recent National Child Abuse and Neglect Data System (NCANDS) figures show that almost 900,000 children were victims of abuse and neglect in the United States in 2002, causing unspeakable pain and suffering to our most vulnerable citizens;

Whereas among the children who are victims of abuse and neglect, nearly 4 children die each day in this country;

Whereas children age 1 and younger accounted for 41.2 percent of child abuse and neglect fatalities in 2002, and children age 4 and younger accounted for 76.1 percent of all child abuse and neglect fatalities in 2002;

Whereas abusive head trauma, including the trauma known as Shaken Baby Syndrome, is recognized as the leading cause of death of physically abused children;

Whereas Shaken Baby Syndrome is a totally preventable form of child abuse, caused by a caregiver losing control and shaking a baby that is usually less than 1 year in age;

Whereas Shaken Baby Syndrome can result in loss of vision, brain damage, paralysis, seizures, or death;

Whereas a 2003 report in the Journal of the American Medical Association estimates that, in the United States, an average of 300 children will die each year, and 600 to 1,200 more will be injured, of whom ⅔ will be babies or infants under 1 year in age, as a result of Shaken Baby Syndrome, with many cases resulting in severe and permanent disabilities;

Whereas medical professionals believe that thousands of additional cases of Shaken Baby Syndrome are being misdiagnosed or not detected;

Whereas Shaken Baby Syndrome often results in permanent, irreparable brain damage or death to an infant and may result in more than $1,000,000 in medical costs to care for a single, disabled child in just the first few years of life;

Whereas the most effective solution for ending Shaken Baby Syndrome is to prevent such abuse, and it is clear that the minimal costs of education and prevention programs may prevent enormous medical and disability costs and untold grief for many families;

Whereas prevention programs have demonstrated that educating new parents about the danger of shaking young children and how they can help protect their child from injury can bring about a significant reduction in the number of cases of Shaken Baby Syndrome;

Whereas education programs have been shown to raise awareness and provide critically important information about Shaken Baby Syndrome to parents, caregivers, daycare workers, child protection employees, law enforcement personnel, health care professionals, and legal representatives;

Whereas efforts to prevent Shaken Baby Syndrome are supported by advocacy groups across the United States that were formed by parents and relatives of children who have been killed or injured by shaking, such as the National Shaken Baby Coalition, the Shaken Baby Association, the SKIPPER (Shaking Kills: Instead Parents Please Educate and Remember) Initiative, the Shaken Baby Alliance, Shaken Baby Prevention, Inc., A Voice for Gabbi, Don't Shake Jake, and the Kierra Harrison Foundation, whose mission is to educate the general public and professionals about Shaken Baby Syndrome and to increase support for victims and victim's families in the health care and criminal justice systems;

Whereas child abuse prevention programs and ''National Shaken Baby Syndrome Awareness Week'' are supported by the National Shaken Baby Coalition, the National Center on Shaken Baby Syndrome, the Children's Defense Fund, the American Academy of Pediatrics, the Child Welfare League of America, Prevent Child Abuse America, the National Child Abuse Coalition, the National Exchange Club Foundation, the American Humane Association, the American Professional Society on the Abuse of Children, the Arc of the United States, the Association of University Centers on Disabilities, Children's Healthcare is a Legal Duty, Family Partnership, Family Voices, National Alliance of Children's Trust and Prevention Funds, United Cerebral Palsy, the National Association of Children's Hospitals and related institutions, Never Shake a Baby Arizona/Prevent Child Abuse Arizona, the Center for Child Protection and Family Support, and many other organizations;

Whereas a 2000 survey by Prevent Child Abuse America shows that half of all Americans believe that of all the public health issues facing this country, child abuse and neglect is the most important;

Whereas Congress previously designated the third week of April 2001 as ''National Shaken Baby Syndrome Awareness Week 2001''; and

Whereas Congress strongly supports efforts to protect children from abuse and neglect: Now, therefore, be it

Resolved, That the Senate—

(1) designates the third week of April in 2005 as ''National Shaken Baby Syndrome Awareness Week''; and

(2) encourages the people of the United States to remember the victims of Shaken Baby Syndrome and to participate in educational programs to help prevent Shaken Baby Syndrome.

ORDERS FOR MONDAY, APRIL 18, 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 1. p.m. on Monday, April 18. I further ask unanimous consent 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, and there then be a period of morning business until 2 p.m., with Senators permitted to speak for up to 10 minutes each; provided further, that the Senate then resume consideration of H.R. 1268, the Iraq-Afghanistan supplemental appropriations bill.

The ACTING PRESIDENT pro tempore. Is there objection?

Hearing none, it is so ordered.

Mr. MCCONNELL. Mr. President, I further ask unanimous consent that notwithstanding the provisions of rule XXII, at 11:45 a.m. on Tuesday, April 19, the Senate proceed to the cloture vote in relation to the Chambliss amendment, to be followed immediately by the cloture vote in relation to the Craig amendment. I further ask unanimous consent that at 4:30 p.m. on Tuesday, if the Senate is not proceeding postcloture, the Senate proceed to the cloture vote in relation to the Mikulski amendment, and upon disposition of the Mikulski amendment or a failed cloture vote, the Senate proceed to the vote on invoking cloture on the underlying bill; provided further, that in accordance with rule XXII, Senators have until 2 p.m. Monday to file first-degree amendments and until 11 a.m. Tuesday to file second-degree amendments to the Chambliss and Craig amendments.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Democratic leader.

Mr. REID. Mr. President, I know the leader is planning on having votes on Monday night, and the distinguished whip will announce shortly that there will be multiple votes Monday night. I ask unanimous consent that there be no more than two votes Monday night.

Mr. MCCONNELL. That would be our understanding.

Mr. REID. Mr. President, I would simply say, I do not want those people who may have to miss a vote Monday night for other reasons to think they are going to miss 15 or 20 votes.

Mr. MCCONNELL. Yes.

Mr. REID. No objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. MCCONNELL. Mr. President, we will resume business on the emergency supplemental appropriations bill Monday. Although we have not yet set votes on Monday, as the Democratic leader just pointed out, we will have at least two votes Monday evening at around 5:30. In addition, we have cloture votes scheduled for Tuesday morning, and now Tuesday afternoon. Therefore, we expect busy days next week as we move toward completion of this important appropriations measure before us. It is our intent to finish this funding bill next week, and we hope cloture can be invoked on the underlying bill to ensure that we can get to final passage before the end of the week.

ORDER FOR ADJOURNMENT

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of the Senator from Illinois

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

AMENDMENT NO. 452

(Purpose: To provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence)

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the fact that H.R. 1268 is not pending, to call up amendment No. 452 by Senator REED of Rhode Island, and then it be set aside.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER (Mr. ROBERTS). On this lovely Friday afternoon, the distinguished Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, thank you for observing how beautiful it is outside and how wonderful it is to serve the Senate. Like yourself, I feel honored to represent the fine people of my State.

I also am honored to ask unanimous consent that when I finish my remarks, the senior Senator from West Virginia, Mr BYRD, be recognized to take the floor.

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

THE NUCLEAR OPTION

Mr. DURBIN. Mr. President, I would like to address two issues that are related. The first issue is the so-called nuclear option. I think many people have read about it and heard about it. I would like to explain, from my point of view, the merits of that issue. Then I would like to address an article which appeared this morning on the front page of the New York Times relative to a meeting which will take place on April 24, sponsored by the Family Research Council, a meeting at which the majority leader of the Senate, Senator BILL FRIST, is reported to be scheduled to speak. I would like to address both of those issues and try to make this as direct and concise as I can.

First, let me say there is one thing that binds every Member of the Senate, Republican or Democrat or Independent. There is one thing that brings us together in this Chamber. It is an oath of office. That oath of office, where we stand solemnly before the Nation, before our colleagues, is an oath where we swear to uphold and defend the Constitution of the United States, this tiny little publication which has guided our Nation and our values for over two centuries.

Though we may disagree on almost everything else, we swear to uphold this document. We swear that at the end of the day we will be loyal to this Constitution of the United States. That, I think, is where this debate should begin, because this Constitution makes it very clear that when it comes to the rules of the Senate, it is the responsibility and authority of the Senate itself to make its rules. I refer specifically to article I, section 5. I quote from the Constitution:

Each House may determine the rules of its proceedings. . . .

Because of that, most courts take a hands-off attitude. It is their belief that we decide how we conduct business in this Chamber, as the House of Representatives will decide about theirs. That is our constitutional right.

When this Constitution was written, there was a question about whether we could bring together 13 different colonies and they would agree to have one Federal Government. The first suggestion was that we create a House of Representatives with one Congressman for each American person who will be counted. There was, of course, a different system for counting those of color. But when the smaller States took a look at the House of Representatives, they were concerned. They understood in the House of Representatives the larger States would be a dominant voice because they had more people, more Congressmen. The Great Compromise said let us resolve this by creating a Senate which will give to every State, large and small, the same number of Senators—two Senators from each State. So today the State of Rhode Island has the same number of Senators as the State of New York; the State of South Dakota, the same number of Senators as the State of California—the Great Compromise, so the Senate would observe the rights of the minority, the smaller populated States, and give them an equal voice on the floor of the Senate.

The Senate rules were written to reflect that unique and peculiar institutional decision. We said within the Senate, following this same value and principle, that our rules would be written so the minority within the Senate would always be respected. We created something called a filibuster, a filibuster which is unique to the Senate but is consistent with the reason for its creation.

Some of you may remember the filibuster if you saw the movie ''Mr. Smith Goes to Washington.'' Jimmy Stewart, a brand new Senator, full of idealism, comes to the floor of the Senate and runs smack dab into this establishment of power in the Senate. He decides it is worth a fight and he stands at his Senate desk and starts to speak, and he continues to speak hour after hour until clearly he is about to collapse. But he holds the Senate floor because it was his right to do it as a Senator. As long as his throat would hold up, and other bodily functions, he continued.

We all remember that movie. It spoke to the idealism of the Senate and it spoke to its core values—the filibuster. That is because it was part of checks and balances. It said we are saying to the legislative branch of Government: You are independent, you have your own power, and within that legislative branch you make your own rules. You define who you will be and how you will conduct your business.

We said to the executive branch: We respect you, but you are separate. You don't make our rules; the legislature makes its own rules. The Senate makes its own rules. The House makes its own rules. It is because of that difference, because each branch—the executive with the President, the congressional branch of Government and the judicial branch of Government—is separate and coequal, that we have this great Nation we have today.

It was an amazing stroke of genius that in this tiny publication these Founding Fathers understood how to create a government that would endure.

Think of all the governments in the world that have come and gone since those men sat down in Philadelphia and wrote these words. We have endured. Each and every one of us comes to this floor before we can cast our first vote and we swear to uphold and defend this document and what it contains.

The reason I tell you this is because at this moment there are those who are planning what I consider to be an assault on the very principles of this Constitution. There are those who wish to change the rules of the Senate and in changing the rules of the Senate, defy tradition, change the rules in the middle of the game, and have a full frontal assault on the unique nature of this institution. That, I think, is an abuse of power. I think it goes way too far. It ignores our Founding Fathers. This nuclear option ignores the Constitution. It ignores the rules of the Senate. For what? So the President of the United States can have every single judicial nominee approved by the Senate.

What is the scorecard? How has President Bush done in sending judicial nominees to the Senate? I can tell you the score as of this moment. Since he was elected President, he has had 215 nominees on the floor for a vote in the Senate and 205 have been approved. That is 205 to 10; over 95 percent of President Bush's judicial nominees have come to the floor and been approved. Only 10 have not been approved. They have been subject to a filibuster, part of the Senate rules.

But this White House and majority party in the Senate have decided 95 percent is not enough. They want it all. They want every nominee. Sadly,

they are about to assault this Constitution and the rules of the Senate to try to achieve that goal.

This so-called nuclear option is a power grab. It is an attempt to change the rules of the Senate. It is an assault on the principle and value of checks and balances. It is an attempt by the majority party in the Senate to ram through nominees who will not pledge to protect the most important rights of the American people. It is an attempt to say we cannot demand of the President's nominees that each person be balanced and moderate and committed to the goals of ordinary Americans. The fact that the President has had 205 nominees approved and only 10 rejected is not good enough. He wants them all.

This is not the first President in history who has decided in his second term to take on the courts of our country, to say he wanted to put into that court system men and women who agreed with him politically at any cost. The first was one of our greatest Americans, Thomas Jefferson. Full of victory in his second term, he decided to attempt to impeach a Supreme Court Justice who disagreed with him politically, to show he had the political power, having just been re-elected. His efforts were rejected. They were rejected by his own party, his own party in the Senate, who said: Mr. President, we may be part of your party, but we disagree with this power grab.

We are going to protect the constitutional rights and power of our institution of the Senate.

More recently, President Franklin Delano Roosevelt—one of the greatest in our history—as his second term began, became so frustrated by a Supreme Court that would not agree with him, that he sent to the Senate a proposal to change the composition of the Court to make certain that we filled the bench across the street in the Supreme Court with people who were sympathetic to his political agenda. He sent that legislative proposal to a Congress dominated by his political party, by his Democratic Party. What was their response? They rejected it. They said we stood by you in the election, we will stand by your policies, but we will not allow you to abuse this Constitution. We will not allow you to change the rules so you can have more power over our judges. That was the principle at issue. Frankly, Roosevelt lost the debate when men and women of his own party stood up and opposed him in the Congress.

Thomas Jefferson lost the same debate.

Here we go, again. For the third time in our Nation's history, a President, as he begins his second term, is attempting to change the rules of the Senate to defy the Constitution and to give the Office of the President more power to push through judges, to defy the checks and balances in our Constitution.

I don't believe I was elected to the Senate to be a rubber stamp. I believe I was elected and took the oath of office to uphold this Constitution, to stand up for the precedents and values of Congress and our Nation. We need to have, in our judiciary, independence and fairness. We need to have men and women on the bench who will work to protect our individual rights, despite the intimidation of special interest groups, despite the intimidation of Members of Congress. They need to have the courage to stand up for what they believe, in good conscience, to be the rights and freedoms of Americans.

I speak, as a Senator on the Democratic side, and tell you that our 45 Members will not be intimidated. We will stand together. We understand these lifetime appointments to the bench should be subject to close scrutiny, to evaluation, and to a decision as to why they are prepared to serve and serve in a way to protect the rights and aspirations of ordinary Americans.

The filibuster, which requires that 60 Senators come together to resolve the most controversial issues, that rule in the Senate, forces compromise. It forces the Republicans to reach across the aisle and bring in some Democrats when they have very controversial legislation or controversial nominees. It forces bipartisanship—something that tells us, at the end of the day, we will have more moderate men and women who will serve us in the judiciary. Those who would attack and destroy the institution of the filibuster are attacking the very force within the Senate that creates compromise and bipartisanship.

Those who are forcing this nuclear option on the Senate are not just breaking the rules to win, but they want to break the rules to win every time.

Despite the fact that President Clinton had over 60 judicial nominees who never received a hearing and vote when the Republicans were in control of the Senate, this President has only been denied 10 nominees out of 215. We have one of the lowest vacancy rates in the Federal court in modern memory. Yet, they are prepared to push through this unconstitutional and unreasonable change in the Senate rules. It is the first time in the history of the Senate, it is the first time in the history of the United States, that a majority party is breaking the rules of the Senate, to change the rules of the Senate in the middle of the game. I think that is truly unfortunate.

I only hope that some Republican Senators, who value their oath of office and who value this institution, will have the same courage the Democratic Party had when it said to President Franklin Roosevelt: You have gone too far. We cannot allow you to impose your political will on the Supreme Court. They stood up to their President and said our first obligation is to the Constitution, our first obligation is to the Senate.

We will be Democrats after that, but first we must stand behind the Constitution.

I am only hoping that six Republican Senators will stand up, as Thomas Jefferson's party stood up and told him—one of our Founding Fathers—that he was wrong in trying to impose his political will on the Supreme Court and the Federal courts of the land. They had the courage to do it to their President.

How many Republican Senators will stand up to this Constitution and for the values and traditions of this great Senate?

I have a document which I ask unanimous consent be printed in the RECORD.

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

HISTORY OF FILIBUSTERS AND JUDGES

Prior to the start of the George W. Bush administration in 2001, the following 11 judicial nominations needed 60 (or more) votes—cloture—in order to end a filibuster:

1881: Stanley Matthews to be a Supreme Court Justice.

1968: Abe Fortas to be Chief Justice of the Supreme Court (cloture required ⅔ of those voting).

1971: William Rehnquist to be a Supreme Court Justice (cloture required ⅔ of those voting).

1980: Stephen Breyer to be a Judge on the First Circuit Court of Appeals.

1984: J. Harvie Wilkinson to be a Judge on the Fourth Circuit Court of Appeals.

1986: Sidney Fitzwater to be a Judge for the Northern District of Texas.

1986: William Rehnquist to be Chief Justice of the Supreme Court.

1992: Edward Earl Carnes, Jr., to be a Judge on the Eleventh Circuit Court of Appeals.

1994: H. Lee Sarokin to be a Judge on the Third Circuit Court of Appeals.

1999: Brian Theadore Stewart to be a Judge for the District of Utah.

2000: Richard Paez, to be a Judge on the Ninth Circuit Court of Appeals.

2000: Marsha Berzon to be a Judge on the Ninth Circuit Court of Appeals.

Because of a filibuster, cloture was filed on the following two judicial nominations, but was later withdrawn:

1986: Daniel Manion to be a Judge on the Seventh Circuit Court of Appeals Senator Biden told then Majority Leader Bob Dole that ''he was ready to call off an expected filibuster and vote immediately on Manion's nomination.''—Congressional Quarterly Almanac, 1986.

1994: Rosemary Barkett to be a Judge on the Eleventh Circuit Court of Appeals ''... lacking the votes to sustain a filibuster, Republicans agreed to proceed to a confirmation vote after Democrats agreed to a day-long debate on the nomination.''—Congressional Quarterly Almanac, 1994.

Following are comments by Republicans during the filibuster on the Paez and Berzon nominations in 2000, confirming that there was, in fact, a filibuster:

''. . . It is no secret that I have been the person who has filibustered these two nominations, Judge Berzon and Judge Paez.''—Senator Bob Smith, March 9, 2000.

''So don't tell me we haven't filibustered judges and that we don't have the right to filibuster judges on the floor of the Senate. Of course we do. That is our constitutional role.''—Senator Bob Smith, March 7, 2000.

''Indeed, I must confess to being some what baffled that, after a filibuster is cut off by cloture, the Senate could still delay final vote on the nomination.''—Senator Orrin Hatch, March 9, 2000, when a Senator offered a motion to indefinitely postpone the Paez nomination after cloture has been invoked.

In 2000, during consideration of the Paez nomination, the following Senator was among those who voted to continue the filibuster:

Senator Bill Frist —Vote #37, 106th Congress, Second Session, March 8, 2000.

Mr. DURBIN. Mr. President, to give credit to the authorship, my colleague, Senator BOXER of California, put her staff to work. She asked them to research how many times, in the history of the Senate, a filibuster had been used to slow down or deny a Federal judgeship. You see Senator FRIST and others have stood before the press and said it has never been done. These Democrats have dreamed up something that has never been done. Using a filibuster to stop the judicial nominee has never occurred. I have seen those quotes. Unfortunately, they are wrong.

Prior to the start of President Bush's administration in 2001, at least 12 judicial nominations needed 60 votes for cloture to end a filibuster: the first, 1881, Stanley Matthews to be a Supreme Court Justice; 1968, Abe Fortas to be the Chief Justice of the Supreme Court; and the list goes on. Twelve different judicial nominees that have been subject to filibuster, and they are not all in the distant past.

The most recent occurred during the Clinton administration. Two nominees that he sent, Richard Paez and Marsha Berzon to the Ninth Circuit Court of Appeals, were filibustered by the same Republican Senate side that now argues this has never happened.

We have seen this happen because of the filibuster—cloture—which is the way to close down the debate, close down the filibuster. Cloture motions were filed on two judicial nominations. It was done in 1986, Daniel Manion; in 1994, Rosemary Barkett.

Some of the comments made by Republican Senators in the last few years about the filibusters on Clinton judicial nominees tell the story.

Senator Bob Smith of New Hampshire, in March of 2000, said, as follows, on the floor of the Senate in the official RECORD, the CONGRESSIONAL RECORD of the Senate. Here is what he said:

. . . it is no secret that I have been the person who has filibustered these two nominations, Judge Berzon and Judge Paez.

He also said:

So don't tell me we haven't filibustered judges and that we don't have the right to filibuster judges on the floor of the Senate. Of course we do. That is our constitutional role.

I hear Senators now saying, on the Republican side, it has never been done, no one has ever considered it. In fact, it has happened—and repeatedly—in our history.

In fact, in the year 2000, during consideration of the Paez nomination, there was one Senator who voted to continue the filibuster against Judge Paez. Who was that Senator? Senator BILL FRIST, the majority leader of U.S. Senate. His own action speaks volumes. He understood then there was a filibuster on a Democratic nominee, and he joined them in filibustering it. It is a matter of record, vote number 37, 106th Congress, second session, March 8, the year 2000. This is all in the CONGRESSIONAL RECORD.

So there is no question we have used the filibuster on judicial nominees. It is not an extraordinary thing in terms of our rules. It is extraordinary in terms of the number of occurrences. But I think it tells us, if you look at the history and precedent of the Senate and the use of this Constitution, that the right of the filibuster on a judicial nominee is protected by this Constitution.

So now comes the Republican majority. They say they are going to break the rules of the Senate to eliminate this filibuster of judicial nominees; to change the rules in the middle of the game; to stop the checks and balances which are an integral part of our legacy in this democratic form of government.

It is bad enough that this constitutional assault is being planned and discussed. But this morning a new element was introduced into it which is very troubling.

On the front page of the New York Times this morning is an article by David Kirkpatrick entitled, ''Frist Set to Use Religious Stage on Judicial Issue.''

This article, which I will read from, says as follows:

As the Senate heads toward a showdown over the rules governing judicial confirmations, Senator Bill Frist, the majority leader, has agreed to join a handful of prominent Christian conservatives in a telecast portraying Democrats as ''against people of faith,'' for blocking President Bush's nominees.

Fliers for the telecast organized by the Family Research Council and scheduled to originate at a Kentucky megachurch the evening of April 24, call the day ''Justice Sunday'' and depict a young man holding a Bible in one hand and a gavel in the other. The flier does not name participants, but under the heading ''the filibuster against people of faith,'' it reads: ''The filibuster was once abused to protect racial bias, and it is now being used against people of faith.''

Mr. President, this is a delicate issue—the role of religion in America in a democratic society. It is one our Nation has struggled with—not as much as the issue of race and slavery, but close to it since our founding.

The men who wrote this Constitution said that we should be guided by three rules when it comes to religion in America. The three rules were embodied in the first article of the Bill of Rights. It says each of us shall have freedom of religious belief. What does that mean? We can rely on our own conscience to make decisions when it comes to religion. We can decide whether we will believe or not believe, whether we will go to church or not go to church, whether we will be a member of one religion or another. It is our individual conscience that will make that decision.

In addition to that, of course, the Bill of Rights says that this Government shall not establish any church; there will not be an official church of America. There is a church of England. There may be religions of other countries, but there will not be a church of America—not a Christian church, not a Jewish synagogue, not a Muslim mosque. There will not be a church of America, according to the Constitution.

The third thing it says, and this is especially important in this aspect of the debate, and this is article VI of the Constitution, is that no religious test shall ever be required as a qualification to any office or public trust under the United States. It couldn't be clearer. We cannot legally or constitutionally even ask a person aspiring to a judicial nomination to what religion they belong. They can volunteer it, they may give us some evidence to suggest what their religious affiliation might be, but we cannot ask it of them, nor can we use it as a test to whether they qualify for office. That is not my decision; it is a decision which I respect in this Constitution, and I have sworn to uphold it.

Now come these judicial nominees, some of whom are controversial, 10 of whom have been subject to a filibuster. They hold a variety of different positions on a variety of different issues. Some of them are purely governmental issues and secular issues, but some are issues which transcend—they are issues of government which are also issues of values and religion.

A person's position on the death penalty is an important question to ask. It is an important part of our criminal justice system. It is also a question of religious belief. Some feel it is permissible in their religion; others do not. So when you ask a nominee for a judgeship, for example, What is your position on the death penalty, you are asking about a provision of our law, but you are also asking a question that may reach a religious conclusion, too. The lines blur.

It isn't just a matter of the issue of abortion. It relates to family planning, to medical research, to the issue of divorce—all sorts of issues cross those lines between government and religion.

I have been on the Committee on the Judiciary for several years. We have tried to be careful never to cross that line to ask a question of religious belief, knowing full well that most of the nominees sent to us had some religious convictions. Our Constitution tells us there is no religious test for public office in America, nor should there be if you follow that Constitution.

So this event, April 24, in Kentucky, by the Family Research Council, suggests the real motive for the filibuster against judicial nominees is because those engaged in the filibuster are against people of faith. They could not be more mistaken. The leader on the Democratic side of the aisle is Senator HARRY REID of Nevada. Senator REID and I have been friends and served together in Congress for over 20 years. I

know him. I know his wife Landra. I know the family he is so proud of. I told him I was going to come to the Senate to speak for a few minutes about this issue. I said: HARRY, do you mind if I talk about your religious belief, since you are the Democratic leader? He said: I never talk about religion. To me, it is a personal and private matter; have you ever heard me bring up the issue of religion? And I said: Never, in any of the time I have known you. But, he said, you can say this: You can say that HARRY REID said, I am a person of religious conviction. It guides my life.

So those on the side of the filibuster against 10 nominees out of 215—many come to this debate on a personal basis with religious conviction and religious beliefs. We are not in the business of discriminating against anyone for their religious belief. I will fight for a person to have their protection under our Bill of Rights to believe what they want to believe, that our Government will not impose religious beliefs on anyone. That freedom, that right, is sacred and needs to be protected. What we find, unfortunately, is that those who are staging this rally have decided to make the issue of the filibuster a religious issue. It is not and never should be.

Americans value religious tolerance and respect. Those who would use religion to stir up partisanship or political anger do a great disservice to this country and to this Constitution. We need to be mindful of our responsibilities now more than ever.

Witness what has occurred in America in the last several weeks. The contentious national debate over the tragic story of Terri Schiavo, a woman who survived for 15 years, and after numerous court appeals involving statements by her husband as to her intentions, statements by her parents as to their beliefs and values, the courts ruled in Florida that ultimately her decision to not have extraordinary means to prolong her life would be respected. There were those in the House of Representatives, Congressman TOM DELAY of Texas and others, who would not accept the decision of the Florida courts. They wanted special legislation to give others, including those who were not members of her family, the right to go to court and to fight the family's wishes, to fight her husband's wishes, to fight the Florida court decisions.

That matter came to the Senate. What we did here was the more responsible course of action. We said, yes, in this particular case they may appeal the Florida court decisions on the Schiavo matter to the Federal courts so long as the person who initiates the appeal is a person in interest, a member of her family, someone who has her best interests in mind, and ultimately the Federal court will decide whether it should be reviewed. That ultimately was enacted, and in a matter of 7 days the Federal courts, from the lowest court to the highest court, said it has been decided; we are not going to intervene.

What happened after that with the Schiavo case? Congressman DELAY and many others from organizations said: That's it, you cannot trust the Federal Judiciary. We have to impeach the judges who reach these decisions. They have decided that the independence of the judiciary needs to be attacked by our branch of government.

Is that new? Of course it is not. Many are unhappy with decisions involving Federal courts from time to time. But to call for the impeachment of Federal judges—and some have suggested even worse—crosses that line.

Those who are holding some of these rallies have suggested—and I am reading directly from the Family Research Council release of April 15. Let me read the entire first paragraph, in fairness.

This is from the Family Research Council:

> A day of decision is upon us. Whether it was the legalization of abortion, the banning of school prayer, the expulsion of the 10 Commandments from public spaces, or the starvation of Terri Schiavo, decisions by the courts have not only changed our nation's course, but even led to the taking of human lives. As the liberal, anti-Christian dogma of the left has been repudiated in almost every recent election, the courts have become the last great bastion for liberalism.

They go on to say:

> We must stop this unprecedented filibuster of people of faith.

They call on people to join them on Sunday, April 24, for their so-called Justice Sunday. It is reported in newspapers today that the majority leader of the Senate will be among those at their gathering. I do not dispute Senator FRIST's right to speak his mind. I will fight for his right for free speech and for those who have written this publication. But I ask Americans to step back for a moment and ask, Is this what you want? Do you want to have a Federal judiciary and a Congress that intervenes in the most private aspects of your life and the life of your family? Do you believe, as most do in America, that we want to be left alone when it comes to our Government, that we want to face these critical life-and-death decisions as a family, understanding the wishes of the person involved, praying for the right way to go, but making the ultimate choice in that hospital room, not in a courtroom?

Make no mistake, these decisions are made time and time again every day, hundreds of times, maybe thousands of times. Doctors, family members, ministers, and others, gather in the quiet of a hospital corridor and have to answer the most basic questions.

It has happened in my family. It has happened in most.

The first thing we ask is, What would my brother want? What would my mother want? It is a private, personal, and family decision. But some believe it should not be. They believe anyone should be able to go to court to overturn that family decision and to inject themselves into the most intimate decisions of our personal lives. Sadly, that is what part of this debate has disintegrated to.

Let me close by saying this. I see my colleague and friend Senator BYRD has come to the floor. I do not need to ask him, I can guarantee you, without fear of contradiction, that in his suit pocket he carries the U.S. Constitution. There is no Member of the Congress, certainly no Member of the Senate, who honors this document more every day that he serves. And it has been my privilege and high honor to serve with him.

I think he understands, as we do, that this nuclear option is a full-scale assault on our Constitution. It is an assault on the checks and balances which make America different, the checks and balances in our Government which have led to the survival of this Nation for over two centuries.

This nuclear option, sadly, is an attempt to break the rules of the Senate in order to change the rules of the Senate so this President and his majority party can have any judicial nominee they want. And, sadly, if they prevail, it will make it easier for them to appoint judges to the bench who are not in touch with the ordinary lives of the American people, who are not moderate and balanced in their approach, but, sadly, go too far.

This is not an issue of religion. I cannot tell you the religious beliefs of any of the 10 nominees we have filibustered. By the Constitution, and by law, we cannot even ask that question, nor would I. But it is fair to ask those men and women, as we have, whether they will follow this Constitution, whether they will set out to make law or respect law, whether they will honor the rights and freedoms of the American people. In 10 cases out of 215, it has been the decision of at least 41 Members of the Senate or more that the nominees did not meet that test.

We need to work together to respect the rights of the American people and to respect the Constitution which we have sworn to uphold and defend.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, I thank the distinguished Senator from Illinois, Mr. DURBIN, for his kind and overly charitable comments concerning me.

AgJOBS AMNESTY

Mr. BYRD. Mr. President, today, I oppose the AgJOBS amnesty. I oppose it. I oppose it unequivocally. I oppose it absolutely.

The Senate has already heard a great number of euphemisms about the AgJOBS bill, but let's be clear from the start about what we are discussing. AgJOBS is an amnesty for 3 million illegal aliens. It is amnesty for aliens employed unlawfully in the agricultural sector, and it is amnesty for the businesses that hire and exploit them as cheap labor.

AgJOBS is legislation that embodies the darkest and most disturbing elements of our immigration system; namely, illegal aliens being smuggled across our borders; unscrupulous employers taking advantage of undocumented workers; uncontrolled migration, black markets, and fraudulent documents used by terrorists to circumvent our border security.

The AgJOBS bill tarnishes the magnanimous promise of a better life enshrined on the base of the Statue of Liberty. It cheapens the struggle of those immigrants who arrived on Ellis Island 100 years ago, and all of those who have come to this country and followed the rules to earn citizenship in this great Republic.

Amnesties beget more illegal immigration—hurtful, destructive, illegal immigration. Look at the statistics. After President Ronald Reagan signed his amnesty into law in 1986, 2.5 million illegal immigrants flooded into this country. Since the 1986 amnesty, the Congress has passed 6 additional amnesties, resulting in an explosion in the illegal immigrant population, with an estimated 900,000 new illegal aliens settling in the United States each year, hoping to be similarly rewarded. The last thing we need is another amnesty masquerading as immigration reform. Amnesties cheat—amnesties cheat—immigrants and U.S. citizens alike.

Our immigration system is already plagued with funding and staffing problems. It is overwhelmed on the borders, in the interior, and in its processing of immigration applications.

Senators need only go to the emergency rooms of the hospitals in this city and in the environs of this city. Go, see for yourselves. The infrastructure is already greatly overburdened. The infrastructure cannot handle the problems that are coming upon us.

I go to the emergency rooms. I have been to them many times, taking my own wife of almost 68 years of marriage, taking her. I see the emergency rooms. I see how they are overcrowded. I see how there are people waiting. I see how there are people out in the corridors, in the halls, lying on cots awaiting attention. The schools are overburdened. Health services, health facilities, just take a look at what is happening. It is too much for the infrastructure.

Now we are going to increase the problem. If the AgJOBS amnesty is enacted into law, it is going to get worse. My forebears were immigrants, too. They came to this country a long time ago. It is going to get worse for employers, worse for immigrants, worse for the security of the American people.

Following the passage of the 1986 amnesty for 2.7 million illegal aliens, the INS had to open temporary offices, hire new workers, divert resources from enforcement areas. The result was chaos that produced rampant fraud, with many aliens, almost 20 years later, still disputing their amnesty claims in the courts. Today's backlog of immigration applications is even larger, with the stack of pending applications at 4 million and rising. The AgJOBS amnesty would dump countless more applications on an already overtasked immigration system. With resources so scarce, the process would literally break down, background checks would be missed, document verification would be ignored, and backlogs would grow, encouraging more and more fraud.

It only took 19 temporary visa holders to slip through the system to unleash the horror of the September 11 attacks. The AgJOBS proposal would shove 3 million illegal aliens, many of whom have never gone through a background check, through our border security system, in effect flooding a bureaucracy that is already drowning. It is a recipe for disaster.

It is not mere speculation to suggest that a terrorist would exploit an amnesty. It has already happened. Mahmud Abouhalima, a leader of the 1993 World Trade Center bombing, was legalized—legalized, I say—under the 1986 amnesty. Only after he was legalized was he able to travel outside of the country to the Afghanistan-Pakistan border where he received the terrorist training he used in the bombing.

A closer look at the details of the AgJOBS amnesty raises even more concern. The only way to secure amnesty under the AgJOBS proposal is to seek U.S. employment. That puts U.S. citizens in direct competition with illegal aliens. Even if U.S. workers are not displaced, illegal immigration depresses wages. It depresses benefits for American jobs.

Under the AgJOBS amnesty, an illegal alien, once achieving temporary status, becomes eligible to apply for permanent residency or even citizenship, which puts that alien ahead of every immigrant waiting to immigrate legally to the United States. That is not fair. When amnesty advocates evoke the image of Ellis Island and the Statue of Liberty, imagine those law-abiding immigrants being told to get back on the ship because an illegal alien had taken their spot. Is that right? Is that fair?

I hope Senators will take a close look at this proposal. I want to aid hard-working immigrants, but this is amnesty for illegal aliens. It is amnesty for the unscrupulous employers who exploit them. It is amnesty for potential terrorists seeking to circumvent our border defenses.

The AgJOBS bill is a sweeping, extreme proposal that will undermine our immigration system. It has no place on this wartime supplemental appropriations bill, and the Senate ought to reject it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank Senator BYRD for his thoughtful remarks. As I have been doing some research on this AgJOBS bill myself, and have become increasingly concerned with it, I came upon a report in the early 1990s that reviewed the success of the 1986 amnesty, or lack of success. I wondered—the Senator was here during that time—whether the same arguments were made in favor of the bill in 1986 that are being made today; and further, whether he would agree with the official Commission's report that the 1986 amnesty was a failure?

Mr. BYRD. Well, I thank the distinguished Senator for his statement. I thank him for his attention to my remarks. I was here then. I am here now. I am concerned about the amnesty we are talking about, the AgJOBS amnesty. I have stated my feelings about it. I am going to leave it at that. I thank the distinguished Senator.

ADJOURNMENT UNTIL MONDAY, APRIL 18, 2005, at 1 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 1 p.m. on Monday, April 18, 2005.

Thereupon, the Senate, at 1:38 p.m., adjourned until Monday, April 18, 2005, at 1 p.m.

NOMINATIONS

Executive nomination received by the Senate April 15, 2005:

DEPARTMENT OF EDUCATION

RAYMOND SIMON, OF ARKANSAS, TO BE DEPUTY SECRETARY OF EDUCATION, VICE EUGENE HICKOK, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate Friday, April 15, 2005:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PAMELA HUGHES PATENAUDE, OF NEW HAMPSHIRE, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

DISCHARGED NOMINATION

The Senate Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of the following nomination and the nomination was confirmed:

PAMELA HUGHES PATENAUDE, OF NEW HAMPSHIRE, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.