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House of Representatives

The House was not in session today. Its next meeting will be held on Friday, August 1, 2003, at 4 p.m.

Senate

THURSDAY, JULY 31, 2003

(Legislative day of Monday, July 21, 2003)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

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

O God, who blesses us in ways we cannot number or describe, forgive us when we forget Your mercies. We thank You that in the shadow of Your wings we can find refuge. Thank You for filling our empty hands with good. Give us, today, a clearer vision of Your truth that we may do Your will.

Lord, help us to tear down the walls of mistrust and suspicion that divide us and build bridges of unity and cooperation. May we remember the power of courtesy and civility. May our actions reinforce our words. Help us to be steadfast and unmovable in our resolve to make a positive impact on our world. We pray this in Your strong name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, 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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will debate the cloture motion relating to the Pryor nomination until 10 a.m. Following the debate relating to the Pryor nomination, the Senate will proceed to the cloture vote. Therefore, the first vote in today's session will occur at approximately 10 a.m. Following the cloture vote, the Senate will resume consideration of S. 14, the Energy bill.

Last night I filed a cloture motion relative to the pending Energy legislation. As I said last night, that cloture motion was filed to give us a chance to finish the bill prior to the August recess. If we have any hope of passing a bill which would establish a national energy policy, then the Senate must invoke cloture. In the interim, I know the chairman will certainly work with Members toward consent agreements to allow consideration of any additional amendments. It is our hope to continue to process Senators' amendments prior to the cloture vote.

Let me reiterate again that our commitment remains on this side of the aisle to finish this Energy bill. Cloture votes on judicial nominees will not and should not detract us from the ultimate goal of concluding our work on this bill. I hope today that we can renew our efforts, have Members come forward with their amendments, debate those amendments, and then have the Senate work its will on the issues.

I yield the floor.

RESERVATION OF LEADER TIME

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

EXECUTIVE SESSION

NOMINATION OF WILLIAM H. PRYOR, OF ALABAMA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

The PRESIDENT pro tempore. Under the previous order, the time until 10 a.m. shall be equally divided between the Senator from Utah, Mr. HATCH, and the Senator from Vermont, Mr. LEAHY, for debate prior to a vote on the motion to invoke cloture on the nomination of William Pryor.

The Senator from Utah.

Mr. HATCH. Mr. President, on Tuesday a cloture motion was filed on the nomination of William Pryor for the Eleventh Circuit Court of Appeals. I rise today to urge my colleagues to vote for cloture on this nomination.

Why must we seek cloture on this nomination? Unfortunately, we all know the answer. A majority of Democratic Senators have developed a poor track record of denying a minority of Democratic Senators and the entire Republican majority, easily a majority of the Senate, the right to vote to confirm two of President Bush's outstanding Circuit Court nominees, Miguel Estrada and Priscilla Owen. One filibuster of an outstanding Federal circuit court nominee was bad

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

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enough—unprecedented, in fact, in the history of the Senate. A second filibuster doubled the ignominy. I fear that the second filibuster will not be the last. I wonder whether there is a particular number of filibusters that the majority of Democrats has in mind. I, and the majority of this Senate would like to know.

I have heard certain Democrats say that a baseball player would be thrilled to have a batting average as good as the percentage of President Bush's nominees who have been confirmed since he took office. Assuming such an analogy is relevant, let's take it a bit further. I wonder if that same baseball player would sit calmly on the bench if, in the most important innings of the season, the opposing team invoked a rule to prevent that player from even getting into the batter's box. And what if the rule invoked had never been used to deny a player the right to take his swings? Should that player and his team's manager be thankful that most other players were allowed to play? Should the opposing manager be able to tell that player and his team, well, I understand your manager put your name on the gameday lineup two seasons ago, but it is up to us, not him and not your team, when or if you will ever play? I submit that they would be as frustrated and disappointed as we Senators are today, with the two ongoing filibusters of nominees whose names were submitted by the President well over 2 years ago, and the real probability of more indefinite delays to come.

Here is what we know: a majority of Democrats has made it clear to a majority of Senators that they are determined to deny it the right to vote, and to deny a nominee what he or she deserves, an up or down vote.

By the way, the President deserves an up-or-down vote on his nominees. We certainly gave judges up-or-down votes in the Clinton administration and during the Carter administration.

When they got to the floor, they got up-or-down votes. Because we do not know when the next filibuster is coming, we must ensure that debate on Attorney General Pryor's nomination to the Eleventh Circuit is ample but not endless. Unfortunately, we know from the filibusters of Miguel Estrada and Justice Owen that meaningful deliberation on these nominees is not the goal of those who would deny us the right to vote on their confirmation. The goal is to prevent a majority of the Senate from fulfilling its constitutional duty. In an effort to keep this from happening, we have filed for cloture. I urge my colleagues to support cloture on General Pryor's nomination.

Over the past 6 months we have heard that a filibuster is justified for Miguel Estrada on the grounds that he has not been forthcoming enough or that the Senate needed blanket access to all of his legal memoranda in order to make an informed choice.

Well, that is interesting because Democrats have never asked for these types of investigations or these types of documents for any other Senate nominee. They have not asked for these documents for women. They have not asked for these documents for white males but all of a sudden we have the first Hispanic nominated to the Circuit Court of Appeals for the District of Columbia and all of a sudden they are asking for documents that they know the Solicitor General's office cannot give, not because there is anything to hide—Miguel Estrada would have given them up if he had had the power to do so—but because it is not the right thing to do. They are privileged documents.

In Justice Owen's case, she appeared before the Judiciary Committee twice and answered dozens and dozens of oral and written followup questions in great detail. Her court opinions are available and have been read and scrutinized by Members of the Senate. No one doubts that she has a sufficient record. So why is she being held up? I might add, why is she being treated differently from Miguel Estrada? Nobody has demanded those types of documents from her.

But not even those most vigorously opposed to Bill Pryor's nomination contend that his record is insufficient. He has been a bold, vocal, and successful advocate for his State as attorney general, an elected office in Alabama.

Prior to and during his campaign seeking reelection to the attorney general position in 1998 and 2002, he made his positions on the contentious issues of the day crystal clear, and he won his most recent election with almost 60 percent of the vote. Rarely has the Judiciary Committee reviewed such a full and unmistakably clear record for an appellate nominee. Rarely has the Judiciary Committee reviewed such a full and unmistakably clear record for an appellate nominee; rarely has a nominee at his hearing been so honest, intelligent and forthright in his answers to every Senator's questions, even though he surely knew that his legal and policy positions on many, if not most, issues, clashed head-on with the positions of those who questioned him. Similarly, in his answers to approximately 288 written questions from seven different Democratic Senators, he was as clear and complete as he had been during his hearing. And even after Bill Pryor answered all of these questions, some Democrats regrettably continued to try to dig for dirt on him, using unauthenticated and possibly stolen documents as a pretext for a so-called investigation, when not a single person has made a substantive, authenticated allegation against him. But throughout almost a month of this unilateral fishing expedition, including phone calls to 20 people, nobody can show that Bill Pryor was anything other than truthful with our committee.

We all know what kind of man Bill Pryor is, and we all know what he believes. We even know why he believes what he believes. But therein lies the problem, apparently, for those who seek to prevent us from voting to confirm him.

The problem that those opposed to giving Bill Pryor an up or down vote in the Senate have is that they cannot credibly make any substantive arguments against him—so they oppose him based on what he has stated he personally believes. They cannot cast aspersions on his legal ability—the undisputed quality of his legal work as attorney general of Alabama is reflected in several major cases in which the Supreme Court majorities have agreed with his arguments. They cannot say he is only a one-party horse—because so many Democrats, and many prominent African-American Democrats, in Alabama support him even though they disagree with him politically. They cannot really find anything substantive that might reflect poorly on his qualifications to sit on the Federal bench. So they attack his personal beliefs, even though in every instance in which a conflict between those beliefs and the law has arisen in Bill Pryor's career, he has unfailingly put the law first. In most of the cases they criticize him for, he was won in the Supreme Court, making such criticism even more laughable.

The President has nominated a good an honest man with a sterling legal career, a bipartisan reputation for enforcing the law impartially as attorney general, and an enviable record of success before the Nation's highest Court. Contrary to all available evidence, a minority of the Senate may attempt to prevent us from voting on him. Such an attempt is profoundly at odds with what the Constitution demands of us as Senators. The President and the American people have a right to an up or down vote on judicial nominees. That is what the advise and consent clause means. Playing political games with judicial nominees must stop. We must do our duty to vote on this excellent nominee, Bill Pryor.

Now, if this is another filibuster, we need to ferret it out. That is why we will have the cloture vote. For those complaining this interrupts the Energy bill, we are here at 9 a.m. in the morning; energy can start right after this cloture vote.

Let's face it, there has been a slow walk on the Energy Bill as there has been on almost everything this year. We all know the game that is going on. Frankly, in the case of Bill Pryor, it is a very dangerous game.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield 6 minutes to the senior Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I urge my colleagues to vote against cloture on the nomination of William Pryor. Since President Bush came into office, the Senate has confirmed 140 of his nominees and so far blocked only two. We have blocked these nominees partly

because they were too extreme for lifetime judicial appointments, and partly because the White House and the Senate Majority have tried to jam the nominations through the Senate without respect for the Senate's advice and consent role under the Constitution, and without respect for the Senate's rules and traditions.

The nomination of Mr. Pryor illustrate all of these issues. His views are at the extreme of legal thinking. It is clear from his record that does not merit confirmation to a lifetime seat on an appellate court that often has the last word on vital issues, not only for the 4.5 million people of Alabama, but also for the 8 million people of Georgia and the 15 million people of Florida.

Mr. Pryor is not simply a conservative, he is committed to using the law to advance a narrow ideological agenda that is at odds with much of the Supreme Court's jurisprudence over the last 40 years. An agenda that is at odds with important decisions that have made our country more inclusive and fair over the past 40 years.

Mr. Pryor's agenda is clear. He is an aggressive supporter of rolling back the power of Congress to remedy violations of civil and individual rights; he is a vigorous opponent of the constitutional right to privacy and a woman's right to choose; and, he is an aggressive advocate of the death penalty, even for individuals with mental retardation. He contemptuously dismissive of claims of racial bias in the application of the death penalty. He is a ardent opponent of gay rights.

What we are expected to believe is that despite the intensity with which he holds these views and the years he has devoted to dismantling these legal rights, he will still ''follow the law'' if he's confirmed to the Eleventh Circuit. Repeating that mantra again and again in the face of his extreme record does not make it credible that he will do so.

Mr. Pryor's supporters say that his views have gained acceptance by the Courts, and that his legal positions are well within the legal mainstrain. This is simply not true. Mr. Pryor has consistently advocated views to narrow individual rights far beyond what any court in this land had been willing to hold.

Just this past term, the Supreme Court rejected Mr. Pryor's argument that States could not be sued for money damages for violating the Family and Medical Leave Act. The Court rejected his argument that states should be able to criminalize private sexual conduct between consenting adults. The Court rejected his far-reaching argument that counties should have the same immunity from lawsuits that States have. The Court rejected his argument that the right to counsel does not apply to defendants with suspended sentences of imprisonment. The Court rejected his argument that is was constitutional for Alabama prison guards to handcuff prisoners to ''hitching posts'' for hours in the summer heat.

Last term, the Court also rejected Mr. Pryor's view on what constituted cruel and unusual punishment in the context of the death penalty. The Court held, contrary to Mr. Pryor's arguments, that subjecting mentally retarded persons to the death penalty violated the Eighth Amendment. And just this Spring, the Eleventh Circuit, a circuit dominated by conservative, Republican appointees, rejected Mr. Pryor's attempt to evade that Supreme Court's decision. Mr. Pryor attempted to prevent a prisoner with an IQ of 65—whom even the prosecution had noted was mentally retarded—from raising a claim that he should not be executed. Repeatedly, his far-reaching arguments have been rejected by the courts. This is not a man within the legal mainstream.

Mr. Pryor and his supporters simply say that he is ''following the law,'' but repeatedly Mr. Pryor attempts to make the law, using the Attorney General's office as his own personal ideological platform.

Mr. Pryor's many intemperate, inflammatory statements show that he lacks the temperament to serve on the Federal court. Mr. Pryor ridiculed the Supreme Court of the United States for granting a temporary stay of execution in a capital punishment case. Alabama is one of only 2 States in the Nation that uses the electric chair as its sole method of execution. The Court granted review to determine whether the use of the electric chair was cruel and unusual punishment. For Mr. Pryor, however, the Court should not have even paused to consider this Eighth Amendment question. He said the issue ''should not be decided by 9 octogenarian lawyers who happen to sit on the Supreme Court.'' This doesn't reflect the thoughtfulness we seek in our federal judges.

He is dismissive of concerns about fairness in capital punishment. He has stated: ''make no mistake about it, the death penalty moratorium movement is headed by an activist minority with little concern for what is really going on in our criminal justice system.''

I have watched my colleagues on the other side bring up every argument they can find to save this nominee. Mr. Pryor's record is so full of examples of extreme views, and they labor to rebut each one. They call Senate Democrats and citizens who question Mr. Pryor's fitness—including more than 204 local and national groups—a variety of names, and accuse us of bias. The question however is why when there are so many qualified Republican attorneys in Alabama, the President would choose such a divisive nominee? Why pick one whose record raises so much doubt as to whether he will fair? Why pick one who can only muster a rating of partially unqualified from the American Bar Association?

I hope this nominee will not be approved.

The PRESIDENT pro tempore. Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the Senator from Massachusetts. It is interesting that we are in this debate. We are told we want to finish the Energy bill, yet we have been talking about everything but energy. We have a number of judicial nominations that have been brought up that are obviously controversial, obviously not ripe for debate. That takes time. At the same time, we have ignored a number of judicial nominations that could have been voted on in a series of 10-minute rollcall votes had the leadership wanted that.

Maybe they don't really want to finish the Energy bill before the recess. Or perhaps, as we now read in the paper, the White House has ordered Republican leadership to have four cloture votes, a very busy week.

When I came here and when the distinguished Presiding Officer, my friend from Alaska, and the very highly respected President pro tempore, we tended to be more independent around here, independent of the White House. The Senate was its own body. Now the White House tends to run things, even picking the Republican leadership. It is a strange time.

I am going to yield quickly to the Senator from New York, but I just want to say one thing. One of the most despicable things in this debate has been the charges made by supporters of the administration that Democratic Senators are anti-Catholic because we oppose Mr. Pryor, notwithstanding his far right, way out of the mainstream ideology and past actions; notwithstanding the fact that we asked questions about whether he was soliciting campaign contributions from the same companies he was supposed to be suing and prosecuting. Notwithstanding that, because we raised these questions, the answers are not given to the questions we raise. Instead, we are called anti-Catholic.

This charge is despicable. I have waited patiently for more than 2 years for my counterparts on the other side to disavow such charges. They stay silent, and of course the best way for a lie to take root is for people to stay silent about it. They stayed silent about this lie—actually that is not true. They haven't just stayed silent about it. Many have gone on and repeated it.

The slander in the ads recently run by a group headed by the President's father's former White House counsel and a group whose funding includes money raised by Republican Senators and the President's family is personally offensive. They have no place in this debate or anywhere else.

I challenged Republican Senators, who are so fond of castigating special interest groups and condemning every statement critical of a Republican nominee as a partisan smear, to condemn this ad campaign and the injection of religion into these matters.

Only one of the newest Members of the Senate on the Republican side responded to the challenge.

Other Republican members of the Judiciary Committee and of the Senate have either stood mute in the case of these obnoxious charges or, worse, have fed the flames. Last night, at least three Republican Senators came to the floor, not to condemn this campaign of calling Democrats anti-Catholic—including this lifelong Catholic—but they have come here to fan the flames, to stoke this divisive, harmful, and destructive campaign. I have rarely been more disappointed in the Senate.

Where are the fair-minded Republican Senators? What has silenced them? Are they so afraid of the White House that they would allow this religious McCarthyism to take place? Why are they allowing this to go on? The demagoguery, divisive and partisan politics being so cynically used by supporters of the President's most extreme judicial nominees needs to stop.

I remember when one of the greatest Senators of Vermont, Ralph Flanders, stood up on this floor, even though he was a Republican, sort of the quintessential Republican—he stood up and condemned what Joseph McCarthy was doing. And it stopped. I hope some will stand up and condemn this charge of anti-Catholicism leveled against the members of the Senate Judiciary Committee.

A few days ago we heard from a distinguished group of members of the clergy from a variety of churches and synagogues who serve as members of the Interfaith Alliance. They were willing to do what the Republican Senators will not, and held a forum to discuss the recent injection of religion into the judicial nominations process. The Alliance is a national, grassroots, non-partisan, faith-based organization of 150,000 members who come from over 65 religious traditions. These men and women of faith promote the positive and healing role of religion in public life, and challenges all who seek to manipulate or otherwise abuse religion for sectarian or partisan political purposes. They came to the United States Capitol to denounce the despicable charges made against Senators, and to urge, as many of us have, that this involvement of religion in the confirmation process come to an end. I would like to enter into the record the remarks of participants in the forum on July 29, 2003, including statements by Rev. Dr. C. Welton Gaddy, the President of the Interfaith Alliance, Rabbi Jack Moline, the Vice-chair of the Alliance, and the Right Reverend Jane Holmes Dixon, the Immediate Past President of the Alliance. These statements are moving and persuasive and important. I would hope that my Republican colleagues would read them and take them to heart.

Mr. President, I ask unanimous consent to print the remarks of the Interfaith Alliance forum in the RECORD.

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

REMARKS OF FORUM PARTICIPANTS—THE FORUM TO DISCUSS THE RECENT INJECTION OF RELIGION INTO THE JUDICIAL NOMINATIONS PROCESS, JULY 29, 2003

PARTICIPANTS: LEADERS OF THE INTERFAITH ALLIANCE: THE REV. C. WELTON GADDY, RABBI JACK MOLINE, FATHER ROBERT DRINAN, THE REV. CARLTON VEAZEY, AND THE RIGHT REV. JANE HOLMES DIXON; SENATOR PATRICK LEAHY; SENATOR RICHARD DURBIN.

Senator LEAHY. First I want to thank everybody who has come here today, and I certainly appreciate so much the religious leaders who have really come together and united on one thing, to condemn the injection of religious smears into the judicial nomination process.

Partisan political groups have used religious intolerance and bigotry to raise money and to publish and broadcast dishonest ads that falsely accuse Democratic senators of being anti-Catholic. I cannot think of anything in my 29 years in the Senate that has angered me or upset me so much as this. One recent Sunday I emerged from Mass to learn later that one of these advocates had been on C–SPAN at the same time that morning to brand me an anti-Christian bigot.

Now, as an American of Irish and Italian heritage, I remember my parents talking about days I thought were long past, when Irish Catholics were greeted with signs that told them they did not need apply for jobs. Italians were told that Americans did not want them or their religious ways. This is what my parents saw, and a time that they lived to see be long passed. And my parents, rest their souls, thought this time was long past, because it was a horrible part of U.S. history, and it mocks the pain—the smears we see today mock the pain and injustice of what so many American Catholics went through at that time. These partisan hate groups rekindle that divisiveness by digging up past intolerances and breathing life into that shameful history, and they do it for short-term political gains. They want to subvert the very constitutional process designed to protect all Americans from prejudice and injustice.

It is saddening, and it's an affront to the Senate as well as to so many, when we see senators sit silent when they are invited to disavow these abuses. These smears are lies, and like all lies they depend on the silence of others to live, and to gain root. It is time for the silence to end. The Administration has to accept responsibility for the smear campaign; the process starts with the President. We would not see this stark divisiveness if the President would seek to unite, instead of to divide, the American people and the Senate with his choices for the federal courts. And those senators who join in this kind of a religion smear: they may do it to chill debate on whether Mr. Pryor can be a fair and impartial judge, but they do far more. They hurt the whole country. They hurt Christians and non-Christians. They hurt believers and non-believers. They hurt all of us, because the Constitution requires judges to apply the law, not their political views, and instead they try to subvert the Constitution. And remember, all of us, no matter what our faith—and I'm proud of mine—no matter what our faith, we are able to practice it, or none if we want, because of the Constitution. All of us ought to understand that the Constitution is there to protect us, and it is the protection of the Constitution that has seen this country evolve into a tolerant country. And those who would try to put it back, for short-term political gains, subvert the Constitution, and they damage the country.

Now this nominee, Mr. Pryor, is an active politician. He has been particularly active on several political issues that divide Americans. And this administration has acknowledged that it selects nominees on the basis of their ideologies. So when this or other nominees are asked about their views and statements, whether it's about Roe v. Wade or the flawed administration of the death penalty, they are being asked legitimate questions that the White House itself has already considered in their selection. Senators of course have an equal right to inform themselves about their ideologies. And those senators do us all a disservice, they do a disservice to this great and wonderful institution, when they charge that there is a religious test for nominees. The record itself reputes that. Democratic senators have joined in confirming 140 of President Bush's judicial nominees. Now you'd have to guess that most of these nominees, chosen by President Bush and confirmed by Democratic senators, have been Republicans. Most, presumably, share the Administration's right-to-life philosophy. No doubt, a large number of the 140 are Christians, and of course, we would have to assume some are Catholics.

I appreciated Senator Durbin's courage when he spoke the truth about these falsehoods, and I appreciate the courage of the religious leaders we will hear from today, and I welcome Reverend Dr. Welton Gaddy, the president of The Interfaith Alliance. The Alliance has stood up on important legal issues on behalf of Americans of many different faiths. Remember, as Americans, this is one of the things that makes us free and the nation that we are—the diversity that comes from our various religious beliefs. The first Amendment encompasses so many different things: the freedom of speech, the freedom to practice any religion you want, or none if you want. We are not a theocracy, we are a democracy. And because we are a democracy, all of us, especially those who may practice a minority religion, get a chance to practice it. I'm glad to see Father Drinan here. Father Drinan is a professor of law at Georgetown and has been a member of Congress, but more importantly than that he has been a friend of mine since I was a teenager. We first met when I was a college student, and we talked about the fact that I wanted to go to law school. And we're fortunate to have with us today the Reverend Carlton Veazey, and the Right Reverend Jane Holmes Dixon, retired Episcopal Bishop from Washington National Cathedral. And the Bishop has told me she now has a son in Vermont. I admired her before, and I admire her even more now, for that. And Rabbi Jack Moline of Northern Virginia has joined us. So Revered, why don't I turn it over to you now.

The Rev. C. WELTON GADDY. Welcome to this Press and Hill Staff Briefing. My names is Welton Gaddy. I serve as President of The Interfaith Alliance, a national, grassroots, non-partisan, faith-based organization of 150,000 members who come from over 65 different religious traditions. The Interfaith Alliance promotes the positive and healing role of religion in public life and challenges all who seek to manipulate or otherwise abuse religion for sectarian or partisan political purposes.

Last Wednesday, the Senate Judiciary Committee's discussion on William Pryor's nomination to the 11th Circuit Court of Appeals in Atlanta deteriorated into a dramatic demonstration of the inappropriate intermingling of religion and politics that raised serious concerns about the constitutionally guaranteed separation of the institutions of religion and government. Such a meshing of religion and politics in the rhetoric of the Senate Judiciary Committee cheapens religion and diminishes the recognized authority

of the Committee to speak on matters of constitutionality. The debate of that day, though alarming and disturbing, has created a teachable moment in which we will do well to look again at the appropriate role of religion in such a debate. That is why we are here this morning.

Religion plays a vital role in the life of our nation. Many people enter politics motivated by religious convictions regarding the importance of public service. Religious values inform an appropriate patriotism and inspire political action. But a person's religious identity should stand outside the purview of inquiry related to a judicial nominee's suitability for confirmation. The Constitution is clear: There shall be no religious test for public service.

Within a partisan political debate, it is out of bounds for anyone to pursue a strategy of establishing the religious identity of a judicial nominee to create divisive partisanship. That, too, is an egregious misuse of religion and a violation of the spirit of the constitution. Even to hint that a judiciary committee member's opposition to a judicial nomination is based on the nominee's religion is cause for alarm. How did we get here?

In recent years, some religious as well as political leaders have advanced the theory that the authenticity of a person's religion can be determined by that person's support for a specific social-political agenda. So severe has been the application of this approach to defining religious integrity that divergence from an endorsement of any one issue or set of issues can lead to charges of one not being a ''good'' person of faith.

The relevance of religion to deliberations of the Judiciary Committee should be twofold: one, a concern that every judicial nominee embraces by word and example the religious liberty clause in the constitution that protects the rich religious pluralism that characterizes this nation and, two, a concern that no candidate for the judiciary embraces an intention of using that position to establish a particular religion or religious doctrine. In other words the issue is not religion but the constitution. Religion is a matter of concern only as it relates to support for the constitution.

Make no mistake about it, there are people in this nation who would use the structures of government to establish their particular religion as the official religion of the nation. There are those who would use the legislative and judicial processes to turn the social-moral agenda of their personal sectarian commitment into the general law of the land. The Senate Judiciary Committee has an obligation to serve as a watchdog that sounds no uncertain warning when such a philosophy seeks endorsement within the judiciary.

It is wrong to establish the identity of a person's religion as a strategy for advancing or defeating that person's nomination for a judgeship. However, it is permissible, even obligatory, to inquire about how a person's religion impacts that person's decisions about upholding the constitution and evaluating legislation. When a candidate for a federal bench has said, as did the candidate under consideration last Wednesday, in an address in the town in which I pastor, ''our political system seems to have lost God'' and declares that the ''political system must remain rooted in a Judeo-Christian perspective of the nature of government and the nature of man,'' there is plenty for this Committee to question.

Every candidate coming before this Committee should be guaranteed confirmation or disqualification apart from the candidate's religious identity as a Baptist, a Catholic, a Buddhist or a person without religious identification. What is important here is a candidate's pledge to defend the constitution. And, that pledge should be buttressed by a record of words and actions aimed not at attacking the very religious pluralism that the candidate is being asked to defend but rather to continuing a commitment to the highest law of the land.

I felt grimy after listening to distinctions between a ''good Catholic'' and a ''bad Catholic.'' I know that language; I heard it in the church of my childhood where we defined a ''good Baptist'' as one who tithed to the church, didn't smoke, didn't dance and attended church meetings on Sunday evening and a ''bad Baptist'' as one who didn't fit that profile. The distinctions had nothing to do with the essence of the Christian tradition and the content of Baptist principles. It is not a debate that is appropriate or necessary in the Chamber of the United States Senate.

The United States is the most religiously pluralistic nation on earth. The Interfaith alliance speaks regularly in commendation of ''One Nation—Many Faiths.'' For the sake of the stability of this nation, the vitality of religion in this nation, and the integrity of the Constitution, we have to get this matter right. Yes, religion is important. Discussions of religion are not out of place in the judiciary committee or any public office. But evaluations of candidates for public office on the basis of religion are wrong and there should be no question that considerations of candidates who would alter the political landscape of America by using the judiciary to turn sectarian values into public laws should end in rejection.

The crucial line of questioning should revolve not around the issue of the candidate's personal religion but of the candidate's support for this nation's vision of the role of religion. If the door to the judiciary must have a sign posted on it, let the sign read that those who would pursue the development of a nation opposed to religion or committed to a theocracy rather than a democracy need not apply.

In 1960, then presidential candidate John F. Kennedy addressed the specific matter of Catholicism with surgical precision and political wisdom, stating that the issue was not what kind of church he believed in but what kind of America he believed in. John F. Kennedy left no doubt about that belief: ''I believe in an America where the separation of church and state is absolute.'' Kennedy pledged to address issues of conscience out of a focus on the national interest not out of adherence to the dictates of one religion. He confessed that if at any point a conflict arose between his responsibility to defend the constitution and the dictates of his religious, he would resign from public office. No less a commitment to religious liberty should be acceptable by any judicial nominee or by members of the Senate Judiciary Committee who recommend for confirmation to the bench persons charged with defending the Constitution.

We have an impressive group of religious leaders here to address various issues relating to this topic. Also, another member of the Senate Judiciary Committee has joined us, Senator Durbin, and I wanted to say, as I recognize him for some comments, Senator how grateful we are, not only for your words in session on this committee, but for the tireless work you've done on charitable choice legislation.

Senator DURBIN. Thank you very much, and I appreciate those who have gathered this morning to address this very timely and very important issue.

It has been written that patriotism is the refuge of scoundrels. As of last week, we learned that religion is now the refuge of extremists. Those who are bringing us candidates who cannot stand on their own feet when it comes to their political positions, are now saying that hard questions about their politics are actually some sort of criticism about their religion belief. I have said publicly and privately to Senator Hatch, this has to end immediately.

Americans should understand that a person's religion, as the Constitution requires, should never be a qualification for public office. I am going to join Senator Leahy in offering an amendment to the Senate Judiciary Committee which states categorically that no witness or nominee can ever be asked their religion during the course of a committee hearing. I think we have crossed a line which is extremely sad, and watching last week as several of my colleagues came forward to explain Catholic doctrine was quite a treat, Father Drinan, to have my colleagues who are proud members of the Church of Christ, the Methodist Church, and the Church of Jesus Christ of Latter-day Saints, to explain to me what a ''good Catholic'' believes, was troubling. I think that that kind of conversation has no place in the public marketplace, and that Senator Leahy has led us in this committee, from the beginning objecting to this line of questioning, and we should put down the rule, hard and fast, once and for all, that whether the person who is inspiring this, Mr. Boyden Gray, in his scurrilous advertising campaign, or members of the United States Senate, who would seek to exploit the issue of religion to somehow justify the extremist views of their nominees: whoever the person is, they have no place in this important public debate.

I am a person of the Catholic faith. I was raised in that religion. I continue to go to Mass, to sometimes debate my church over issues. I believe that's my responsibility and my personal situation. I don't believe that should be part of the public debate, but my position on the issues might be, and for some of the senators to come forward and say, anytime a religious belief somehow reaches over into a political area it's out of bounds, you can't ask questions, well that's just plain wrong. If you happen to be a person who is of the Jewish religion, who keeps kosher in observance of religious belief, that is certainly your right to do and has little relevance to the political debate. But the position of a person on the death penalty, whether they're Jewish, Catholic, Protestant, nonbeliever, whatever their denomination, that certainly does have relevance to the national debate, and to say that we're not going to ask those questions because they somehow cross the line into religious belief, is to disqualify this committee from even considering the most important political issues. We can't let that happen.

I'm proud of the fact that I have nominated many judges of my own state, and that I have never used a litmus test on any of those judicial nominees. Though I am pro-choice in my belief when it comes to vote on the issues before us, I have successfully nominated, and seen appointed, pro-life judges in my state, and I believe then as I do now that the fact that that's part of their religious belief is irrelevant. I hope that what we are saying and what we are talking about today is heard by members of the entire Senate, and I hope that we will adopt this rules change to say once and for all that we will not return to the shabby episode that we saw played out in the Senate Judiciary Committee last week.

Rev. GADDY. Senator Leahy has already introduced the members of the panel who will come and speak now; I will simply recognize them. Rabbi Jack Moline.

Rabbi JACK MOLINE. I am Rabbi Jack Moline, vice-chair at-large of the Interfaith Alliance. I am also on the back end of a summer cold, so I apologize for the huskiness of my voice.

The ''Father of our Country,'' George Washington, was a surveyor by trade. Part of his duties included the determination of exactly where the property of one owner left off and the other owner began. You might wonder what possible difference a few inches, even a few feet in either direction would make to a farmer with acres of land. But Washington knew as we all know that crops do not grow only in the center of a field, and that cattle do not graze only a distance from the fence, and that injuries do not always occur close to the barn. Good surveying produces good boundaries. And good boundaries keep good neighbors from unnecessary conflict.

As a rabbi, I have studied similar boundary issues in the Talmud. Entire sections are taken up discussing the boundaries between properties, between businesses, between Sabbath and weekdays, between the holy and the profane. Violating those boundaries throws a system into turmoil. Preserving them avoid unnecessary conflict.

We Americans have become experts in testing boundaries. You can make your own list of the boundaries we have tried to survey, and where we have been successful and where we have not. In culture, in business, in public policy and in politics, the lines that separate one domain from another have been confronted by those who wish to preserve them and by those who wish to redraw them.

When the Bill of Rights of our Constitution established what Thomas Jefferson wisely called the wall of separation between church and state, it created a two-hundred-year-old tradition of surveying that boundary, trying to find the exact place to keep good neighbors from unnecessary conflict.

The Senate Judiciary Committee failed in their latest attempt last week when Alabama Attorney General William Pryor, nominee for a federal judgeship, was asked by a supporting Senator about his religious affiliation. The result, as you have seen, was an unnecessary conflict between good neighbors. In fact, we are counting our blessings that the Capitol Police were not called to intervene in the ensuing arguments.

The religious beliefs of a nominee are relevant only to the extent that they interfere with his or her ability to support and defend the Constitution of the United States. Frankly, I would be alarmed to see the influences of religious conviction expunged from any aspect of American government. And I think it is entirely relevant to ask any candidate for the executive, legislative or judiciary if personal convictions would interfere with the ability to support and defend the Constitution and its resultant laws as they exist today.

Frankly, that is the relevant question—not a question of affiliation. Do the values, beliefs or proclivities that Mr. Pryor or anybody else holds prevent him from meeting the responsibilities of the office. The question is about his beliefs and no one else's. By affixing a label to the question and generalizing the issue, the legitimate business of the Senate Judiciary Committee was catapulted onto the other side of that carefully surveyed boundary. And lest you think the fault lies only on one side, the subsequent responses of opposing senators are a good indication of the reason we rely on articulated rules in our society and not good will.

It is time to return to the tradition of Washington and Jefferson and survey again that necessary boundary. And once it has been reestablished, then it behooves both the Senators and the nominees they examine to respect the values on which this country was founded.

Rev. GADDY. Now I'll recognize Father Robert Drinan.

Father ROBERT DRINAN. In the Constitution of Massachusetts there's a beautiful sentence about how judges are supposed to be picked. Judges shall be selected from those ''who are as impartial as the lot of humanity will allow.'' Isn't that a nice theological thing; we're all corrupted, ''as the lot of humanity will allow.'' And in the Constitution of the United States there's only one reference to religion, and it's very pertinent this morning, Article six says ''No religious test shall ever be applied for public office''

Consequently, when we're thinking about what we are trying to decide or think about in the Senate, we must remember the shades of Justice Brandeis. You recall that his confirmation was delayed, they never said openly that he would be the first Jew but it was always there, and I said that shame as a leader of the Americana Bar Association that the ABA opposed Justice Brandeis, and underneath, it was his religion.

I have here the full hearing on this man who desires to be a judge, and if you read it in full you'd say that the Senate is fully entitled to exercise its constitutional privilege. They have to give advice and consent. Advice and consent. They have broad discretion. And if they think he wouldn't be impartial, that he wouldn't be a good judge, they are fully entitled to say no. And during the centuries the Senate has said no to too many of the president's nominees.

What shall we say about this individual? You can read it for yourself. He lacks judicial temperament, in my view. He's so scalding and so one-sided. He believes in school prayer. He called the Supreme Court ''nine octogenarian lawyers,'' and at 41 he's a hard-charging conservative activist, and the senators are quite able, under their powers, to say ''we don't think that he is appropriate.'' Mr. Pryor is negative on Section Five of the Voting Rights Act, and has clashed with the Justice Department, so let's take a hypo. Law professors love hypos. Suppose there was a group of Catholics and non-Catholics in this country, who would say that Mr. Pryor is very much in favor of the death penalty and that comes from his religion. Well, it wouldn't be on solid ground, because the Pope has opposed the death penalty, the Catholic catechism and the Catholic bishops with unusual activity and vigor have opposed the death penalty in any form.

Mr. Pryor defies all of that. Should we say he's a bad Catholic? And I would say that if people use that and his faith saying that he's defying the Church, that would be an appropriate reason to vote no. They have to vote yes or no according to what the Constitution says, and it seems to me that the Senate has many, many reason to say that this individual is not ready or he's not appropriate. They could easily find, they could easily say, in the words of the Massachusetts Constitution, that he is not 'as impartial as the lot of humanity will allow.''

Rev. GADDY. Now Reverend Carton Veazey.

The Rev. CARLTON VEAZEY. Thank you, Dr. Gaddy. Thank you also, Senator DURBIN and Senator LEAHY, for sharing this time. I'm Reverend Carlton Veazey, President of the Religious Coalition for Reproductive Choice, founded in 1973 as a result of the Roe v. Wade decision. We have over forty religious organizations and denominations in our coalition. We represent over 20 million people. But I'm not here to talk about choice. I'm here to talk about religious freedom. Because that is the issue, and that is what we in the coalition strongly believe. Because we are diverse, and all of our denominations, we all agree on a woman's right to choose, but we also understand that we have different theological positions as relates to that issue, and that is the strength of our coalition.

The Religious Coalition was founded 30 years ago. Men of faith, and who are pro-faith, we work together in harmony because we respect each other's beliefs. We don't hold the same view about abortion rights, but we all agree that this is a matter of conscience and belief. In this pluralistic nation, we agree to respect different views and decisions. The nominee's pronouncements on reproductive choice show no understanding of the pluralism that makes this nation great. He's not unqualified for the bench because of his religion, but because of some views that he lacks judicial temperament, and it's shown he would impose his personal views regardless of the law, and does not respect the basic principle of religious freedom on which this nation was founded.

Conservatives are arguing that there is a religious litmus test about abortion rights and that determines who gets appointed and who does not. That's nonsense. There is no correct position. Catholics and people of all religions have different views on abortion, as the organization Catholics for Free Choice, which is a part of our coalition. Many Catholics disagree with the church's stance, and many Catholics practice birth control and have abortions. But the main thing is to understand that religion has no place in making this decision. These senators, who have tried so courageously to protect that, to protect us from becoming a theocratic government, to protect us from just one view.

Catholics today have the freedom to exercise prudential judgment, and to decide how best to interpret the range of teachings and principles contained in the Catholic canon, as Father Drinan pointed out. Thus some Catholics believe that abortion, while a serious moral issue, should not be illegal, while others believe that the taking of human life in war or capital punishment is morally evincible, in spite of Papal pronouncements against both.

I was interested in Dr. Gaddy when he talked about Baptists. I'm a Baptist; I was trying to measure myself up and see what kind of Baptist. I have become a better Baptist since the time that you were talking about them. But the thing is, that there is no ''good Baptist'' or ''bad Baptist.'' There is no ''Baptist position.'' There's no ''Baptist position.'' That's why you have, and I respect them for what they believe, but on the other hand that's not my position. I am not a Southern Baptist. Sometimes I don't know if I'm a Northern Baptist. Because the basic principle and tenet of the Baptist faith is that we have autonomy to believe in the way we understand God and understand our religious principles. So what I'm saying today is that simply, as it's been stated before, that no one should have a litmus test on their religion. I think he should be judged on his qualifications or her qualifications, and that alone. So the Religious Coalition wanted to come and to stand with you, to say that we also believe that you are doing the courageous thing and protecting religious freedom in our country. Thank you very much.

Rev. GADDY. The retired Bishop Pro Tempore of the Episcopal Diocese in Washington is also one who has served as chair of the board of The Interfaith Alliance, Bishop Jane Holmes Dixon, we are eager to hear you.

The Right Rev. JANE HOLMES DIXON. Good morning. It is a pleasure to be here with all of you this morning. I am the Right Reverend Jane Holmes Dixon, Immediate Past President of the Interfaith Alliance and the recently retired Bishop of the Episcopal Diocese of Washington, Pro tempore.

Before I begin my remarks, I would like to thank Senator Leahy for understanding the grave importance of why this discussion today is not only crucial for the future of the judicial nominations process, but in fact, a necessary reflection on the state of our democracy for all of us gathered here: religious leaders, elected officials, those who seek to serve the nation by entering into civil service, and finally, the countless people of this nation who are brought up to believe that any citizen, no matter what your gender, race or religion, will have an equal opportunity to serve this country, and will have the right to be treated equally under the law. The First Amendment of our Constitution—through its wise and steadfast guarantee that the government of the United States shall make no law to establish a religion and guarantees that it will not interfere with the free exercise of religion—expects nothing less than the religious freedom and liberty that this provides.

I believe that I speak for many when I say that last week's hearing of Alabama Attorney General Bill Pryor did not reflect well on the religious health of our nation and the guarantees of our Constitution.

Last week's hearing, a hearing that put on the record certain Senators defining what is true Catholicism—including even references to Rome—and other Senators having to defend their opposition to a nominee against charges of being anti-Catholic—was nothing short of a travesty and a major step back for interfaith relations in this nation. This becomes more troubling given the fact that there are indeed Roman Catholics on this committee who, according to their own remarks before the committee, consider themselves to be devout.

Not only must those who are nominated to become judges respect religious pluralism, equally important, those who are charged with confirming judges must respect the fact that within denominations there remains a wide spectrum of people who all hold varied beliefs. And they are all equally worthy of respect.

Senators do have an obligation to determine whether a judicial nominee will in fact respect those of all religious beliefs and those citizens amongst us who practice no religion at all. It is fair to ascertain whether a nominee will deliver justice based upon the Constitution of the United States—a document that unites us all and binds us together under a common law—or religious doctrine and sacred texts that were written for those who specifically subscribe to one religious tenet over another. This becomes more necessary when a nominee or his or her supporters take the unfortunate and even dangerous step of couching the nominee's positions on law and justice in terms of abiding by one faith tradition over another.

I am deeply disappointed that those charged with confirming nominees to serve the federal judiciary and thus the millions of Americans who will depend on those confirmed to uphold the concept of blind justice, would deploy the strategy of playing one religion against another—equating honest differences of opinion with being anti-religion. Whether it is anti-Catholic, anti-Baptist, anti-Sikh, anti-Jew, or anti-Muslim, this kind of divisive politics has no place in the Congress of the United States, period. We are a people who are free to choose how and when we worship.

Mr. LEAHY. I see the Senator from New York. How much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 16 minutes 10 seconds.

Mr. LEAHY. I yield 6 minutes to the Senator from New York.

The PRESIDENT pro tempore. The Senator from New York is recognized for 6 minutes.

Mr. SCHUMER. Mr. President, first let me thank our colleague from Vermont for his heartfelt leadership on this issue. Every one of us knows how much he cares about these issues and how these charges—''charges'' is too dignified a word—these scurrilous attacks have gotten to him and moved him. We very much appreciate his integrity and courage and strength on these issues.

I rise in strong opposition to the Pryor nomination. This is a nomination where there are three strikes and you are out; three strikes against Mr. Pryor and he is out.

First, he is the most extreme nominee we have been asked to support. Second, there are questions about his credibility before the committee. And, third, the committee rules were violated to bring Mr. Pryor to the floor. So three strikes and Mr. Pryor is out.

Let me talk about each of the three briefly. First on extremism. This man is not a mainstream conservative. On issue after issue, he is in the most militant, hard, out-of-the-mainstream position, more than any judge. His views are an unfortunate stitching together of the worst parts of the most troubling nominees we have seen thus far.

He is not just out of the mainstream and extreme on one subject, he is extreme on almost everything. In a sense, he is the Frankenstein nominee, a stitching together of the worst parts of the worst nominees the President has sent us.

I will leave the issue of choice aside, other than to say that of the 120 judges I have voted for, the overwhelming majority were pro-life. So anyone on the other side who accuses anyone on this side of having a litmus test is just flying in the face of truth and honor and decency.

But what about other issues? He was the only attorney general who filed a brief to overturn parts of the Violence Against Women Act, a brief that went too far even for Justice Scalia—1 of 50. He was the only attorney general who ever supported Federal intervention in the States in Bush v. Gore.

He has voted to undermine the Clean Water Act. He has voted on issue after issue to turn the clock way back. On criminal justice issues, where I tend to side with my Republican colleagues at least as often as I side with my friends on the Democratic side, even here, he is way off the deep end.

He defended his State's practice of handcuffing prisoners to hitching posts in the hot Alabama sun for 7 hours without even giving them a drop of water to drink. And then, when the Supreme Court held this violated the 8th amendment, he criticized that decision.

His language is intemperate. He said he prayed to God that there would be no more Souters. This is not somebody we should elevate to this important part of the bench. He is way off the deep end. He is extreme in the extreme.

On this investigation, someone came forward after the nominee was questioned by my colleagues from Massachusetts and Wisconsin on the issue of this organization that raised money.

I don't like the system by which we raise money. But we should not hold Mr. Pryor to a different standard than seems to be all around the country. It isn't the raising of the money that bothers me. But when asked questions about it, there are eight statements he made that are highly suspect that are contradicted by documents sent to the committee. That doesn't mean he lied, but it means we ought to look into it because there is a possibility he did. We have not been able to complete that investigation.

To send this nominee to the bench whose credibility is in some suspicion—not proven certainly; he may be exonerated—is wrong and unfair. And it is a rush to judgment. I pled with my colleagues: Why can't we wait until this investigation is over and get the true facts? Maybe they are afraid of the answers because there has been a rush to judgment here. There is no danger to the Republic if we wait until September. Let the investigation finish, and then proceed with Mr. Pryor's nomination.

That is the second strike.

First, extreme; second, may not have been truthful with the committee; and then, the third—despite the promises of my good friend on the Judiciary Committee—we have violated rule 4 again.

This side of the aisle will not allow the rules of this body to be tampered with, and if for no other reason we will not proceed with Mr. Pryor's nomination today, and we will get overwhelming support on our side because the rules of the committee have been steamrolled at the whim of my good friend, the chairman. That is wrong.

That is the third strike. He is out.

One final point I would like to make. I am sorry my time is limited.

The argument about Mr. Pryor's religious background and discrimination—I am not going to get into Catholic doctrine. I will leave that to far better judges.

I ask unanimous consent for 2 additional minutes.

Mr. LEAHY. Yes.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator may proceed.

Mr. SCHUMER. I thank the ranking member and the Chair.

I am not going to get into Catholic doctrine. That is not my bailiwick, that is for sure. But let me say to my colleagues in a heartfelt way that you are good people. But the arguments you are using are the last refuge of scoundrels. You are not scoundrels. But the arguments you are using are debasing of our society and this Chamber. They are hits below the belt. You ought to be ashamed of using arguments like that.

When we had Mr. Estrada, we were accused of being anti-Hispanic. When

we had Mr. Pickering, we were accused of being anti-Baptist. When we had Priscilla Owen, we are accused of being anti-women. And now, of course, anti-Catholic with Mr. Pryor.

These arguments are the last refuge of scoundrels.

Again, my colleagues are not scoundrels, but the arguments they are using are, and they ought to look into their hearts before they use such arguments again. They are cheap. As my colleague said, they represent religious McCarthyism. And one comes to think on this side—and I think most Americans think—they cannot win on the merits, and so they do below-the-belt shots.

Every single nominee who comes up—it is not debating whether that nominee deserves to be on the bench but, rather, someone is attacking him or her because of their religion, because of their gender, or because of their ethnicity. We have gone further than that in this wonderful country of ours. Argue on the merits, not in these cheap and vulgar arguments which demean people who use them and won't prevail.

I will tell my colleagues this. Those arguments—I will tell this to Mr. Boyden Gray, and all the others as well whom my colleague from Illinois did such a good job with on television last night—those arguments strengthen resolve. They make us certain that we were right because we say to ourselves: They can't win on the merits; try below-the-belt shots.

The PRESIDING OFFICER. The Senator has used his additional time.

Mr. SCHUMER. I yield my time to the Senator from Vermont.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

UNANIMOUS CONSENT REQUEST—AMENDING STANDING RULES

Mr. LEAHY. Madam President, I alerted the distinguished Senate floor manager on this matter.

I send a resolution to the desk on behalf of myself and Senator DURBIN. The resolution says that in any proceeding of a committee considering a nomination made by the President to the U.S. Senate, it shall not be in order to ask any question of the nominee relating to the religious affiliation of the nominee.

With that, Madam President, I send a resolution to the desk to amend the Standing Rules of the Senate to provide that it is not in order in a committee to ask questions regarding a Presidential nominee's religious affiliation.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution amending the Standing Rules of the Senate to provide that it is not in order in a committee to ask questions regarding a Presidential nominee's religious affiliation.

Mr. LEAHY. Madam President, I ask unanimous consent for its immediate consideration; that the resolution be considered and agreed to, and the motion to reconsider be laid upon the table.

Mr. HATCH. Madam President, reserving the right to object—and I will object—let me make clear that when the issue of religion is raised, as it has been in the Pryor matter, and we think improperly so, and it seems to be continuously raised in some of these issues before the Judiciary Committee with various nominees—there are questions or statements like this: One Senator accused Attorney General Pryor of——

Mr. REID. Regular order.

Mr. HATCH. —''asserting an agenda of religious belief of your own.'' As long as those types of questions are going to be asked, I am going to have to object.

The PRESIDING OFFICER. Regular order has been called for.

Mr. HATCH. Then I object under those circumstances.

Mr. REID. Regular order.

The PRESIDING OFFICER. Objection is heard.

The resolution will go over 1 day under rule 14.

Who yields time?

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

The PRESIDING OFFICER. There are 4 minutes 52 seconds remaining.

Mr. LEAHY. I yield 4 minutes to my distinguished friend from Illinois who, incidentally, gave one of the finest speeches I ever heard last night on the Senate floor.

Mr. DURBIN. I thank the Senator from Vermont.

Madam President, I rise this morning in continuation of the debate which occurred last night. What has just occurred on the floor of the United States Senate is troubling. An attempt was made by the Senator from Vermont in which I joined to make it clear that no nominee of a President who appears before a committee of the Senate would ever be asked questions related to his or her religious affiliation.

This clear statement of constitutional principle was just rejected by the Republican chairman of the Senate Judiciary Committee. I don't understand that.

If we truly want to take religion out of this debate, if we want the debate to be confined to political beliefs and not a person's creed, why does the Republican chairman of the Senate Judiciary Committee object? I think the answer is obvious.

What we have seen in the William Pryor nomination is an attempt to use religion as a defense. It is almost part of the art of magic. How do you pull off a magic trick? You divert the attention of the audience to something else while you move your hand in another direction. In this case, what the Republicans are trying to do is to divert our attention from the radical political beliefs of William Pryor by saying that the real issue isn't politics; it is his Catholic faith. Frankly, that is not only an unfair argument. It is inaccurate.

Time and again, the Judiciary committee has approved President Bush's nominees for the Federal bench who have been Catholic, who have been pro-life, and, frankly, who have taken positions with which most of the Democratic members of the committee disagree. But in this case, despite the fact that William Pryor has reached a new level as a nominee in terms of his radical views and his experience, we are being accused of discriminating against him because of his religion.

The record will show that it was the Republican chairman of the committee who asked that William Pryor's religious affiliation be made part of the record. It was the chairman of the committee who used that important and now code phrase, ''deeply held religious beliefs,'' on more than one occasion. The record will also show that many of us who have questioned the background of William Pryor never raised his religion as an issue, nor should we.

I have listened to this debate on the floor of the Senate and in the Senate Judiciary Committee, and it troubles me greatly to think this body would now ignore the clear instruction and guidance of the U.S. Constitution, which says, in Article VI, that ''no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.''

I would warn my colleagues on the other side of the aisle that there is a strong sentiment in America that each of us should have the freedom to follow the religion of our conscience, that no one should ever be dictated to by this Government or any government as to their religious belief. And those who attempt to exploit religion to achieve political goals will, frankly, never be favored in this country, nor should they. That is what is at issue here. And for them to raise this as somehow a condemnation of William Pryor's religion, is troubling. C. Boyden Gray, former counsel to President Bush's father, last night on television said, although he was an Episcopalian in his own personal religious belief, he did not feel any problem running these ads suggesting about what a good Catholic believes.

We have had the same thing in the committee. Members of the committee who are not members of the Catholic faith have been professing theology.

Late last night, I spoke on the Floor to explain my deep disappointment about the debate in the Judiciary Committee surrounding the nomination of William Pryor.

That negative discourse has now spilled over to the floor of the U.S. Senate and in the advertisements placed in our Nation's newspapers and on radio airwaves.

I never thought that we would ever be in the position that we find ourselves in today where members of this chamber are debating some of the most

well settled and fundamental premises upon which our great Nation was founded.

Freedom from religious persecution is one of the pillars upon which our Nation and its Constitution rest, and there should be no debate about it.

In fact, our Founding Fathers thought it necessary to encapsulate that concept into the very text of the Constitution itself, in clause 3 of article VI.

That clause reads:

. . . no religious test shall ever be required as a qualification to any office or public trust under the United States.

It was General Charles Pinckney of South Carolina who, on August 20, 1787, introduced the provision at the Federal Convention that ultimately became part of the Constitution in Article VI. General Pinckney, like many of the pioneers, understood that religion can be abused by governments in divisive ways.

As early as the 17th Century, some Americans such as Roger Williams, expressed their objection to the common practice inherited from England of imposing a religious test for public office. However, by the beginning of the 18th Century, just about every Colony had enacted a law that limited eligibility for public office solely to members of certain denominations.

In Rhode Island, for example, one had to be a Protestant to become eligible for such office. In Pennsylvania, the law required a belief that God was ''the rewarder of the good and punisher of the wicked.'' North Carolina disqualified from office anyone who denied ''the being of God or the truth of the Protestant religion, or the divine authority of either the Old or New Testament.''

The words of Oliver Ellsworth, a landholder who participated in the debates on December 17, 1787, capture the essence of the need for an affirmative prohibition now found in the Constitution. Ellsworth said:

Some very worthy persons . . . have objected against that clause in the constitution which provides, that no religious test shall ever be required as a qualification to any office or public trust under the United States. They have been afraid that this clause is unfavorable to religion. But my countrymen, the sole purpose and effect of it is to exclude persecution and to secure to you the important right of religious liberty. We are almost the only people in the world, who have a full enjoyment of the important right of human nature. In our country every man has a right to worship God in that way which is most agreeable to his conscience.

This morning, I am uncomfortable in offering this Resolution with my respected colleague, the Senator from Vermont and ranking member of the Senate Judiciary Committee, because I believe the rule change we seek with this Resolution should never be needed in a Chamber where every Member has sworn to uphold and defend the Constitution.

Yet events of the past few weeks compel us to act today.

Our resolution would simply state that it is the rule of the Senate to prohibit the questioning by any Senator of a presidential nominee's religious affiliation. The rule would thus require us to carry out in practice the wise admonitions of our Founding Fathers.

I hope my colleagues will join Senator LEAHY and me in adopting this resolution.

The PRESIDING OFFICER. The Senator has used 4 minutes.

Mr. DURBIN. Madam President, I hope colleagues will join me in opposing this nomination.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I would like to speak about the meeting earlier this week with the Interfaith Alliance where they—Catholics, Protestants, and Jews—condemned the activities of having any Member of the Senate ask somebody their religion in a Senate meeting.

A few days ago we heard from a distinguished group of members of the clergy from a variety of churches and synagogues who serve as members of the Interfaith Alliance. The Alliance is a national, grassroots, non-partisan, faith-based organization of 150,000 members who come from over 65 religious traditions. These men and women of faith promote the positive and healing role of religion in public life, and challenges all who seek to manipulate or otherwise abuse religion for sectarian or partisan political purposes. They came to the United States Capitol to denounce the despicable charges made against Senators, and to urge, as many of us have, that this involvement of religion in the confirmation process come to an end. I would like to enter into the record the statements of some of the participants in the event where the Alliance's members came together for that purpose.

Specifically, I would like to have printed in the RECORD the remarks of Rev. Dr. C. Welton Gaddy, the President of the Interfaith Alliance, the remarks of Rabbi Jack Moline, the Vice-chair of the Alliance, and the remarks of the Right Reverend Jane Holmes Dixon, the Immediate Past President of the Alliance. These statements are moving and persuasive and important. I would hope that my Republican colleagues would read them and take them to heart.

The demagoguery, divisive and partisan politics being so cynically used by supporters of the President's most extreme judicial nominees needs to stop.

I ask unanimous consent to have those remarks by clergy printed in the RECORD.

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

(From Hill Briefing, July 29, 2003)

(Remarks by Rev. Dr. C. Welton Gaddy)

RELIGION AND THE SENATE JUDICIARY HEARING

Good morning. Welcome to this Press and Hill Staff Briefing. My name is Welton Gaddy. I serve as President of the Interfaith Alliance, a national, grassroots, non-partisan, faith-based organization of 150,000 members who come from over 65 different religious traditions. The Interfaith Alliance promotes the positive and healing role of religion in public life and challenges all who seek to manipulate or otherwise abuse religion for sectarian or partisan political purposes.

Last Wednesday, the Senate Judiciary Committee's discussion on William Pryor's nomination to the 11th Circuit Court of Appeals in Atlanta deteriorated into a dramatic demonstration of the inappropriate intermingling of religion and politics that raised serious concerns about the constitutionally guaranteed separation of the institutions of religion and government. Such a meshing of religion and politics in the rhetoric of the Senate Judiciary Committee cheapens religion and diminishes the recognized authority of the Committee to speak on matters constitutionality. The debate of that day, though alarming and disturbing, has created a teachable moment in which we will do well to look again at the appropriate role of religion in such a debate. That is why we are here this morning.

Religion plays a vital role in the life of our Nation. Many people enter politics motivated by religious convictions regarding the importance of public service. Religious values inform an appropriate patriotism and inspire political action. But a person's religious identity should stand outside the purview of inquiry related to a judicial nominee's suitability for confirmation. The Constitution is clear: there shall be no religious test for public service.

Within a partisan political debate, it is out of bounds for anyone to pursue a strategy of establishing the religious identity of a judicial nominee to create divisive partisanship. That, too, is an egregious misuse of religion and a violation of the spirit of the constitution. Even to hint that a judiciary committee member's opposition to a judicial nomination is based on the nominee's religion is cause for alarm. How did we get here?

In recent years, some religious as well as political leaders have advanced the theory that the authenticity of a person's religion can be determined by that person's support for a specific social-political agenda. So severe has been the application of this approach to defining religious integrity that divergence from an endorsement of any one issue or set of issues can lead to charges of one not being a ''good'' person of faith.

The relevance of religion to deliberations of the Judiciary Committee should be twofold: one, a concern that every judicial nominee embraces by word and example the religious liberty clause in the constitution that protects the rich religious pluralism that characterizes this nation and, two, a concern that no candidate for the judiciary embraces an intention of using that position to establish a particular religion or religious doctrine. In other words the issue is not religion but the constitution. Religion is a matter of concern only as it relates to support for the constitution.

Make no mistake about it, there are people in this nation who would use the structures of government to establish their particular religion as the official religion of the nation. There are those who would use the legislative and judicial processes to turn the social-moral agenda of their personal sectarian commitment into the general law of the land. The Senate Judiciary Committee has an obligation to serve as a watchdog that sounds no uncertain warning when such a philosophy seeks endorsement within the judiciary.

It is wrong to establish the identity of a person's religion as a strategy for advancing

or defeating that person's nomination for a judgeship. However, it is permissible, even obligatory, to inquire about how a person's religion impacts that person's decisions about upholding the constitution and evaluating legislation. When a candidate for a federal bench has said, as did the candidate under consideration last Wednesday, in an address in the town in which I pastor, ''our political system seems to have lost God'' and declares that the ''political system must remain rooted in a Judeo-Christian perspective of the nature of government and the nature of man,'' there is plenty for this Committee to question.

Every candidate coming before this Committee should be guaranteed confirmation or disqualification apart from the candidate's religious identity as a Baptist, a Catholic, a Buddhist or a person without religious identification. What is important here is a candidate's pledge to defend the constitution. And, that pledge should be buttressed by a record of words and actions aimed not at attacking the very religious pluralism that the candidate is being asked to defend but rather to continuing a commitment to the highest law of the land.

I felt grimy after listening to distinctions between a ''good Catholic'' and ''bad Catholic.'' I know that language; I heard it in the church of my childhood where we defined a ''good Baptist'' as one who tithed to the church, didn't smoke, didn't dance and attended church meetings on Sunday evening and a ''bad Baptist'' as one who didn't fit that profile. The distinctions had nothing to do with the essence of the Christian tradition and the content of Baptist principles. It is not a debate that is appropriate or necessary in the Chamber of the United States Senate.

The United States is the most religiously pluralistic nation on earth. The Interfaith Alliance speaks regularly in commendation of ''One Nation—Many Faiths.'' For the sake of the stability of this nation, the vitality of religion in this nation, and the integrity of the Constitution, we have to get this matter right. Yes, religion is important. Discussions of religion are not out of place in the judiciary committee or any public office. But evaluations of candidates for public office on the basis of religion are wrong and there should be no question that considerations of candidates who would alter the political landscape of America by using the judiciary to turn sectarian values into public laws should end in rejection.

The crucial line of questioning should revolve not around the issue of the candidate's personal religion but of the candidate's support for this nation's vision of the role of religion. If the door to the judiciary must have a sign posted on it, let the sign read that those who would pursue the development of a nation opposed to religion or committed to a theocracy rather than a democracy need not apply.

In 1960, then presidential candidate John F. Kennedy addressed the specific matter of Catholicism with surgical precision and political wisdom, stating that the issue was not what kind of church he believed in but what kind of America he believed in. John F. Kennedy left no doubt about that belief: ''I believe in an America where the separation of church and state is absolute.'' Kennedy pledged to address issues of conscience out of a focus on the national interest not out of adherence to the dictates of one religion. He confessed that if at any point a conflict arose between his responsibility to defend the constitution and the dictates of his religion, he would resign from public office. No less a commitment to religious liberty should be acceptable by any judicial nominee or by members of the Senate Judiciary Committee who recommend for confirmation to the bench persons charged with defending the Constitution.

STATEMENT OF RABBI JACK MOLINE, OF THE INTERFAITH ALLIANCE

(July 29, 2003)

I am Rabbi Jack Moline, Vice-chair at-large of The Interfaith Alliance. I am also on the back end of a summer cold, so please forgive the huskiness of my voice.

The father of our country, George Washington, was a surveyor by trade. Part of his duties included the determination of exactly where the property of one owner left off and the other owner began. You might wonder what possible difference a few inches, even a few feet in either direction would make to a farmer with acres of land. But Washington knew as we all know that crops do not grow only in the center of a field, and that cattle do not graze only a distance from the fence, and that injuries do not always occur close to the barn. Good surveying produces good boundaries. And good boundaries keep good neighbors from unnecessary conflict.

As a rabbi, I have studied similar boundary issues in the Talmud. Entire sections are taken up discussing the boundaries between properties, between businesses, between Sabbath and weekdays, between the holy and the profane. Violating those boundaries throws a system into turmoil. Preserving them avoids unnecessary conflict.

We Americans have become experts in testing boundaries. You can make your own list of the boundaries we have tried to survey, and where we have been successful and where we have not. In culture, in business, in public policy and in politics, the lines that separate one domain from another have been confronted by those who wish to preserve them and by those who wish to redraw them.

When the Bill of Rights of our Constitution established what Thomas Jefferson wisely called the wall of separation between church and state, it created a two-hundred-year-old tradition of surveying that boundary, trying to find the exact place to keep good neighbors from unnecessary conflict.

The Senate Judiciary Committee failed in their latest attempt last week when Alabama Attorney General William Pryor, nominee for a Federal judgeship, was asked by a supporting Senator about his religious affiliation. The result, as you have seen, was an unnecessary conflict between good neighbors. In fact, we are counting our blessings that the Capitol Police were not called to intervene in the ensuing arguments.

The religious beliefs of a nominee are relevant only to the extent that they interfere with his or her ability to support and defend the Constitution of the United States. Frankly, I would be alarmed to see the influences of religious conviction expunged from any aspect of American government. And I think it is entirely relevant to ask any candidate for the executive, legislative or judiciary if personal convictions would interfere with the ability to support and defend the Constitution and its resultant laws as they exist today.

Frankly, that is the relevant quesion—not a question of affiliation. Do the values, beliefs or proclivities that Mr. Pryor or anybody else holds prevent him from meeting the responsibilities of the office. The question is about his beliefs and no one else's. By affixing a label to the question and generalizing the issue, the legitimate business of the Senate Judiciary Committee was catapulted onto the other side of that carefully surveyed boundary. And lest you think the fault lies only on one side, the subsequent responses of opposing Senators are a good indication of the reason we rely on articulated rules in our society and not good will.

It is time to return to the tradition of Washington and Jefferson and survey again that necessary boundary. And once it has been reestablished, then it behooves both the Senators and the nominees they examine to respect the values on which this country was founded.

REMARKS OF THE RIGHT REVEREND JANE HOLMES DIXON

(July 29, 2003)

Good morning. It is a pleasure to be here with all of you this morning. I am the Right Reverend Jane Holmes Dixon, Immediate Past President of The Interfaith Alliance and the recently retired Bishop of the Episcopal Diocese of Washington, Pro tempore.

Before I begin my remarks, I would like to thank Senator LEAHY for understanding the grave importance of why this discussion today is not only crucial for the future of the judicial nominations process, but in fact, a necessary reflection on the state of our democracy for all of us gathered here: religious leaders, elected officials, those who seek to serve the nation by entering into civil service, and finally, the countless people of this Nation who are brought up to believe that any citizen, no matter what your gender, race or religion, will have an equal opportunity to serve this country, and will have the right to be treated equally under the law. The First Amendment of our Constitution—through its wise and steadfast guarantee that the government of the United States shall make no law to establish a religion and guarantees that it will not interfere with the free exercise of religion—expects nothing less than the religious freedom and liberty that this provides.

I believe that I speak for many when I say that last week's hearing of Alabama Attorney General Bill Pryor did not reflect well on the religious health of our nation and the guarantees of our Constitution.

Last week's hearing, a hearing that put on the record certain Senators defining what is true Catholicism—including even references to Rome—and other Senators having to defend their opposition to a nominee against charges of being anti-Catholic—was nothing short of a travesty and a major step back for interfaith relations in this nation. This becomes more troubling given the fact that there are indeed Roman Catholics on this committee who, according to their own remarks before the committee, consider themselves to be devout.

Not only must those who are nominated to become judges respect religious pluralism, equally important, those who are charged with confirming judges must respect the fact that within denominations there remains a wide spectrum of people who all hold varied beliefs. And they are all equally worthy of respect.

Senators do have an obligation to determine whether a judicial nominee will in fact respect those of all religious beliefs and those citizens amongst us who practice no religion at all. It is fair to ascertain whether a nominee will deliver justice based upon the Constitution of the United States—a document that unites us all and binds us together under a common law—or religious doctrine and sacred texts that were written for those who specifically subscribe to one religious tenet over another. This becomes more necessary when a nominee or his or her supporters take the unfortunate and even dangerous step of couching the nominee's positions on law and justice in terms of abiding by one faith tradition over another.

I am deeply disappointed that those charged with confirming nominees to serve the federal judiciary and thus the millions of Americans who will depend on those confirmed to uphold the concept of blind justice,

would deploy the strategy of playing one religion against another—equating honest differences of opinion with being anti-religion. Whether it is anti-Catholic, anti-Baptist, anti-Sikh, anti-Jew, or anti-Muslim, this kind of divisive politics has no place in the Congress of the United States, period. We are a people who are free to choose how and when we worship.

The PRESIDING OFFICER. The Senator from Utah controls the remainder of the time.

The Senator from Utah.

Mr. HATCH. Madam President, I have been listening to this. I have to tell you, it is apparent that my friends on the other side who are stung a little bit by this. They should be. They should be. Naturally, they don't want religion mentioned because they are referring to it all the time, and it is almost always in the context of abortion.

Almost every question that Democrats ask those whom they consider controversial nominees is about abortion. Naturally, they cannot do that to every nominee, even though I believe some of them would like to. So they are selective in choosing certain nominees who have deeply held religious beliefs.

But let me just give you a few examples of why I am convinced General Pryor's religion was put squarely at issue during his hearing, and why, at the end of the hearing, I brought up the issue of religion—because I was sick and tired of hearing this kind of stuff, because when Democrats were questioning his deeply held beliefs, they really were questioning his religious beliefs.

One Senator—I believe it was Senator DURBIN from Illinois—accused General Pryor, during the hearing, of ''asserting an agenda of your own, a religious belief of your own. . . .''

In his opening statement, Senator SCHUMER stated:

> [I]n General Pryor's case his beliefs are so well known, so deeply held, that it is very hard to believe, very hard to believe that they are not going to deeply influence the way he comes about saying, ''I will follow the law.'' And that would be true of anybody who had very, very deeply held views.

I think he had a right to say that, but the point is, there isn't anybody who doesn't understand, when you talk about deeply held views, what those are are religious beliefs. If they don't understand it, then they—well, I will not comment about that.

At another point, on the subject of Roe v. Wade—which came up in almost every question to Pryor from a Democratic questioner—Senator SCHUMER said:

> I for one believe that a judge can be pro-life, yet be fair, balanced, and uphold a woman's right to choose, but for a judge to set aside his or her personal view, the commitment to the rule of law must clearly supersede his or her personal agenda. . . . But based on the comments Attorney General Pryor has made on this subject, I have got some real concerns that he cannot, because he feels these views so deeply and so passionately.

There is only one reason he feels those views so deeply and passionately, and that is because of his religion and his religious beliefs. He is a traditional, conservative pro-life Catholic. I don't think my colleagues are against the Catholic Church, but it sure seems as if they are against the traditional pro-life conservative Catholic—on a selective basis, of course, because they cannot do this to everybody.

Another Senator told General Pryor:

> . . . I think the very legitimate issue in question with your nomination is whether you have an agenda, that many of the positions which you have taken reflect not just an advocacy but a very deeply held view and a philosophy, which you are entitled to have, but you are also not entitled to get everyone's vote.

General Pryor is an openly pro-life Catholic. To me, these questions and comments about his deeply held personal views put his religious beliefs squarely in issue.

Some Democrats say that they have, generally, voted to confirm about 140 of President Bush's judicial nominees. And they say some may have been pro-life Catholics, so our charges that they refuse to confirm pro-life Catholics are baseless. But here's what they're really saying: if you're a pro-life Catholic, you'd better keep quiet during your entire legal or political career before you come before us on the Judiciary Committee, because if you have made public statements that indicate you actually believe in official Catholic doctrine or are actually pro-life, that's when you are in real trouble with us. If you are smart, you will keep your religious beliefs to yourself, and maybe we won't ask about them directly or indirectly. So at best, what some Democrats seem to want is a gag order enforced on nominees who have publicly espoused pro-life positions, even in the context of political campaigns. At worse, maybe some would rather that those publicly profess pro-life sentiments be excluded from public service—certainly service on the federal bench—altogether.

Let's assume that, as various polls seem to show, the American people are roughly equally divided on the policy questions regarding abortion. There's no question that tens of millions of Catholics, following the official doctrine of the church, and millions of other religious believers of all denominations in this country are on the pro-life side of that divide. An abortion litmus test—which is really a religious litmus test, where pro-life views arise from a person's faith—effectively excludes judicial nominees from that side, from service on the Federal bench. That is wrong, particularly in the case of Bill Pryor, whose record of subordinating his personal beliefs to the law could not be clearer, and who, like Justice Owen, affirmed to our Committee that he would follow Roe v. Wade and other Supreme Court precedents with which he personally disagrees. He understands his role as a federal judge. It's time we act on a proper understanding of our role as Senators and vote for or against his confirmation.

We know that our Constitution prohibits religious tests for public office. Nobody would propose a law that excluded persons of certain religions from certain federal offices. But what can't be done overtly is no less objectionable when done indirectly.

Article VI of the Constitution states, ''[N]o religious test shall ever be required as a qualification to any office or public trust under the United States.'' I do not believe that any Senator would intentionally impose a religious test on the President's judicial nominees, and I do not think any Senators are guilty of anti-religion bias. However, I am deeply concerned that some are indirectly putting at issue the religious beliefs of several judicial nominees—nominees who are avowedly pro-life as a result of their religious beliefs.

The most recent example emerged during the debate on the nomination of Bill Pryor to the Eleventh Circuit. During his confirmation hearing, General Pryor was asked repeatedly by some Committee Democrats about what one senator called his ''very, very deeply held views.'' In fact, in the portion of his opening statement addressing Roe v. Wade, one of my Democratic colleagues on the judiciary Committee stated

> I for one believe that a judge can be pro-life, yet be fair, balanced, and uphold a woman's right to choose, but for a judge to set aside his or her personal view, the commitment to the rule of law must clearly supersede his or her personal agenda. . . . But based on the comments Attorney General Pryor has made on this subject, I have got some real concerns that he cannot, because he feels these views so deeply and so passionately.

Another Senator accused General Pryor during the hearing of ''asserting an agenda of your own, a religious belief of your own. . . .'' And yet another Senator told General Pryor during the hearing:

> . . . I think the very legitimate issue in question with your nomination is whether you have an agenda, that many of the positions which you have taken reflect not just an advocacy but a very deeply held view and a philosophy, which you are entitled to have, but you are also not entitled to get everyone's vote.

Another colleague remarked:

> Virtually in every area you have extraordinarily strong views which continue and come out in a number of different ways. Your comments about Roe make one believe, could he really, suddenly, move away from those comments and be a judge?

I became concerned after these comments that General Pryor was essentially being questioned about his deeply held religious beliefs, and that is the only reason I myself questioned General Pryor on the subject of religion during his hearing. In my view, it was time to call it like I saw it. But let me make one thing absolutely clear: My questions were an attempt to prevent General Pryor, and any other judicial

nominees, from being subjected to a religious test. In no way, shape or form did I attempt, or would I ever attempt, to impose such a test.

General Pryor is an openly pro-life Catholic, so there is little doubt in my mind about the nature or source of his ''deeply held views.'' He has publicly stated on numerous occasions, including during his confirmation hearing, that he believes abortion is the taking of innocent human life. My colleagues seem to be arguing that because General Pryor feels passionately that abortion is morally wrong and has publicly expressed his views, he will be unable to set aside his personal views on the subject and follow binding Supreme Court precedent as a judge. But General Pryor's record on the subject of abortion is crystal clear and beyond dispute. He has enforced the law despite his publicly expressed and conflicting personal beliefs.

For example, after the Alabama legislature passed a partial-birth abortion ban in 1997, General Pryor issued guidance to state law enforcement officials to ensure that the law was enforced consistent with the Supreme Court's 1992 decision in Planned Parenthood v. Casey. Although there was considerable outcry against his decision from the pro-life community, the ACLU praised General Pryor's decision, emphasizing that his order had ''[s]everly [l]imited'' Alabama's ban. He issued similar guidance after the Supreme Court's 2000 ruling in Stenberg v. Carhart, which struck down another state's ban on partial-birth abortion.

I doubt that any Supreme Court decision could be more personally distasteful to General Pryor than Stenberg v. Carhart. And he specifically said he disagreed with the decision while emphasizing that it was the law and he would enforce it. Can we ask more of a judicial nominee, than to demonstrate such objectivity and enforce a law so at odds with his personal beliefs? I urge my colleagues to judge General Pryor and other pro-life nominees on their record as it relates to abortion and not on the nominees' person beliefs on the subject.

By the way, I am certainly not alone in my concern that the debate over General Pryor's nomination has put his religious beliefs at issue. The Mobile Register in a July 26 editorial wrote that :

. . . the Democrats on the Senate Judiciary Committee have repeatedly asserted that Mr. Pryor would be incapable of enforcing the law . . . That's a serious charge, in effect saying that if somebody believes deeply, because of his religious faith, that abortion is morally wrong, then that person is unfit for a judgeship. But that onus is on the accusers to prove from Bill Pryor's record that he is thus hampered from enforcing the law. Mr. Pryor has much evidence on his side, but where is their evidence to the contrary? . . . To look at that record and still assert, as the Senate Democrats do, that the strength of Mr. Pryor's personal beliefs disqualifies him, is indeed, effectively, to say that his faith makes him ineligible for office. Their stance against him should anger all people of deep faith, of all religions.

In addition, Austin Rusc, President of the Catholic Family & Human Rights Institute, wrote in a letter dated July 29:

''I am deeply troubled by the recent turns of events in the U.S. Senate regarding Catholic nominees to the Federal Court. It appears to me that a faithful Catholic, that is one who upholds the Catholic teaching on the inviolability of innocent human life from conception onward, cannot be confirmed for the Federal bench by this Senate. It very clearly is a religious test for office, and therefore a violation of our Constitution. Moreover, it is an insult to millions of faithful Catholics in this country.

I also received a July 23 letter from the president and three other leaders of the Union of Orthodox Jewish Congregations of America that stated:

As a community of religious believers committed to full engagement with modern American society, we are deeply troubled by those who have implied that a person of faith cannot serve in a high level government post that may raise issues at odds with his or her personal beliefs. There is little question in our minds that this view has been the subtext for some of the criticism of Mr. Pryor. We urge you and your colleagues to empathetically reject this aspersion and send a clear message that such suggestions, whether explicit or implied, are beyond the pale of our politics.

I ask unanimous consent that a copy of the Register editorial be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. HATCH. Any suggestions that a person with deeply held religious beliefs cannot be trusted to follow the law, despite a proven track record of doing just that, is unconstitutional. I will continue to fight any form of religious test, direct or indirect, as long as I am a Member of this Senate. I have stood up for the free exercise of religion time and time again, through such measures as the Religious Freedom Restoration Act. I am proud of my accomplishments, and I will continue in my quest to ensure that the free exercise of religion is a right that remains uncompromised for everyone—including judicial nominees.

I yield the floor.

EXHIBIT 1

[Mobile Register, July 26, 2003]

TO DENIGRATE PRYOR, HOW LOW CAN THEY GO?

On the matter of the judicial nomination of Alabama Attorney General Bill Pryor, it's time for his Democratic opponents to put up or shut up.

When all the smokescreens dissipate, the Senate Democrats' objections to Mr. Pryor come down to two: First, that his pro-life views are too ''extreme'' for him to be trusted to uphold laws that contradict those views, and second, that they have been denied ample time to investigate his fund-raising activities.

Let's take them one at a time. Much has been made of Mr. Pryor's supporters supposedly accusing his opponents of deliberate anti-Catholic bias. But that's not what the supporters have claimed. Instead, they've asserted—quite believably—that the critics' pro-choice litmus test amounts to the kind of ''religious test'' that, whether applied to Catholics (such as Mr. Pryor) or conservative Protestants, or for that matter members of any faith, are explicitly prohibited by the Constitution.

Too Catholic?: It's not merely Catholics who say Bill Pryor's faith is being unfairly used against him. The president and three other leaders of the Orthodox Jewish Union wrote this in a July 23 letter: ''As a community of religious believers committed to full engagement with modern American society, we are deeply troubled by those who have implied that a person of faith cannot serve in a high level government post that may raise issues at odds with his or her personal beliefs. There is little question in our minds that this view has been the subtext for some of the criticism of Mr. Pryor. . . . In our view, Mr. Pryor's record as Alabama's attorney general demonstrates his ability to faithfully enforce the law, even when it may conflict with his personal beliefs.''

Indeed, the Democrats on the Senate Judiciary Committee have repeatedly asserted that Mr. Pryor would be incapable of enforcing the law. Here's Senator Charles Schumer of New York: ''In General Pryor's case his beliefs are so well known, so deeply held, that it is very hard to believe—very hard to believe—that they are not going to deeply influence the way he comes about saying, 'I will follow the law,' and that would be true of anybody who had very, very deeply held views.''

Senator Richard Durbin of Illinois even suggested to Mr. Pryor directly that he was ''asserting an agenda of your own, a religious belief of your own, inconsistent with separation of church and state.''

That's a serious charge, in effect saying that if somebody believes deeply, because of his religious faith, that abortion is morally wrong, then that person is unfit for a judgeship.

But the onus is on the accusers to prove from Bill Pryor's record that he is thus hampered from enforcing the law. Mr. Pryor has much evidence on his side, but where is their evidence to the contrary? The Alabama AG, after all, is a white Republican who has taken the side of black Democrats in a suit filed by white Republicans. He is a man who has publicly intervened against the very Republican governor, Fob James, who first appointed him. And on two separate occasions he took stances, as the state's top legal officer, that angered some of his anti-abortion allies.

To look at that record and still assert, as the Senate Democrats do, that the strength of Mr. Pryor's personal beliefs disqualifies him, is indeed, effectively, to say that his faith makes him ineligible for office. Their stance against him should anger all people of deep faith, of all religions.

False testimony?: Senate Democrats also contend that Republicans have unfairly cut off their ''investigation'' into whether Mr. Pryor testified truthfully about fund-raising activities for the Republican Attorneys General Association—activities the Democrats themselves acknowledge were legal.

The truth is that the anti-Pryor forces are the ones whose tactics should be in question. Using a close associate of a man from whom Mr. Pryor recently secured a guilty plea to bribery charges, the Democratic committee staff obtained documents on July 2 that they claim raise questions about the AG's own committee testimony. (It is not clear how long they had been in contact with that associate, but some Republican senators accused them of knowing weeks in advance.)

The Democrats did not bother to tell Republicans about the documents until July 8. They did not interview former staffers of the Republican group until July 15, two days before the vote on Mr. Pryor was scheduled.

They have not yet put the original source under oath. And, despite being given three opportunities to question Mr. Pryor himself about the charges, Democrats declined all three times to question him.

On July 17, the day the committee was scheduled to vote on the nomination, the Democrats presented an ''investigation plan'' that did not include giving Mr. Pryor himself a chance to answer his accusers.

Not only that, but Republican Judiciary Committee Chairman Orrin Hatch announced that, as of yesterday, the committee had interviewed 20 witnesses, and that every one of them ''corroborated the testimony of General Pryor.''

In fact, said Chairman Hatch, ''what's notable'' is the Democrats'' ''complete failure to specify any evidence that General Pryor misled the committee.''

Indeed, they haven't even specified exactly what their charges against him are. There is good reason, then, to agree with Chairman Hatch that the Pryor opponents are engaged in a ''full-scale fishing expedition.''

Enough is enough. The campaign against Bill Pryor has sunk to tawdry depths. Unless the Democrats ''put up'' a legitimate reason to delay, instead of these faith-based and procedural smears, they owe him an up-or-down confirmation vote on the Senate floor, with no filibusters and no more subterfuge.

Mr. HATCH. Now, look, it is a little late to start saying we should have a rule that you can never mention religion. That means you could never mention Roe v. Wade. But that would take away the biggest argument that Democrats have against these people. I don't like to mention religion either—never have except in General Pryor's case, after Democrats had not so subtly raised the issue.

Now, with regard to the criticism of Boyden Gray's group, those terms were used first by People for the American Way in formal ads and letters, and then used by, I think, the Americans United for Separation of Church and State. These are two liberal groups.

Here is Americans United for Separation of Church and State, criticizing the nomination of John Ashcroft because he was for charitable choice legislation:

Ashcroft charitable choice provisions allow a Government-funded program to hang a sign that says ''Catholics need not apply.''

Where did that come from? That was long before Boyden Gray's group used such language—after all of Democrats' attacks on Pryor's deeply held beliefs during his hearing.

What about People for the American Way? People for the American Way, again, criticizing John Ashcroft because of the charitable choice legislation and saying:

An evangelical church running a Government-funded welfare program could state that ''Catholics need not apply'' in a help wanted ad.

Which I doubt any of them would do.

Now, leftist groups used such language, and all of a sudden we hear this screaming and shouting that Boyden Gray's group used the same language—after Democrats put Pryor's religious beliefs squarely at issue during his hearing and markup. Now some will say: Well, I certainly didn't mean for my questions to put his religion at issue. Well, what do you mean it to be? Religious beliefs are his deeply held beliefs and personal beliefs.

Now, look, my colleagues have a right to ask questions, but I also have a right to point out that I think those questions have led us into some very tender areas.

Frankly, what it all comes down to—I hate to say this, but it is true—is Roe v. Wade. That is what it comes down to. It is the be-all and end-all issue to most of our colleagues over here.

Now, it has been to a couple of my colleagues over here, too, but we stopped our side from using it as a litmus test. In fact, I don't know of anybody over here who has used it as a litmus test. But in virtually every case, that is the chief issue Democrats use against President Bush's nominees and the chief gripe about what kind of people they are—because they are traditional pro-life religious people. I don't know what other conclusion you can come to.

So to bring this resolution up is just a political show, because nobody in their right mind is going to let them get away with that type of treatment—or should I say mistreatment—of any President's judicial nominees. I do not want anybody on our side doing it either.

Also, frankly, for my colleague from Vermont, I know he is concerned about this. And I don't think any of these groups, including the conservative groups, should use this type of ''Catholics need not apply'' language. I don't think it is right. I don't think it should be done. But the ones who did it first, the ones who were never criticized by our media in this country, the ones who were never criticized by my colleagues on the other side, who are now decrying all of this, were the Democratic, liberal inside-the-beltway groups. And all of a sudden Boyden Gray's group is a very bad group because they have used the same language as People for the American Way and the group Americans United for Separation of Church and State.

I yield the remainder of my time to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank the distinguished chairman of the Judiciary Committee.

I was taught by my parents from early on never to laugh at somebody's religion, never to make fun of it, respect people's personal faith. I think that is a classic American principle we ought to live by. I would say that is what is happening in a subtle but very practical way is that Bill Pryor's strongly held beliefs, pro-life beliefs, are being attacked. Therefore, they are suggesting he is not fit for the bench because he has these beliefs and those beliefs just happen to be the same beliefs of the Catholic Church and many other church groups throughout America.

We cannot have that kind of test. We cannot expect nominees to come before this Judiciary Committee and renounce their beliefs as a condition to be confirmed. The question simply is, will they obey the law that is afoot in the United States by either statute, Constitution, or Supreme Court interpretation.

With regard to the resolution that has been proposed, that is just a political gimmick. It has no meaning whatsoever. I am surprised it has been offered in a body that considers itself serious. I believe, as was discussed last night between Senator MCCONNELL and Senator HATCH and others before, that you have a right to ask nominees questions. If a nominee has a religious belief and his church he supports has a certain belief that has been not the law of the land, it is all right to ask that person about it. It is all right to say, your church believes this or that, the Supreme Court has held differently. Will you follow Supreme Court law. That is the question. We have every right to ask that.

What we cannot say is, because your beliefs are contrary to maybe a Supreme Court ruling or a temporary majority in the Congress, that you are no longer fit for the bench. Everybody has beliefs. Everybody has ideas and concepts. They are free to do so in this country. What you should ask and determine is whether or not the nominee will follow the law.

Bill Pryor has a demonstrated record of that. And on abortion, where he has strong beliefs, the only thing I have found he has ever done involving the manner of abortion was to use his power as attorney general. I was a former Attorney General of Alabama. I know the attorney general can define the law for prosecuting attorneys throughout the entire State, the district attorneys. And Bill Pryor, after Alabama passed a partial-birth abortion statute—a procedure I abhor, most Americans abhor and Bill Pryor abhors—he wrote them and said: Large portions of that bill are unconstitutional and cannot be enforced by you. He directed them not to enforce substantial portions of it.

A pro-life leader in the State criticized him and said he gutted the bill. The only other thing I have ever heard him say about abortion was that he would prosecute to the fullest extent of the law those who violate and protest abortion clinics in violation of the law. He has never abused his position to further his personal views about abortion or any other, for that matter.

It is unbelievably frustrating to me to be on this floor and have Senators from New York and Massachusetts and Vermont stand up and say: This man is radical. He is out of the mainstream. He is unfit for the bench—just say those words about one of the most decent, caring, honest public servants I have ever met, a public servant who has demonstrated without any doubt his capacity to do the right thing

under the most tough political circumstances. I talked about that in depth last night but nobody seems to care. He has been accused of not being for civil rights.

The former county commissioner from Jefferson County, the largest county in the State, Chris McNair, whose daughter was killed in the 16th Street church bombing by the Klan many years ago, has written in support of Bill Pryor. He strongly supports him. Bill Pryor helped complete prosecutions in that case recently. Doug Jones, the prosecutor in that case, a Clinton U.S. Attorney, supports Bill Pryor. Artur Davis, Alabama Congressman, Harvard graduate, assistant United States Attorney, brilliant young congressman, supports Bill Pryor.

Joe Reed, chairman of the Alabama Democratic Conference, probably the most powerful political individual in Alabama, every Presidential candidate for the Democratic nomination knows Joe Reed personally and has probably talked to him a half a dozen times, a member of the Democratic National Committee, he writes a letter and says:

. . . I am a member of the Democratic National Committee and, of course, Mr. Pryor is a Republican, but these are only party labels. I am persuaded that in Mr. Pryor's eyes, Justice has only one label—Justice!

I am satisfied that if you appoint Mr. Pryor . . . he will be a credit to the Judiciary and will be a guardian of justice.

He goes on to say other things.

I want to share this letter from Alvin Holmes, a State Representative in Alabama for many years. He says:

I am a black member of the Alabama House of Representatives having served for 28 years. During my time of service in the Alabama House of Representatives, I have led most of the fights for civil rights of blacks, women, lesbians and gays and other minorities.

I consider Bill Pryor a moderate on race.

We have had Senators KENNEDY and SCHUMER and others saying Bill Pryor is unfair on the question of race. They say he questioned some portion of the Civil Rights Act. But he questioned section 5, the same portion Attorney General Thurbert Baker of Georgia, an African-American Democrat, has also criticized. This African-American Attorney General in Georgia has explicitly written in support of Bill Pryor for his confirmation.

This is what Mr. Holmes says:

From 1998 to 2000, Bill Pryor sided with the NAACP against a white Republican lawsuit that challenged the districts [in Alabama] for the Legislature. Pryor fought the case all the way to the U.S. Supreme Court and won . . . The lawsuit was filed by Attorney Mark Montiel—

I know Mr. Montiel, as does Mr. Pryor.

—a white Republican, and the 3-judge district court ruled 2 to 1 in favor of Mr. Montiel.

Bill Pryor took it to the Supreme Court on behalf of the existing districts and won the case.

In 2001, [he] sided with the Legislature when it redrew districts for Congress, the Legislature, and the State Board of Education.

Mark Montiel challenged that in Federal court. Bill Pryor defended the legislature, and the reapportionment plans that favored the Democrats in the State because it was a duly enacted legislative plan of Alabama.

He worked with Doug Jones to prosecute the KKK murderers at the 16th Street Baptist Church in Birmingham. As I said, Mr. Chris McNair, the father of one of those young girls who was killed, strongly supports Bill Pryor. He created the sentencing commission in Alabama for ending interracial disparities in sentences. In 2000, he started Mentor Alabama, a program to recruit positive adult role models for at-risk youth.

This is Mr. Alvin Holmes talking:

In 2001, I introduced a bill . . . to amend the Alabama Constitution repealing Alabama's racist ban on interracial marriage.

This was an amendment that had been declared unconstitutional but was still in the State Constitution. He continues:

It was passed with a slim majority among the voters and Bill Pryor later successfully defended that repeal . . .

Every prominent white political leader in Alabama, Republicans and Democrats, opposed or remained silent on the bill except Bill Pryor who openly and publicly asked white and black citizens to repeal the law.

Mr. SANTORUM. Will the Senator from Alabama yield for a question?

Mr. SESSIONS. I am pleased to yield.

Mr. SANTORUM. Is the Senator from Alabama familiar with an op-ed in this morning's Manchester Union Leader: ''Judging judges: Conservatives, Catholics needn't apply.''

Mr. SESSIONS. I have not seen that editorial, but we are receiving a flood of those kinds of communications.

Mr. SANTORUM. I would like to hear the Senator from Alabama's comment on just a couple of things the Union Leader says. In talking about some ads running about Catholics not needing to apply for judicial vacancies, it says:

Democratic Senators opposing President Bush's nomination of Alabama Attorney General William Pryor to the 11th Circuit Court of Appeals because of his ''deeply held'' belief that abortion is wrong.

I just suggest that a deeply held belief is rooted in his Catholic faith. That is where beliefs come from; they come from your moral teachings, much of which is through the faith that you were brought up on.

I return to the article:

In opposing Pryor's nomination on the grounds that he believes strongly that abortion is immoral, the Democrats are doing nothing more than playing sleazy partisan politics.

The last comment is:

What Senate Democrats are doing to the judicial nominations process is a disgrace to their party and to the country.

CLOTURE MOTION

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

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 Executive Calendar No. 310, the nomination of William H. Pryor, Jr., to be United States Circuit Judge for the Eleventh Circuit.

Bill Frist, Orrin Hatch, Ben Nighthorse Campbell, Craig Thomas, Charles Grassley, John Cornyn, Chuck Hagel, Jim Talent, Richard Shelby, Wayne Allard, Elizabeth Dole, Conrad Burns, Larry Craig, Jeff Sessions, Lindsey Graham, Rick Santorum, and Thad Cochran.

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

The question is, Is it the sense of the Senate that debate on the nomination of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

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

The yeas and nays resulted—yeas 53, nays 44, as follows:

[Rollcall Vote No. 316 Ex.]

YEAS—53

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

NAYS—44

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

NOT VOTING—3

Jeffords Kerry Lieberman

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

LEGISLATIVE SESSION

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

ENERGY POLICY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

The assistant legislative clerk read as follows:

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

Pending:

Campbell amendment No. 886, to replace ''tribal consortia'' with ''tribal energy resource development organizations''.

Durbin modified amendment No. 1385, to amend the Internal Revenue Code of 1986 to provide additional tax incentives for enhancing motor vehicle fuel efficiency.

Domenici amendment No. 1412, to reform certain electricity laws.

Motion to commit the bill to the Committee on Energy and Natural Resources, with instructions to report back forthwith, with Frist amendment No. 1432 (to instructions on motion to commit), to provide a national energy policy for the United States of America.

Frist amendment No. 1433 (to instructions on motion to commit), to provide that all provisions of Division A and Division B shall take effect one day after enactment of this Act.

Frist amendment No. 1434 (to amendment No. 1433), to make a technical correction.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, as chairman of the Committee on Energy, I am ready to proceed at any time. We have no amendments on the Republican side, so the amendments are all on the Democrat side. We stand ready to accept amendments, to debate them, to vote on them, to get rid of them. We are on one of the sections that is clearly definable. It has a limited number of amendments, the so-called electricity section. We very much would like to proceed and ask the other side if they are ready, if they could perhaps start with an amendment on the electricity side, and let us know what the remaining amendments are so we can see how long it will take us to complete the electricity title of this bill.

I say that, and at the same time I put it as a question to the minority leader.

Mr. DASCHLE. Madam President, could the Chair inform the Senate as to what the pending business is?

The PRESIDING OFFICER. The pending question is the majority leader's second-degree amendment to his first-degree amendment to his motion to commit.

Mr. DASCHLE. Do I understand the Chair that the answer is the pending business is the motion to commit the bill, not the electricity title, is that not correct?

The PRESIDING OFFICER. The pending question is that motion and the amendments thereto.

Mr. DASCHLE. I inform my colleagues that is the issue.

Last night, the majority leader filled the tree and made a motion to commit, moving off of the floor for consideration of the energy title. I will talk about that for a couple of minutes as I consider those actions last night.

We have heard some very creative explanations from the majority about how the Senate has gotten into the mess we are in this morning. They are doing their best to blame Democrats, as usual. There is one simple explanation for why the Senate has not finished its work: Politics. The majority has been playing politics with this bill and with other issues. That is just not conducive to reaching the good bipartisan outcome we expect in the Senate. Republican leaders have been playing politics so much that some Members of the Republican caucus have themselves begun to protest.

Conservative Republicans now say their leadership could have finished this Energy bill if the Senate had not been repeatedly distracted by political matters. I agree.

In an article headlined ''Frist Schedules Judicial Votes, Slowing Energy Bill'' in today's addition of Rollcall, it reported that:

Though most Republicans are publicly blaming . . . ''obstructionism'' for the sputtering energy debate, many GOP Senators privately acknowledge that the [majority leader's] decision to pepper this week's schedule with unrelated votes on controversial judicial nominees has made it less likely the Senate will pass the energy bill before the August recess.

That is not Democrats talking; that is what Republicans have said.

The Rollcall article goes on to quote one Republican Senator:

It might have been better not to have brought [judges] up. I think it was a mistake.

That is according to JIM INHOFE, quoted in Rollcall.

It quotes Senator LARRY CRAIG, ''who is one of the many conservative Republicans who have complained about FRIST's unwillingness to push the energy bill to Senate passage, [and] said the majority leader could have avoided the time issue on judges by not bringing them up at all.

''It was unwise,'' said Craig, former chairman of the Republican Policy Committee.

I've been in the leadership—never at [Frist's] level—but I clearly realize the pressures put on you to do other things in the runup to a recess.

I've also been involved in tough floor debates before, and once you get on them, you stay on them, and you drive it until you finish it.

Senator CRAIG THOMAS agreed:

I wish we hadn't gone off it, frankly.

The Rollcall article went on to state that relatively few debate days spent on energy ''have been spread out over the past three months causing CRAIG and others to complain that the on-again, off-again schedule has prevented the bill from gaining the momentum to pass.''

Again, all quotes from Rollcall this morning.

Last evening provides a good but regrettable example of how this on-again, off-again Republican schedule has slowed the energy debate. The Republican leadership scheduled a vote for this morning on cloture on the nomination of one of the most highly controversial nominees we have had in this Congress. The outcome of today's vote was never in doubt. It was scheduled purely for political reasons, to satisfy a segment of the far right. A schedule of this vote elicited a vote last night not on energy but on a controversial judicial nominee. The Senate spent from 6 p.m. yesterday until 10:17 p.m. debating something other than energy, 4½ hours wasted on political debate brought on by Republicans, 4½ hours that could have been spent productively on the Energy bill.

That is not the only kind of interruption we have had this week. We even stopped action on the Senate floor on Tuesday for 2 hours so the Senators could attend a meeting at the White House. Guess what the purpose of that meeting was. For the Senate to be urged to complete the Energy bill. So we took 2 hours off of the floor debating the Energy bill to talk about how important it was to complete it—a few blocks from here at the White House.

Hurry up and wait seems to me to be the adage. Stop and start, switch gears. That has been the pattern all week long. In fact, that has been the pattern now for months. At one point we interrupted the Energy bill on June 12th and we did not return to it until the evening of July 24th, an interruption of 5½ weeks. To make matters worse, we are told the topsy-turvy schedule will continue tomorrow. As if the schedule were not bollixed up enough already, Senate Republican leaders now say we will be taking up the nomination of yet another controversial nominee for another political vote tomorrow.

As Republican Senators said today in Rollcall, that is just not the way to complete action on a major, complex piece of legislation.

Something else is very important about this debate. It has been omitted from what the majority is saying this morning. It is what this Energy bill and its debate is supposed to be all about. It is about ensuring Americans will have a comprehensive, balanced, reliable energy policy that protects consumers from energy market manipulation and high energy prices. These are important issues. It takes time to get them right. We have a duty to the American consumer to ensure that we fully consider what our energy policy should be in the future.

Without further amendments, this bill, unfortunately, could be billed ''the Enron Production Act.'' Despite the massive problems experienced in our energy markets recently, this bill fails to address some of the most basic problems we are facing in our country today. It fails to outlaw many of the most egregious scams and frauds that have been perpetrated against energy ratepayers all across the country.

The round-trip trading was one of the scams used in manipulating the markets by Enron. Round-trip trading was actually covered in the Domenici bill and was also covered in the amendment offered by the distinguished Senator from Washington, Senator CANTWELL. Fat Boy, hiding the profits and then making a number of different calculations and begging for others to get involved, the Fat Boy scam is not included in the bill. It was included in the Cantwell amendment that came up yesterday. Ricochet, which allows Enron and other companies to dodge the price caps, was not in the Energy bill but was in the Cantwell amendment yesterday. Death Star, the leaking air out of tires and then paid to tow, that, also, is something that was not covered in the Energy bill but is covered in the Cantwell amendment. All the way down, every single one of the scams used by Enron, except for one, was intentionally eliminated, removed from the Energy bill.

There is no protection against the very scams that devastated California and devastated Washington and are going to devastate the country unless we deal with it. Why have they been left out? I can't tell you. But they are left out, leaving consumers with the very likely prospect they will get gouged this winter with natural gas prices and you will see manipulation like we saw with Enron, over and over again, because this bill is unwilling to address those key manipulation practices that made Enron the scorn of the country that it is today.

Democrats are willing to work, as I have said 100 times on the Senate floor over the course of this year. We are willing to work with our colleagues to come up with a bill that works, that addresses these scams, that addresses all the shortcomings, that provides a meaningful, comprehensive piece of energy legislation. But to do that, we have to address electricity in a meaningful way; we have to look at global warming; we have to pass a renewable portfolio standard; we have to address CAFE; we have to ensure that hydroelectric dam relicensing is included; we have to ensure Indian energy is part of our plan, nuclear subsidies, natural gas, energy efficiency incentives, wind energy, carbon sequestration. All of those issues are legitimate, worthy considerations for debate, amendment, and ultimate decision by the Senate as to what kind of energy policy we ought to have in this country.

These are not single amendment issues. Each one of these areas is going to take a little time. But you don't have that time to deal with these questions when you have debated William Pryor for 4 hours in a prime time opportunity last night. You are not going to deal with it today when we have to explain why Carolyn Kuhl is a nominee about whom we have great concern. You are not going to do it, as our Republican colleagues have said, when you get waylaid and you are taken off the bill for days, if not weeks, at a time.

So it is no surprise that we are in this mess this morning. We faced a very difficult time last year passing an Energy bill. But you know what we did? We stuck to it; we stayed with it. It took us days and days. We entertained 144 amendments. We had rollcall after rollcall on every one of these issues. We ultimately passed the bill 88 to 11. But that is how you work in the Senate. That is how you get the job done. You don't bounce around taking this from that, moving from this to that, and ultimately not having the kind of momentum it takes to finish a bill on time.

We have only spent, realistically, 8 days on this bill—8 days. We have only had a few rollcall votes. We have considered 102 fewer amendments than we did last year.

I am not suggesting that somehow we have to replicate what happened last year. I think we can do it faster than that, and I have come to talk to the distinguished manager on more than one occasion to say we are prepared to work with him.

I don't know of anybody who has worked harder to accommodate our majority and to work to see that we find ways in which to work through these amendments such as the Energy title, more than Senator REID has, our assistant Democratic leader. No one has worked harder than he has to get to a point where we can actually consider these amendments one by one. Nobody is trying to delay this bill. But it is impossible to finish it with all of the extraordinary diversions we have had.

I will end where I started. This is politics. This is blame the other guy. This is, we can't get it done so we will just tell everybody it is the Democrats' fault.

I thank our colleagues for their candor in Roll Call this morning because they have laid the facts bare. They know and we know why we don't have this bill done. They know and we know that until we get serious about meaningful consideration of amendments on these difficult issues, we are not going to get it done.

We are prepared to work. But as long as we have nominations such as we have this morning that is impossible. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, first, let me say I am very appreciative of the efforts that have been put forth by Senator REID, working with the Senator from New Mexico and others, as we move through this bill.

Second, I am absolutely positive that the issues which the distinguished leader raises, in terms of the people of our country needing protection and his long litany—I am absolutely concerned that when the day is done and the bill is passed, that the Senate will find that each and every one of them are covered and they are in this bill.

We didn't work forever to leave the kinds of loopholes to hurt the American people that are described in that litany of items that the distinguished majority leader says remain undone. I understand. He would rather we prove that on the floor of the Senate. I assume that is what he is talking about, by way of debate.

But so there will be no misunderstanding, this is a good bill. The electricity section covers every one of those issues that were raised. The question is, How long should it take for us to get those issues before us, debated, and completed?

I am not here to discuss the policy of our leader. He is here; our whip is here. They can discuss that. But I know we could have accomplished a lot more than we have as of today on the Energy bill. We could have accomplished, in my humble opinion, without any question, the entire electricity portion of this bill. Every reasonable amendment anybody has could have been debated. We took 1 full day when we did absolutely nothing because one Senator said we could not change from one amendment to another when everybody knew that was what we were going to do upon our return.

We had an Indian amendment that even the Democrat manager of the bill wanted to set aside for a few changes so we could proceed, and the whole day passed because one Senator said you will stay on it and you can't do anything else.

I submit that 1 day, being the day of Monday, we would have completed one, two, or even three of the sections on the most important part of this bill, the electricity section.

Far be it for this Senator to go through each day over the last 7 or 8 and talk about what has happened by way of interruptions. But I can say, only speaking for myself, that the Energy bill is the most important remaining legislation that we have for this year. I say that not just for myself, not just for my distinguished minority friend and leader, but for the majority leader. There is no more important legislation than the Energy legislation. And Senator, I say to you, I don't think you have ever said it is not, and I do not imply that. It is filled with important issues. It is filled with proposals which will lessen our need for imported oil. It is filled with provisions which will turn our electric system

into a real system instead of a hodgepodge that accomplishes little or nothing other than each region of the country provides more and more and the country, as a whole, is shortchanged.

It provides alternatives. It provides the energy sources we have all been worried about being shortchanged—wind energy, bio energy, and the like. It has a tax section which will sensitize and provide incentives so that we will bring these kinds of energy on board.

Why do I talk about them in light of the speech which we have just heard? Because I submit that it is easy to find reasons not to get this bill done. It is easy to find justifications for saying we could not get it done. But I believe it should be very difficult to justify not proceeding.

For instance, right now we have the entire days of today and tomorrow. Neither of these days is planned for anybody's vacation—anybody's use. I beg the other side, let's finish the electricity section today.

The answer is, we can't do bills in pieces. My response is why not? The electricity section of this bill is a section that is, indeed, all by itself. The amendments I have heard about are about two-thirds finished. Our leader is willing to remove the impediments which are technical in nature so we can proceed.

So I beg the minority, let's do the electricity provisions in this bill. Let's do it now. Let's do it tomorrow. Granted, we will have more to do, but what is wrong with doing one big piece of this bill now? What is wrong with completing the sections, if in fact the minority leader is correct in the chart that he showed? This Senator says he is not, but if he is, let's talk about them today. Let's see the amendments and let's vote on them.

It is now 11 o'clock. Even if we do not want to work very hard we can work 7 hours today and 7 hours tomorrow. I submit you can finish five or six amendments on electricity, Senator LOTT, before that time has elapsed, and we will not complete everybody's desires on this bill but that is pretty important.

We can either do that or we can stand up here and say the distinguished minority leader is correct. He has just quoted a bunch of Republicans who are second-guessing the majority leader or who are being misquoted—maybe they really did second-guess him, maybe they didn't, but it looks good. The way the quotes are used, it looks as if they are criticizing him. But, nonetheless, it does not mean we can't get something done.

I submit it is as simple as this. If they will agree to do that, I will get the majority leader to agree that we go home on this recess and we return and we will take up this bill as soon as we return and finish it.

That is a pretty bona fide offer. It is pretty fair to the Democrats and pretty fair for the American people. Let me repeat it. Let's do the electricity provisions now. Let's work hard and complete them. That means we work until 7 or 8 tonight. Tomorrow night, we might not have to work that very hard.

I saw those lists. Those are not difficult amendments. We will be finished with what everybody says is the most complicated and most difficult portion of this bill. Then we can ask, Where are we? Then we can agree and say to the Senate we can go home on recess. And, Mr. Majority Leader and Mr. Minority Leader, won't you agree that upon our return, we come back to work? We come back on a Wednesday. We will have a Wednesday, a Thursday, and a Friday, and we will set those three days aside unequivocally—absolutely nothing else but the Energy bill. We can do that. Then we can stop blaming. We can do something productive, constructive—not completion of everything but pretty much.

What else would the minority like us to do? Would they like us to do something about the other pending judge? Let us ask the leader about this other pending judge, and get on with what I am just describing as a manager of a very positive approach to this bill.

For some reason, it would appear to some that we must set aside 3, 4, 5, 6, 7, or up to 8 days and leave them there in order to consider the Energy bill in its entirety. I see no relationship in discussing with the American people the electricity section of this bill and a section on clean air which might be offered at another time. They are completely different. As a matter of fact, the second one doesn't even belong on this bill. It could be offered 6 months from now on an Environment and Public Works bill, to be honest. But we intend to offer it here. It need not be done on the same day in the same week in some kind of togetherness so we can tell the people the entire story. We can do the biggest piece of this without any difficulty today.

I believe I am just talking because that is what is expected. But the other side has made up its mind. I have found that sometimes when you make a proposal that is halfway reasonable, somebody listens to it. I am making one. The Senator from New Mexico sometimes offers unreasonable proposals. Most of those were when I was doing the budget. That was because people thought I didn't want to spend some money that was patently unreasonable. But what I have just offered is not unreasonable. I submit it should be done. I ask that it be done. I implore the minority to let us do it. I ask that they sit down for a moment off to the side of the Senate and agree to it.

I also ask, since the majority leader was able to put a chart up and list seven items, if I counted right—maybe it was six—that perhaps he could let us see six amendments on electricity, or five or seven. Who knows? We might be able to agree on three or four of them. We can't get that done either.

That is normally the way we do it. It is not as if we have to be hiding these issues. They are either real or they aren't. If somebody can really show the American people a piece of legislation that says the electricity bill is going to hurt the American electricity user, here is the language or not. It ought to be audible, understandable, and clear enough so we can get it out there and look at it. I have not been able to do that yet.

I haven't seen any amendments on the other side that clearly say the electricity section was put together and is supported by all method, manner, and kind of electric generating and electric distribution companies in America. Did you know that? The section is supported by all kinds. With one exception, it has everybody's support. It would seem to me that it is pretty good. Let us see what is wrong with it, and let us get those solved.

I apologize to the Senate for taking so much time. But I have a hunch, from what I just heard, that maybe I will not be speaking for a couple of weeks on the subject, in which event this might be the last you will hear from me for a while about this subject. But I beg you not to cut it off this morning, and not to leave here with some kind of a pick and with some kind of partisan ill feeling. Just as you might have them on your side, I am sure some have them on our side, partisan-wise. If mistakes were made, I am sure on our side of the aisle somebody will get up and say you have made mistakes. But please don't get up from the Judiciary Committee when I am finished—none of you—and talk about how we made mistakes with reference to the judges. Let us put that off for a while to see if we can't stay on electricity for a few minutes, if you do not mind. I beg you.

I yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from North Dakota.

Mr. DORGAN. Mr. President, the Senator from New Mexico, chairman of the committee, has great passion for this legislation, as do I. I know that last evening I perhaps offended some in this Chamber by standing around here and objecting to everything for a while because last evening, at a time when I thought we should be on the Energy title, we were preparing to move this Senate to debate on a judgeship that didn't have to be debated. So I sat out here and objected to everything, and it upset people. I understand that. But I had the same goal that the Senator from New Mexico has. I thought we should be on the Energy bill and on the electricity title. I believe we ought to do that title. I would like us to start now and do that title.

My colleague, Senator CANTWELL from the State of Washington, sat here for 2 hours last night wanting to offer an amendment and go back to the electricity title of the Energy bill but couldn't because we were on a judgeship that we didn't have to do. We shouldn't have had to do that now.

Let me make a comment. I think the way to approach this—I happen to have

the same goal—is I believe we ought to go back to the electricity title right now. I would like to have amendments offered and debated. I am willing to stay here all night and get through the electricity title.

I tell you how I think we should best do that. I think we should vitiate the motion to recommit the Kuhl nomination. We don't need a vote and debate on another judge, and especially a controversial one. Clear those things out of the way right now and begin the next amendment on the electricity title. I don't know what that amendment is, but let us have a debate on it.

Let me also say that the Senator from New Mexico—in fact, both Senators from New Mexico, the chairman and ranking members of this committee I think provide pretty good leadership for this Chamber. I am pleased they have the role they have.

There is a legitimate disagreement on the electricity title with respect to the protection for consumers. That is a legitimate disagreement.

I have a letter from Mr. Eliot Spitzer. Mr. Spitzer testified at hearings I held in the Commerce Committee on the Enron issues and also the Wall Street issues about 2 years ago. It is addressed to Senators DOMENICI and BINGAMAN. I believe other Members have copies of it. He is one side of this agreement.

He said:

> I applaud your efforts to protect our energy markets from fraud and manipulation through legislation currently under consideration on the floor of the U.S. Senate. I am, however, concerned that certain provisions of the proposed legislation would make it difficult for States to protect their citizens from such fraud and manipulation.

Then he went specifically into sections 1171 and 1173. He said:

> Sections 1171 and 1173 of the proposed amendment would undercut State law enforcement and regulatory agency efforts to stop fraud and abuse in the energy markets.

I know Eliot Spitzer. He is attorney general of New York. He has done extraordinary work. He has taken all of them on in behalf of consumers. He has a view here that is very important and which we should consider very seriously. We have different views about how we protect the consumers.

With respect to west coast electricity manipulation—the manipulation of the markets to the tune of billions of dollars—I assume at the end of the day all of us want to end all of that opportunity by any company that would manipulate the markets. If we have the same goal at the end of the day, then, look, in my judgment, let us begin offering amendments. Let us have the staff and the relevant Members begin working them out and talking through compromises that are necessary, and then finish the electric title. At least let us do that title.

But that can only be done, it seems to me, if we get rid of the extraneous issues. We have a motion to commit. And I am told—I have not seen that motion in detail, but I am told the motion to commit excludes, for example, some amendments that already have been passed.

I had an amendment, and a pretty strong vote on my amendment, dealing with targets and timetables with respect to hydrogen economy and fuel cells. My understanding is that is not included in the motion to commit. So the motion to commit has all kinds of issues attached to it.

Let's get rid of that, and let's get rid of the Kuhl judgeship nomination, and then move to the electricity title, stay on it, and finish the title. As far as I am concerned, I sign up to do that. I would hope the majority leader would. I hope most of my colleagues would. And I hope there is no one on the floor of this Senate who says: Let's dig in our heels and not do this.

I happen to agree with the Senator from New Mexico, the chairman of the committee. He does not have to beg anybody, not me, and not anybody, I hope, on this side to want to finish this bill, beginning with: Let's finish this title, the electricity title.

Let me say, finally, this title is critically important to this bill. This bill is about incentivizing production. It is about conservation. It is about efficiency. It is about incentivizing limitless and renewable sources of energy. It is about a wide range of issues.

But in the electricity title it is also about paving the road for a philosophy that some want dealing with ''restructuring'' in which you will move electricity from some areas of the country to other areas and of which consumers in areas where they enjoy low-cost power—my State, for one—will see that power move to other parts of the country where they now pay higher rates for power, and they want our lower cost power, so it will be replaced with higher cost power.

A study by the Department of Agriculture some while ago said consumers in a State such as mine, under this deregulation and restructuring, will end up paying substantially higher electric rates. That is not what I want for my State. So there is a lot of discussion about whether deregulation and restructuring is appropriate.

We have been deregulated and restructured to death. We have seen it in the airlines. We have seen it in the railroads. We have seen it in trucking and so many areas. Every time we have been restructured, I tell you this, the rural States lose. So we need to think through this very carefully.

In the electricity title, especially, if we end up with concentrated markets, fewer firms, with more muscle and more power, then consumers need to have the opportunity to protect themselves. We must have adequate protections in this title for consumers because we have seen what happens without it.

I tell you, when I began to see the results of what was happening in the west coast electrical markets and energy markets, including natural gas, the first information we received about that was almost unbelievable. You would read some of these internal memos that were sent to us by people inside the companies, and you would say: Well, this clearly can't be right. They wouldn't write a memo in which they said: Let's construct a strategy by which we cheat, and we will put a name on it, Fat Boy. But, in fact, the more we dug, the more we found. And the more we found, the more disgusted we became because west coast consumers got cheated. It was stealing. And there are now substantial criminal investigations underway.

The interesting point about that is, the hearings that we held in the Energy Committee during that period of time were hearings in which we had the Federal Energy Regulatory Commission come up and testify. They are supposed to be, remember, the referees, the people who wear the striped shirts, the ones with the whistles, the ones who call the fouls. They came up and sat and did their best imitations of a potted plant, acting as if they were dead from the neck down—and neck up, for that matter—acting as if nothing was going on. They said: Well, there is no manipulation. There is nothing happening that is untoward. This is the market system.

It was not the market system. It was crooked. It was criminal. It was systematic and relentless cheating of consumers. That is why this title is so important. We have to do this, and we have to do it right.

Now, I don't want, at the end of the day today, tomorrow, or Saturday, or Sunday—I don't care—I don't want, at the end of the day, for any of us to think we failed to do an Energy bill, that I think we should do, to finish an electricity title, that I think we should finish, because those who schedule this place said: Well, this is urgent, but we should do this judgeship first; this is urgent, but we should do the second judgeship next; this is urgent, but we should do some trade bills, some free-trade amendments.

I don't understand that. If this is urgent—and the President called us down to the White House to say it was; in the Cabinet Room he told us, we need to get this done—if it is urgent, why all the starting and stopping?

Mrs. BOXER. Will my friend yield for a question?

Mr. DORGAN. Why don't we start? If it is urgent, why don't we start at this moment and get to the finish line on the electricity title?

My colleague, Senator DOMENICI, suggested we do that. I say, let's do it. Two steps are required: vitiate this motion to commit and get rid of the Kuhl nomination, which, incidentally, in my judgment, should not come to the floor, in any event; and then let's get on electricity, stay on electricity, and I will be here with Senator DOMENICI and Senator BINGAMAN until we are done with that title. Then let's see

what is left and see if we don't find the finish line in this bill. That is the way we should do this bill.

Now, look, I don't run this place. I understand that. Others do. We are not the majority. Others are. But the question of what is urgent and what is important is a function of scheduling.

I would just say to the majority leader, and others, I believe at this moment our responsibility—if this is an urgent bill; and I do believe it is an urgent bill—our responsibility is to clear the deck—clear the deck—and move ahead. You clear the deck by getting rid of this motion to commit, getting rid of the judgeship, allowing Senator CANTWELL to offer her next amendment, allowing others to offer their next amendment, working through them, one by one by one, using a little common sense about how we improve this Energy bill so all of us can pass a piece of legislation that we are proud of, and one that advances the interests of the country.

Mrs. BOXER. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mrs. BOXER. First of all, I thank the Senator for his, as usual, very concise reasoning over where we are. We are at a bit of an impasse because of what my colleague said.

I want to ask my friend, is he aware that for the Kuhl nomination both Senators from her State oppose her confirmation? Is my colleague aware of that?

The PRESIDING OFFICER. The Senator will direct her questions through the Chair.

Mr. DORGAN. Mr. President, responding to the Senator's question, I am aware of that. It is unusual because the rules used to be if both Senators from a State oppose the nomination, then it would not come to the floor. As I understand it, that was always the rule. That rule has apparently been abrogated or at least changed with respect to this nomination.

Mrs. BOXER. I want to further say to my friend, when Bill Clinton was President and ORRIN HATCH was chair of the Judiciary Committee, if one of the two Senators from that particular State did not send back a permission slip—or, as we call it around here, a blue slip—the nomination never moved forward.

Is my colleague aware that rule is changed by the chairman and, indeed, ignoring Senators' views? I would say through the Chair, is my colleague aware that Senator HATCH changed that rule?

Mr. DORGAN. Mr. President, responding to the Senator from California, I am not aware of the internal machinations of the Judiciary Committee. I read about what that committee does from time to time. And while I suppose it is entertaining, because there seems to be a fructus over there on most of these issues, there has been one consistent thing that has happened in the Judiciary Committee with respect to judgeships; that is, the judgeships are circumstances where the President proposes and we dispose. We have a constitutional obligation and requirement. Normally speaking, the Judiciary Committee has relied on the judgment of the two Senators from a State before it decides whether to move a judgeship.

My understanding is, the judgeship that is to be moved to the floor for a vote—a cloture vote in the middle of this Energy bill; and, incidentally, preceding a vote I assume there has to be debate on this judge—this particular judge has been opposed by both Senators of the State.

There is no reason, there is no reason at all, for that to be debated now or to have a cloture vote in the middle of an urgent piece of business such as the Energy bill. I do not have the foggiest idea why that is brought up, unless it is to advance some political interest someplace. But that ought not be here.

Senator DOMENICI is absolutely right. What we ought to do at this moment is go back to the starting line on electricity, and then decide that between now and the end of the electricity title we are not going to be interrupted—no interruptions for anything. I agree with Senator DOMENICI, let's do that. I pledge I will stay here on the floor and work with my colleagues. Let's get the electricity title done. And let's not move off to these extraneous issues. It makes no sense, if this is, in fact, an urgent matter, to move off it onto judgeships that shouldn't be debated and shouldn't have to be voted on prior to the break.

Mrs. BOXER. Mr. President, I have one last question for my colleague through the Chair.

I just want to say, as someone from a State that has been painfully hurt by the electricity scams that went on on the west coast—and I think Senator CANTWELL has put it best when she relays the story that when she goes home—and I can tell her, it happens to me, too—people say: Why isn't Ken Lay in jail—Ken Lay, the head of Enron Corporation?

They ask me about Jeff Skilling who came before the Commerce Committee and defended these schemes. He didn't know anything about all the schemes that came to light that hurt the people of California to the tune of probably an $11 billion theft.

So I ask my friend, through the Chair, this question: We have no control over when and if ever Ken Lay goes to jail or the other scoundrels who did this to the people of the west coast by making these phony shortages and stealing their money for things they need to survive. We don't control that. The administration does, through the Attorney General's Office. I hope they are moving aggressively, but it is awful slow.

Mr. LOTT. Regular order, Mr. President.

Mrs. BOXER. What we do control is this Energy bill and this electricity title. My friend is so right to try and protect his people and the people from every State in the Union from what my people went through in California and Senator CANTWELL's people went through.

The PRESIDING OFFICER. The Senator yielded for a question only.

Mrs. BOXER. I am asking my question. Isn't it true, I say to my friend, that this is the only way the Congress can assert itself since we have no control over what happens in the courts, that we can do something about sparing your people and the other people around this country from what California went through?

Mr. DORGAN. Mr. President, responding to the Senator from California, I believe that is the case. This is the place to have that discussion. As I mentioned to Senator DOMENICI, there is a respectful disagreement perhaps about what words mean and what protection might or might not exist. But surely we can work that out, offer amendments, have votes, and get to the end of the electricity title.

I referenced a letter that has been sent to Members of the Senate from Eliot Spitzer, the Attorney General of New York. I ask unanimous consent to have the entire letter from Attorney General Spitzer printed in the RECORD.

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

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL,
New York, NY, July 30, 2003.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy & Natural Resources, Washington, DC.

Hon. JEFF BINGAMAN,
Ranking Minority Member, Committee on Energy & Natural Resources, Washington, DC.

DEAR CHAIRMAN DOMENICI AND RANKING MEMBER BINGAMAN: I applaud your efforts to protect our energy markets from fraud and manipulation through legislation currently under consideration on the floor of the United States Senate. I am, however, concerned that certain provisions of the proposed legislation would make it difficult for States to protect their citizens from such fraud and manipulation. In addition, the failure of this legislation to remove the so-called ''Enron Exemption'' codified in the Commodity Futures Modernization Act of 2000 will allow electronic trading and other activity in the energy market to escape oversight.

Sections 1171 and 1173 of the proposed amendment would undercut State law enforcement and regulatory agency efforts to stop fraud and abuse in the energy markets. Requiring that ''any request by any Federal, State, or foreign government, department or agency or political subdivision'' for information from energy market participants be directed to the Commodity Futures Trading Commission (CFTC), the proposed legislation would hamper States' investigation of violations of laws related to the energy markets. Interposing this federal screen between the States and the perpetrators of abuses is inappropriate.

In addition, by expanding the CFTC's jurisdiction over electricity and gas markets, the amendment would inhibit the authority of States as well as federal agencies to address abuses in these markets, markets that, as a result of the Enron Exemption, are not subject to CFTC oversight.

As the United States Senate seeks to protect our nation from energy market abuses, I urge you not to diminish the ability of the States and of federal agencies to prevent, detect and eliminate threats to American consumers and shareholders.

Sincerely,

ELIOT SPITZER,
New York State Attorney General.

Ms. LANDRIEU. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield for a brief question.

Ms. LANDRIEU. I wanted to ask my distinguished colleague if I had heard the Senator from New Mexico correctly when he suggested that one way to proceed to move us past this very difficult hurdle would be to take up the electricity section and try to finish that before we left? If that is what I heard, was that a suggestion made by the chairman of the committee, who has worked so hard to try to put a bill together, thinking we could perhaps resolve some of those difficult issues on the electricity section? Is that what the Senator understood the chairman of the committee to say?

Mr. DORGAN. The chairman of the committee has great passion about wanting to finish this bill. I serve on the committee, as does the Senator from Louisiana. I understand that passion because I believe energy is a significant priority. He indicated he would beg that we get back on the electricity title and finish the title. I happen to think that makes a lot of sense. I believe we should do that posthaste and move through the amendments.

It is almost as if the Senate as an institution has attention deficit disorder. We just go from one subject to another and then back. And then we say, OK, focus, focus, this is urgent, this is important. And then an hour later, we are off on another subject for a bit because we have to vote on a judgeship in California; we have to vote on a judgeship here or a trade agreement there.

I suppose in real life you could be medicated for that, but as an institution, all we have to do is decide that we are going to focus on that which we believe is urgent. The Senator from New Mexico has said this is an urgent bill. He is correct about that. I have watched him for several days. He has great frustration, I am sure, at not making as much progress as he would like to make.

I mentioned a moment ago, I was here last evening. Senator CANTWELL was here waiting for 2 to 3 hours to offer an electricity amendment but could not do it. Why? Because we were off debating a judgeship that should not have been debated and didn't need to be voted on. There needed to be no cloture vote on that. But the leadership said, you have to be off on that.

I understand the Senator from Mississippi is waiting to speak. He is probably going to remind all of us that the Senate isn't run by 100 Senators; somebody has to schedule. I recognize that at one point he had to schedule this place. It is not easy. Scheduling is not easy under the best of circumstances, but it is made much more difficult if you have conflicting language, saying this is an urgent bill that must get done, but then you can't stay on it because you provide all these other issues. In the middle of this urgent situation, you decide you want to take some time to have a seventh cloture vote on Mr. Estrada. Is that urgent? I don't think so.

So with respect I say, let's now go to the electricity title, and let's work through the Energy bill. We ought to get this title done tonight. I agree with Senator DOMENICI; there is no reason we should not get the electricity title done, give everybody a chance to address those issues.

I especially think we will want to address Attorney General Spitzer's admonition and concerns as well.

I want to be constructive. I know last night I was objecting to people's unanimous consent requests. It was not because I had any animus. I just wanted us to get back to the electricity title. I could not do that. Eventually they went on and spent the whole night on the judgeship because we had this cloture vote scheduled.

That is my frustration. I share the same frustration that I think Senator DASCHLE expressed earlier and Senator DOMENICI expressed. The best way for us to proceed is to clear the deck, get all the extraneous things out of the way and decide we are going to proceed now on the electricity title. I for one pledge cooperation to try to get this title done. That is what we ought to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I tread out of these waters somewhat hesitantly because in the past I have gotten involved in similar situations. I know the Majority Leader will be here shortly to respond to some of the things that have been said today. But because of some of the things I have experienced, I would like to remind my colleagues that Senator DORGAN is right: the Majority Leader is the leader. The Majority Leader, working with the Minority Leader, has a tough job. He has to juggle a lot of balls.

The idea that there is something unusual about considering two or three or four issues intermittently, that that is something new, is ridiculous. We have had double tracking, triple tracking. I learned it from my Democrat predecessors when they were Majority Leaders. To intersperse with a legislative bill executive calendar nominations is done every day, every week. There is nothing new or unusual about that.

Until you have walked in the Leader's shoes, I urge you to be careful about trying to second-guess him in trying to juggle these different balls. It is a tough job.

We should be voting on judges. We should be confirming judges. I really don't appreciate the criticism that I think is being indirectly cast at the Leader. I am sure he is going to comment more on the days we have spent on this and other work we need to do. Everything is urgent all of a sudden. I know how it works. For 3 or 4 months around here the Leader is dredging for legislation to call up. And then all of a sudden, in May or July, everybody shows up and says: Hey, I'm ready. I want my bill. We want to do something about class action lawsuits. We want to do the Energy bill. We want the State Department authorization bill which, by the way, had to be pulled down because of totally unrelated issues. For the first time in 15 years we were about to get a State Department authorization, and it was basically forced off the floor because of unrelated, irrelevant amendments that were offered to it.

We will get through this if we work together. I am worried about the institution right now. We are fiddling while our energy is burning. For 3 years we have been hacking away at getting a national energy policy. We don't have one. And it's absurd for us now to be pontificating, saying we haven't made enough progress, when I don't know how many days we have been on this bill—I think 16 days, to be exact. There is no question this bill is being slow rolled. Everybody knows that. For some reason, and I don't know why, the Democrats are dragging it out, slowing it down. They don't want this Energy bill to be finished and go to conference. That is my opinion, one Senator's opinion.

This is a bill that has ethanol in it. We had this big agreement way back there. We thought once we got an ethanol agreement—a huge agreement—that would grease the slides and this legislation would go right through. Here we are, a month later, and we are not making good progress.

I think we should quit trying to say this side is delaying or that side is going to different issues. We need to get this done. We are talking about production, more production in America. We need more oil and natural gas. I don't know what the statistics are now but about 56 percent of our energy needs are coming from foreign oil. People, I guess, want to kill the bill because they don't like the environmental provisions, or they are afraid ANWR will be opened to actually produce more oil. I don't quite understand the fear.

This is a balanced bill. The committee did a good job. It was a bipartisan bill, more production—even going to the excessive ethanol that is included in it. Conservation, it has encouragement of conservation. It has alternative fuels to the point of being ridiculous. It has the tax provision that came out of the Finance Committee—a huge package of unbelievable things. We have an abundance of desire to try to solve this problem, and I think we need to solve it.

On the electricity section, I have some problems with that. I don't like several pieces of it. I am not particularly happy with so-called SMD and the

regional transmission organizations, RTOs. I think it is a problem for my region of the country but I am not about to be a part of trying to drag it out or delay this bill. It may be in my interest locally to do that or to work to get it changed, but for our country we are going to stand here and accuse each other of not handling this right, while ''Rome'' and Washington, DC, burns.

This is ridiculous. Now, on judges, we don't look good, my colleagues. This is mutually assured destruction. It continues to escalate to ''you did it to us, so we are going to do it to you.'' Now we have employed a new mechanism; we are going to filibuster judges. This is a huge mistake for this institution and it will not be allowed to stand.

Now we are beginning to question each other's motives. I was concerned about what I saw last night in the Senate. We seem to be spiraling downward. Somebody needs to sit down and say, look, we are going to stop these accusations, stop the filibusters, and we are going to vote on these judges. This is personal to me because I believe Judge Pickering of Mississippi was very badly and unfairly treated last year. I believe the vote on him will be different this year.

Now it is Pryor. There is no reason to oppose the Attorney General of the State of Alabama with his record—not to mention Priscilla Owen, Miguel Estrada, and Kuhl. We have circuits now—the Sixth Circuit, I believe, includes Tennessee, Kentucky, Ohio, Michigan—with a 25-percent vacancy. I didn't know Senators could use a blue slip to block a judge from their circuit. We don't pick the judges for the circuits; the President of the United States picks those. In my circuit, they can come from Louisiana, Mississippi, or Texas. I don't think I have a blue slip or an ability to block a judge in that circuit that is from my State, or from another State, even though I might not particularly like him or her. Now we have appellate court judges being stopped in circuits all over this country because one or two of the Senators from the appellate circuit might want to try to stop them. I haven't served on judiciary; maybe that is what happened some in the past. That is another example of what is really getting to be a problem.

I urge the leadership on both sides of the aisle on the committee to find a way to stop this because you are going to filibuster these good men and women. Then we are going to question your motives and you will question ours. I think the Senate needs to take a deep breath. Maybe what we need is an August State work period—go home for a while and cool off.

I am not going to affix blame, but I think the way this Energy bill is being handled is a huge problem for our country. I hope we will calm down, get an agreement to move forward, give the Leader the opportunity that he should have to bring up judges, or other Executive Calendar nominees, as all Leaders do, and let's have a meeting in September and find a way to stop what is going on with judges.

I admit that I made some mistakes when I was Majority Leader in how I handled them, too; but it has gotten worse since then. I don't think anybody can deny that. This mutually assured destruction must stop. I have said this before.

Heaven forbid, if we ever have another Democrat President and a Democrat Senate, we are going to filibuster your nominees for the courts. It will happen. Some of our colleagues may even say they want that right. That is wrong. You have a lot of ways you can slow down or delay hearings or judges but filibustering judges on either side is wrong. I won't be a part of it if the tables are turned, and I was not a part of it when I was Majority Leader. I stood right there and spoke against filibusters when I was Leader. I voted against a filibuster and forced votes on judges with whom I vigorously disagreed.

Two from California, Paez and Berzon, I will never really be comfortable with what I did there. I said we are not going to filibuster these judges on the floor of the Senate. So this is a terrible precedent and the Leader cannot let this stand.

So, my colleagues, I sound like a schoolteacher lecturing but, because of the experiences I have been through, I plead with the institution to get on the Energy bill, make progress, and vote on these judges. A couple of judges might not even get 50 votes but that is the way it works. If you get a vote, you win; if you don't, you lose.

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

Mr. LOTT. Yes.

Mr. MCCONNELL. The Senator raises an important point on the Berzon and Paez nominations. I can remember the Senator, in his capacity as Majority Leader, encouraging us to support cloture on two judges about whom none of us were very enthusiastic. I remind my colleague that 75 percent of the Republican Senators voted for cloture.

The PRESIDING OFFICER. The Senator is reminded to address his questions through the Chair.

Mr. MCCONNELL. Mr. President, I ask the Senator from Mississippi if he remembers that 75 percent of the Republican Senators voted for cloture on both of those judges, and many of us voted against them once we got to the up-or-down vote.

Mr. LOTT. I remember that very well. We did the right thing. That is what I am asking now of my colleagues on both sides of the aisle. Let's find a way to do the right thing on these judges. It is totally indefensible, for instance, that on Miguel Estrada we cannot work something out where he won't be defeated by a filibuster.

I remember other votes, too. I have said on this floor two or three times that I voted for Ruth Bader Ginsburg to go on the Supreme Court. I didn't agree with her philosophically at all, and I don't agree with many of the rulings she is coming out with. President Clinton was the President; he nominated her. But she was qualified by education, experience, and demeanor, and I voted for her. I think we deserve that kind of return of courtesy.

The Majority Leader is here, so I will stop. I say to the Majority Leader, I was talking about the difficult job he has, and I know he is going to have some statistics that will indicate what has been occurring.

I yield the floor.

The PRESIDING OFFICER. The Majority Leader is recognized.

Mr. FRIST. Mr. President, I will be happy to follow the assistant leader very shortly.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, briefly, it has been said by Senator LOTT and others that there is nothing unusual about the so-called double-tracking of issues, nothing unusual at all. The distinguished majority leader offered to our colleagues and friends on the other side an opportunity to have the four cloture votes on judges this week with no debate at all. It would have taken up no time on the Energy bill.

The fact is, this is the 18th day we have been on the Energy bill this year; that is more than any other bill. The distinguished majority leader made the right call to go to energy this week. He made the right call to try to bring to closure four of the President's distinguished nominations for the circuit court benches.

I think Senator LOTT is correct. We need to, as he put it, take a deep breath, settle down here, and remember that we all came here to do the people's business. Energy is important.

I know the Majority Leader is committed to finishing this important legislation for the people of America. I hope there are a significant number of our friends on the other side of the aisle who would also like to see an Energy bill. I am confident the majority leader is going to give all of us an opportunity at some point this year to finish this bill.

I say to my friend, the Majority Leader, I think his scheduling decisions for the week were excellent, correct, and consistent with the best interests of the American people, and we support him fully in those scheduling decisions.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, we have worked very hard over the course of this week to address the people's business with the schedule that was set out weeks ago to address energy in a focused way, a way that would allow for debate and amendment, and bring to conclusion the debate on a bill that is important to every American listening to me now—every American.

The President initially called for an Energy bill over 2 years ago and laid down a policy 3 months ago, and the House of Representatives has acted in delivering such a bill.

As the distinguished assistant leader has mentioned, we have now spent 18 days debating energy policy. That is longer than any other bill this year and, in truth, as we all know in this body, we have been debating energy policy now for 3 years.

It is true that during the last Congress, we spent 7 weeks on an Energy bill, and the other side of the aisle comes forward and says: We spent 7 weeks last year, so we are going to have to spend 7 weeks or 8 weeks or more time on this Energy bill. I appreciate their concern because I, too, want to make sure we address these issues thoroughly. But what we have is just obstruction, flat out obstruction of our commitment to answer to the American people when they ask: Where is our national energy policy?

The distinguished Democratic leader said: Now we have politics injected. I do believe that statement is disingenuous when he throws the politics on our side and, at the same time, we have a commitment—and I have said again and again and under the able leadership of our managers, I know they are committed to addressing this bill and bringing it forward to the American people who do and will continue to suffer under skyrocketing natural gas prices.

I say that because now—and I said it last night after conversations we had both on and off the floor—it is clear that we were not going to be able to finish the Energy bill this week. We do not have the amendments. We do not have the amendments, and we have had a difficult time getting an accurate list of amendments.

When I talk to the managers, they may say we have one or two amendments on a particular issue, and then as I talk to other colleagues and they say: No, we have 7, 8, 9, 10 amendments. It is that lack of pulling together that I am most disheartened about in addressing the Nation's business.

It comes to obstruction, and I do think at this point in time the Democrats are bringing progress on this critically important issue of energy to a screeching halt. The fact is, we are ready to go today and we are ready to go tomorrow, and, if they are willing, we are ready to go the next day on the people's business on this Energy bill, and basically they are saying no. They are hiding under the allegation: Oh, it is judges you are bringing forward—and I will comment on that point, but they are hiding behind that issue because they do not want a bill.

They say: We want a bill. I say: Let's get a bill. They say: We want a bill but it is going to be sometime off in the future.

As the former majority leader said, and as the leader on the Democratic side said, it is tough scheduling. It is not impossible but it is tough scheduling. But one thing that the Republican leadership does have to demand is that people are working in good faith to complete bills in a timely way. I am beginning to lose faith in the other side of the aisle because they are obstructing—flat out obstruction.

The fact is, whether they are in a cornfield in Iowa or whether they are in a cornfield in South Dakota or in the mountains of New England, Americans want us to pass an Energy bill, not at some vague time in the future but right now, an Energy bill—this is what the American people understand—that will bring down the soaring cost of energy while ensuring an adequate supply. And that is what they are being denied by this obstruction by the Democrats.

It has gotten to where we are hearing this term—it was used earlier today—with ''ism'' on it, obstructionism, that we are seeing so much obstruction today from the other side of the aisle, whether it is bioshield, which we are trying to bring to the floor, or whether it is the judges. All we are trying to do is get them to the floor and have that debate and discuss them. We can't even bring them to the floor to talk about them.

I come back on energy for one second. People are willing to watch this obstruction go forward and not continue to push and do not continue to push when we are trying to stay on the Energy bill today and tomorrow, and they say: No, we can't do it; we throw up our hands; why don't we just go home? That is not in the Nation's interest.

I plead with the other side of the aisle, let's not obstruct. Let's debate energy over the course of the day and into tonight. If there are so many amendments on the other side—remember, on the other side—let's address them one by one. It is simply not acceptable not to address the amendments. I believe it is a dereliction of our duties. We are here to pass a bill. We are ready to pass a bill. We are waiting for those amendments, and the Democrats are obstructing.

Earlier this morning the minority leader did talk about the virtues of the Energy bill and gave the rhetoric, and I appreciate the rhetoric and the platitudes, but it is offensive, at least to our side of the aisle, when at the same time we are talking these platitudes both here and around the Nation in our own States and then we see the same side of the aisle, the other side of the aisle, obstruct in a steady, consistent pattern. Americans are waking up finally to this consistent pattern of obstruction, whether it is on the judges or whether it is on the Energy bill which we have before us.

I have mentioned to the leadership on the other side of the aisle—they talk about judges; quit bringing up judges at this point—I said: Let's just not do judges today. Let's put them aside. Can we finish the Energy bill this week? Again the answer was: No, no, we are not ready to finish the Energy bill this week. So I think in this call of crying politics from the other side of the aisle, the Democratic leadership really is showing their own hand. They talk about energy but do not deliver.

It is not just about the Energy bill itself—and we have touched upon the judicial nominees this morning, which again all we are asking for is a simple up-or-down vote on these nominees when I have asked consent. It is not to debate these judges now, although people come out of the woodwork for that. It is just to get consent that at some time in the future we will have the opportunity to talk about these judges and give every Senator their right—and that is through advise and consent—to have an up-or-down vote.

The Democrats—and I come back to the word—obstruct our opportunity to advise and consent. That is all we are asking in terms of the judges.

Obstruction—again, people do not see all that is going on. They see what is on the floor. But right now the obstruction does fall over to other fields—fields such as bioshield. We have worked very hard to address an issue which does have an impact on national security, and we cannot get consent to bring resolution to a very important initiative that provides over $6 billion over 10 years to purchase new countermeasures, whether it is on the biological entities, such as botulinum, anthrax, or plague, a bill that expands research and development so that we will be best prepared in the event terrorists use these agents against us. It is legislation that protects us all, but it is being obstructed.

The economy, energy, the judiciary, it is obstruction again and again. I do not fully understand why. I think we can all only speculate. We do have the Presidential election cycle that is approaching. The outside interest groups may be holding sway. I do not know. It may be obstruction for its own sake. It is not in the best interest of the American people. The American people want us to progress. They want us to move America forward, whether it is on any of the issues I have talked about today, and all they hear is obstruction.

I do want to share with my colleagues once again, and those people who are listening, and to remind my colleagues on the other side of the aisle on the judicial nominees, the requests we have made would not mandate in any way consideration of those nominees right now or during the Energy bill. That is not the purpose. That is not the way the request was put forth. Those consents to be able to bring them up at some time in the future, not on the Energy bill, were objected to by the other side of the aisle.

The consents would have allowed votes on the nominations at some time in September or October, and the requests were made, lest my colleagues forget, for 4 hours to debate these judicial nominees sometime in the future,

and they said no. Then I said, these are Presidential nominations that come to us. We are to give advice and consent. Can we bring them up and debate them in an orderly fashion for 8 hours at some time in the future—not on the Energy bill but sometime in the future? And they said no. Then I asked consent if we could, sometime in the future, debate these judicial nominees for 10 hours. Object, object.

We did schedule cloture votes this week, and they were simply that, 20-minute cloture votes. Why? Because they objected to bringing these judges up and having adequate debate in September or October. What alternative does one have but to file a cloture vote to bring them up? That is a 20-minute vote.

I very specifically came to this floor and said that those 20-minute votes could be expected in between other Energy amendment votes, 20 to 25 minutes. All the requests for debate time on those cloture votes have come from the other side of the aisle, not our side of the aisle.

I further remind my colleagues that we tried on numerous occasions to reach consent to have a filing deadline on Energy amendments last week. Again, objection from the other side of the aisle. I mentioned earlier the problem the managers are having is getting their arms around the amendments that we are waiting for the other side to offer. Yet they are not materializing.

So if there is any question of the commitment to finishing this bill, I think it is clear which side of the aisle is pressing for it and which side of the aisle is not pressing forward. It leads me to the conclusion that we want an Energy bill, a good Energy bill, for the American people, consistent with appropriate production, conservation, use of renewable fuels, and tax incentives, to make sure that our energy supply is appropriate. We want that type of Energy bill worse and are willing to fight for it longer and harder than the other side of the aisle.

It was the Democratic side of the aisle that refused to grant consent—that is, obstruct—to have the debate on the electricity title. It was the Democratic side of the aisle who refused to enumerate the number of second-degree amendments that would be offered.

I made it crystal clear 6 weeks ago that we were going to be going to this bill on this Monday to work Monday, Tuesday, Wednesday, Thursday, Friday, to complete this bill. Yet, on Monday, the Democratic side of the aisle refused to grant consent to have that debate on the electricity amendment. That refusal really did not rob us, but it meant we could not use Monday as productively as we should have used it. Again, that lack of participation makes it very difficult to achieve what is in the best interest of the American people.

The chairman of the committee, the manager, Senator DOMENICI, earlier this morning indicated there are amendments on the other side of the aisle. There is only so much we can do. We cannot really reach over to the other side of the aisle and pull those amendments out of their pockets or wherever they are. They have to offer those amendments for us to consider them. So we have to sit and wait for those amendments to come forward so that the Senate can work its business on this Energy bill.

As has been said, we are prepared to have amendments offered. I think it is important that we use today and tomorrow to focus on Energy. I think we should be able to reach some sort of time agreement to bring this bill to completion. I think we need to be working toward voting on the issues as we go forward, and I plead with the other side that we stay on Energy, we stay focused, and we bring this bill to completion as we go forward.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I listened with great interest to the distinguished majority leader. I would offer him advice again, for whatever it is worth. I have offered him advice as we have personally and publicly discussed progress on the Energy bill. Rather than shrill charges of obstructionism that nobody believes, I suggest that he tear down the tree, take away all of the obstacles that he laid down last night to considering the Energy bill, and I believe we could make constructive progress. I think we could perhaps finish the electricity title by the end of this week, but we cannot do that and then also do what he is now asking of us, which is to debate one of the most controversial nominees to be passed out of the Judiciary Committee. We cannot do both.

He wants us to have a vote on that nominee tomorrow morning, and I see no other option but simply to debate the nominee. He also would like very much for the trade bill to come up. There are 6 hours of time locked in for that. I do not know how we do the trade bill, an extraordinarily controversial nominee for the Ninth Circuit, and then I know he wants to do the supplemental bill as well. That is going to take some time. So how do we do all of these?

Having been the majority leader, I must say it is one of the most challenging parts of the job, but I think his colleagues were right; they said publicly he made a mistake, and I think they were right in their estimation of the schedule for this week. If we really wanted to finish the bill, we would not have had all of these diversions. If we can learn from our mistakes this week, I think the only answer is to let us not repeat them. The only way one can avoid repeating the same mistakes is to take out from underneath all of the underbrush the obstacles, the diversions, the other priorities that the majority leader has.

As I say, the Senator from Washington has been sitting in the Chamber. She sat here last night for hours waiting to debate another amendment on the electricity title. There are other Senators who have expressed an interest in coming to the floor to debate the electricity title.

How do we do that, No. 1, when we are not even on the electricity title anymore? We are actually on a motion to commit. We cannot even offer an amendment to the electricity title given the majority leader's current parliamentary maneuvers.

Then, of course, we have this enormously controversial nominee from California.

If I could offer one more piece of advice—and as I consider this, it is all the more troubling. If our Republican colleagues really wanted to get a bill, what would have been wrong with taking the bill that 88 of us voted for last year and starting with that? What would have been wrong with saying, we spent 8 weeks on a bill last year, how about taking that 8 weeks' of effort, that investment in time, bringing that to the committee, and then bringing it to the floor? My guess is we could have avoided hundreds of amendments. We could have said, what reason would there be to offer an additional amendment because we have now taken up the very thing the Senate passed last year? But for whatever reason, the committee decided to pass an ''Enron protection act.'' They wanted to be sure, apparently, that they could lock in protection for these incredibly manipulative schemes used by Enron to bilk consumers that changed dramatically the nature, the character, of the bill itself.

If our Republican friends would have wanted to complete the bill or at any time if they would want to do so in the future, we could take up where we left off. As it is, we are left with a bill that many have not seen. We are left with titles given to us virtually at the last minute and expected to offer amendments under those circumstances.

I say to my distinguished colleague and friend, it is still within our grasp to finish this bill in a meaningful and timely way. In order to do that, we have to work at it. We have to finish this work on the electricity title, we have to go to the other titles in a way that accommodates Senators with amendments, and we have to stay on the legislation. Diversions, especially ones involving issues of great controversy, will never allow the Senate the luxury of the confidence we need to finish this bill at any time in the foreseeable future.

I stand ready to work with him, to work with the manager of the bill, the chairman of the committee, to work with our distinguished ranking member and others so we can finish the bill. Shrill charges of obstructionism will not get the job done, nor will it get the job done to finger point and try to lay blame. We are here; they have the majority. We are willing to work with

them to see under their leadership we accomplish a good deal. We have on so many other bills already this year. We can do it on this bill if we have the determination to show the bipartisanship it will require.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I appreciate the advice and counsel of the distinguished Democratic leader. He and I do have the opportunity to talk which, indeed, I appreciate very sincerely. As we all know, we have heard from three majority leaders commenting on the schedule—the former majority leader, Senator LOTT, myself, and the distinguished Democratic leader.

We have a challenging week, remaining week with a lot to do. We have important issues before the Senate, critically important issues. I am delighted we have expressed that commitment to address issues, first and foremost energy. That is our number one priority. Everything else is secondary. I said we would have these cloture votes this week on the judges for 20 minutes and time demands have made that expand for hours, like last night. I am not accusing anyone of trying to delay the bill by talking on these judges, but remember my initial consent was we want to talk on these judges and we want to do it sometime in the future. Just give us consent to do that. That is what has been denied.

Chile and Singapore was mentioned. Before we leave, whether it is Friday or Saturday, the Chile and Singapore trade agreements are important. I don't want to focus on those because I want to stay on energy and keep driving on energy. I have the distinguished manager, the chairman of the committee, with me. I know he will keep driving ahead. I am delighted we will do that. It is important.

We have the supplemental, something we absolutely have to deal with. We can deal with that tomorrow and hopefully that can be done and wrapped up in a very short period of time.

Last night, to clarify, I did file a Frist amendment which includes the text of S. 14 as reported by the Energy Committee. It includes the ethanol amendment already adopted by the Senate, it includes the Bond-Levin CAFE amendment, it includes the Domenici electricity substitute, and the Finance Committee-reported energy tax title. That is the amendment I put forward.

As I said earlier in the day, to facilitate the amendments which I hope the Democrats will bring forward if they have them, I will gladly withdraw the first and second-degree amendments to offer them, to allow them the opportunity to offer their amendments to push this debate forward. I would be glad to enter into time agreements on their respective amendments in order to move forward.

I will not withdraw this cloture vote tomorrow. The more I hear the other side mention ''politics,'' the more I realize how important it is we have a cloture vote to see who is serious about finishing this bill and who is not tomorrow. We will gladly have discussions so we can consider amendments.

The Democratic leadership wants a bill. I know they want a bill. It is really a matter of, is it some time off in the future or now. The Democratic leader made a suggestion that is one I think is important because we need to move ahead, we need to act today—not just talk and talk about politics and talk about obstructionism, with rhetoric and no action. I want a bill. I want a bill that is good, that is fair to the American people, and that addresses the issues of supply and the soaring costs which we feel. It is incumbent upon us to act.

The Democratic leader mentioned last year's bill was passed with a bipartisan vote and suggested bringing that up. Let's do that. Let's pass that bill if it is the great bill he says. We would be willing to do that. I will turn to the manager of this bill and the chairman, but if we have the opportunity to take that bill up, as suggested by the Democratic leader, let's do it and pass it today and then we can move on.

Mr. REID. Would the distinguished majority leader yield for a question? Is the majority leader saying the bill that passed the Senate 88–11 last year, it would be brought to the floor and passed in the form it left the Senate?

Mr. FRIST. Mr. President, because the proposal was just made, my inclination is to basically say we would move in that direction. I want to consult with the manager of the bill since it was just proposed, but if that is the Democratic proposal and that is what is on the table—the American people deserve an Energy bill.

Let me turn to my distinguished colleague, the chairman of the committee, to comment. If so, we would proceed.

Mr. REID. If I could, briefly, before the majority leader leaves, if the proposal is the bill that passed the Senate 88–11 last year be brought to the Senate floor today in the form it passed, you got yourself a deal.

Mr. DOMENICI. No amendments and passed, as is, and sent to conference. Could we have just a few moments and come back and discuss it with you?

Mr. REID. Yes.

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

Mr. REID. If the Senator will yield, we have some people to speak, if the Senator will withhold the request.

Mr. DOMENICI. I withhold.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I know my colleagues have now for the last hour discussed the fact that we need to move on an energy plan and yet allow Members to have some discussion of policy. While I think we now have a proposal to discuss, it is important to point out we were very willing to talk about an electricity title. We were very willing last night, while the Senate wanted to debate judges—and I sat here as my Republican colleagues spoke for hours—I was willing to offer an amendment on electricity.

People are talking about moving ahead on an Energy bill because it is good for our economy, because it will help with supply. While we were sitting here wasting our time yesterday talking about judges, another company in my State with 700 workers from Bellingham, WA, temporarily shut down their facility. Why? Because of the high cost of electricity in our State.

So this is not about a problem that might happen. It is a problem that has already happened.

The parliamentary, procedural ruse that has been played on us to not go to the electricity title has been incredible. I was standing here, waiting to offer amendments, only to find out that we were going to go to a judge.

Yes, the Senator from New Mexico was right; we wanted to go to the electricity title. But we didn't even have the language from his proposal when we left town last week on Friday night. It wasn't even available Friday until late Friday night. So, yes, as soon as we got that language we started poring through it.

Now the question is whether this body wants to debate an electricity title, whether they want to consider the issues at hand.

Last night, the amendment I wanted to offer was actually shared with the minority staff. The majority staff is now saying we don't know what amendments are going to be offered. We had seven amendments to file this morning, only to find out they are no longer in order because of the motion to commit in the document that is now available only in two copies of 800 pages, making it impossible for us to offer our second-degree amendments.

What happened when we shared what we wanted to offer in an amendment? We ended up getting an e-mail threat back from the majority side saying, if you offer your amendment, we are going to do X to you. So much for sharing ideas about amendments. It is no secret this Senator from the State of Washington, who believes this underlying electricity title could potentially move higher cost electricity onto the transmission lines in my State and ultimately force my consumers to pay a higher rate, doesn't like the electricity title and wants to see it changed. This Senator from Washington State does not believe that my State should be forced into that kind of regional transmission organization planning or standard market design planning in which my region might get charged higher electricity rates while the State of Texas gets a sweetheart deal.

Yes, that is right. The State of Texas gets a sweetheart deal because they are exempted from that section on regional transmission organizations and standard market design. If this electricity title is so good for all of America, why

isn't it good for Texas? That is because Texas does not want to share in this plan. They don't want to share their power, and they don't want to necessarily have their transmission lines with higher cost energy on them. I don't want it in my region. But I know this: If it is good for me, it ought to be good for them.

The bottom line is the other side of the aisle doesn't want to take the time to hear about electricity amendments and debate them. With the west coast economy getting a $6 billion black eye, that is $6 billion that the ratepayers have had to pay because of increased energy prices, when the market has been knowingly manipulated. That was admitted to by Enron, admitted to by the Department of Justice citing Enron's manipulation, it has been admitted by the Federal Energy Regulatory Commission that such manipulation has happened. We ought to have our day here on the Senate floor.

The distinguished majority leader said let's not talk about the politics of this. But I have to say I don't want to stand here and be part of what he is labeling as obstruction when this is the body to which my constituents look to have their issues debated. This is the place where we come to represent constituents. This is their opportunity to be heard. I am their representative. I have the right to offer amendments dealing with one of the biggest pyramid schemes, financial crises to affect the Northwest. I deserve to be heard. My constituents deserve to be heard.

My constituents did not get invited to a meeting at the White House with Vice President DICK CHENEY to talk about the energy plan. They were not invited.

My constituents didn't get a password code to get on the conference call with the Federal Energy Regulatory Commission when they discussed with Wall Street financiers of Enron what legal standard they were going to use in reviewing the contracts of Enron, and whether ratepayers were going to get relief. My constituents didn't get that password code. We didn't get to be on that call.

My constituents don't have high-paid lobbyists like the Weststar Company, which is under Federal investigation for their donations to various political groups that were all keyed around trying to influence the energy policy of this body.

We may not win on our amendments about market manipulation and improving the way energy policy is regulated, but, by God, we deserve to be heard on this Senate floor and have a debate about electricity. You cannot have an amendment like that of Senator DAYTON that basically is trying to stop the repeal of the consumer protection law that is currently on the books, that the Domenici underlying title erases, and not have a debate on that. How can you not have a debate on the Dayton amendment that stops the repeal of the Public Utility Holding Company Act?

As the Washington Post said yesterday in a headline on the front page of the business section: ''Energy Monoliths Could Return.'' There was more debate yesterday in the Washington Post about the Dayton amendment trying to stop the return of this monolith than there has been on the floor of the Senate.

I think the public should get their due. They paid $6 billion. Gee, for $6 billion in increased power rates you ought to at least give them a couple of days on the Senate floor to talk about these issues. These issues are a significant change to current law. The whole notion of regional transmission organizations and standard market design is a move toward deregulation that this body ought to understand and understand well.

Since the Federal Energy Regulatory Commission decided even though the markets had been manipulated they were not going to give relief to west coast ratepayers, we have not even had a hearing. We have not even had a hearing. That was just a few weeks ago.

For 2½ years my colleague and staff member, Angela Becker-Dippman, and myself have probably paid more attention to the energy issue than just about anybody in this body, save maybe the California Members. Why? Because a crisis happened in our State starting in late 2000, and we lobbied for price caps. We asked, before the Federal Energy Regulatory Commission: Give our State relief. It took them a year plus, a year and a half before they finally came in with any relief.

Then people said it was all about supply and don't worry, it is all going to get straightened out. It is not about manipulation. Nobody manipulated anything.

Then we find out they actually manipulated something and admitted it. They said: Don't worry, you'll have your day. It will all go before the Federal Energy Regulatory Commission. They will take care of it. Something will happen.

They have done nothing to protect the consumers once that manipulation was known. They have done nothing. They have done nothing but get on a phone call with the financiers of the Enron deal and say to them, in private password conversations: Don't worry, you'll be protected.

So, yes, my amendments deserve debate. We are not going to be an apologist for Enron, nor condone their actions. But we should have a healthy policy debate about:

No. 1, whether this country needs more deregulation of the energy industry. Why not have that debate? Some of my colleagues on the Democratic side of the aisle actually believe there should be deregulation. I don't agree with them. What is wrong with having that debate?

No. 2, we ought to debate whether we have enough consumer protection in this legislation to protect from future market manipulation that might happen as we continue to see the rise in natural gas prices. We should have that debate.

No. 3, we could have a debate about whether we really understand what regional transmission organizations and standard market design actually do.

I can't tell you how many people in California thought it was no big deal about how most of the legislators didn't really understand what was going on in the legislation and went ahead and passed it only to then find out that basically they had turned electricity over to the free market. Electricity isn't just a commodity; it is a necessity. People need it. They cannot be gouged by high prices. That is exactly what has happened.

We ought to debate whether we understand what regional transmission organizations and standard market design really do.

I am all for joining with my colleagues if they want to make this a voluntary experiment. If they want to make this section of the electricity title voluntary, I am happy to make it voluntary. But it is not voluntary now. It is a mandate. The Federal Energy Regulatory Commission came up with hearings, with pricing schemes, and with a rule that would ultimately go into place after 2005. So wait 2 years to get your plans in place and then implement them.

As the Senator from North Dakota adequately explained, this isn't about whether we are going to build a national grid system and whether cheap electricity in his region is going to get displaced by more costly electricity from somewhere else and forced on his consumers. Why should he agree to that? We need to have a debate about whether we really know and understand where this title is leading us. I am happy to do that. I am happy to do it. More importantly, I am happy to do it on Saturday.

My constituents deserve to be heard on this issue. When they are stuck with a 56-percent rate increase for the next 5 years because they signed an Enron contract and they get no relief from the Federal Government, they deserve to be heard. When Enron can turn around and sue them to continually force my ratepayers to pay a higher rate on manipulated contracts, they deserve to be heard.

I am not being an obstructionist. The majority leader talked about doing something in the public interest. This is about the public interest. This is about saying this body is going to protect consumers from market manipulation. We are not going to guess at it. We are not going to pretend that we know.

We are not going to pass something the Attorney General from New York sends us a letter about basically saying, Excuse me. Thanks for your hard work, but you are not getting it done. Your language not only doesn't protect us enough but it might actually undermine the current State laws that are in

place. Or a letter from the National Securities Exchange executive saying the same thing. The National Securities Exchange doesn't say they think the language in the underlying bill curtails their efforts on getting the kind of oversight that needs to happen to protect consumers from market manipulation.

I couldn't disagree more with the majority leader. I supported the Energy bill last year. I wanted to get it out here. I didn't like everything in it. I was willing to compromise to move something ahead. But a financial disaster happened in my State and it is going to continue for years to come. This electricity title on which the majority party has filed a motion to commit prohibits us from offering those amendments. Maybe our leadership is in the back room working out some sort of agreement. Maybe they are back there saying let us start backward on the electricity title. Maybe they are bifurcating some of these issues about supply.

But why not say to the American public we are going to make clear to you there is no doubt that this isn't a supply issue, and we have made sure manipulation has been taken care of?

We cannot leave here giving the American people the impression that if you have enough money you can rely on the energy policy. Electricity is a necessity, and we need to fight to make it affordable. This Member will stand here for as long as it takes to make sure my constituents have their day on these amendments.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from California.

Mrs. BOXER. Mr. President, thank you very much. I thank my colleague from Washington for her continued leadership and information about what is a very complicated matter. It isn't easy to understand and follow all the market manipulation that occurred in our Western States. But she has explained it. I intend to do so as well.

Let me say this: When the majority leader says we have to have an Energy bill, I agree we need an Energy bill. However, we need a good Energy bill. We don't need a bad Energy bill. If we have an Energy bill which doesn't attack what happened in the west coast, then I want to say to my colleagues from every State in the Union—and I will be speaking for about 15 or 20 minutes—I will tell every colleague here from every State in the Union their people could very well go through what my people went through in California.

Mrs. HUTCHISON. Mr. President, will the Senator yield for a unanimous consent request that I be allowed to speak immediately following her?

Mrs. BOXER. Absolutely.

Mrs. HUTCHISON. I ask unanimous consent to be recognized immediately following the remarks of the Senator from California.

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

Mrs. BOXER. Mr. President, the reason I waited for 2 hours this morning to speak today is to send a warning to my colleagues. Read what you are about to do. I find it incredible that instead of continuing on the present path—which is to amend the electricity title in a way that would make it better, in ways that would protect the American people from the type of scam we witnessed in the west coast, which in my State alone cost us about $9 billion, if not more, and which is responsible for about a third of the problems we are facing financially in my State—instead of fixing that electricity title, what do we have? We have an amendment filed stopping our ability to make any changes to it, and which, by the way, eviscerates all of the 21 amendments we have worked so hard on during the 8 days we have been on this bill, including amendments by Republicans and Democrats alike, dealing with biomass, LIHEAP, oil independence, clean coal, hydrogen, and so on.

Even the 21 amendments we worked so hard on have been left out of this bill which is now pending, and if we go to it, those 21 amendments will be gone.

I also hope that leadership is working now to straighten out where we are. We are in chaos, in my opinion, right now.

When the majority leader says we need an Energy bill, I want to say we need a good Energy bill.

The last thing we need is a bad Energy bill. Let's look at this bill. This bill has an electricity title which goes forward with deregulation in the face of the disaster we had on the west coast. Why colleagues would go ahead with this is beyond me.

But I have to say, in California, every single member of the legislature—Republican and Democrat—years ago voted for such a bill. It was signed by Pete Wilson, who is the one who brought it to the legislature. And it led to a total disaster. So maybe my colleagues don't understand the fact that this is one where you better read every line and you better understand what you are voting for because this one could come back to bite you really hard.

In the bill we have huge subsidies for nuclear power. We don't even know what to do with the waste. I see my colleague from Nevada crossing the floor. He is struggling with this. What are you going to do with the waste that lasts thousands of years that is so dangerous? We don't even know. But this subsidizes new nuclear powerplants.

This bill has done nothing about fuel economy—zilch. The amendment that passed was backed, frankly, by the big auto companies, and it does nothing, at a time when we are hoping to change our dependence on foreign oil.

What we have is a bill that ignores what happened to us in California. I see that my senior Senator is here. And no one knows better than she and I what this has meant to our people. And we are trying to be good colleagues to our colleagues to say: Wait. Stop. Time out. Don't go down that path that we went down.

In the midst of the crisis, I got a letter from a gentleman who lives in Bishop, CA. I ask unanimous consent to have that letter printed in the RECORD.

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

ZACK RANCH,
Bishop, CA, April 8, 2001.

Senator BARBARA BOXER,
Hart Senate Office Building.
Washington, DC

DEAR SENATOR BOXER: I am writing to ask for your help. Our family has owned and operated an alfalfa ranch in the Hammil Valley since 1965. Our crop is irrigated in the summer with water pumped from wells, by electric pumps. We have just been informed by Edison that our power rate will double this summer, and will possibly be raised beyond that in the future. Since we have a narrow profit margin to begin with, this will effectively put us out of business. Edison has told us that there is to be no break for farmers. In the past we have been on a ''time of use'' program in the summer where we pump only during off peak hours, but we aren't able to find if this program will continue. Any information you can offer, or any help you can give us, will be greatly appreciated.

Sincerely,

ANN ZACK.

Mrs. BOXER. This gentleman wrote to me. His name is Zack Ranch. Actually, his wife wrote:

I am writing to ask your help. Our family has owned and operated an alfalfa ranch in the Hammil Valley since 1965. Our crop is irrigated in the summer with water pumped from wells, by electric pumps. We have just been informed by Edison that our power rate will double this summer, and will possibly be raised beyond that in the future. Since we have a narrow profit margin to begin with, this will effectively put us out of business. Edison has told us that there is to be no break for farmers. In the past, we have been on a ''time of use'' program in the summer where we pump only during off peak hours, but we aren't able to find if this program will continue. Any information you can offer, or any help you can give us, will be greatly appreciated.

Well, we lost so many small businesses and farmers during this period. It would have been worse if the State did not go in. Governor Davis, at that time, took over from the power companies and protected the people from the types of increases that consumers in Washington had, although we went up 25 percent, which is very hard to take, especially for a small business that is working on a small profit margin.

Let me show you a chart that demonstrates what happened to us at the height of our problems. This is the Enron scam. I would say to you, Mr. President, in this bill it is even going to be worse for your people because this bill has done away with the one agency that protects you against big mergers; it has essentially eviscerated the power of the FERC.

In this situation, eventually FERC was able to step in. But what we have done in this bill so far is not going to make that possible.

Let me show you what happened with the wholesale electricity prices. It started to spike up when all these scams—unbeknownst to us; I will go into those scams—hit. Enron led these scams. Other companies apparently did the same. The prices peaked over here, way up here. And then they started to go down when the rate caps were placed in.

In between this period and this period, as shown on the chart, our people suffered greatly. This represents a theft of about $9 billion from my people into the pockets of unscrupulous energy companies led by Enron.

Let me tell you what happened during this period. We have an overlay for this chart which I showed at the Commerce Committee which investigated this matter. Just to add a little spice to it, this overlay shows how much money Ken Lay and Jeffrey Skilling, the two corporate leaders—if I could use that term—of Enron, made during this period when we were being ripped off.

Mr. Lay sold $5 million worth of stock here in December 2000, $6 million worth of stock in February of 2001, and another $3 million worth of stock in May of 2001.

Mr. Skilling made millions of dollars as well. So here we are: $3 million, $3 million, and $2 million, the number of shares they sold into the hundreds of thousands. And the price per share, they sold out between $85 and $54.

When it was all over, where were the employees of Enron? Flat broke. They lost their jobs. They lost their life savings.

They knew what they were doing. They were ripping off the people of my State and selling their stock. And they are not in jail.

What do we do in this bill? We make it possible for that to continue because the electricity title does nothing but make matters worse by tying the hands of the people who could stop this nonsense from happening.

So when we get a little bit upset and emotional, it is because we have met with the people in our State. We know how they have suffered. We have met with the business community. We know what happened. And we don't see Ken Lay in jail. We don't see Jeffrey Skilling in jail. Do you know what? That is up to the administration to go after them. I urge them to do it. They are going after Martha Stewart. They went after Sam Waksal. Fine. Go after people who do bad things.

What happened here is a disaster. These men pocketed tremendous amounts of money. The people who worked for them lost their jobs, lost their retirement. People all over the country went broke with their pension plans. And this electricity title does nothing at all to stop this from happening.

Now, I never thought I would have to come out on the floor and bring out these charts again because, honest to God, I thought in the Energy bill we would come up with we would stop these shenanigans. And we can't put Ken Lay in jail here. That is up to the courts. It is up to the Attorney General. We can't put Jeffrey Skilling in jail. We can't get the money back to the people. But what we can do is make sure this does not happen again. And we are not doing it. That is why we are so upset.

And when colleagues on the other side say let's stop talking about this; we have talked for 16 days, the truth is we have talked for 8 days. The truth is they are putting in judges, controversial judges. And I have one from my State the two Senators from my State oppose. They are throwing that in the mix, when we ought to be talking about this issue.

I want to show you one more thing before I put away this chart. During this period of time, the California delegation, Republicans and Democrats alike, went to seek DICK CHENEY. We begged him to take action. We begged him to take action. We said: You are an expert on energy. You know this is a scam. We showed him a chart which showed that plants were being taken offline for so-called maintenance at a rate that was about 10 times higher than had been the normal case. So we were getting shorted electricity on purpose—manipulation.

We went to DICK CHENEY and we said: Can you help us? Do you know what he said? I will never forget it. He said: Listen, I have one thing to say to you. Your people use too much energy.

Well, let me say, my people are No. 1 in terms of the least energy used per capita. Let me repeat that: the least energy used per capita. And look at this chart. As we saw the spikes go up, demand was going down. This was not a market. This was manipulation.

Demand was down; electricity was soaring. What MARIA CANTWELL and PATTY MURRAY and I and Senator FEINSTEIN are trying to tell you is, don't let the California experience go to waste. Look at what happened to us. Look at the corporate thieves that pocketed millions of dollars while our people were taken to the cleaners, while the employees of these companies lost their jobs, lost their pensions. If I have to see another one of these cases again, it would just be tragic. Can't we learn from history? That is what we are supposed to do, learn from history.

So when we stand up and say we want to fight for our amendments, we want to make sure that the Federal Government can step in and stop this robbery, it isn't because we are trying to derail anything. If anything, we are trying to get an Energy bill on track that is going to spare other States the tragedy that our State experienced.

It isn't anything about too much demand. Our demand was down, and the prices soared. Why did that happen? Because scams were put into place. I will just show a few of these scams.

Here is Get Shorty:

In order to short the ancillary services, it is necessary to submit false information that purports to identify the source of the ancillary services.

The traders are careful, however, to be sure to buy services right at 9:00 a.m. so that Enron is not actually called upon to provide ancillary services.

That comes straight out of the lawyer's letter.

I ask unanimous consent to print the letter in the RECORD.

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

STOEL RIVES LLP,
Memorandum,
December 6, 2000.

To: Richard Sanders
From: Christian Yoder and Stephen Hall
Re: Traders' Strategies in the California Wholesale Power Markets/ISO Sanctions.

CONFIDENTIAL: ATTORNEY/CLIENT PRIVILEGE/ ATTORNEY WORK PRODUCT

This memorandum analyzes certain trading strategies that Enron's traders are using in the California wholesale energy markets. Section A explains two popular strategies used by the traders, ''inc-ing'' load and relieving congestion. Section B describes and analyzes other strategies used by Enron's traders, some of which are variations on ''inc-ing'' load or relieving congestion. Section C discusses the sanction provisions of the California Independent System Operator (''ISO'') tariff.

A. THE BIG PICTURE

1. ''Inc-ing'' Load Into The Real Time Market

One of the most fundamental strategies used by the traders is referred to as '''inc-ing' load into the real time market.'' According to one trader, this is the 'oldest trick in the book' and, according to several of the traders, it is now being used by other market participants.

To understand this strategy, it is important to understand a little about the ISO's real-time market. One responsibility of the ISO is to balance generation (supply) and loads (demand) on the California transmission system. During its real-time energy balancing function the ISO pays/charges market participants for increasing/decreasing their generation. The ISO pays/charges market participants under two schemes: ''instructed deviations'' and ''uninstructed deviations.'' Instructed deviations occur when the ISO selects supplemental energy bids from generators offering to supply energy to the market in real time in response to ISO instructions. Market participants that increase their generation in response to instructions (''instructed deviation'') from the ISO are paid the ''inc'' price. Market participants that increase their generation without an instruction from the ISO (an ''uninstructed deviation'') are paid the ex post ''dec'' price. In real-time, the ISO issues instructions and publishes ex post prices at ten-minute intervals.

'' 'Inc-ing load' into the real-time market'' is a strategy that enables Enron to send excess generation to the imbalance energy market as an uninstructed deviation. To participate in the imbalance energy market it is necessary to have at least 1 MW of load. The reason for this is that a generator cannot schedule energy onto the grid without having a corresponding load. The ISO requires scheduling coordinators to submit balanced schedules; i.e., generation must equal load. So, if load must equal generation, how can Enron end up with excess generation in the real-time market?

The answer is to artificially increase (''inc'') the load on the schedule submitted

to the ISO. Then, in real-time, Enron sends the generation it scheduled, but does not take as much load as scheduled. The ISO's meters record that Enron did not draw as much load, leaving it with an excess amount of generation. The ISO gives Enron credit for the excess generation and pays Enron the dec price multiplied by the number of excess megawatts. An example will demonstrate this. Enron will submit a day-ahead schedule showing 1000 MW of generation scheduled for delivery to Enron Energy Services (''EES''). The ISO receives the schedule, which says ''1000 MW of generation'' and ''1000 MW of load.'' The ISO sees that the schedule balances and, assuming there is no congestion, schedules transmission for this transaction. In real-time, Enron sends 1000 MW of generation, but Enron Energy Services only draws 500 MW. The ISO's meters show that Enron made a net contribution to the grid of 500 MW, and so the ISO pays Enron 500 times the dec price.

The traders are able to anticipate when the dec price will be favorable by comparing the ISO's forecasts with their own. When the traders believe that the ISO's forecast underestimates the expected load, they will inc load into the real time market because they know that the market will be short, causing a favorable movement in real-time ex post prices. Of course, the much-criticized strategy of California's investor-owned utilities (''IOUs'') of underscheduling load in the day-ahead market has contributed to the real-time market being short. The traders have learned to build such underscheduling into their models, as well.

Two other points bear mentioning. Although Enron may have been the first to use this strategy, others have picked up on it, too. I am told this can be shown by looking at the ISO's real-time metering, which shows that an excess amount of generation, over and above Enron's contribution, is making it to the imbalance market as an uninstructed deviation. Second, Enron has performed this service for certain other customers for which it acts as scheduling coordinator. The customers using this service are companies such as Powerex and Puget Sound Energy (''PSE''), that have generation to sell, but no native California load. Because Enron has native California load through EES, it is able to submit a schedule incorporating the generation of a generator like Powerex or PSE and balance the schedule with ''dummied-up'' load from EES.

Interestingly, this strategy appears to benefit the reliability of the ISO's grid. It is well known the California IOUs have systematically underscheduled their load in the PX's Day-Ahead market. By underscheduling their load into the Day-Ahead market, the IOUs have caused the ISO to have to call on energy in real time in order to keep the transmission system in balance. In other words, the transmission grid is short energy. By deliberately overscheduling load, Enron has been offsetting the ISO's real time energy deficit by supplying extra energy that the ISO needs. Also, it should be noted that in the ex post market Enron is a ''price taker,'' meaning that they are not submitting bids or offers, but are just being paid the value of the energy that the ISO needs. If the ISO did not need the energy, the dec price would quickly drop to $0. So, the fact that Enron was getting paid for this energy shows that the ISO needed the energy to balance the transmission system and offset the IOU's underscheduling (if those parties own Firm Transmission Rights (''FTR'') over the path).

2. Relieving Congestion

The second strategy used by Enron's traders is to relieve system-wide congestion in the real-time market, which congestion was created by Enron's traders in the PX's Day Ahead Market. In order to relieve transmission congestion (i.e., the energy scheduled for delivery exceeds the capacity of the transmission path), the ISO makes payments to parties that either schedule transmission in the opposite direction (''counterflow payments'') or that simply reduce their generation/load schedule.

Many of the strategies used by the traders involve structuring trades so that Enron gets paid the congestion charge. Because the congestion charges have been as high as $750/MW, it can often be profitable to sell power at a loss simply to be able to collect the congestion payment.

B. REPRESENTATIVE TRADING STRATEGIES

The strategies listed below are examples of actual strategies used by the traders, many of which utilize the two basic principles described above. In some cases, the strategies are identified by the nicknames that the traders have assigned to them. In some cases, i.e., ''Fat Boy,'' Enron's traders have used these nicknames with traders from other companies to identify these strategies.

1. Export of California Power

a. As a result of the price caps in the PX and ISO (currently $250), Enron has been able to take advantage of arbitrage opportunities by buying energy at the PX for export outside California. For example, yesterday (December 5, 2000), prices at Mid-C peaked at $1200, while California was capped at $250. Thus, traders could buy power at $250 and sell it for $1200.

b. This strategy appears not to present any problems, other than a public relations risk arising from the fact that such exports may have contributed to California's declaration of a Stage 2 Emergency yesterday.

2. ''Non-firm Export''

a. The goal is to get paid for sending energy in the opposite direction as the constrained path (counterflow congestion payment). Under the ISO's tariff, scheduling coordinators that schedule energy in the opposite direction of the congestion on a constrained path get paid the congestion charges, which are charged to scheduling coordinators scheduling energy in the direction of the constraint. At times, the value of the congestion payments can be greater than the value of the energy itself.

b. This strategy is accomplished by scheduling non-firm energy for delivery from SP–15 or NP–15 to a control area outside California. This energy must be scheduled three hours before delivery. After two hours, Enron gets paid the counterflow charges. A trader then cuts the non-firm power. Once the non-firm power is cut, the congestion resumes.

c. The ISO posted notice in early August prohibiting this practice. Enron's traders stopped this practice immediately following the ISO's posting.

d. The ISO objected to the fact that the generators were cutting the non-firm energy. The ISO would not object to this transaction if the energy was eventually exported.

Apparently, the ISO has heavily documented Enron's use of this strategy. Therefore, this strategy is the more likely than most to receive attention from the ISO.

2. ''Death Star''

a. This strategy earns money by scheduling transmission in the opposite direction of congestion; i.e., schedule transmission north in the summertime and south in the winter, and then collecting the congestion payments. No energy, however, is actually put onto the grid or taken off.

b. For example, Enron would first import non-firm energy at Lake Mead for export to the California-Oregon border (''COB''). Because the energy is traveling in the opposite direction of a constrained line, Enron gets paid for the counterflow. Enron also avoids paying ancillary service charges for this export because the energy is non-firm, and the ISO tariff does not require the purchase of ancillary services for non-firm energy.

c. Second, Enron buys transmission from COB to Lake Mead at tariff rates to serve the import. The transmission line from COB to Lake Mead is outside of the ISO's control area, so the ISO is unaware that the same energy being exported from Lake Mead is simultaneously being imported into Lake Mead. Similarly, because the COB to Lake Mead line is outside the ISO's control area, Enron is not subject to payment of congestion charges because transmission charges for the COB to Lake Mead line are assessed based on imbedded costs.

d. The ISO probably cannot readily detect this practice because the ISO only sees what is happening inside its control area, so it only sees half of the picture.

e. The net effect of these transactions is that Enron gets paid for moving energy to relieve congestion without actually moving any energy or relieving any congestion.

3. ''Load Shift''

a. This strategy is applied to the Day-Ahead and the real-time markets.

b. Enron shifts load from a congested zone to a less congested zone, thereby earning payments for reducing congestion, i.e., not using our FTRs on a constrained path.

c. This strategy requires that Enron have FTRs connecting the two zones.

d. A trader will overschedule load in one zone, i.e., SP–15, and underschedule load in another zone, i.e., NP–15.

Such scheduling will often raise the congestion price in the zone where load was overscheduled.

The trader will then ''shift'' the overscheduled ''load'' to the other zone, and get paid for the unused FTRs. The ISO pays the congestion charge (if there is one) to market participants that do not use their FTRs. The effect of this action is to create the appearance of congestion through the deliberate overstatement of loads, which causes the ISO to charge congestion charges to supply scheduled for delivery in the congested zone. Then, by reverting back to its true load in the respective zones, Enron is deemed to have relieved congestion, and gets paid by the ISO for so doing.

e. One concern here is that by knowingly increasing the congestion costs, Enron is effectively increasing the costs to all market participants in the real time market.

f. Following this strategy has produced profits of approximately $30 million for FY 2000.

4. ''Get Shorty''

a. Under this strategy, Enron sells ancillary services in the Day-ahead market.

b. Then, the next day, in the real-time market, a trader ''zeroes out'' the ancillary services, i.e., cancels the commitment and buys ancillary services in the real-time market to cover its position.

c. The profit is made by shorting the ancillary services, i.e., sell high and buy back at a lower price.

d. One concern here is that the traders are applying this strategy without having the ancillary services on standby. The traders are careful, however, to be sure to buy services right at 9:00 a.m. so that Enron is not actually called upon to provide ancillary services. However, once by accident, a trader inadvertently failed to cover, and the ISO called on those ancillary services.

e. This strategy might be characterized as ''paper trading,'' because the seller does not actually have the ancillary services to sell. FERC recently denied Morgan Stanley's request to paper trade on the New York ISO.

The ISO tariff does provide for situations where a scheduling coordinator sells ancillary services in the day ahead market, and then reduces them in the day-of market. Under these circumstances, the tariff simply requires that the scheduling coordinator replace the capacity in the hour-ahead market. ISO Tariff, SBP 5.3, Buy Back of Ancillary Services.

f. The ISO tariff requires that schedules and bids for ancillary services identify the specific generating unit or system unit, or in the case of external imports, the selling entity. As a consequence, in order to short the ancillary services it is necessary to submit false information that purports to identify the source of the ancillary services.

5. ''Wheel Out''

a. This strategy is used when the interties are set to zero, i.e., completely constrained.

b. First, knowing that the intertie is completely constrained, Enron schedules a transmission flow through the system. By so doing, Enron earns the congestion charge. Second, because the line's capacity is set to ''0,'' the traders know that any power scheduled to go through the intertie will, in fact be cut. Therefore, Enron earns the congestion counterflow payment without having to actually send energy through the intertie.

c. As a rule, the traders have learned that money can be made through congestion charges when a transmission line is out of service because the ISO will never schedule an energy delivery because the intertie is constrained.

6. ''Fat Boy''

a. This strategy is described above in section A(1).

7. ''Ricochet''

a. Enron buys energy from the PX in the day of market, and schedules it for export. The energy is sent out of California to another party, which charges a small fee per MW, and then Enron buys it back to sell the energy to the ISO real-time market.

b. The effect of this strategy on market prices and supply is complex. First, it is clear that Enron's intent under this strategy is solely to arbitrage the spread between the PX and the ISO, and not to serve load or meet contractual obligations. Second, Ricochet may increase the Market Clearing Price by increasing the demand for energy (Increasing the MCP does not directly benefit Enron because it is *buying* energy from the PX, but it certainly affects other buyers, who must pay the same, higher price.) Third, Ricochet appears to have a neutral effect on supply, because it is returning the exported energy as an import. Fourth, the parties that pay Enron for supplying energy to the real time ex post market are the parties that underscheduled, or underestimated their load, i.e., the IOUs.

8. Selling Non-firm Energy as Firm Energy

a. The traders commonly sell non-firm energy to the PX as ''firm.'' ''Firm energy,'' in this context, means that the energy includes ancillary services. The result is that the ISO pays EPMI for ancillary services that Enron claims it is providing, but does not in fact provide.

b. The traders claim that ''everybody does this,'' especially for imports from the Pacific Northwest into California.

c. At least one complaint was filed with the ISO regarding Enron's practice of doing this. Apparently, Arizona Public Service sold non-firm energy to Enron, which turned around and sold the energy to the ISO as firm. APS cut the energy flow, and then called the ISO and told the ISO what Enron had done.

9. Scheduling Energy To Collect the Congestion Charge II

a. In order to collect the congestion charges, the traders may schedule a counterflow even if they do not have any excess generation. In real time, the ISO will see that Enron did deliver the energy it promised, so it will charge Enron the inc price for each MW Enron was short. The ISO, however, still pays the congestion charge. Obviously a loophole, which the ISO could close by simply failing to pay congestion charges to entities that failed to deliver the energy.

b. This strategy is profitable whenever the congestion charge is sufficiently greater than the price cap. In other words, since the ex post is capped at $250, whenever the congestion charge is greater than $250 it is profitable to schedule counterflows, collect the congestion charge, pay the ex post, and keep the difference.

C. ISO TARIFF

The ISO tariff prohibits ''gaming,'' which it defines as follows:

'Gaming,' or taking unfair advantage of the rules and procedures set forth in the PX or ISO Tariffs, Protocols or Activity Rules, or of transmission constraints in periods in which exist substantial Congestion, to the detriment of the efficiency of, and of consumers in, the ISO Markets. 'Gaming' may also include taking undue advantage of other conditions that may affect the availability of transmission and generation capacity, such as loop flow, facility outages, level of hydropower output or seasonal limits on energy imports from out-of-state, or actions or behaviors that may otherwise render the system and the ISO Markets vulnerable to price manipulation to the detriment of their efficiency.'' ISO Market Monitoring and Information Protocol (''MMIP''), Section 2.1.3.

The ISO tariff also prohibits ''anomalous market behavior,'' which includes ''unusual trades or transactions''; ''pricing and bidding patterns that are inconsistent with prevailing supply and demand conditions''; and ''unusual activity or circumstances relating to imports from or exports to other markets or exchanges.'' MMIP, Section 2.1.1 et seq.

Should it discover such activities, the ISO tariff provides that the ISO may take the following action:

1. Publicize such activities or behavior and its recommendations thereof, ''*in whatever medium it believes most appropriate.*'' MMIP, Section 2.3.2 (emphasis added).

2. The Market Surveillance Unit may recommend actions, including fines and suspensions, against specific entities in order to deter such activities or behavior. MMIP, Section 2.3.2.

3. With respect to allegations of gaming, the ISO may order ADR procedures to determine if a particular practice is better characterized as improper gaming or ''legitimate aggressive competition.'' MMIP, Section 2.3.3.

4. In cases of ''serious abuse requiring expeditious investigation or action'' the Market Surveillance Unit shall refer a matter to the appropriate regulatory or antitrust enforcement agency. MMIP, Section 3.3.4.

5. Any Market Participant or interested entity may file a complaint with the Market Surveillance Unit. Following such complaint, the Market Surveillance Unit may ''carry out any investigation that it considers appropriate as to the concern rasied.'' MMIP, Section 3.3.5.

6. The ISO Governing Board may impose ''such sanctions or penalties as it believes necessary and as are permitted under the ISO Tariff and related protocols approved by FERC; or it may refer the matter to such regulatory or antitrust agency as it sees fit to recommend the imposition of sanctions and penalties.'' MMIP, Section 7.3.

Mrs. BOXER. This is a letter we got ahold of in the Commerce Committee where the lawyers were, in essence, going into all of these schemes and basically telling Enron they were running afoul of State law, and yet the schemes continued. They went on and on.

Here are the rest of the strategies used that Senator CANTWELL is trying to do away with, trying to do away with these schemes. That is why she has a number of amendments.

Death Star:

Enron gets paid for moving energy to relieve congestion without actually moving any energy or relieving any congestion.

This is detailed in the letter I just put in the RECORD.

Load Shift:

By knowingly increasing the congestion costs, Enron is effectively increasing the costs to all market participants in the real time market.

This is a great one. Exporting California power:

This strategy appears not to present any problems, other than a public relations risk arising from the fact that such exports may have contributed to California's declaration of a Stage 2 Emergency.

They were taking power out of my State, robbing my State of its power. Be careful. This could happen to you. As Senator DORGAN said, he gets cheap power. In this bill that cheap power can be brought out of his State and suddenly they are faced with a lack of power. Is this the kind of Energy bill we need so badly, to take these schemes and allow them to happen in your States?

Inc-ing Load:

The answer is to artificially increase (inc) the load on the schedule submitted to the ISO.

It is all fraud. It has all been exposed. We know now why we faced the kind of crisis we faced. Yet we can't get colleagues to listen to Senator CANTWELL, to vote for her amendment. Then we get yelled at that we are not doing the right thing for the country.

I don't understand what is going on here. If we truly care about our constituents as we say we do, if we truly want to fight for our families, if we care about our small businesses, why would we pass a bill that allows these scams to continue? Why do we have to get lectured about the fact we are derailing something? I am trying to spare what happened to me and my constituents in my State from happening to you and your constituencies in your States. For that, we are being called obstructionist.

This is another way to look at what happened. Our demand for electricity in California during our crisis period went up 4 percent. Remember, I told you, we were the most energy efficient. The reason it went up 4 percent is we are growing. I must remind you, I represent 35 million people. We have the fifth largest economy in the world. So our electricity demand went up 4 percent and our wholesale cost of electricity went up 266 percent.

No business could survive if our State hadn't come in and taken over

when the power companies went under. Our power companies went under. Our electric utility companies went under. It is hard to imagine. They had been in business for 100 years or more.

I know my friend from Texas is raring to give her statement so I won't go on anymore.

I think before there are charges of obstructionism, we ought to take a deep breath and think about what happened to the largest State in the Union, when we were scammed by the private sector, by people with no morality, by people with no ethics, by people who should be in jail. We were scammed, and we are trying to prevent that from happening all over the country.

Instead, what we have is a bill that makes it easier for these scams to continue. What we have is a bill that continues on this path that will hurt consumers all over the country.

What Senator CANTWELL has been fighting for is the opportunity to offer amendments. With what has happened here now, that is no longer possible. So, yes, some of us are going to continue to tell the story. Some of us are going to say: Let us learn from history. This isn't ancient history; this is 1999 and 2000.

What we want to do is make sure we have a system that will protect small business and will protect families and will protect us all from robber barons who come in and set up elaborate scams, giving them names: Death Star, Fat Boy, Get Shorty, Inc-ing, Ricochet. This isn't just some one person who had a thought. This was a conspiracy to harm consumers.

As Senator CANTWELL said, electricity is a necessity. It is more than a commodity. You can do without a new suit; you can do without a pair of shoes if you already have one; but you cannot do without electricity, if you are in business or if you live in some of the desert areas in my State where senior citizens can get a heatstroke if they don't have their air-conditioner on. Senator CANTWELL and I and others simply want to make sure that what happened to us does not happen to us again and what happened to us does not happen to you in your States.

I thank the Senate for its indulgence. I am very hopeful that our leaders are working out a way for us to walk away from this electricity title which is so damaging and move forward with a bill that doesn't hurt the people we represent. None of us wants to do it. Let's not do it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized under the previous order for up to 20 minutes.

Mrs. HUTCHISON. Mr. President, I think it is very important that we revamp and talk about what is going on here because we have been trying to pass this Energy bill, really, since May. Our leader, Senator FRIST, and the committee chairman, Senator DOMENICI, have asked people to come forward and offer their amendments time and time and time again. We have not had amendments offered; we have not had time agreements; we have not had the momentum to move forward on this bill.

Senator FRIST, as is usual around here, did allow other business to be done in between because we were not able to make headway on this bill. Senator FRIST announced at the first of this week that we were going to finish this Energy bill. But time and time again, it has broken down, amendments have not come forward, we have not had time agreements, and we have not been able to move forward.

The bill we are working on is a bill that came out of committee. It was hammered out by the committee under the leadership of the chairman and the ranking member—the two Senators from New Mexico. It came to the floor in relatively good shape. There were certainly amendments in order, and that is the right of every Senator. But it is also the responsibility of a Senator to say what the amendments are, put them forward, make the arguments, and let's move on. That is how you get a bill off the floor. We have been thwarted in those efforts time and time and time again.

We import 56 percent of the energy needs of this country. How can we be so blind when we see what is happening in the Middle East right now? We know the Middle East is volatile, we know it is the largest source of our imported energy. Yet we have been working on this Energy bill for actually 2 years and, if we don't pass an Energy bill, we are not going to become more self-sufficient. How can we miss this opportunity? It is an issue of consumer availability. It is an issue of responsible regulation. It is also an issue of security for our country—that we have the supplies that are sufficient so we will not be beholden to any other country in the world for our energy needs, and so we will have the ability to keep our economy strong and protect the people of our country. At no time was that made more clear than on September 11, 2001.

We need to finish this bill. I think a fair offer has been made. It does close out some amendments. It closes out some amendments on which I was working. I think if we all look at the big picture, we will determine that it is better to pass the bill that we had on the floor last year, which passed 88 to 11, after the Senate wrote the bill on the Senate floor. I didn't like all of it, but it was a good start at making our country more energy self-sufficient. Furthermore, it would have put people to work. Why on earth would we not, in this very hard economic time, realize that we need to put our people back to work? There are many parts of the bill that we are working on that came out of committee. There are many parts of the bill we passed last year that will put people back to work.

This bill is very balanced. It assures that we will have more energy coming from our country in the traditional ways, such as oil and gas exploration and trying to encourage clean coal, because we have an abundance of coal and it can be used in a clean, environmentally safe way if we enact the amendments and the bill from last year that encourage clean coal development. It also encourages new forms of energy—renewable energy, energy that comes from different sources, alternative sources, such as wind and ethanol—different sources even than we know about today—through research.

It is very important that we develop our own sources of energy. Nuclear energy is clean energy. It has been wiped out in our country because of the liability and the extremism that has kept anyone from making an investment in a nuclear powerplant for about the last 15 years. But nuclear energy is a major source in many European countries, and it is very clean and safe if it is done right.

So I think it is very important that we have this bill, or pass last year's bill, and that we stop talking about who is delaying. We have had the bill on the floor for a week and we have not been able to get through all of the stalling. So I think it is time for us to fish or cut bait before we leave. I think a fair offer has been made, and I think it is time for us to go forward and pass an Energy bill for our country.

Let's have the debate, let's vote up or down, and let's try to use the good parts of this bill for the future of our country. It encourages new and marginal well drilling. A lot of people say, well, a 13-barrel-a-day well is not going to make us more energy self-sufficient. But, at one time, before prices got so low that the little guys could not make it, we had 500,000 marginal wells drilling in our country. That provided a lot of jobs, and it also equaled the amount of oil we import from Saudi Arabia every day. But the little guys have very low margins at 13 barrels a day, and they cannot make it when the price of oil falls below $18 a barrel. So if we just have a mechanism by which you get some tax relief if prices fall below $18 or $17 or $16 a barrel, then those people will know they can stay in business; they will go out and find the oil and they will take the time and the expense to drill. They will not take the time to drill if we don't give them some assurances. This bill does that, and so did last year's bill. It is very important to encourage our people to go out and look for oil and gas resources.

The Gulf of Mexico is the second largest capability we have after Alaska. We have been prohibited from drilling in ANWR, and that is not in the bill. But the Gulf of Mexico is available and it is the second largest resource we have in this bill before us, as in last year's bill. We do have incentives that would allow people to go to the great expense of a deep gulf drilling because they will know they will have the capability, if they find oil or gas, to be able to afford to get it out and keep those jobs in our country.

There is a reason for us to stay on this bill. The reason is the national security of our country. That is why our leader, Senator FRIST, has said from the beginning of this week that we have already spent 2 weeks on this bill and now is the time for the Senate to act.

There is no reason for us to leave without an Energy bill. We have given it time. If people are sincere about wanting an Energy bill to pass, this is a good bill. Last year's bill is a bill with which we can work. We have already voted on a major amendment, the Bond-Levin CAFE amendment, which will have good science in fuel efficiency standards. The Senate has spoken on that issue.

Why don't we keep going? Why don't we close out the electricity title to this bill? It has been very controversial, but we put all the groups together, we have gone through all the disagreements, and we have come to some terms. Why don't we go forward on this bill?

Yes, a few people would not be able to offer their amendments because they did not come forward all these weeks we have had the bill before the Senate. Some people have, and we have voted on their amendments.

We do not need to be pointing fingers. The majority brought up the bill. Senator DOMENICI has been working on this bill diligently. Senator DOMENICI gave up the last 2 years of his chairmanship of the Budget Committee, which he loved, because he was dedicated and committed to getting an Energy bill out of the Senate and to the President's desk. He has not had the cooperation he deserves to do what he has been trying to do all these years.

Senator DOMENICI put the bill through the committee. He did not bypass the committee as was done last year. He put it through the committee, and he worked with all of the factions and interest groups. He deserves to finish this bill this week as we proposed to do.

We have tax incentives in this bill that will encourage the new kinds of energy that might be what will make the difference in sufficient energy in our country. Maybe it will be the clean coal power initiative that will get us over the hump to gasify coal in an environmentally safe way.

If we continue to put regulatory hurdles in front of our ability to develop new sources of energy in a responsible way, we are going to do two things: We are going to continue the deficit in our ability to provide our own energy for the people of the United States of America, and we are going to send jobs overseas at a time when unemployment is at a high point this year. I do not see the wisdom in that, and that is why we have been pushing all week to get this bill completed.

The United States has the 12th highest proven oil reserves in the world. Sixty-five percent of those reserves are concentrated in Alaska and the Gulf of Mexico. This bill will help the Gulf of Mexico, and it will help get the resources from Alaska through a pipeline down to the lower 48. This bill does not allow drilling in ANWR, but it does allow us to have a direct pipeline that will take the natural resources—the gas—out of Alaska and bring it down to the lower 48.

This is a huge job creator and a huge benefit for the consumers and the businesses of our country that must have energy to keep their businesses and their manufacturing operations open. I have talked with farmers and small business people about the increasing rates of natural gas and electricity, and it is driving their costs up at a time when they are not able to get higher prices for their products, and that is an alarming hit on our economy.

Why are we still talking about this bill instead of working on the electricity title and getting this bill through the Senate or taking up the offer that was made by the leadership that we take up last year's bill that passed this body 88 to 11, pass it, and go to conference and continue to work on getting a bill to the President of the United States?

Even if everything in this bill or last year's bill is not to my liking, which it is not, it is a major step for energy sufficiency, a major step in conservation, and a major step in job production for our country at a time when we need it.

I hope we will be able to move forward on this bill or on last year's bill with the goal that we will finish this bill this week. That is what we can do if we will stop talking—and I am talking because we do not have an agreement yet, but I will gladly yield to anyone who comes to the Chamber and says, We have an agreement to go forward, because I want an Energy bill this week. That is why Senator FRIST laid it before the Senate and why Senator DOMENICI got it out of committee and why we have been trying to pass this bill since last year, since early this year, since May when it came out of committee and we first tried to pass it. We have seen delay after delay.

I hope we will buckle down in the next hour and start the electricity title again or enter into an agreement that we are going to pass last year's bill, debate it, let everybody have their say, and see if we can move forward, even if it is not 100 percent what people want. I have not seen a bill come out of the Senate very often that is 100 percent of what I want. That is why we have 100 Senators representing 50 States and the required compromises that produce a bill.

I hope we will stop the delays and that we will work with Senator DOMENICI. He has made every offer that can possibly be made in an effort to move this bill forward. He has offered to keep going through the electricity title. Let's finish that. That would be a major accomplishment. And then let's go on to the tax title. A lot of people could be put back to work with the tax title because it encourages more sources of energy, and we can do that before the end of this week if we will start working and stop the delay we have seen week after week and month after month.

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

The PRESIDING OFFICER (Mr. BUNNING). Will the Senator withhold her request?

Mrs. HUTCHISON. I withdraw my request for a quorum call.

The PRESIDING OFFICER. The request is withdrawn.

The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to speak in morning business for up to 30 minutes.

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

IRAQ

Mr. REED. Mr. President, I wish to take this opportunity to discuss the issues involving our ongoing conflict in Iraq. I will discuss the issues of intelligence, planning, and the challenges ahead.

These topics are critically important in their own right. But, they take on even more profound and consequential aspects when you recognize that failures and missteps in Iraq could play out again as we face future threats, the most alarming of which is the deepening crisis over North Korea.

Today, I find myself expressing many of the concerns that I initially stated last October when I opposed a unilateral approach to confronting the Saddam Hussein regime. But the obligation to review our activities in Iraq is less about the past and much more about the demanding present, both within Iraq and around the globe.

With each passing day, the struggle in Iraq claims additional American lives. These losses are the most tangible and poignant symbols of the increasingly difficult burden that we have chosen to bear. Our stunning military success in the first phase of the war gave us the hope that our conventional victory would lead quickly to a decisive and final cessation of hostilities. Our hopes are periodically renewed when our forces are able to capture or kill another prominent member of the regime. Most recently, the 101st Airborne routed Saddam's sons, Qusay and Uday, from their hiding place and killed them in a fierce firefight. We even seem to be closing in upon Saddam himself. Yet still the attacks against our troops go on. Our military leaders have wisely cautioned us that we can expect more attacks and more casualties. The situation in Iraq will likely get worse before it gets better, and our military presence will be of long duration.

But, also, with each passing day, several important aspects of the preemptive attack on Iraq become clearer.

The intelligence used by the administration to justify the war was selectively shaped to support their preconceived views of the threat posed by

Saddam. Their declarations of the presence of weapons of mass destruction posing an imminent threat to the United States and their statements linking the Iraqi regime to terrorists associated with al-Qaida were questionable when uttered and, to date, have been unsubstantiated. These distortions were deliberate and calculated to sway opinion rather than to properly inform it.

Planning for occupation activities was woefully lacking. The administration appeared to believe its own oversimplified view of Iraq; namely, that it was a country that would welcome us with open arms once we removed Saddam. This was the line advanced by Iraqi exiles who had for many years been the proteges or associates of numerous administration officials. Apparently, the view of Iraq from Paris or London was just as distorted as the view from Washington think tanks. Complicating this unrealistic view of Iraq was a power struggle between the Department of Defense and the Department of State over responsibility for post-hostility planning. The Department of Defense won and the planning process lost. Expertise was sacrificed for enthusiasm and loyalty. Then, with the avalanche of pressing details concerning the pending attack, post-attack planning took a predictable back seat.

Today, American forces are engaged in suppressing a well-armed and well-financed insurgency. Iraq is awash in weapons. The coalition provisional authority acknowledged the obvious when it authorized each homeowner to retain an AK–47. Even so, it is amazing to read on a daily basis of the seizure of hundreds of RPG's and hundreds and hundreds of pounds of explosives. And, there appears to be a lot more that has yet to be discovered. More serious, of course, is the daily casualties among our troops caused by these weapons. Also, the insurgents to date appear to have an ample supply of cash. Another amazing revelation of my recent trip to Iraq was the frequency that our forces turned up sizable quantities of cash and valuables as they rounded up even low ranking members of the Saddam regime.

The insurgency in Iraq has not been transformed into a popular movement to attack American forces and to eject us from Iraq. That is good news. But we are in a frantic race to improve security, reinvigorate a devastated economy and establish an Iraqi government deemed legitimate by the people of Iraq before popular frustration and incipient nationalism are ignited by those who do wish to attack and eject us from the ground.

One of the more thoughtful and even-handed military analysts, Anthony Cordesman at the Center for Strategic and International Studies, has accurately summarized the record of the administration's intelligence activities leading up to Operation Iraqi Freedom.

> [T]here are many indications that the U.S. intelligence community came under pressure to accept reporting by Iraqi opposition forces with limited credibility and, in some cases, a history of actively lying to either exaggerate their own importance or push the U.S. towards a war to overthrow Saddam Hussein. In what bore a striking resemblance to similar worst case interpretations of the global threat from the proliferation of ballistic missiles under the Rumsfeld Commission, U.S. policymakers not only seem to have pushed for the interpretation that would best justify military action, but to have focused on this case as if it were a reality, rather than a possibility. In the U.S., this pressure seems to have come primarily from the Office of the Vice President and the Office of the Secretary of Defense, but it seems clear that the Bush Administration as a whole sought intelligence that would support its case in going to war, and this had a significant impact on the intelligence community from 2002-onwards.

The administration did not use intelligence to help make a difficult decision. It used intelligence to sell a preconceived notion. The long-term, fixed view of the administration held that deterrence and international inspectors were inherently incapable of containing Saddam. Only the elimination of the regime could suffice. Moreover, regime change could have the added benefit of precipitating a transformation of the entire region.

In January of 1998, Secretary Rumsfeld, Secretary Wolfowitz and other prominent neo-conservatives wrote to President Clinton urging him to use military force to remove Saddam.

In their words:

> The only acceptable strategy is one that eliminates the possibility that Iraq will be able to use weapons of mass destruction. In the near term, this means a willingness to undertake military action as diplomacy is clearly failing. In the long term, it means removing Saddam Hussein and his regime from power. That now needs to become the aim of American foreign policy.

This letter predated the attack on Iraq by 5 years. Indeed, it predated September 11 by more than 3 years. This last point is instructive. Recently, Secretary Rumsfeld has been defending his judgment regarding the military campaign against Iraq as simply seeing intelligence in light of September 11. But it seems clear that he reached his conclusion about Iraq well before September 11, and September 11 certainly did not change his mind.

September 11 did, however, horrifically foreshadow the gravest threat facing the Nation: sophisticated terrorist cells armed with nuclear weapons. And, in so doing, gave the administration the template for its arguments. The President's assertion, that Iraq was actively seeking uranium from Niger, was false and known to be false at the highest levels of the administration, but it provided an irresistible element in the case the administration wanted to make against Iraq. Similarly, Secretary Rumsfeld made claims that he had ''bulletproof'' evidence of active collaboration between the Saddam Hussein regime and al-Qaida. In the weeks since the fall of the regime, no evidence has emerged to validate this claim.

These distortions and exaggerations are a dangerous disservice. They undermine confidence in the information that the public and decision makers must rely upon to make difficult judgments. Moreover, they suggest that the administration is not interested in understanding the world, but simply changing it along lines agreed to in policy seminars years ago.

Despite warnings of the difficulties inherent in stabilizing Iraq after the defeat of Saddam Hussein, planning for post-hostilities was an afterthought. The Defense Department wrested control of the process from State and insulated the planners from broad-based collaboration. Then it went on to bet that Iraqi gratitude, together with an exile government, would provide for a cheap and easy exit strategy.

Defense officials point out that they planned for many events that did not take place and executed a military plan that minimized potential humanitarian, economic and environmental problems. In fact, the military plan executed by CENTCOM was brilliant and did seek to minimize collateral damage through judicious targeting as well as actively seizing key installations, particularly oil facilities, to avoid sabotage.

But, the further one moves away from formal military plans into the province of policing, civil administration and economic development the clearer it becomes that the post war planning was grossly inadequate.

The first overt sign of planning inadequacies was the initial indifference to large scale looting. The collapse of the Iraqi police was not compensated for by aggressive action by our military. The systematic looting went unchecked for a prolonged period and undermined an already fragile and antiquated infrastructure.

The failure to incorporate experts on Iraq from the State Department and other agencies led to reliance on an ad-hoc group of retired military and administration operatives to try to organize a political and economic response. Initial efforts were disappointing and led to General Garner's early departure. Ambassador Bremer has filled the leadership void with more of a presence, but the realization is taking hold that this will be a long and expensive process with a still uncertain outcome.

The United States faces serious challenges in Iraq.

The preeminent challenge is security. Our forces are facing increasingly sophisticated attacks. In the first few days of the occupation, our troops were engaged with small arms on an opportunistic basis. The attacks have stepped up with more organization and more lethal weapons like RPGs. Lately, the insurgent's use of remotely detonated landmines and explosives demonstrates an increasing sophistication in training and planning.

A disturbing escalation in potential lethality of these attacks came with the recent report of a man-portable

antiaircraft missile attack on an aircraft over Baghdad International Airport. This attack begs the question of the number of these MANPADS in Iraq and whether any have been removed from Iraq for use elsewhere. One or more successful attacks on aircraft would have a serious impact on both the security climate and the closely related efforts to restore a sense of predictability for economic investment and development.

Our military forces are aggressively attempting to preempt these attacks. The key to any successful counter-insurgency is intelligence, and we have begun an all-out effort to target the middle range of former Iraqi security officials to identify the insurgents and their support mechanisms. Nevertheless, the number of desperate and determined regime diehards with access to weapons and knowledge of the terrain and our dispositions indicates that these attacks will continue. In addition, it is reasonable to assume that infiltration of foreign terrorists will take place. This development could add an even more lethal, sophisticated and longer-term element to the battle. Our forces will likely face successive waves of violence over many months.

The next military challenge is to sustain our forces in Iraq. We cannot do so over the next year without additional international support or by activation of additional National Guard and Reserve forces. Our quest for international support was compromised from the beginning by the administration's insistence on an essentially unilateral approach to Iraq. Unless the administration is able to recruit an additional international division, the current rotation plan will have a huge gap next February when the 101st Airborne Division is scheduled to return. Since the administration has yet to ask NATO for support and major European countries like France and Germany remain estranged on this issue, likely candidates are Turkey and, perhaps, Pakistan. Each of these countries would demand significant financial and logistical support. And, the introduction of the Turks could cause problems within Iraq. The introduction of Pakistani forces could further incite domestic criticism of Musharraf at home.

The need to activate reserve forces is becoming more pressing with each passing day. I support General Barry McCaffrey's recommendation that we immediately activate nine National Guard Brigades, not just the two currently planned to be activated. Such a decision cannot be deferred much longer since these brigades must receive intensive training before they are deployed. Given the indefinite nature of our mission in Iraq and the potential for additional crises around the globe, these brigades should be made part of our active force structure and replenished through active duty recruitment.

The security challenge is matched by the need to create a functioning government that is legitimate in the eyes of the Iraqi people. We have begun this process through some arduous efforts in Baghdad. However, even more difficult and controversial actions lie ahead. The selection of a Governing Council was a start, but also revealed the problems that we face.

First, we are still saddling ourselves with Chalabi and the exiles. My initial instincts, that I shared with Ambassador Bremer in Baghdad, questioned the wisdom of placing these individuals in positions of power. Since that time, the first credible survey of Iraqi opinion conducted by the National Democratic Institute for International Affairs has been published. Among its conclusions is the finding that there exists ''[c]ynicism about leaders, especially acute regarding some exiled leaders who were objects [of] vilification campaigns led by the previous regime. . . .''

Second, we have necessarily put off the most divisive political decision. Who will be the ''face of Iraq''? The Council represents a broad spectrum of Iraq, but it has yet to produce a personality that will be that Iraqi face. The ''executive'' of the Council is a nine member body dominated by the exiles. One member rotates as the ''Executive'' each month. Eventually, a personality will emerge. Will that emergence set off a political crisis when disgruntled factions realize that they will not lead Iraq? I believe that there is a substantial likelihood of such a development and that would further complicate our presence.

Finally, our political tasks in Iraq must be accomplished with greater speed and a more deliberate and effective strategy to explain our actions. After the Saddam regime, the people of Iraq are steeped in misinformation and cynicism. According to the NDI survey, ''antipathy for the United States and Britain is not overcome by the fact that these two countries are responsible for the country's liberation from the tyrant they despise.'' Moreover, ''virtually no one, excepting some Kurds in the north, believes the United States intervention in Iraq is motivated by a desire to help the Iraqi people. Usually people say the U.S. 'is acting in its own interest'—which is often viewed in terms of access to Iraq's oil reserves.''

The political situation in Iraq is not without some encouragement. According to the NDI Survey, there is no widespread support for the attacks against our forces. However, Iraqis do want foreign military forces to depart. There is a strong commitment to the integrity of the Iraqi state. Nevertheless, continued security problems, economic difficulties and political controversies can quickly sap these encouraging signs.

The serious consequences of selective intelligence and poor planning are playing themselves out today in Iraq. But, of equal or even greater concern, is the effect of the administration's operating style in other areas and issues of concern. The most notable and, to my mind, the most dangerous of these issues is North Korea's rush to develop significant quantities of fissile material and nuclear weapons.

In North Korea, we have, according to their demonstrated conduct and their public declarations, the type of threat that the administration claimed required a preemptive military attack in Iraq. Nowhere in the world do the lines of sophisticated terrorists and nuclear material come closer to intersecting than in the conduct of the North Koreans. By all accounts, North Korea is one of the most persistent and prodigious proliferators in the world. They sell military products to the highest bidder. With plutonium, they will likely get offers from terrorists.

The administration's response has been slow to develop and characterized by many of the pitfalls found in the prologue to Iraq with one other major factor. Our commitment to Iraq has seriously strained the capacity of the Administration to deal with North Korea and other problem areas.

The stress on our land forces inhibits a diplomatic strategy complemented by unquestioned military power. The public preoccupation with the turmoil in Iraq makes it very difficult to marshal the necessary popular support to engage in another high profile international confrontation at this time. The amount of energy and time that is devoted to Iraq crowds out the agendas of decision makers.

Thus, the administration is in a holding pattern. It is promoting a multinational, diplomatic approach that is laudable but not productive. It appears that just below the surface, some of the Beltway battles that preceded our operations in Iraq are being fought to a standstill. Once again, it seems that dogma is clashing with diplomacy. The doctrine of regime change is pitted against a diplomatic approach that requires as a prerequisite the tacit recognition, at least, of non-aggression against the North Korean regime as part of an overall, verifiable agreement to eliminate nuclear weapons.

The effect of all of this is that crucial time is being squandered. As former Secretary of Defense Bill Perry declared, the situation in North Korea—

> was manageable six months ago if we did the right things. But we haven't done the right things.

The President has to address this issue now by settling the debate within his Administration in favor of diplomacy and not dogma. He has to take steps now to bolster our military forces to complement a diplomatic approach.

It would be tragic if our efforts in Iraq allowed a more ominous situation to develop in North Korea.

I yield the floor and the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I came here after the distinguished Senator from West Virginia, and he is my

senior. I am a youngster. But I wondered if I could speak before him and he said of course.

I ask consent that I be permitted to speak for up to 7½ minutes and that the Senator from West Virginia be the next recognized for his comments.

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

Mr. DOMENICI. Mr. President, one might think, having been immersed in this Energy bill and waiting for a possible solution to the situation, that I rise to speak of that. But I do not.

Senator BYRD, I know the Senator is busy but I would like him to listen to the few comments I have because, while they are not borrowed from him, I have heard him speak about America's involvement in other countries and I want to talk about that.

It bothers my mind, as I look at Iraq, and Afghanistan, Somalia, and the possibility now of Liberia and other countries, and I want to talk about some words that we Americans and our leaders have been using ever since I was a little kid and for all the years I was here. We used to say: we don't want to build countries. We are not in the business of constructing countries. We don't want to be called upon to put a country together. We don't want to be the builders of countries—leaving the distinct impression that we want the other countries to build themselves up.

The Senator and I would not object to that, as a thesis. That sounds like a theology of Americans. But Mr. President, I say to my good friend, the problem is that it almost implies that we will not put together the ability, the capacity to help a country build itself.

We must, as a nation, it seems to this Senator, have within our Government the capacity to help a country such as Iraq build itself up—or a country such as Afghanistan. We can't say the Defense Department is now in charge of Iraq and they know how to see that Iraq gets built up. That is not plausible.

Look what goes on every day in that country. Does all of that flow naturally to the Department of Defense for some colonel or general or the Secretary of Defense to make the decision? Of course not. There are issues of construction of a country, the building of an infrastructure, putting schools back into operation, making sure health clinics that have broken down get built. I am not suggesting that we build them in every respect but we need to have the governing capacity to have somebody in charge, seeing that it gets done.

I have said that in my own way to this administration and I am very pleased that there has been some response. I said to them on one occasion: Why don't you tell the American people what is your plan for Iraq for the next 5 years? You know, all they are seeing is the bad things. They don't know that in 6 months you are going to have a certain number of policemen trained; in 1 year, you are going to have Polish soldiers coming in; in 2 years, you are going to have all the water done.

I have said to them: In order to do that, you have to have, not the Department of Defense in charge, you have to have a reconstruction team in charge. A reconstruction team is different. In fact, it might be a layman with very big municipal authority who would be in charge. It might be a great builder who knows how to sit in an office and delegate so the things that have to be put together, the contracts that have to be let, get let; the countries that have to be called upon to do things—that it happens.

So I thought I might just share that with the Senator, since he has shown great concern about what we are going to do.

The Senator from New Mexico is totally on this President's team. I am totally his defender in terms of having taken over Iraq. I don't even spend any time worrying about those 15 words on nuclear weaponry. That is just me. I am not speaking about anybody else.

I think I ought to be listened to on some of these other issues. I know what the average folks in my hometown are thinking about. I know that they are reading in the paper about soldiers dying and the Secretary of Defense responding. I think they would feel much better if they knew there was a game plan for the reconstruction, and that America had within its Government a capacity to reconstruct what is needed and then kind of put the bricks and mortar and the building blocks together and be able to tell us, our people, and the world, what is going on month by month, 6 months by 6 months.

As an example, today I could go home to my hometown and I could speak at lunch to some people and I could pull out the blueprint for the reconstruction of Iraq. I could say to them: Folks, it may change here or there but, this is what the plan is. We have a way to do it. It is not American soldiers who are going to be over there for 5 years carrying out all the details of every little thing that has to be done. We are in a reconstruction mode to rebuild that country.

That part of our Government would be more credible when they tell us: We didn't have a water works. That is why we are still over here hurting. This fellow, Saddam Hussein, broke the water works down and there wasn't anything there for the people to drink water from. That is a lot different than saying our soldiers are running around trying to find water for the people and they got killed doing it. It is a lot different than saying we thought we had a production line to get the oil from here to there but it had decayed and we had to bring in a company to build another one, rather than reading a story that somebody shot an American soldier as we were attempting to build a pipeline for the oil and gas.

The Senator from New Mexico is totally immersed up to his head in the subject of an Energy bill for America. I pulled myself away from it to let other Senators talk about it. I thought I would come down to the floor and discuss this issue. I don't do that very often. I kind of stick to my area. But this is an important issue. We are in the business of reconstructing that country. We can say all we want—that we aren't and we don't want to—but we can't expect our soldiers, our tanks, and our men with machine guns to do that. They have to be there, of course. They are going to be there in large numbers. But we need to have something that is a reconstruction approach. The government of our country has to be wise enough, the great builders we are. We are the builders. We are the builders of the world. We surely ought to be able to put together a master plan with a master builder for the rebuilding and reconstruction.

I yield the floor. I thank the Chair. I thank the Senate.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair. I thank the distinguished Senator from New Mexico.

Mr. President, I have been asked by the distinguished Senator from South Carolina to ask unanimous consent that he be recognized following me.

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

THREAT OF THE BUSH ADMINISTRATION'S BUDGET DEFICITS

Mr. BYRD. Mr. President, an apocryphal tale is often told by professors of economics in classrooms across the country. It is a tale about a king who asks his advisers to teach him the laws of economics. The king's advisers return with a book on the subject. But the king tells his advisers that his time is precious, and he asks them to summarize the book. The king's advisers return with a single piece of paper. But the king again tells his advisers that his time is precious and he sends them away to summarize the lesson even further. The king's advisers finally return with a single line, summarizing all of the known laws of economics.

The king reads: ''There is no such thing as a free lunch.''

For most people, this is a universally accepted truism—just plain common sense—that nothing is free. There are tradeoffs and opportunity costs to every decision we make. Even a child can understand this most basic economic principle. But for the Bush administration, you can beat them over the head with their own budget and still they will not acknowledge the tradeoffs and opportunity costs of the budgetary decisions they have made.

On July 15, the administration released its mid-year budget and economic forecast, the so-called ''Mid-Session Review.'' The Office of Management and Budget revealed to the American people that the Government would run an incredible, record-breaking $455 billion deficit in the fiscal year 2003. Worse, the deficit will increase to $475

billion in the fiscal year 2004. I daresay that is a low figure. The administration estimates that if the Congress enacts the President's policies, we will increase the public debt by $2 trillion over the next 6 years.

The OMB Director assured the public that these deficits were ''manageable . . . sustainable . . . not a problem.''

In other words, a free lunch.

When the Bush administration promises almost $3 trillion in tax cuts, a prescription drug benefit, a record increase in defense spending, more money for education and health care, claims that it will protect Social Security and Medicare for future retirees, and asks for nothing in return—that is more than a free lunch; it is a cost-free invitation to a White House banquet.

The American people may recall the last free lunch this administration tried to peddle.

Prior to the war in Iraq, the Bush administration promoted a vision of Saddam's removal from power as a quick, easy, and bloodless exercise. Indeed, most of the support for this war was based on the rationale that America's tremendous military superiority over Iraq would confine the costs of this war to a relatively painless contest between the United States' awesome military might and the relatively weak, conventional military of Saddam Hussein.

But now the true costs of the war are becoming more apparent. The number of U.S. casualties in Iraq has risen to 248 soldiers—and rising by 1 soldier per day or more—more than double the 123 deaths at the time the President declared victory in Iraq on May 1.

Families of reservists and national guardsmen, who thought that their sons and daughters, brothers and sisters, husbands and wives would return after major combat had ended, are now realizing that their family members will be in Iraq indefinitely.

Administration officials who were counting on U.S. allies to assist in peacekeeping efforts in Iraq are now realizing that our strong arm tactics have alienated many of our closest allies.

The United States is now committed to a long-term endeavor to rebuild Iraq, which is costing the American taxpayer $4 billion per month.

The administration hid the potential costs in the buildup to the war. Now, the American people are realizing that free lunch will be paid for with our Nation's treasure, prestige, and blood.

So I take little comfort when this administration promises another free lunch, when it describes its budget deficits as ''manageable'' and ''not a problem.''

With $475 billion in budget deficits projected for the upcoming fiscal year, this Nation is experiencing budget deficits never before seen. They amount to roughly one-fifth of the entire Federal budget. This forces the Federal Government to borrow $1 out of every $5 it spends. And much of that money will have to be borrowed from our allies overseas—that is, those allies that we have not already alienated.

With a $475 billion budget deficit, next year, the Federal Government will have to borrow more than the entire defense budget. For every military operation underway right now—in Iraq, Afghanistan, Liberia, the Balkans—and to maintain our current military defenses, the administration will have to borrow the money to pay the equivalent of those costs.

With a $475 billion budget deficit, the recently enacted tax cuts are not free. Ultimately, the American people will have to repay every dollar to balance the budget.

When the President is pinned down about the mounting deficits, he has two replies. First, they are small and not a threat. But the deficits assumed in his budget are the highest ever recorded, and, as long as we are running deficits, we are not saving to ensure the solvency of the Social Security and Medicare programs. There is no escaping that budgetary fact—none.

Without more savings, we are endangering the Social Security and Medicare programs.

The President tells us that we can grow out of deficits. Well that sounds nice, but it won't happen. The Congressional Budget Office, which is now headed by a former White House economist, formulated nine different economic models to predict how the recently enacted tax cut would affect the economy, and the CBO concluded that the President's proposal would have only a negligible effect.

Even with strong economic growth, the White House budget office is still projecting that the Nation will accumulate $2 trillion in new debt under this administration's proposals, and that doesn't include the $5 billion per month the administration is spending in Iraq and Afghanistan.

So, Mr. President, we are drowning in a sea of red ink. We are gasping for air. And all this administration can do is promise more cost-free White House banquet dinners as they claim it is ''not a problem.''

But it is a problem! We are already seeing these deficits eat into our budget. Just look at the amendments that were opposed by the administration on the recently passed appropriations bill for the Homeland Security Department.

Under pressure from the administration, Senators voted down amendment after amendment after amendment designed to enhance the security and the safety of the American people. Spending for vital homeland security functions is being denied each time with the same excuse—that our budget doesn't allow for it. We are spending nearly $4 billion per month in Iraq, but we could not afford a $1.75 billion amendment that I offered to secure our ports, to equip and train our first responders, and to secure our borders.

It is incredible! The budget that calls for astronomical tax cuts does not allow for the safety and security of the American people within their own borders.

Al-Qaida has not yet been destroyed. It is very much alive and kicking. It is still alive and well, and planning attacks now, attacks against U.S. citizens. Al-Qaida are patient, persistent killers. And, yet, this administration continues to oppose, right here on this floor, essential homeland security funding. Just this week, the Department of Homeland Security issued a new advisory about the potential hijacking of planes, and yet the administration opposed my amendment to secure cargo on passenger aircraft. Our ports, our borders, our airlines, our chemical facilities, our nuclear powerplants are still perilously vulnerable.

Have we not learned anything, Mr. President?

The war on terrorism can only be won with both a strong defense and a strong offense. And, yet, the ratio of defense to homeland security spending is 12 to 1. That is $1 of spending to build up our homeland defenses for every $12 spent on our military.

We are seeing only a halfhearted effort by this administration to address the vulnerabilities in our infrastructure.

We talk about the infrastructure in Iraq. What about our own infrastructure? The administration says they are going to do something, but not enough to thwart terrorist attacks. It should frighten us all. It certainly frightens me.

When I stop to think, I say to Senator HOLLINGS, that you and I and these people around us who are sitting at the desks—the President at the desk, the desk of the workers here—when I stop to think that we are alive today, in all likelihood, because there were a few courageous men on that airplane that went down in Pennsylvania who had heard about the attacks on the Twin Towers and the Pentagon. And because their own plane was a little late in taking off, they heard these other things. They knew what was happening. They knew what was happening to that plane and they decided that plane would not reach its objective. And from all indications that I have heard, its objective was this Capitol. So we owe our lives to them. We would not be here today. That is the way I see it.

Now, we also hear that these terrorists don't forget, that they are persistent, they are patient. They take their time and they come back. What they fail to do in the first instance, they will try again. We better take these things seriously.

The President has established a track record for being strong on rhetoric and short on resources. In his State of the Union, he said:

> We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other Presidents and other generations.

Yet, according to the White House's latest deficit estimates, the President's

policy is to have a deficit of $455 billion this year, $475 billion in fiscal year 2004, and an increase in the public debt of $2 trillion over 6 years. That is rhetoric without resources.

In May of this year, the President signed the United States Leadership Against HIV/AIDS Act, which authorized $15 billion over 5 years to attack global AIDS and authorized $3 billion for fiscal year 2004. He traveled to Africa and pressed for the Congress to support the $15 billion commitment. Yet, the President requested only $1.9 billion for global AIDS programs for fiscal year 2004. That is rhetoric without resources.

In January of 2002, the President signed the No Child Left Behind Act with great fanfare. He said:

> Today, begins a new era, a new time in public education in our country. As of this hour, America's schools will be on a new path of reform, and a new path of results . . . And our schools will have greater resources to meet these goals.

And, yet, President Bush's budget for fiscal year 2004 proposes to cut funding for No Child Left Behind Act programs by $1.2 billion below the levels that Congress approved for the current fiscal year, to a level that is $6.1 billion below the level authorized in the law that he, the President, signed 18 months ago. More rhetoric without resources.

The President has called for the National Service AmeriCorps program to have 75,000 volunteers to tutor, mentor, and teach our children, provide services for our elderly, and clean up our communities. This month, the Senate approved a $100 million supplemental that would have prevented the elimination of 20,000 volunteers, reducing the program to 30,000 volunteers. The President did not lift a finger—he did not lift a finger—in support of the program when the House stripped those funds from a supplemental bill last week.

The President and members of his party have passed three tax cuts, taking $2.25 trillion out of the phoney surpluses that the President projected in 2001. Each time the President proposed these tax cuts, he promised that the tax cuts would create jobs. But the facts are different. Instead, we have seen 3.1 million jobs disappear from the private sector since the beginning of this administration, including more than 300,000 jobs lost within the past 5 months. So, once again, we hear rhetoric, but we see no results. More false promises.

We are seeing the same halfhearted effort when it comes to preserving the Social Security and Medicare programs. The Bush administration often refers to the long-term problems facing the Social Security and Medicare programs, but the Bush administration has not set aside any money to make them financially solvent.

In the coming decade, as the baby boomers begin to retire, the American people are going to realize yet another cost from these budget deficits—namely that there will not be enough money saved to pay the benefits promised to our Nation's seniors. Our Nation's seniors ought to take note of that, and the children of our Nation's seniors ought likewise take note of that.

The administration's budget deficits are a problem for State governments, as well. Federal budget deficits have contributed to a $30 billion gap in State budgets because of a lack of Federal payments to States. This is to say nothing of the $68 billion shortfall in State budgets that we read about in recent weeks. Without Federal support, States are forced to cut Medicaid and health care-related programs. For the first time ever, K through 12 education programs are being cut by States to make up for a lack of Federal funds. This year, Oregon school districts were forced to close some schools a month early because of these budget deficits.

The administration vehemently opposes any increase in Federal taxes to cover its budget deficits. But what the White House doesn't admit is that State governments across the country are already raising taxes to fill this budget gap. Governors in 29 States have proposed tax or fee increases in their latest budgets.

President Bush likes to justify his tax cuts for the rich by asserting that it's the people's money. ''It's your money,'' he says. Well, thanks to Mr. Bush's tax cuts, we are facing a public debt of $5.5 trillion by 2008. Do you know how long it takes to count $1 trillion at the rate of $1 per second? Thirty-two thousand years. That is $1 trillion at the rate of $1 per second. So we are facing a public debt of $5.5 trillion by 2008. That is $18,890 of debt for every man, woman and child in this country. By 2008, we will be spending $260 billion on interest on that debt. In 2017, when the Social Security Trust Fund is in the red, the 65 million Americans who expect to receive their social security benefits, will ask, Where is our money? They were told ''it is your money.'' They will be saying: Where is our money?

Everything costs something. There is no free lunch. Yet the administration continues to play the role of the savvy salesman, handing out tax cuts and telling the American people that it will cost them nothing in return.

The administration will be forced to reconcile the budgetary quagmire they have created. Nothing is free. There is no such thing as a free lunch. That much, even an apocryphal king could learn.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that at the termination of my comments, the distinguished Senator from Montana be recognized.

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

FREE TRADE

Mr. HOLLINGS. Mr. President, it is somewhat out of order when I make comments on trade in that the distinguished majority leader says he wants to do energy, he wants to do judges, he wants to do the supplemental, and he wants to do trade. I talked to him earlier this morning, and I said: I would be glad to fill in at any time they have a lapse. He said: Well, it wouldn't be until tomorrow. Then later in the exchange—there has been an intramural all morning long on procedures—he said: Perhaps on Saturday.

So I thought once the Pastore rule had been complied with and rule 19(1)(b), the three hours had been completed—the distinguished former leader, the Senator from West Virginia, and I are the only two that remember the Pastore rule. Now that I have the floor, I have time to comment in a deliberate fashion. And while my distinguished former chairman and now ranking member of the Finance Committee is on the floor, since I am talking about trade, I want to express a frustration and make this observation.

The main problem we have is how to pay our bills. The President has just put out a budget deficit projection of just a $455 billion deficit. That is on page 1 of his report. But on page 57 of the report, you will see the deficit will really reach $698 billion this year. As of this minute, the public debt to the penny is $503 billion. But second to that particular problem is the matter before us of jobs, economic strength, and manufacturing capacity.

I will never forget Akio Morita, former chairman of the board of Sony. Morita was visiting Chicago, and lecturing about Third World countries. And he admonished that a Third World country had to develop a strong manufacturing capacity in order to become a nation state. And later on, he diverted and pointed and said to me about the United States: That world power that loses its manufacturing capacity will cease to be a world power.

At the end of World War II, we had 40 percent of the workforce of America engaged in production manufacturing. Now we are down to 11.2 percent, and soon it will be 10 percent. So as a result of the scheme, I should call it, of the Finance Committee, we will have 10 percent of Americans working, and the other 90 percent eating or talking about it. And I hear these big voices around saying: World power, we are the only world. We are not a world power. No, no. We are in a very weakened position.

Right to the point, when I came to the Senate I got on the Commerce Committee. I had practiced customs law. I thought I was getting into trade because the Commerce Committee used to be the Committee of Foreign Commerce. Under article I, section 8 of the Constitution, the Congress of the United States shall regulate foreign commerce—not the President, not fast track, not some wavering trade minister running around Doha saying he is

going to do away with dumping laws—but the Congress.

And I found out that my distinguished chairman, Senator Magnuson at the time, was interested in exports, since he represented Boeing. Foreign commerce had reverted over to the Finance Committee. They had the reciprocal trade agreement. They had the Special Trade Representative. And indirectly, I became a sort of a study of the Finance Committee. I had a fellow named Claude Wilde from Texas come up to me, when I was just a freshman Senator. I was taken to the third floor of the old Statler Hilton. And he said: Yes, we are going to get rid of that fellow Yarborough. We are going to get that fellow Bentsen up here because he is better on oil.

I said: On oil.

He said: Oh, yes, that Finance Committee, we oil boys run it. We look out for oil.

So the farmers are smarter than the oil boys. They have moved in with the Senator from Montana and the Senator from North Dakota and all the rest of them.

I notice my distinguished ranking member. He put out a complaint to the WTO on agriculture. I have lost 61,000 textile jobs since he proposed NAFTA. He didn't ask the WTO about the special provisions for textiles. But he wants to petition. He immediately becomes alert. I have had to fight agriculture, I have had to fight the oil boys, I have had to fight that Finance Committee to sober up this Congress and let us go to work on producing jobs.

The policy at this minute is to export jobs, eliminate jobs, get rid of all jobs—not just textile, not just hard manufacture, not just service jobs, not just high-tech jobs, but all jobs, except politicians and the press. If we started importing politicians and press, I believe we would finally stop, look, and listen, and we would begin to understand the problem.

We have to struggle in order to debate trade as a result. It is easy to fix the Finance Committee—and they are fixed. They get their little amendments in there, and everything else like that. I am ready to vote for the Chile trade agreement. I have been saying that for 5 years, except they put on immigration.

Mr. BAUCUS. We didn't.

Mr. HOLLINGS. You didn't, but you didn't knock it off. They had a vote 3 years ago on the H–1B visas, with that Silicon Valley crowd. They wanted to get all the Indians and Chinese cheaper, and bring them in to take American jobs. The vote was 99 to 1. I was the one against that immigration. I am against this immigration, and if you didn't have fast track, Mr. President, I could put up a little amendment, like any Senator, and we would have the normal process, and we would have an up-or-down vote, and I probably could pass it. I notice, on the other side of the aisle, some Republican colleagues are concerned about the immigration provision. Chile is better than us. Chile has a free market economy; they have labor laws; they have environmental laws; they have a respected judiciary; they have a balanced budget.

Even when they brought up NAFTA, I said, why not Australia? They are the best friend we have; they immediately supported us in Iraq, in Afghanistan, in Vietnam, and in Korea—the best friend we have and we don't have a free trade agreement with them.

Now they want us to have a free trade agreement with a corporate state, Singapore. I said long ago I could compete with any company in Japan, but I could not compete with the country of Japan. So here I am being asked to give the country, which is really a corporate State, free trade status. The government of Singapore owns the port; shipping and logistics; property; the airlines, telecom, media, banking, and financing services industries; powers, utilities, technology, engineering, and the rail.

Mr. President, I ask unanimous consent to have this list printed in the RECORD.

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

STATE-OWNED CORPORATIONS IN SINGAPORE

Investment: Temasek Holdings, Ltd.

Port: PSA Corporation.

Marine: SembCorp Marine and Keppel Offshore & Marine.

Shipping and Logistics: SembCorp Logistics and Neptune Orient Lines.

Property: CapitaLand.

Airline: Singapore Airlines.

Telecom and Media: Singapore Telecoms and Media Corporation of Singapore.

Banking and Financial Services: DBS Bank.

Power and Utilities: Singapore Power, PowerSeraya, Senoko Power, and Tuas Power.

Technology: Chartered Semiconductor Manufacturing and ST Assembly Test Services.

Engineering: SembCorp Industries and ST Engineering.

Rail: SMRT Corporation.

Mr. HOLLINGS. Mr. President, that is a corporate state. There isn't any question that what we have here is a loading dock, a veritable loading dock from Indonesia. Let me read this. Here is a headline:

Officials tout manufacturing services benefits from U.S.-Singapore FTA.

U.S. Ambassador to Singapore Frank Lavin this week said the greatest economic benefits to U.S. companies from the recently-concluded U.S.-Singapore free trade agreement would come in the areas of financial services, intellectual property and manufacturing in the electronics sector.

Lavin said that in the long run, the ''most significant aspect of this FTA'' could be provisions allowing products assembled in the two Indonesian out-islands to be counted as Singaporean in origin for the purposes of the FTA. That would allow U.S. electronics manufacturers to take advantage of low wage rates on those islands to assemble components from Singapore into electronic products that can enter the U.S. duty free, Lavin said.

Mr. President, where are we? Here we are trying to create jobs, and our good friend, Don Evans, the Secretary of Commerce, is running all over, jobs and growth, jobs and growth, jobs and growth, and we will give you a tax cut, jobs and growth as if that's going to help.

My distinguished friend on the House side—the smartest fellow perhaps in the Congress is JOHN SPRATT from South Carolina, the ranking member of the Budget Committee. He voted for NAFTA. I said, JOHN, for Heaven's sake how could you? And he said he had a promise that we can get 500 additional Customs agents. He said we need them badly, and he was right. We needed them badly.

We never got the 500 Customs agents. They keep cutting that budget particularly. They need help. In Charleston, we have to lend the local sheriff's sniffing dog to the Customs agents. My office is in the Customs building. I keep up with them and I know what is going on down there.

Mauritius, the little island off the coast of Africa, was inundating us with imported textiles, but they didn't have a textile plant. It was all made in China, and coming through Africa to South Carolina. These transshipments, Customs people will tell you, are to the tune of $5 billion. When you go to them and ask them, wait a minute, can't you enforce the law, they say: Senator, you want me to enforce the law now on terrorism or textiles? I said: Heavens, no, on terrorism. Do you want me to enforce the law on drugs or textiles? Oh, no, I want you to enforce the law on drugs.

So we have lost 61,000 textile jobs, and who is leading the way? The Department of State is leading the way in Singapore. I hate to say that about Singapore because I have visited there and I have the greatest respect for anybody in the Far East, specifically the former Prime Minister, Le Quan Yu.

As a young Senator, in the early 1970s, I went there and Senator Mansfield, the majority leader, said: Fritz, you have to call on him. He is the wise man of the East. I had the most interesting conversation just the year before last. I called on him again, with the distinguished chairman of the then Intelligence Committee, Senator SHELBY, because I wanted the Prime Minister to relate a particular observation he had made to me back then with respect to the defenses and the concerns we had in the Far East, which is another subject for debate. I was prepared to vote for Singapore. But we got fast track.

With fast track you cannot say anything; you cannot do anything. You have to disrupt the Senate, in the middle of the energy debate, to be heard. We have fast track on jobs in America. We fast track jobs offshore—that is what it is. If we did not have fast track, I could put up a little amendment to strike the provision in the Singapore agreement that they couldn't have transshipments from the Malaysian Islands. This will just open

the door for everything in the Malaysian Islands to come through Singapore. Listen to what the State Department ambassador said:

With fast track, you have to disrupt the orderliness of business around here.

I apologize to both leaders who have had a very difficult time getting business back on track today, but, Mr. President, I can tell you now, I do not apologize to anybody about the importance of this particular subject. It is not discussed, it is not debated, and it is not considered. It is fixed.

I know something about trial lawyers, and I have seen some fixed juries that I have had to go up against. If there has ever been a fixed jury, it is this U.S. Congress. And I do not speak in a partisan fashion. I remember NAFTA. We had that beat until President Clinton went out and picked up 23 votes. He gave a golf round here for this particular Congressman, a golf round there. Jake Pickle, the Congressman from Texas, my good friend, got a cultural center. Another Congressman down in Texas got two C–17s. Oh, yes, the White House has the power. I do not speak loosely or lightly. I speak authoritatively. It has been reported in the press. They fixed the vote.

This vote was already fixed, unbeknownst to the members of the Finance Committee, so that when the treaties got here, they found this hidden provision on immigration and we cannot vote on it.

Finally, they put in a provision with respect to the transshipments to Singapore, and we cannot amend it. So the Senator from South Carolina under fast track is forbidden from voting his will with respect to these particular trade agreements.

I am really worried. I just mentioned to the distinguished Senator from West Virginia about production in this country. I go right back to Morita. We were talking about manufacturing. That has been the strength of Japan. It is now the unquestioned strength of China. We think we are strong. We passed a resolution in the United Nations at the end of the eighties for the General Assembly to have hearings on human rights in China. China went around us, to the leadership in Africa, in the Philippines, in Malaysia, in Australia, and in New Zealand. They picked up the votes, and we never had a hearing on human rights, even though we had it adopted in that particular committee.

One can say under domestic politics, it's the economy, stupid; one can say under foreign policy, it's the economy, stupid, because it is the economic strength of our Nation that is in question here.

I just finished reading a book, ''An Army at Dawn'' by Rick Atkinson. He reminded me of the strength we had in World War II and how we really won that war. I have been on several panels, having been a 3-year veteran starting out in Africa and ending up on V–E Day in Austria. As much as anyone, Rosie the Riveter won that war. I hope in this big ceremony they have for World War II that they will have a statue for Rosie the Riveter because I can tell you right now, it was the American production that won that war. As has been said, we did not defeat the Germans in North Africa, we overwhelmed them because we had that kind of production.

As I said earlier, at the end of World War II, we had 40 percent of our workforce in manufacturing, in production. As of yesterday afternoon, my check showed it was 11.2 percent, and we are going to get new figures on Friday, and probably it will be down some more. For the last 3 years the manufacturing strength and economy of the United States has diminished.

What happens is, we have 10 percent of the people producing and we have 90 percent of the people eating and talking about it. That is not a country. Let's not run around here about energy, and run around here about judges, and run around here about supplemental bills, and whatever else. Let's sober up and start rebuilding this country, rebuilding jobs, and quit exporting them. Let's put a tourniquet on this outflow hemorrhage of jobs to any and everywhere but the United States.

We have a 6.5 percent unemployment rate. The real unemployment rate is not just the 6.5 percent.

Mr. President, there are those who have not applied, so it is a real unemployment rate of some 10 percent.

My colleagues can see why I am worried when we see ''The Jobless and Hopeless May Quit the Labor Force.'' That is how we get to 10 percent. This is another Times article dated April 26.

Mr. President, if you think I am worried, let's go to Mort Zuckerman, the editor in chief of U.S. News and World Report. I quote:

> The statistics are enough to make an incumbent assume the fetal position: 2.7 million fewer private-sector jobs than two years ago; the longest decline (32 months) in industrial employment since the Great Depression: the longest continuous decline in jobs in more than 50 years. Making matters worse, the stock market has been off by double digits for three years in a row. That's the first time that happened since the 1930s. The markets' plunge wiped out over $5 trillion in value, including the retirement savings of millions of Americans.
>
> As if all that were not enough, the $5.6 trillion Federal surplus we saw during the 1990s has been turned upside down into an estimated $4 trillion deficit. Business activity is as weak as it has ever been outside of a recession, and we do not know whether this signals the onset of another recession, the dreaded double dip.

That is Mort Zuckerman.

Some might say, HOLLINGS, you are all wound up about Texas. I am not wound up about Texas. I am wound up about the country. We are in the worst shape I have ever seen, and they are running around here with tax cuts for jobs and growth. We have lost 2 million jobs since we passed the tax cut. We have lost 2.7 million since President Bush has taken office, according to Mr. Zuckerman.

The Wall Street Journal on July 21: ''Laid Off Factory Workers Find Jobs Are Drying Up For Good.''

I ask unanimous consent that the article be printed in the RECORD.

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

[From the Wall Street Journal, July 21, 2003]

LAID-OFF FACTORY WORKERS FIND JOBS ARE DRYING UP FOR GOOD

(By Clare Ansberry)

BUTLER, PA.—The two Karenbauer brothers and their cousin, Danny Mottern, have worked alongside each other for much of their lives. Working with their hands comes naturally to all three. As young boys they were dispatched to feed the cows and plant corn on their grandfather's 134-acre farm.

Later, they all ended up in the same Trinity Industries Inc. factory, building parts for railroad cars. Brad Karenbauer, 39 years old, was a tool and die man. Mr. Mottern, 42, was a welder. Jim Karenbauer, 60, ran the forge shop. They found challenge and satisfaction in their ability to take a rought piece of metal and fashion it into the door or roof of a sturdy railroad car that could whisk people, coal and grain across the country.

''I was making something. I had something to show for myself at the end of the day,'' say Mr. Mottern.

But Trinity started laying off workers in 2000 and a year ago, in a bid for efficiency, shut down the Butler factory where the Karenbauers and Mr. Mottern worked. After, the three men have begun scrounging for work. They moved from job to job—shoveling snow, stocking a Wal-Mart Supercenter—but nothing has added up to the pay or fulfillment of their old jobs.

While hundreds of factories close in any given year, something historic and fundamentally different is occurring now. For manufacturing, this isn't a cyclical downturn. Most of these basic and low-skill factory jobs aren't liable to come back when the economy recovers or when excess capacity around the world dissolves.

Railroad cars, unlike buggy whips, are still needed, as are toys, appliances and shoes. But the task of making these goods is increasingly being assumed by more efficient machines and processes. Or they've been transferred to workers who earn less and live in another country. While these changes have been going on to a limited extent for years, the economic slowdown has greatly accelerated and broadened this historic shift. By some estimates, roughly 1.3 million manufacturing jobs have moved abroad since the beginning of 1992, the bulk in the past three years to Mexico and East Asia.

Other plants around Butler also have closed, including one that fabricated steel and another that made vinyl siding. Hundreds of manufacturing workers have been left without jobs and their options for similar work have narrowed significantly in this city of 15,000, and hour north of Pittsburgh.

''For people who work with their hands, there isn't going to be much out there for them for long,'' says Brad Karenbauer.

After he was laid off last summer, he couldn't keep up with the rent of his apartment. He moved with his girlfriend, Lisa Schnur, and their infant daughter into a trailer owned by Ms. Schnur's aunt.

Meanwhile, a landscaper gave Mr. Karenbauer odd jobs, moving lawns and putting down mulch, paying him under the table. That lasted until the snow fell. He doesn't mind getting dirty or working outside and admits he's not comfortable behind a desk. ''That's just not my cup of tea,'' he says. ''Hands on is what I like to do. I like to

work hard. Growing up, if there was work to do, you did it. After a while, you just got used to it.''

Now he finds himself stranded in the labor pipeline along with a generation of assemblers, welders, and tool and die men who learned their trade on the job and know little of computer-driven machines and new age manufacturing techniques. In June, manufacturing cut 56,000 jobs, the 35th consecutive monthly decline and the longest string of layoffs in that industry since World War II.

''We're saving corporate jobs by moving production jobs to lower-cost areas,'' says Daniel Meckstroth, chief economist with the Manufacturers Alliance, a public policy and business research group in Arlington, Va.

The shift also means income for secretaries, maintenance workers, and counter people in lobby coffee shops and staff parking garages. Furthermore, off-loading much of the low-skill production work saves money and makes companies more competitive. That means they can focus on innovation and potentially create other jobs.

Stan Donnelly, whose Alexandria, Minn., company makes plastic parts for big equipment manufacturers, imports tools from China to save money. In the long run, bypassing U.S. toolmakers is a mistake, he believes. Those kinds of jobs helped create and sustain the middle class, and he's not sure displaced workers will learn new skills and become higher paid. ''Look, we've got millions of people who have failed to get through high school. If their minds are not their salvation, what's wrong with letting their hands be their salvation?'' asks Mr. Donnelly. ''Over the last two centuries, America has developed a balanced society, with opportunities for a large cross section of people. We're gutting that.''

In Brad and Jim Karenbauer's childhood home, work was part of the natural rhythm of the day, filling the space between school and supper and most daylight hours during weekends. If they weren't helping around their own house, they were dispatched to their grandparent's farm, as were Danny Mottern and other cousins. They plowed fields and stacked hay. Surrounded by John Deere tractors, they learned how to take machines apart and put them back together.

Their grandmother fried up homemade sausage in her iron skillet to welcome them back from the fields. Afterward, they relaxed under an oak tree, with a bobble of pop and, when older, a cold beer.

The Karenbauers' father worked in a small fabrication shop, welding steel for bridges and buildings. With six kids, money was tight, but they never felt poor. They had a half a cow in the freezer. ''If you didn't have it, you didn't need it,'' says Brad Karenbauer. College wasn't an option. Even if they had the money, he wouldn't have gone: ''I was not a school-oriented person,'' he says.

In their community, working with machines was nothing to be ashamed of and there were plenty of opportunities to make a comfortable living. Brad Karenbauer took three years of welding in high school and after graduation in 1981 worked 16-hour days for a brother-in-law who had a boiler-repair business. ''It was a blast,'' he says. ''My brother-in-law didn't believe in an eight-hour day. You went to a job and stayed until it was done. I was bringing home more money than I could spend.''

Then as now, manufacturing paid more and had better benefits than many other jobs. In Butler County, population 174,000 about 20 percent of the work force is in manufacturing, but those jobs contribute 30 percent of the county payroll. Nationwide, manufacturing jobs averaged $54,000 in pay in 2000—20 percent higher than the average of what all American workers earn, according to the National Association of Manufacturers.

One of the prized jobs in Butler County was building railroad cars, an industry with a storied past. A century ago, the flamboyant Diamond Jim Brady, who made a fortune selling railroad parts, and engineer John Hansen built the world's largest freight-car plant, half a mile long, in Butler, according to local historian Ralph Goldinger.

Inside, more than 1,110 welding machines melted steel pieces together, producing at its peak 27,000 railroad cars a year. At first it was called Standard Steel Car Co., but the company merged with Pullman Inc. of Chicago, to become the well-known Pullman-Standard Co., whose posh cars made comfortable cross-country travel a reality.

Civic-minded Pullman donated its eight-acre ballpark to Butler in the 1940s. The New York Yankees sometimes played exhibition games there, giving locals a chance to cheer Whitey Ford, Joe DiMaggio and Lou Gehrig. Streets were named after the company founders. Mr. Hansen built a mansion with seven fireplaces on West Pearl Street. It still stands today.

Jim Karenbauer started at Pullman in 1965, when he was 22 years old and fresh out of the Air Force. He worked in the storeroom, then transferred to the forge department because he could learn and earn more. Eventually, he became foreman, earning $32,000 a year when Pullman closed its doors in 1982.

Jobs were scarce, but he found one with the Butler Township zoning department, inspecting buildings and property. He quit after three years. ''I couldn't take the politics,'' he says. He sold insurance for a while, walking up and down Butler's streets, knocking on doors.

Two years after Pullman closed, Trinity came in and started making replacement parts for railroad cars in the same factory. Jim Karenbauer got a call in 1987 asking him to run the plant's forge operation. ''They got the old Pullman guys who knew how to run that stuff,'' he says. About six months later he brought home applications for his younger brother and cousin.

While Jim Karenbauer made the coupling rods that hook together railroad cars, Mr. Mottern welded chutes for coal and grain cars. Brad Karenbauer moved around the floor adjusting machines that were clogged or not working properly. He learned the tool and die trade, the craft of making the tools that form parts, from his supervisor. ''He took a liking to me and taught me,'' Mr. Karenbauer says. That sort of informal teaching was invaluable to companies and workers who couldn't afford other education. And for generations, it sufficed.

A die, or mold, shapes metal part much as a waffle iron shapes a waffle. Brad Karenbauer's job of maintaining them was critical and he was paid relatively well. At the time he was laid off last year, he earned $14.50 an hour.

For him, the challenge of figuring out how to fix problems was as rewarding as the pay. ''I loved my job. I never did the same thing every day. I'd build a new die. Or fix the old one that died,'' he says. Co-workers voted him ''employee of the month,'' which was noted on a sign outside the plant and acknowledged with a $150 gift certificate from Sears. ''I bought a couch with that,'' he says.

Once he was invited to Trinity's headquarters in Dallas to explain his solution to a glitch that had been causing many pieces of a metal post to be scrapped. He figured out that the post was moving slightly when it was in the press, causing a wrinkle. He built a device to hold it firmly. His cousin, Mr. Mottern, came up with a design to replace a part that had been made by welding two pieces of metal together. That eliminated the welding, and helped the department make twice as many pieces of higher quality.

His employers gave him a framed certificate and a grainy video of his talk, which he still shows visitors. ''All the bigwigs were down there,'' he says.

Trinity closed the Butler plant and in 2002 and one other, citing the slowdown in the rail industry. ''We no loner needed to maintain all the facilities previously supporting our parts business,'' it said in a statement. The company, which has operations in Mexico, the Czech Republic and Romania, said the Butler work would be done at its plant in Texas.

''We'll never find a job like that,'' says Mr. Mottern. While working at the Trinity factory, he was able to buy 40 acres of land. He cleared a hilltop and built a tidy ranch house at the end of a long driveway, flanked by tiny evergreen saplings. A barn is filled with a half-dozen pieces of John Deere equipment, including a 1952 model he and his cousins rode on their grandparents' farm.

''I'm not going to lose this,'' he says. ''I'm willing to work so I know someone out there is going to hire me. I always figured I could just go and work with my hands. It's all I know,'' says Mr. Mottern.

After Mr. Mottern was laid off last summer he worked for a landscaper. That winter he shoveled snow and ran errands for an elderly judge. Mr. Mottern doesn't want to leave Butler because his family and girlfriend are here.

He and Brad, his cousin, sometimes meet for a breakfast of eggs-over-easy and home fries at Eat'N'Park restaurant. they often discuss their growing fear that they are becoming obsolete. Both feel they are behind on computer technology, which is increasingly important in factories. Brad Karenbauer recently saw a John Deere tractor with a computerized panel in the engine. ''It was way out of my league,'' he says.

Prospects for workers with their skills are dim. Pennsylvania has lost one out of 10 manufacturing jobs, or 90,300 jobs, in the past three years. Industrial cities such as Butler have been disproportionately hit by job loss. Earlier this year, unemployment in the county jumped to 7.3 percent the highest level since 1994.

Moreover, even though inflation-adjusted output by manufacturers nationally is expected to grow 36 percent over the next decade, employment is expected to grow only 3 percent, or by 577,000 jobs, according to the Manufacturers Alliance. The bulk of the new jobs will be given to those with computer, mathematics and management skills, while production workers are expected to decline as a share of all manufacturing occupations.

The Butler Eagle carries some ''help wanted'' ads, but the skills and pay don't fit their levels. United Plate Glass Co., with 45 employees, plans to expand, but it can't afford these workers. ''They have 10 to 12 years with a company and I can't afford the salary level they have reached,'' says President William Cully.

It's especially tough for midcareer workers with family responsibilities. Almost 40, Brad Karenbauer has three kids. Along with his 14-month-old, he is supporting a 17-year-old daughter and 13-year-old-son. He passed over a job paying $6.50 an hour. Another paid $8 an hour, but involved industrial chemicals, which he thought would be dangerous. Mr. Karenbauer has a friend from Trinity who went to work for the township, making $13 an hour. ''I'd take a job that makes that,'' he says.

So far, though, he hasn't found one. The $7,000 in his 401(k) is gone. He used it to buy

a car and pay off debt. With his unemployment running out and in need of health insurance benefits, he finally took a job in April at Harmony Castings, a 60-person foundry that paid $8.85 an hour. He drove 45 minutes to get to the foundry and worked a midnight shift.

Standing in one spot eight hours a night, he took one aluminum part after another and grinded off burrs to smooth them. ''To be honest with you, I'm not liking it at all,'' he said shortly after taking the job. ''It's repetition and I hate repetition.''

For challenge and additional cash, he buys broken weed eaters and lawn mowers at yard sales to repair and sell at a profit. He recently bought one for $15, put in a new spark plug and sold it to a friend—for $15. ''They were in the same predicament I'm in,'' he says.

His cousin, Mr. Mottern, lucked out and landed a job, also in April, working on a railroad track crew. It pays $12 an hour, a $1.30-an-hour pay cut from his old job at Trinity, but after a winter of shoveling snow and summers of planting trees by the highway, he is thrilled. The job also has the potential for benefits. ''I'm going to go down and bust my rear end fro them,'' he says.

Most of the available jobs have been at malls. Mr. Karenbauer's older brother, Jim, now works at the Wal-Mart Supercenter, which opened last year. ''There's four or five of us here now,'' says Jim Karenbauer, referring to his former Trinity co-workers. He refinanced his house a few years ago to pay for his daughter's college, and lost a chunk of his retirement savings when the stock market sank, so he can't retire.

He'd prefer work in a forge department but couldn't find a job in one. At Wal-Mart he makes $6.25 an hour, half of what he earned at Trinity. He stocks shelves with VCRs and rings the cash register. He wheels televisions sets out to the parking lot on a dolly. ''Lifting them into the car is the hard part,'' the 60-year-old says. ''They get pretty heavy.''

After a month at the casting foundry, Brad Karenbauer recently gave up his job. He couldn't juggle the night shift and taking care of his daughter, while his girlfriend worked. A landscaper put him to work mowing lawns and doing odd jobs for cash. The work will dry up again once winter arrives, so he's still looking.

He doesn't regret not going to college, or working with his hands. ''I think I've done better than my father,'' he says. ''I just wonder where things are going. That trade of working with your hands is just about gone now.''

Mr. HOLLINGS. I picked up my August 4 issue of Time magazine: ''Where The Good Jobs Are Going. Forget Sweatshops. U.S. companies are now shifting high-wage work overseas, especially to India.''

I ask unanimous consent that this article be printed in the RECORD.

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

[From Time Magazine, Aug. 4, 2003]

WHERE THE GOOD JOBS ARE GOING; FORGET SWEATSHOPS, U.S. COMPANIES ARE NOW SHIFTING HIGH-WAGE WORK OVERSEAS, ESPECIALLY TO INDIA

(By Jyoti Thottam with Sean Gregory)

Little by little, Sab Maglione could feel his job slipping away. He worked for a large insurance firm in northern New Jersey, developing the software it uses to keep track of its agents. But in mid-2001, his employer introduced him to Tata Consultancy Services, India's largest software company. About 120 Tata employees were brought in to help on a platform-conversion project. Maglione, 44, trained and managed a five-person Tata team. When one of them was named manager, he started to worry. By the end of last year, 70% of the project had been shifted to India and nearly all 20 U.S. workers, including Maglione, were laid off.

Since then, Maglione has been able to find only temporary work in his field, take a pay cut of nearly 30% from his former salary of $77,000. For a family and mortgage, he says, ''that doesn't pay the bills.'' Worried about utility costs, he runs after his two children, 11 and 7, to turn off the lights. And he has considered a new career as a house painter. ''It doesn't require that much skill, and I don't have to go to school for it,'' Maglione says. And houses, at least, can't be painted from overseas.

Jobs that stay put are becoming a lot harder to find these days. U.S. companies are expected to send 3.3 million jobs overseas in the next 12 years, primarily to India, according to a study by Forrester Research. If you've ever called Dell about a sick PC or American Express about an error on your bill, you have already bumped the tip of this ''offshore outsourcing'' iceberg. The friendly voice that answered your questions was probably a customer-service rep in Bangalore or New Delhi. Those relatively low-skilled jobs were the first to go, starting in 1997.

But more and more of the jobs that are moving abroad today are highly skilled and highly paid—the type that U.S. workers assumed would always remain at home. Instead Maglione is one of thousands of Americans adjusting to the unsettling new reality of work. ''If I can get another three years in this industry, I'll be fortunate,'' he says. Businesses are embracing offshore outsourcing in their drive to stay competitive, and almost any company, whether in manufacturing or services, can find some part of its work that can be done off site. By taking advantage of lower wages overseas, U.S. managers believe they can cut their overall costs 25% to 40% while building a more secure, more focused work force in the U.S. Labor leaders—and nonunion workers, who make up most of those being displaced—aren't buying that rationale. ''How can America be competitive in the long run sending over the very best jobs?'' asks Marcus Courtney, president of the Seattle-based Washington Alliance of Technology Workers. ''I don't see how that helps the middle class.''

On the other side of the world, though, educated Indian workers are quickly adjusting to their new status as the world's most sought-after employees. They have never been more confident and optimistic—as Americans usually like to think of themselves. For now, at least, in ways both tangible and emotional, educated Americans and Indians are trading places.

Uma Satheesh, 32, an employee of Wipro, one of India's leading outsourcing companies, is among her country's new elite. She managed 38 people who work for Hewlett-Packard's enterprise-servers group doing maintenance, fixing defects and enhancing the networking software developed by HP for its clients. Her unit includes more than 300 people who work for HP, about 90 of whom were added last November when HP went through a round of cost-cutting.

''We've been associated with HP for a long time, so it was an emotional thing,'' Satheesh says. ''It was kind of a mixed feeling. But that is happening at all the companies, and it's going to continue.'' Satheesh says that five years ago, computer-science graduates had one career option in India: routine, mind-numbing computer programming. Anything more rewarding required emigrating. ''Until three years ago, the first preference was to go overseas,'' she says. Nowadays her colleagues are interested only in business trips to the U.S. ''People are pretty comfortable with the jobs here and the pay here''—not to mention the cars and houses that once seemed out of reach. Employees in her group earn from $5,200 a year to $36,000 for the most experienced managers.

And as American companies have grown more familiar with their Indian outsourcing partners, they have steadily increased the complexity of work they are willing to hand over. Rajeshwari Rangarajan, 28, leads a team of seven Wipro workers enhancing the intranet site on which Lehman Brothers employees manage personal benefits like their 401(k) accounts. ''I see myself growing with every project that I do here,'' Rangarajan says. ''I really don't have any doubts about the growth of my career.''

Her experience with a leading brokerage will probably help. Financial-services companies in the U.S. are expected to move more than 500,000 jobs overseas in the next five years, according to a survey by management consultant A.T. Kearney, and India is by far the top destination. U.S. banks, insurance firms and mortgage companies have been using outscouring to handle tech support for years. Now these firms are using Indian workers to handle the business operations—say, assessing loan applications and credit checks—that the technology supports. Kumar Mahadeva, CEO of the thriving outsourcing firm Cognizant, explains the appeal: ''It becomes logical for them to say, 'Hey, you know everything about the way we do claims processing. Why not take a piece of it?''

The next logical step, says Andrea Bierce, a co-author of the A.T. Kearney study, is jobs that require more complex financial skills such as equity research and analysis or market research for developing new business. Evalueserve, a niche outsourcing company in Delhi, already performs research for patent attorneys and consulting firms in the U.S. In April, J.P. Morgan Chase said it would hire about 40 stock-research analysts in Bombay—about 5% of its total research staff. Novartis employs 40 statisticians in Bombay who process data from the drug company's clinical research.

But as educated workers in India are finding new opportunities, those in the U.S. feel the doors closing. Last week Bernie Lantz drove 1,400 miles from his home in Plano, Texas, to begin a new life in Utah. He is 58 years old, a bachelor, and had lived in the Dallas area for 24 years. ''I'm leaving all my friends,'' he says with a sigh. ''It's quite an upheaval.'' Lantz used to earn $80,000 a year as a troubleshooter for Sabre, a company based in Southlake, Texas, whose software powers airline-reservations systems. But over the past two years, Sabre has gradually standardized and has centralized its software service. As Sabre began to outsource its internal IT services, Lantz says, he became convinced that jobs like his were becoming endangered. He was laid off in December. (A company spokesman denies that Lantz's firing was related to outsourcing.)

Discouraged by a depressed job market in Dallas, Lantz realized he would have to do something else. In the fall he will begin teaching computer science a Utah State University in Logan, and in the meantime he has learned a lesson of his own: ''Find a job that requires direct hands-on work on site,'' Lantz advises. ''Anything that can be sent overseas is going to be sent overseas.''

Pat Fluno, 53, of Orlanda, Fla., says she, like Maglione, had to train her replacement—a common practice in the domestic outsourcing industry—when her data-processing unit at Germany-based Siemens was

outsourced to India's Tata last year. ''It's extremely insulting,'' she says, ''The guy's sitting there doing my old job.'' After 10 months of looking, she is working again, but she had to take a $10,000 pay cut.

To protect domestic jobs, U.S. labor activists are pushing to limit the number of H–1B and L–1 visas granted to foreign workers. That would make it harder for offshore companies to have their employees working on site in the U.S. ''Those programs were designed for a booming high-tech economy, not a busting high-tech economy,'' says Courtney of the Washington Alliance of Technology Workers. Courtney and his allies are starting to get the attention of lawmakers. Several congressional committees have held hearings on the impact of offshore outsourcing on the U.S. economy, and lawmakers in five states have introduced bills that would limit or forbid filling government contracts through offshore outsourcing.

Stephanie Moore, a vice president of Forrester Research, says companies are concerned about the backlash but mainly because of the negative publicity. ''The retail industry is very hush-hush about its offshoring,'' she says. But within the boardroom, such outsourcing enjoys wide support. In a June survey of 1,000 firms by Gartner Research, 80% said the backlash would have no effect on their plans.

The advantages, businesses say, are just too great to ignore. They begin with cost but don't end there. Jennifer Cotteleer, vice president of Phase Forward, a Waltham, Mass., company that designs software for measuring clinical-trials data for drug companies, has for the past two years used offshore employees from Cognizant to customize the application for specific drug trials. Lately she has been relying on their expertise to develop even more-tailored programming. ''I certainly couldn't have grown this fast without them,'' Cotteleer says. Her company is growing 30% annually, on track to reach $65 million in revenue this year. ''What I've been able to do in very tough economic times is manage very directly to my margins,'' she says. ''I'm providing job security for the workers I do have.''

Creative use of offshore outsourcing, says Debashish Sinha of Gartner Research, offers benefits that outweight the direct loss of jobs. In an economy that has shed 2 million jobs over two years, he contends, the 200,000 that have moved overseas are less significant than the potential for cost savings and strategic growth. But he concedes that ''when you're a laid-off employee who can't find a job, that's hard to understand.''

Perhaps some will follow the example of Dick Taggart, 41, of Old Greenwich, Conn. After 18 years in financial services, most recently at J.P. Morgan Chase, he now works for Progeon, an affiliate of the Indian outsourcing giant Infosys, as its man on Wall Street. One week out of every six or seven, he takes securities firms to India to show them the savings that are possible. He knows the transition is painful for the workers left behind, but he has seen it before. ''It was the same thing when we moved from Wall Street to New Jersey and then to Dallas,'' he says. ''Guess what? This is next.''

Mr. HOLLINGS. What happens is that when we used to argue for manufacturing jobs, they said, oh, don't worry, the service economy will produce jobs. Then when the service economy was leaving, they said high tech, will be the motor of growth. Then there was Y2K, that was to be the next motor of growth.

The high-tech jobs are gone. The service jobs are gone. As they told England at the end of World War II, do not worry, instead of a nation of bronze, you are going to be a nation of brains; instead of providing products, you are going to provide services; instead of creating wealth, you are going to handle it and be a financial center.

Of course, England has gone to economic hell in a hand basket. Downtown London is an amusement park. Let's not go that way. We have to produce.

As they crown the queens and bring out the kings and everything else of that kind, we are in a position where we do not make anything anymore. For example, footwear, 83.6 percent of our shoes are imported; 70 percent of our clothing is imported.

Ceramic household articles, 87 percent is gone; cooking and kitchenware, gone. And I can read on and on, right on down the line.

I ask unanimous consent that this list be printed in the RECORD.

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

Item	Percent import penetration
Footwear	83.6
Ceramic household articles	87.0
Cooking and kitchenware	58.4
Industrial thermal-processing equipment and furnaces	60.6
Household appliances, including commercial applications	44.3
Textile machinery	86.5
Metal forming machine tools	49.6
Semiconductor manufacturing machinery	52.3
Boilers, turbines, and related machinery	56.6
Electrical transformers, static converters, and inductors	49.7
Aircraft engines and gas turbines	42.2
Office machines	51.7
Consumer electronics (except televisions)	89.8
Television receivers and video monitors	79.2
Radio and television broadcasting equipment	77.3
Electrical capacitors and resistors	75.7
Computers, peripherals, and parts	59.8
Optical goods, including ophthalmic goods	53.9
Handbags	88.8
Musical instruments and accessories	64.6
Bicycles and certain parts	68.8
Toys	84.0

Mr. HOLLINGS. We do not make anything anymore. We are just jabbering to each other. We are not producing.

The Secretary of Commerce is burdened with the duty—and the current occupant of the chair would be interested in this—of listing some 500 critical articles to our national security for defense purposes. We have a $5 billion deficit in the balance of trade. We had to wait 5 months before we went into Desert Storm to get mainframes from the Japanese. Now we have to go to other countries before we can go to war. We do not make those things anymore. We have an advanced technology of a $2 billion a month deficit in the balance of trade, over $24 billion a year, in advanced technology.

The Japanese have given up. They moved their advanced technology and research to Shanghai. The most modern automotive research is in downtown Shanghai. General Motors put it there. We can go right on down the list. The Chinese are saying before anyone can come with factories, they have to bring their research.

The technology community of the United States is concerned about our technological capability. We do not have as many Americans engineers as there are in China. We maintain our security by a superiority of technology, and we are draining the tub of technology just as fast as we can. Yet in this Chamber, we want to talk about an Energy bill, want to talk about a judge—don't we want to talk about trade? Put fast track on the Energy bill. Why not? Unless, by gosh, we get serious and start talking about jobs in America, the economic strength, the industrial backbone of this Nation.

Tax cuts loses jobs. Free trade loses jobs. We have a race to the bottom to Mexico. In South Carolina we have lost 61,000 jobs—incidentally, we were supposed to get 200,000 jobs in America by signing NAFTA. That is what NAFTA was going to create for us. Nationally, we have lost 450,000 jobs to Mexico, but not for long because those same Mexican jobs formerly in America are now going to China.

It is different than what Henry Ford said. Henry Ford said, I want the man making that automobile to be able to buy it. He produced a minimum wage and he produced health benefits. So we built up middle America. Now, instead, with a trade policy of free trade, like monkeys on a string, there is no such thing as free trade. That is an oxymoron. Trade is something for something. If it is free, it is a gift. But with that particular policy, we have to race to the bottom in the United States of America.

I have an article from the New York Times, July 20, that I wanted to read, which points out our tremendous difficulty. I ask unanimous consent to have this article printed in the RECORD.

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

[From the New York Times, July 20, 2003]

ECONOMIC VIEW; PRODUCING ABROAD IS HARMING RECOVERY

(By Louis Uchitelle)

For nearly 29 months, the nation has struggled through a recession and a weak recovery. That is a long struggle, a new form of hardship for many Americans, who are tantalized with incessant forecasts that a decisive upturn is about to happen. But as the months wear on, the dogged optimism detaches from reality.

For starters, the forecasters seem not to grasp how much the American economy has deviated from the standard business cycle and the standard cures. A major reason for the deviation is the mobility of American companies, particularly the ease with which they now shift operations to China and India. ''The wholesale movement of jobs and production overseas is handcuffing the recovery,'' said Mark M. Zandi, chief economist at Economy.com.

In other downturns since World War II, the economy moved from healthy growth to contraction and back to healthy growth, all in less than two years. The downward swings were relatively easy to fix. The swings began when companies found themselves producing more goods and services than people bought.

Inventories built up, particularly in manufacturing, and companies responded by cutting output until it was below demand. Rather than produce more, companies filled orders from stockpiles. As output declined, unemployment rose and wages stopped increasing. Capital spending also suffered. After all, why expand when the capacity to produce already exceeds demand?

But the damage did not last long. The Federal Reserve stepped in, cutting interest rates to encourage spending. Unemployment insurance, public spending, and sometimes tax cuts, helped resurrect demand. As spending picked up and inventories disappeared, prices began to rise, which encouraged more production. Hiring resumed, as did capital spending.

These various remedies are being used now, and there is some strength in spending. Yet inventories have failed to diminish, so prices, production, hiring and capital spending do not rise.

The difficulty is that companies have a choice that was not as available in the last downturn 12 years ago. Rather than halt production at home, they shift it abroad to cut costs, particularly labor costs. They feel compelled to do this. If they did not, their competitors would upstage them with their own lower-cost, overseas production that takes away sales back home.

In the process, the mechanism for restoring our economy to healthy growth—by reducing inventories and excess capacity—fails to function properly. Inventories may seem to diminish when only ''Made in America'' is counted. But in the new global economy, what's made in America and what's made abroad both contribute to inventories and capacity. The total does not shrink, and the economy flounders month after month.

Still, there is some relief. Super-low interest rates, mortgage refinancing, stepped-up military spending and some of the Bush tax cuts augur a temporary pop in economic growth. But temporary is the operative word. The more enduring pressure on the economy is downward, not upward.

The biggest beneficiary appears to be China. Abundant transportation has made China an ever-easier place for American companies to shift production of goods and services for sale in the market back home.

The nation's trade deficit, the excess of our imports over exports, has risen by 31 percent since the recession began in March 2001. The increase, totaling $114 billion, would add one percentage point to American economic growth—enough to turn a weak recovery into a strong one—if the rise in output were at home, not abroad. One-third of the total increase represents imports from China, Mr. Zandi says. Honing the figures, Steven S. Roach, chief economist at Morgan Stanley, finds that China's total exports have tripled since 1994, and that 65 percent of the $244 billion increase comes from foreign companies in China.

''We are criticizing the Chinese as if they were cleaning our clock and the only part of China that is cleaning our clock is the part that we put there,'' Mr. Roach said.

What is to be done? If we do anything, we are likely to pressure the Chinese to float their currency. A floating yuan would rise against the dollar, making Chinese exports more costly in the United States. Pressure is already coming from Congress for the Bush administration to negotiate the float.

We could also force American companies, through regulations, to stay out of countries that fail to observe minimal labor and environmental standards. Regulation is not popular in America. But it could regain its popularity, if the alternative is a continual loss of jobs in every state.

Mr. HOLLINGS. Of particular significance, the article quotes Steven Roach, the chief economist of Morgan Stanley. He finds that China's total exports have tripled since 1994, that 65 percent of the $244 billion increase comes from foreign companies in China, most of them United States.

Then I want you to listen to this economist about the economy, Mr. Mark M. Xanely. Before I quote him, let me say I am not an economist but I finally found one that is going to correct Alan Greenspan, because Mr. Greenspan is looking to consumer demand.

But before you can have consumer demand, you have to have consumers. Before you have consumers, you have to have producers. Before you have producers, you have to have jobs. Here is what he says:

For starters, the forecasters seemed not to grasp how much the American economy has deviated from the standard business cycle and the standard cures. A major reason for the deviation is the mobility of American companies, particularly the ease with which they now shift operations to China and India. The wholesale movement of jobs and production overseas is handcuffing the recovery.

Why do they have a jobless recovery? Because the economy of the United States is handcuffed with this silly cutting of the taxes, jobs and growth, jobs and growth, free trade, free trade, free trade.

Maybe it is not jobless growth, it is just jobless in the United States. This tax incentive, this stimulation is not going to create jobs in downtown Nashville, TN. The jobs will be in Shanghai, China. If you are in Nashville, TN, and you get a good fat tax break, the question arises, should you build the plant in Nashville? No, your competition has gone to China. If you are going to meet the competition, you are going to have to put that new plant, use that tax break, that stimulation—not to invest in the United States but to invest in China.

We are missing the point of history when everyone talks of this free trade nonsense. I remind them of Alexander Hamilton, a good Republican. Some of them want to replace him with the inventor of voodoo I, Ronald Reagan, on the $10 bill. You got some crazy things going on in this town. Imagine putting Ronald Reagan on the $10 bill rather than Alexander Hamilton—one of the greatest of the great. Hamilton not only helped with the Constitution, not only helped Madison with the Federalist Papers, but created a ''Report on Manufacturers.'' I have it right here.

What happened was the fledgling colony had just won its freedom when the British corresponded with us back in New York, because that is where the Capitol was at the time. They said what you ought to do back in the colonies since you won your freedom, was to trade with us what you produce best and we will trade back with you what we produce best. The doctrine was David Ricardo's, the economic doctrine of comparative advantage. It was Alexander Hamilton who won out. He even persuaded Madison, who voted for it.

He issued the ''Report on Manufacturers.'' It is too long to include in the RECORD. The original copy is at the Library of Congress. It can be expressed in one expression: Hamilton told the British to bug off. We are not going to remain your colony, shipping to you our agriculture, our foodstuffs, our rice, our cotton, our indigo, our coal, our iron ore. We are not going to remain a colony; no, we will become a nation state.

The first bill to ever pass Congress was for the seal of the United States—but the second bill on July 4, 1789, that passed this Congress was protectionism, a tariff bill of 50 percent on 60 articles.

We built this country over a 160-year-period with protectionism. I will never forget, every time they would tell me: Senator, you are nothing but a protectionist.

I am for free trade, free trade. The opponents do not know what the heck they are talking about. I feel sorry for them. Protectionism built the country. We did not even have the income tax until 1913. We built it on tariffs.

After Hamilton came Lincoln. People told Lincoln that to build the transcontinental rail we ought to get steel from England. The father of the Republican Party said: No, no. We are going to build our own steel mills and when we get through we will not only have the rail equipment, we will have our steel production.

Then Roosevelt in the depth of the Depression protected agriculture. People do not think I know anything about farming. But I get the farm vote every time I run. I love campaigning out in Iowa. I can tell you right now Roosevelt protected agriculture. And Eisenhower protected oil in the 1950s with quotas. We built the country with protectionism.

I will never forget when we had to have President Reagan's second inauguration right out here in the Rotunda. He raised his hand and he said, ''preserve, protect and defend.'' Then we came back here and we debated something on trade. I said something about protection and the majority jumped all over me: You are a protectionist, protectionist.

We have the Army to protect us when the enemy is out. We have Social Security to protect us from old age. We have Medicare to protect us from ill health. We have environmental laws, clean air and clean water, to protect the environment. The fundamental foundation of government is to protect.

Let's say you wanted to start an Alexander Manufacture Company. But before you can open Alexander Manufacture, you have to have a minimum wage. You have to have clean air; you have to have clean water; you have to have Social Security; you have to have Medicare; you have to have Medicaid; you have to have safe machinery; you have to have a safe working place; you

have OSHA coming around looking at you; you have to have plant closing notice; you have to have parental leave. I could go on and on. Or you can open a plant in China for 60 cents an hour, and have none of that. So companies go to China.

I will never forget, I had a friend who organized his own company out in California. I saw where he was very successful and I said: I helped you. I got your water and sewer lines when you came to South Carolina, when you had an expansion. I want you to give us that plant in South Carolina.

He said: I don't build anything in the United States. He said: I do it in China. I got research, I got sales—for 10 percent of the costs.

He did not say this but I know it: They build the factory. They provide the employment. They give people a year-to-year contract. They don't have to worry about the cycle that the economists talk about. If the cycle goes down, they do not have to renew the contract next year. They cannot lose. We are in one dickens of a fix.

I was reading the book ''Theodore Rex,'' the patron saint of my Republican friends. He is one of my heroes, too. In the book, on page 20, let me read at the turn of the century what we really had was protectionism.

The United States was already so rich in goods and services that she was more self-sustaining than any industrial power in history. Indeed, it could consume only a fraction of what it produced. The rest went overseas at prices other exporters found hard to match. As Andrew Carnegie said:

The nation that makes the cheapest steel has other nations at its feet.

More than half the world's cotton, corn, copper and oil flowed from the American cornucopia, and at least one-third of all steel, iron, silver and gold. Even if the United States were not so blessed with raw materials, the excellence of her manufactured products guaranteed her dominance of world markets. Current advertisements in British magazines gave the impression that the typical Englishman waked to the ring of an Ingersoll alarm, shaved with a Gillette razor, combed his hair with Vaseline tonic, buttoned his Arrow shirt, hurried downstairs for Quaker Oats, California figs, Maxwell House coffee, commuted in a Westinghouse tram, body by Fisher, rose to his office in an Otis elevator, worked all day with his Waterman pen under the efficient glare of Edison lightbulbs. ''It only remains,'' one Fleet Street wag suggested, ''for us to take American coal to Newcastle.''

Behind the joke lay real concerns. The United States was already supplying beer to Germany, pottery to Bohemia, oranges to Valencia. As a result of this billowing surge in productivity, Wall Street was awash with foreign capital. Carnegie calculated that America could afford to buy the entire United Kingdom and settle Britain's national debt into the bargain. For the first time in history, transatlantic money currents were thrusting more powerfully westward than east. Even the Bank of England had begun to borrow money on Wall Street. New York City seemed deemed to replace London as the world's financial center.

Mr. President, you can see exactly what happened. We built it up. At the end of World War II, my dear friends, we had the only economy. In order to prosper, we had to spread prosperity. The way we did that was very sanguine: the Marshall plan. And it worked. We sent over money, 80-some billion in today's dollars. We sent over the equipment, the finest machine tools, automotive equipment and otherwise. We sent over the expertise, and we rebuilt Europe, we rebuilt the Pacific rim, and capitalism defeated communism. It worked.

Our trouble is it worked too well for these eager-beaver manufacturers. I remember them well because I have been in this thing, now, for 50-some years. I can see them—Oh, I get jet lag; I hate to go; oh, man, I don't want to go; and everything else of that kind.

No more, not with the computer, not with the Internet. You can send some young, aggressive executive to Shanghai to run your plant. You can set it up on your computer. You can see what is happening daily. You can be in touch on the Internet. You can run it from the 32nd floor on Sixth Avenue in New York and, man, you have it made. And they are all doing it.

So what happened with the Marshall plan? We not only spread that prosperity but we really taught these people a bad lesson because they don't think about the country. You know, you and I are supposed to think about the country. They are supposed to think about profits. They do not have a duty.

Of course, being Americans, you would think they would be a little bit more patriotic. Their organizations are against us. Now who is the enemy? in other words.

The toast of the town, Jack Welsh of GE, he believed in squeezing the lemon.

This says:

One of General Electric's CEO's, Jack Welsh's favorite phrase is ''squeeze the lemon'' for wringing out the cost. To help them meet the stiff goals, several of GE's business units, including aircraft engines, power systems, industrial systems, have been prodding suppliers to move to low-cost Mexico where the industrial giant already employs 30,000.

That was 4 years ago.

GE even puts on supplier migration conferences to help them make the leap.

He goes on:

Welsh's widely admired status in corporate America has lent legitimacy to a model of business success that is built on job and wage cuts.

This is Business Week. This is the bible of the business community, the weekly bible. Here it is, and I am quoting:

The internal report, a copy of which Business Week obtained, says: ''GE set the tone early and succinctly: 'Migrate or be out of business; not a matter of if, just when'. This is not a seminar just to provide information. We expect you to move and move quickly.''

The followup: Even though GE's profits were up 80 percent at that particular time, they wanted more. You know, they are not just Jesse Jackson in civil rights. This is Jack Welsh in Business Leadership: I want it all. My time has come. I want it all.

So the 80 percent didn't suit him. But you don't jump on poor Jack; he has gone now, and he has had other troubles. Let's go to last month. General Motors and Ford: Automotive News.

I ask unanimous consent to have this article printed in the RECORD.

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

(From Automotive News, June 23, 2003)

FORD, GM PUSH VENDORS TOWARD CHINA; 'WORLD PRICE' FRENZY THREATENS U.S. JOBS

(By Robert Sherefkin, David Sedgwick)

Ford Motor Co. and General Motors are pressuring their North American suppliers to join the great migration to China.

Embroiled in a price war with their foreign rivals, Ford and GM have delivered an ultimatum: Suppliers must match a ''world price'' that is increasingly set in China, or they must build factories in China.

Megasuppliers such as Delphi Corp., Visteon Corp. and Denso International already operate in China. Now smaller suppliers are joining them. One such company is Hella North America Inc., the American unit of German lighting manufacturer Hella KG Hueck & Co.

Hella, which supplies all of the Big 3, already owns four subsidiaries in China. Now its North American operation ''continues to receive pressure from our customers to source some of their components from China,'' says company CEO Joe Borruso. ''We are working with them to develop a sourcing plan.''

China will generate a flood of exports, but domestic Chinese parts makers will be minor players (see related story on page 39). They cannot compete with international suppliers that are spending billions on joint-venture factories in China.

Only international suppliers that have built factories in China have the clout to influence world prices.

The shift to Chinese production eventually will cost hundreds of thousands of manufacturing jobs in the United States. And it will put more pressure on smaller, cash-strapped suppliers to make a risky investment on a distant continent.

Both Ford and GM are offering a two-continent deal. If a supplier builds a factory in China, it can sell parts to a Ford or GM assembly plant in China, then export parts to the automaker's North American assembly plants.

Those deals are starting to add up. According to the U.S. Department of Commerce, total imports of Chinese auto components totaled $2.2 billion last year, nearly triple the volume of imports in 1997.

China will dwarf the impact Mexico has had on the U.S. auto industry, says Detroit economist David Littmann. From the perspective of North America's purchasing mangers, Littmann says, ''china is vastly more encouraging than Mexico.''

ASIAN MIGRATION

For automakers, China looks like a bargain. For suppliers, that price can be steep. In the years to come, segments of the U.S. supplier industry may migrate to Asia. For example, U.S. mold and die makers already have lost an estimated 6,000 jobs to Chinese rivals in recent years.

The shift toward parts buying in China is following one transition that already is well under way. Automakers and suppliers have shifted tool-and-die purchasing to China, damaging the fortunes of companies such as Commercial Tool & Die Inc. of Grand Rapids, Mich.

For 50 years, the family-owned company manufactured molds that automotive suppliers use to produce interior trim. But Ford

and other customers have instructed suppliers to seek bids from Asian mold makers.

Company owner Doug Bouwman has two sons that are 19 and 20 years old. ''They would both like to work in the business and possibly take it over,'' Bouwman says. ''When I got in, it was a long-term career. It's not clear it will be that way in the future.''

The overall erosion of industrial jobs will dwarf the losses experienced by the tool and die industry. By the end of the decade, China's expansion could cause the loss of 900,000 industrial jobs in North America, predicts Craig Fitzgerald, an analyst for the consulting firm Plante & Moran in Southfield, Mich.

NO APOLOGIES

The instigators of this great migration—the automakers themselves—offer no apologies.

At an April briefing in Detroit, GM executives told suppliers that the automaker's annual purchases of Chinese parts soon will top $10 billion, according to a major supplier who attended the meeting. That goal represents a sharp increase from current purchasing levels; GM's parts purchases in China last year totaled $1.1 billion.

While most of those parts are used to build vehicles in China, many will end up in U.S. assembly plants.

Last week, a GM spokeswoman declined to specify when GM expects to reach the $10 billion goal. One GM supplier's estimate: three to five years.

GM imports only 3 percent of the components that it uses in North America. But that understates China's true role: North American suppliers now are expected to match Chinese prices—whether or not they have plants in China.

And that is true for suppliers to Ford and Chrysler, not just GM. The Chrysler group ''is clearly investigating China,'' says Peter Rosenfeld, who becomes Chrysler's executive vice president for procurement and supply in December.

The Chrysler group already has issued a ''world price'' order to suppliers.

This year the Big 3 are picking up the pace. GM has formed 80 ''creativity teams''—consisting of engineers, purchasers and quality control experts—to analyze the cost of its components.

Following one team's suggestions, the automaker decided to import radios from China.

Last year, Ford intensified its search for Chinese suppliers after President Nick Scheele told of plans to import $1 billion worth of Chinese parts to North America in 2003. By 2010, Ford expects its purchases to rise to $10 billion.

If so, it will represent a big portion of Ford's North American parts purchases, which totaled $45 billion last year. If Ford hits that target, it would represent a sharp year-to-year increase. Last year, Ford's worldwide purchases of Chinese components were less than $100 million.

CORE GROUP

To reach its goal, Ford is counting on a core group of 75 to 100 suppliers. Many of them are clustered around Ford's Chongqing assembly plant, which will produce the Fiesta. Half of those suppliers are joint ventures with Chinese partners, and foreign suppliers wholly own 20 percent. Only 30 percent are traditional Chinese suppliers.

To augment that group, Ford has begun asking smaller Tier 1 suppliers to build factories in China. The automaker also is using the ''China price'' to demand lower prices from suppliers in North America.

''In some instances we are seeing best-in-class prices from suppliers'' in China, says Andrew Hinkly, Ford's director of global commodity management. ''So they are indeed setting the world parts price. There is a lot of momentum.''

TOUGH CHOICES

Suppliers who don't want to migrate to China are feeling the heat. Consider the plight of Wescast Industries, Inc. Wescast, of Wingham, Ontario, controls 70 percent of the Big 3's exhaust manifold business in North America. Ford told Wescast this year that it would transfer $50 million of its purchases from Wescast to Chinese factories, according to an industry source.

Wescast CEO Ray Finnie declined to comment on Ford's plans. But he said the Big 3 ''are asking for very significant price reductions because it is a matter of their survival.''

Tier 1 vendors are not the only suppliers affected by the China price. The Big 3's focus on China is beginning to cascade through the supply chain. Tier 1 suppliers are starting to transfer their supply chains to China.

Poised to exploit that trend is former Wall Street banker Jack Perkowski, who is based in Beijing and runs Asian Strategic Investment Corp., a company backed by U.S. investors that operates 15 Chinese factories.

The company exports a variety of components such as brake seals, diesel injector bodies and engine blocks. This year, Asian Strategic Investment projects sales of $250 million and says exports to North America will account for 20 percent of that.

Ford's billion-dollar import target was a wake-up call, says company Vice President Matt Snyder. ''Eight months ago, the Tier 1 suppliers were not interested,'' he says. ''Today they are calling me.''

60 CENTS AN HOUR

For manufacturers of labor-intensive components, China is an attractive location. According to Chinese government data, manufacturers in Shanghai typically pay workers $1 an hour, plus 42 cents an hour in benefits. Factories in rural areas generally pay wages of 60 cents an hour.

That is significantly lower than pay in Mexico, which range from $2 to $2.50 an hour, including wages and benefits, according to Richard Sinkin, managing director at Inter-American Holdings Co., a San Diego consulting firm that focuses on Mexican manufacturing. He also is part owner of a Mexican parts marker.

But suppliers cannot afford to be mesmerized by China's low wages. Unwary newcomers who choose the wrong partners often are saddled with unexpected costs. Consider the plight of a Fortune 500 automotive parts supplier that recently set up a Chinese factory.

This U.S. supplier had assumed it would pay its unskilled workers $1 an hour. But its Chinese partner threw in various employee subsidies—for heating oil allotments, medical care, a housing allowance, free lunches and even a clothing allowance.

The venture's $1 hourly labor costs quickly ballooned to $3 an hour, says a U.S. vice president assigned to uncover the joint venture's hidden costs.

Among the hidden costs was a car allowance for company managers. ''They neglected to tell us about the two new Buicks they bought so they could claim a car allowance,'' he says. ''You have to be insistent as hell. We're still digging.''

EXODUS

While many suppliers are preparing to join the migration to China, one portion of the auto industry—tool and die makers—already has been decimated.

This is an industry dominated by small family-owned businesses—companies that are ill-equipped to expand into China. Commercial Tool & Die's plight illustrates the trend.

The company's 150 employees once made molds for toys and appliances. In the 1990s, Bouwman lost that business to Asian rivals. Now he's losing automotive customers, too.

To stay competitive, Bouwman purchased expensive tooling and computers to design his molds. But he cannot match the labor costs of his Asian rivals. A Chinese engineer is paid about $5,500 per year; Bouwman's health care premiums alone average $7,000 an employee.

Bouwman is thinking about setting up operations in China. ''We're feeling the pressure,'' says Bouwman, 50. ''China is taking jobs out of the U.S. And they won't be back.''

Mr. HOLLINGS. Mr. President, just this last month:

Ford Motor Company and General Motors are pressuring their North American suppliers to great migration in China. Embroiled in a price war with their foreign rivals, Ford and GM have delivered an ultimatum. Suppliers must match a world price that is increasingly set in China, or they must build factories in China.

How do you like that? That is not textiles, that is the automotive backbone of the United States of America. I voted for the Chrysler bailout, so now Daimler can own them. The foreigners own all the foodstuffs. They are going to have all the banks. Now they are going to have all the automobile business.

I wish Don Evans was up in Michigan. He would tell them you get a tax cut, you get $300. What are you going to do? We are going to have growth, growth, and jobs.

Here, within the week, the Automotive News says you have to go to China and you are going to lose 900,000 industrial jobs.

Go up into Indiana, Ohio, and Illinois to what I call the rust belt. The automotive parts makers are gone. By 2010, Ford expects its purchases of parts from China to rise to $10 billion. Last year, Ford's worldwide purchases of Chinese components was less than $100 million.

I quote further:

Suppliers who do not want to migrate to China are feeling the heat. Consider the plight of Wescast Industries. Wescast controls 70 percent of the Big Three's exhaust manifold business in North America.

Ford told Wescast this year that it would transfer $50 million of its purchases from Wescast to Chinese factories, according to the industry source.

Don't give me the service economy. I know about it. My light bill in Charleston, SC, is administered in Bangalore India. My insurance policy is administered in Dublin, Ireland. That is the service economy. Here is the automotive, hard machine tools industry.

I quote further:

For manufacturers of labor-intensive components, China is an attractive location. According to the Chinese Government data, manufacturers in Shanghai typically pay workers $1 an hour, plus 42 cents an hour in benefits. Factories in rural areas generally pay wages of 60 cents an hour.

That is significantly lower than pay in Mexico which ranges from $2 to $2.50 an hour, including wages and benefits. Here is the

poor Senator from South Carolina fussing about 61,000 textile jobs lost to Mexico. But we find now that the Mexican jobs they got from South Carolina are now on the way to 60 cents an hour with no benefits in the rural areas of China. It is beg thy neighbor; a race to the bottom. That is the trade policy. That is the job policy. That is the economic policy. Don't worry about energy policy.

Heavens above, why can't we catch Kenny Boy? I raised the question at that particular time when Larry Thompson became Deputy Attorney General. He is in charge of corporate corruption enforcement and violations enforcement. Before he came to Justice, he worked in a law firm in Atlanta. His firm was representing who? Kenny Boy Lay, of Enron. So I raised the question of a conflict of interest. What did he say? Oh, he didn't work on that particular client. He didn't have anything to do with it.

But I run a firm, and you make money, and I make money.

Come on. Here it is 2½ years later—and we have gotten everybody, including Martha Stewart—for one little stock thing. This fellow, Larry Thompson, wants to know what he should be indicted for. I can draw it up for him. We had the hearing in California before the Committee on Commerce, Space, Science and Transportation.

I turned to the witness, David Freeman. I said: Now, Mr. Freeman, you say all this happened with Enron, and Kenny Boy may not have known anything about it. I said: In fact, this morning on television I saw Mrs. Lay, his wife, and she said Kenny Boy didn't know anything about it.

Mr. Freeman said he was the architect. He knew all about it. He designed it. Take that testimony of the knowledge of what is going on, the Enron fraud of California, the wrecked economy, and they are now calling for a recall of the Governor because of the problems Enron helped create in that state.

I heard my distinguished colleague from Idaho. He said the economy went from a surplus to a deficit, and the Governor didn't do anything about it.

Let us transfer that to Washington. The President started off with a surplus. He said he even had a $1 trillion rainy day fund. The budget was $53 billion in the red when he talked on February 27, 2001 to the Congress. He talked about the $2.6 billion he would set aside for Social Security. He said there was $2 billion for the budget needs in defense security, and he said he had $1 trillion left over. He was in the red then. But we have Enron accounting here in Washington. If he has gone from a $5.6 trillion surplus to a $4 trillion deficit, is anybody asking for the recall of the President? Of course not.

But they think that is par for the course out there in the political intramurals in California. Come on. What is going on.

It is not just GE. It is not just Ford. It is not just General Motors, or IBM—Big Blue.

This was last week, July 22, from the New York Times: ''IBM Explores Shift of Some Jobs Overseas.''

I ask unanimous consent to have it printed in the RECORD.

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

[From the New York Times, July 22, 2003]

I.B.M. EXPLORES SHIFT OF SOME JOBS OVERSEAS

(By Steven Greenhouse)

With American corporations under increasing pressure to cut costs and build global supply networks, two senior I.B.M. officials told their corporate colleagues around the world in a recorded conference call that I.B.M. needed to accelerate its efforts to move white-collar, often high-paying, jobs overseas even though that might create a backlash among politicians and its own employees.

During the call, I.B.M.'s top employee relations executives said that three million service jobs were expected to shift to foreign workers by 2015 and that I.B.M. should move some of its jobs now done in the United States, including software design jobs, to India and other countries.

''Our competitors are doing it and we have to do it,'' Tom Lynch, I.B.M.'s director for global employee relations, said in the call. A recording was provided to The New York Times recently by the Washington Alliance of Technology Workers, a Seattle-based group seeking to unionize high-technology workers. The group said it had received the recording—which was made by I.B.M. and later placed in digital form on an internal company Web site—from an I.B.M. employee upset about the plans.

I.B.M.'s internal discussion about moving jobs overseas provides a revealing look at how companies are grappling with a growing trend that many economists call off-shoring. In decades past, millions of American manufacturing jobs moved overseas, but in recent years the movement has also shifted to the service sector, with everything from low-end call center jobs to high-paying computer chip design jobs migrating to China, India, the Philippines, Russia and other countries.

Executives at I.B.M. and many other companies argue that creating more jobs in lower cost locations overseas keeps their industries competitive, holds costs down for American consumers, helps to develop poorer nations while supporting overall employment in the United States by improving productivity and the nation's global reach.

''It's not about one shore or another shore,'' an I.B.M. spokeswoman, Kendra R. Collins, said. ''It's about investing around the world, including the United States, to build capability and deliver value as defined by our customers.''

But in recent weeks many politicians in Washington, including some in the Bush administration, have begun voicing concerns about the issue during a period when the economy is still weak and the information-technology, or I.T., sector remains mired in a long slump.

At a Congressional hearing on June 18, Bruce P. Mehlman, the Commerce Department's assistant secretary for technology policy, said, ''Many observers are pessimistic about the impact of offshore I.T. service work at a time when American I.T. workers are having more difficulty finding employment, creating personal hardships and increasing demands on our safety nets.''

Forrester Research, a high-technology consulting group, estimates that the number of service sector jobs newly located overseas, many of them tied to the information technology industry, will climb to 3.3 million in 2015 from about 400,000 this year. This shift of 3 million jobs represents about 2 percent of all American jobs.

''It's a very important, fundamental transition in the I.T. service industry that's taking place today,'' said Debashish Sinha, principal analyst for information technology services and sourcing at Gartner Inc., a consulting firm. ''It is a megatrend in the I.T. services industry.''

Forrester also estimated that 450,000 computer industry jobs could be transferred abroad in the next 12 years, representing 8 percent of the nation's computer jobs.

For example, Oracle, a big maker of specialized business software, plans to increase its jobs in India to 6,000 from 3,200, while Microsoft plans to double the size of its software development operation in India to 500 by late this year. Accenture, a leading consulting firm, has 4,400 workers in India, China, Russia and the Philippines.

Critics worry that such moves will end up doing more harm to the American economy than good.

''Once those jobs leave the country, they will never come back,'' said Phil Friedman, chief executive of Computer Generated Solutions, a 1,200-employee computer software company. ''If we continue losing these jobs, our schools will stop producing the computer engineers and programmers we need for the future.''

In the hourlong I.B.M. conference call, which took place in March, the company's executives were particularly worried that the trend could spur unionization efforts.

''Governments are going to find that they're fairly limited as to what they can do, so unionizing becomes an attractive option,'' Mr. Lynch said on the recording. ''You can see some of the fairly appealing arguments they're making as to why employees need to do some things like organizing to help fight this.''

The I.B.M. executives also warned that when workers from China come to the United States to learn to do technology jobs now being done here, some American employees might grow enraged about being forced to train the foreign workers who might ultimately take away their jobs.

''One of our challenges that we deal with every day is trying to balance what the business needs to do versus impact on people,'' Mr. Lynch said. ''This is one of these areas where this challenge hits us squarely between the eyes.''

Mr. Lynch warned that with the American economy in an ''anemic'' state, the difficulties and backlash from relocating jobs could be greater than in the past.

''The economy is certainly less robust than it was a decade ago,'' Mr. Lynch said, ''and to move jobs in that environment is going to create more challenges for the reabsorption of the people who are displaced.''

The I.B.M. executives said openly that they expected government officials to be angry about this trend.

''It's hard for me to imagine any country just sitting back and letting jobs go offshore without raising some level of concern and investigation,'' Mr. Lynch said.

Those concerns were pointedly raised on June 18, when the House Small Business Committee held a hearing on ''The Globalization of White-Collar Jobs: Can America Lose These Jobs and Still Prosper?''

''Increased global trade was supposed to lead to better jobs and higher standards of living,'' said Donald A. Manzullo, an Illinois Republican who is the committee chairman. ''The assumption was that while lower-skilled jobs would be done elsewhere, it would allow Americans to focus on higher-skilled, higher-paying opportunities. But

what do you tell the Ph.D., or professional engineer, or architect, or accountant, or computer scientist to do next? Where do you tell them to go?''

The technology workers' alliance is highlighting I.B.M.'s outsourcing plans to help rally I.B.M. workers to the union banner.

''It's a bad thing because high-tech companies like I.B.M., Microsoft, Oracle and Sun, are making the decision to create jobs overseas strictly based on labor costs and cutting positions,'' said Marcus Courtney, president of the group, an affiliate of the Communications Workers of America. ''It can create huge downward wage pressures on the American work force.''

Mr. Mehlman, the Commerce Department official, said companies were moving more service jobs overseas because trade barriers were falling, because India, Russia and many other countries have technology expertise, and because high-speed digital connections and other new technologies made it far easier to communicate from afar.

Another important reason for moving jobs abroad is lower wages.

''You can get crackerjack Java programmers in India right out of college for $5,000 a year versus $60,000 here,'' said Stephanie Moore, vice president for outsourcing at Forrester Research. ''The technology is such, why be in New York City when you can be 9,000 miles away with far less expense?''

Company executives say this strategy is a vital way to build a global company and to serve customers around the world.

General Electric has thousands of workers in India in call center, research and development efforts and in information technology. Peter Stack, a G.E. spokesman, said, ''The outsourcing presence in India definitely gives us a competitive advantage in the businesses that use it. Those businesses are some of our growth businesses, and I would say that they're businesses where our overall employment is increasing and our jobs in the United States.''

David Samson, an Oracle spokesman said the expansion of operations in India was ''additive'' and was not resulting in any job losses in the United States.

''Our aim here is not cost-driven,'' he said. ''It's to build a 24/7 follow-the-sun model for development and support. When a software engineer goes to bed at night in the U.S., his or her colleague in India picks up development when they get into work. They're able to continually develop products.''

Mr. HOLLINGS. Mr. President, a California IBM employee relations executive said:

. . . three million service jobs were expected to shift to foreign workers . . . I.B.M. should move some of its jobs now done in the United States, including software design jobs, to India and other countries.

I could read on and on. But you can see it. It is in the RECORD.

You have Business Week, ''High-Tech in China.'' I don't want to include the magazine itself. But this is a quote from a Business Week article from earlier this year:

Is Your Job Next? A new round of globalization is sending up-scale jobs offshore. They include chip design, engineer, basic research, financial analysis. Can America lose these jobs and still prosper?

You have not just Business Week but Fortune magazine from June of this year. Here is one of the executives quoted here:

''I've been in this business for over 20 years, and it's the worst I've ever seen'', says David Hoffmann, CEO of DHR International, a Chicago-based recruiting firm. ''Nothing even comes close to this.''

. . . relocation of the jobs to offshore sites. Machines—or low-wage foreigners—could just as easily do their work.

. . . shifting jobs to cheaper locales like India and the Philippines. It's not just call centers anymore. Indian radiologists now analyze CT scans and chest X-rays for American patients in an office park in Bangalore, not far from where Ernst & Young has 200 accountants processing U.S. tax returns. E&Y's tax prep center in India is only 18 months old . . . but the company already has plans to double its size. Corporate America is quickly learning that a cubicle can be replicated overseas as easily as a shop floor can.

Irwin Kellner, who is now at Hofstra University, was at Manufacturers Hanover. We have had him before committees of the Congress year in and year out. I quote:

''White-collar workers and college graduates are in a state of shock,'' says Kellner. ''It appears these job losses are permanent. They're not necessarily coming back when the economy does.''

Mr. President, we are in deep trouble. We are into a real trade war. We are into a thing of national survival.

Let me see here. Quoting:

At the University of Chicago Graduate School of Business, 96 percent of grads in 2000 had an offer when they collected their sheepskin. Only 72 percent of last year's grads were as lucky—and this year isn't shaping up any better. Even at Harvard the percentage of grads without job offers has gone from 3 percent in 2000 to 13 percent now. For schools further down the food chain, almost half the class will graduate without even one offer.

Quoting further:

. . . in the past two or three years companies have turned to India and the Philippines for much more sophisticated tasks: financial analysis, software design, tax preparation, even the creation of PowerPoint presentations.

Quoting still further:

And how cheap. Starting pay for an American accountant, says Kline, typically ranges from $40,000 to $50,000 [in the United States]. In Bangalore the accountants are paid less than half that.

Another quote from the article:

. . . Forrester Research predicts that 3.3 million service jobs will move to countries like India, Russia, China, and the Philippines.

The firm of A.T. Kearney talked about shifting 500,000 jobs, or 8 percent of the U.S. workforce, abroad by 2008.

I quote:

Any function that does not require face-to-face contact is now perceived as a candidate for offshore relocation.

So, Mr. President, I could go on and on. But let me just say, we are in a struggle for our economic survival. I have talked to you that free trade is a loser. We are losing all those jobs. And who is the enemy? Not just General Motors, not just IBM. I say it authoritatively because I know who wants this losing trade bill—you can start with the National Association of Manufacturers. I got into a struggle with Victor Schwartz there in the 1970s, 25 years ago. But it is not only the National Association of Manufacturers. It is the Business Roundtable, the Conference Board—yes, my dear colleagues, the United States Chamber of Commerce.

The United States Chamber of Commerce is no longer interested in main street America. It was. I won U.S. Chamber of Commerce awards during my 1992 race. Bob Thompson of Greenville, SC, was the president. And I was the poster boy of the United States Chamber of Commerce. We had stopped labor law reform. We had eight cloture votes. My distinguished friend Russell Long was chairman of the Finance Committee, and we agreed the eighth vote would count. That would decide it. We would not go any further. And up until about 20 minutes before the vote, he had me beat. I heard from a friend that I might be able to persuade Ed Zorinsky of Nebraska, and I raced over to the fourth floor of the Russell Building. The rollcall had already been called. And I saw Ed coming down the hall, and I said: Ed, I need your help. And he said: I will help you, Fritz.

And we called that roll, and we won the eighth rollcall vote on cloture. This crowd gets steamed up over two or three cloture votes. So let's get to the record. I helped defeat an eighth cloture vote myself. And as a result, I was the poster boy of the United States Chamber of Commerce.

Now, Tom Donohue—a nice fellow, absolutely honest—I worked with him when he represented the truckers. He knows nothing about international trade, but he is going for the money. He is for tort reform. I never heard him mention a bit about tort reform when he represented the truckers. But now he is, by gosh, the expert on free trade, free trade.

When I ran in 1998, they put out pamphlets against me. They endorsed my opponent, even though I had been their poster boy. I had not changed my vote. I was the same way in trade in 1998 as I was in 1992. But you can see how this crowd is. They headed for the overseas barn. I can tell you that right now.

So you have the National Association of Manufacturers, you have the Business Roundtable, you have the Conference Board. You have the United States Chamber of Commerce. I have won about six of these National Federation of Independent Business small business awards, but now they are being taken over. The U.S. Chamber and the Business Roundtable have gotten hold of them and said: Oh, we are going to get you some writeoffs, some tax breaks, too. So they are for free trade now.

To increase consumer demand, you have to have consumers. In order to have consumers, you must first have producers. And in order to have producers, you have to have jobs. And we are losing them hand over fist.

I have been the author of five textile trade bills that have passed the Senate. Four of those bills have gone to the President of the United States. Four have been vetoed—vetoed. President

Carter vetoed one. President Reagan vetoed two. And President George Herbert Walker Bush vetoed the last one. And we came within two votes over on the House side of over turning the veto. We had a majority, but we did not have the two-thirds necessary to override.

The other enemy is the Retail Federation. They order so many hundred thousand dozen shirts, or whatever it is, from China. Then, if the market is good, and they run short, they call up New Jersey quick and get another hundred thousand dozen.

Now, what they get from New Jersey and what they get from China is not the same price. They get a much greater profit on the Chinese import than they do on the New Jersey shirt. I know because I got a New Jersey shirt on. Yes, sir, I believe in domestic production.

Years ago, I used to represent Pontiac folks, and a bunch of other automobile dealers. Once I bought a new car, and I was so careful to buy a domestic car; no foreign car. My neighbor said: Fritz, how much did you pay for this new Pontiac? I was looking at the sticker price, when I see on the sticker: FOB Montreal. I had bought a foreign car. I had bought a foreign car and didn't even know it. Pontiac had gone to Canada to make it because they saved $800 on the health bill on every car.

So you can understand, this has been going on for years. But we are draining the swamp. There aren't jobs left in America.

And you cannot find a hometown newspaper that has endorsed protectionist trade—I don't mind saying the word.

You have to protect your standard of living. We Republicans and Democrats, we say: Clean air, clean water, minimum wage, Medicare, Medicaid, plant closings, parental leave. If you put that requirement on manufacturers, you have to protect it. You can't just go over where they have none of those protections and 60 cents an hour.

The newspapers make a majority of their profit on retail advertising. So the retail federation and all the big stores call the main advertisers. They go down to the editors and they give them a handout. I have compared the editorials in different parts of the country. They give them the handout, and they write the editorial. Free trade, free trade—they think they are being wise.

Free trade loses jobs. We are losing the jobs right and left. But everyone is for free trade: the hometown newspaper, the Business Roundtable, the Conference Boards, the United States Chamber, the retailers, all of K Street. Have you ever had a K Street lawyer come here and ask you to vote against free trade? You can't find one.

You and I are paid to protect the jobs of America. We are not paid to make a profit. But come on, you can't find a K Street lawyer who wants to protect jobs.

In the Administration they think this is wonderful. They can open up the islands of Indonesia and transship through Singapore the electronic parts back into America from cheap labor. So they are all working against us.

It is not just President Bush. President Clinton was for free trade, free trade. He is the one who passed NAFTA. He was the one who was going to open up and create 200,000 jobs. He impoverished the State of South Carolina, I can tell you that. We have lost 61,000 textile jobs in my little State. Where we have a BMW plant, 3 years ago we had 3.2 percent unemployment. It is over 8 percent unemployment now.

Don't tell me about free trade, free trade. I have watched the outflow here. So you have the Government against us. Then if everyone is against us, who could be for us, asks the Good Book? Us. That is all I am trying to do, is wake my colleagues up to get out of this nonsense. I see the Senator from Wisconsin. I know the plants out there, too. I did work for them. I carpetbagged a few of those plants, too. I brought them to South Carolina.

But we have to move to rebuild America. We have to stop whining: I am for fair trade. I am for balancing the field, leveling the field.

That is all garbage. That is baloney, if I have ever heard it. We have to start and compete in the international economy. It is a trade war. It is very viable. It is very fair. It is very understandable. We have to get in there. Having rebuilt Europe and the Pacific rim, we have to, by gosh, get in there, and in order to remove a barrier, raise a barrier. Then remove them both, go by their rule book. We are Goody Two-shoes, and we want to set the good example like we have done for 50 some years. And we have lost our shirt in manufacturing.

We can go right to the tax law. I am going down the list now. We can go to the tax law that says if you manufacture overseas and keep your profit, you can build a new plant. You don't have to pay taxes on that profit. Or we can turn around and go along with CHARLIE RANGEL on the House side—I have the bill in on the Senate side—and say if you manufacture and keep your jobs in America, you get a tax credit. If you go overseas, you lose. You get a tax increase.

That is what we ought to do. Make it so rather than trying to revive Europe and the Pacific rim, we have to revive the United States.

Mrs. BOXER. Will the Senator yield for a question?

Mr. HOLLINGS. I am delighted to.

Mrs. BOXER. It is very interesting that you said this because when we heard from Mr. Wolfowitz in front of the Foreign Relations Committee where we had a hearing on the rebuilding of Iraq, the first thing he said matched what Mr. Bremer said, who is in charge of the rebuilding. He said: Those people over there need jobs. They need to get the economy going. They need jobs.

And I say to my friend, isn't there something ironic about that, that there is a total understanding of what the folks in Iraq need, when I could say in my State and yours and all through America, this should be the priority of the President in this country.

Mr. HOLLINGS. Certainly, it ought to be. That is our duty here in the Congress. Article I, section 8 of the Constitution says not the President but the Congress of the United States shall regulate foreign commerce. But what have we done? We have got in a fix through the Finance Committee and Ways and Means. They got fast track. And I would like to vote for Chile because Chile has a free economy, a market-based economy, a revered judiciary, labor rights, environmental laws, and a balanced budget. But I can't vote with that immigration thing included. Under fast track, I can't amend. I can't debate. I can't discuss. I can't do anything.

Let me bring up a red herring that will excite everybody. I introduced it in January. I said: Good gosh, we are going to war, and we don't have a way to pay for it. We paid for the Revolutionary War with a property tax. That is the first property tax that passed in this country. We got to the Civil War, and Abraham Lincoln put on an estate tax and a dividend tax. And we were running around here talking about taking off the estate and dividend tax.

I said, come on, we paid for World War II. We paid for Korea. We paid for Vietnam. We paid for the gulf war. The Saudis did a good bit of that, as we all know.

I said, I am going to put in a value-added tax. Every industrialized country has a value-added tax. Why? Why do I want to do that? It is twofold: One, if I take and manufacture this desk in Washington, DC, I have to pay all the income, sales, corporate taxes. And when I ship it over to Paris, France, I add on a 17 percent VAT.

If I manufactured that same desk in Paris, France, when it leaves the port of La Havre to come to Washington, we rebate the 17 percent. And so it is a 17 percent advantage to manufacture in Paris rather than in Washington. I want to reconcile that differential immediately with a value-added tax. I want to pay for the war. That is the trouble this country is in.

Bill Clinton brought the budget deficit down. He put in an increase in tax. I voted to increase Social Security. I voted to increase the gasoline tax.

I voted to increase the top payer income tax. We voted also to cut spending, and we had an 8-year economic boom. And now we just had three quarters of recession in 2001, a bad economy all through 2002, and they kept blaming it on the war. The war in Iraq only costs $4 billion a month. That is $48 billion year, and when the President talked on February 27, he said: I have $1 trillion for unforeseen needs.

The tax cuts have wrecked the economy. Everybody knows it. They are

running around—jobs and growth, jobs and growth—like a bunch of children trying to sell that nonsense. So we ought to pay for the war, reconcile this trade differential and manufacturing differential. We ought to, by gosh, enforce our dumping laws. The competition is not for money or profit. The competition is for market share.

When the Japanese sell below cost in the United States and make it up in the domestic market in Tokyo, we have to enforce dumping laws. The special Trade Representative runs out to do that and says we are going to do away with the dumping laws. That is loss leaders.

I had an antitrust case and carried it to the Supreme Court on a loss leader. I know the law of loss leaders. That is what you have in international competition. There are a bunch of loss leaders and they keep taking over, even this year, a greater share of the American automobile market. So we have to enforce our dumping laws. We have to eliminate the Trade Commission. That is another gimmick put in by the Finance Committee.

The Finance Committee—when you have a dumping violation, you file it before the International Trade Administration. They investigate and make a finding. After they make a finding, they have a sweetheart deal. They kick it over to the International Trade Commission, and they never find injury. I can tell you they have two or three exceptions since I have been talking about it, but we can save $43 million and let the finding entity, the International Trade Administration, that gives the penalty on what is to be done. We can save money there.

We need more Customs agents, and we need a department of trade. We have the Department of Manufacturing in the Commerce Committee. We can gear up for the trade war. Don't worry about the Afghan war. I think we may have created more terrorists than we have gotten rid of. The jury is out in Iraq, as to whether or not we can work out the peace. I can tell we don't have any friends in downtown Baghdad. It is a shooting gallery. They are killing our soldiers every day.

What we have to do is get into this trade war and compete.

Now, finally, the administration says they are going to get up consumer confidence. They have passed three voodoo tax cuts. Of course, Ronald Reagan passed voodoo 1, and George Herbert Walker Bush is the one who called it voodoo. How are you going to cut your revenues and increase your revenues? You never do that. You will never find a government doing that. But come to Washington, and they know everything up here. So they are going to increase the consumer confidence with tax cuts they had in 2001, 2002, and already this year.

With those three tax cuts of over $3.1 trillion, here is the news that came out yesterday: the consumer confidence index dropped 7 points to 7.6 in July, a sharp and unexpected drop.

We have a $698 billion budget deficit projected for this year. It is already $503 billion.

(Mr. CRAPO assumed the Chair.)

Mr. President, you can see the effects. You can see Wall Street is frozen. They are not going to invest when the interest rates are on the increase.

The Concord Coalition, headed up by former colleagues, Senator Kerrey, Senator Nunn, and Senator Rudman and now chaired by none other than a Republican, Pete Peterson, former Secretary of Commerce under President Nixon, released its report on fiscal responsibility. Overall, you have the Republican chairman of the Concord giving them an ''F.''

So there we are. We don't want to compete. We have a job policy in the U.S. Congress of actually eliminating jobs like gangbusters.

Our security is like a three-legged stool. We have the one leg of the values that we have as a nation. Everyone in the world—at least until Iraq—knew that we stood for human rights, individual freedom, and democracy. That second leg, military, is unquestioned. The third leg, economic, is fractured—intentionally so with the Marshall Plan. But we prevailed with capitalism over communism in the cold war. It worked.

But now we have taught corporate America a bad lesson, and in order to compete and make even greater profits, whether it is high-tech or service or hard manufacture, they are leaving the Nation in droves. We are sitting by talking about a little Energy bill or a judgeship.

The country is going to hell in an economic hand basket and we are the ones responsible under the Constitution and we are not doing anything about it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that I may speak in morning business, and then be followed by the Senator from California, Mrs. BOXER.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

U.S. POLICY IN IRAQ

Mr. FEINGOLD. Mr. President, I enjoyed the comments very much of the Senator from South Carolina, and I agree so much with his comments about our trade policy. I think it is possibly the leading issue in the country right now.

Mr. President, I rise to comment on U.S. policy in Iraq. We have heard much about the President's reference in the State of the Union Address to intelligence suggesting that Saddam Hussein had recently attempted to secure uranium from Niger. Now we know our own intelligence agencies did not believe that information to be credible. It was employed in a reckless effort to sell the American public on a predetermined policy course.

I do applaud President Bush for taking responsibility for his words, but for weeks this administration reacted with a combination of denial and spin, and by choosing to make the Central Intelligence Agency, and then much later the Deputy National Security Advisor, the scapegoats for this incident.

I wish to state for the record that in all of the briefings leading up to the decision to go to war in Iraq, I found the CIA to be among the most straightforward and the most professional of those making presentations to help Members of Congress understand the facts. The facts in the briefing room never matched the public rhetoric of the administration's hard sell.

The hard sell was an encompassing thing. It included an array of justifications for taking up arms that seemed to shift from day to day and week to week. Today we find the administration returning to that menu of reasons for invading Iraq, claiming that whatever happened with the State of the Union, Saddam Hussein was a brutal dictator and so at any case we did the right thing.

Saddam Hussein was a brutal dictator, and I join the vast majority of the world in being happy to see him removed from power. But that was never the bottom line. The bottom line was the regular invocation of the line: ''We don't want the smoking gun to be a mushroom cloud.'' The bottom line was weapons of mass destruction. To pretend otherwise now is to suggest to the world that the United States of America will invoke one pretext for invading another country and then conveniently drop the subject later. That suggestion is so far from what this country's foreign policy should ever be about, so removed from what I firmly believe to be the intentions and desires of the vast majority of Americans, that it must be repudiated. But I fear that the hard sell, the use of debunked intelligence, the implied linkages to other issues have fostered that perception around the world, and that will make it harder for others to cooperate with us on the real foreign policy priority. The real foreign policy priority is the fight against terrorism.

The administration's hard sell recognized that fighting terrorists who attacked this country on September 11, 2001, is the most important national security issue for Americans. So even though they were selling us something else—selling us an invasion and occupation of a major Middle Eastern country even though intelligence did not reveal solid ties to al-Qaida—the administration, nonetheless, incorporated reference to al-Qaida in its hard sell, and they still do.

President Bush told us in his speech on the USS *Lincoln* that the battle of Iraq was won in a war that began on September 11. But this administration has never made any kind of compelling case to suggest that one had anything to do with the other.

This week, before the Senate Foreign Relations Committee, Deputy Defense

Secretary Paul Wolfowitz suggested that Iraq—Iraq—rather than Afghanistan is the ''central battle'' in the fight against terrorism, and he claimed that al-Qaida attacks occurred in part because the United States was pursuing a policy to contain Saddam Hussein.

Secretary Wolfowitz did not say that the Iraqi Government had anything to do with the planning of the attacks on Khobar Towers or the attack on the USS *Cole*, but there these things are, in the same breath, in the same context. The rhetorical linkages continue because the hard sell is a hard job, especially now as the magnitude of the task before us is becoming clearer.

Five American soldiers were killed in Iraq over the weekend and another was killed on Monday and another on Wednesday and another on Thursday, marking 51 United States combat deaths and over 100 United States troops killed since the President declared the end of major combat operations in Iraq in May. We can all hope and pray that these attacks will decrease in their frequency and lethality, but there is no certainty that the attacks will let up anytime soon.

Despite the ''triumphant mission accomplished'' rhetoric in which the administration indulged several weeks ago, the friends and families of our men and women in uniform are living with the possibility of the knock on the door, the horrible news coming home. They are suffering with every news story, with every report, desperately worried about their husbands and wives, sons and daughters, and fathers and mothers. While, of course, they feel proud of their loved one's service, they also feel tremendously worried.

Yes, across America, there is a growing sense of unease—unease about the hostility our troops are facing; unease about the fact that the United States and the United Kingdom are nearly alone in trying to take this on, having alienated potential allies in the lead-up to war; unease about the giant task that lies ahead and the tremendous resources that will be required in terms of manpower, in terms of time, and in terms of money to see this through; unease about intelligence suggesting that the terrorists are planning more hijackings this summer, just as we read reports about insufficient homeland security resources forcing cuts in the number of flights that will have Federal air marshals on board. The fact is, many Americans do not feel more secure today; they feel vulnerable.

Months ago, I found I could not support a march to war without getting real answers to some basic questions about the cost and commitments we would be undertaking in the name of the American people. And I could not support a march to war when it appeared that our unilateral approach to Iraq would harm the progress of the fight against terrorism. But I want to tell you, Mr. President, I was deeply concerned about the issue of weapons of mass destruction. So I kept asking about the plan for securing such weapons and the means to make them so that they would not slip away in the chaos of war, secreted across borders or sold off to the highest bidder. No matter how hard I tried, over and over, I never got a real answer. And today we still have not found this material, a plain fact that raises very serious security concerns.

At some point in this debate, some seemed to be under the impression that asking questions and demanding that questions be answered signified something less than full support for our Armed Forces and something less than a complete commitment to the security of the United States of America. They were dead wrong. Asking questions, demanding answers, and exercising our judgment are just what the American people send us here to do. It is how we protect our interests. It is how we ensure that the brave men and women of our military do not find themselves in harm's way without an adequate explanation of their mission, without adequate training for the task before them, without the sense of futility or confusion that makes it that much harder to cope with constant threats and pervasive danger.

Now that we are beginning to get some answers, now that we are hearing that our military presence alone is costing about $1 billion a week, now that it is clear that rosy scenarios about reconstruction in Iraq will be self-financing are revealed to be the worst kind of self-deluding, wishful thinking, it is now that we need to look at the facts and adjust our course accordingly. Now we have GEN Tommy Franks' successor, General Abizaid, acknowledging that our troops are facing a ''classical guerrilla-type campaign'' that is ''getting more organized.''

Do you know what is happening? The hard sell is giving way to the hard truth. These probably are not the answers the American people were expecting when their questions were met with evasion or with vague exhortations to ''just trust us.'' I did not support the decision that led us to this place, but I wholeheartedly support the troops who are in the hot seat now, and I support their families. I support the next generation of Americans who deserve better than to be saddled with massive debts, in part because their Government was unwilling to do what it takes to get capable partners on board to help us shoulder the burden that now weighs so very heavily on this country.

I believe we must keep the questions coming. We must get real answers, and we must all work together to move toward a wiser approach. I do not want to hear a hard sell anymore. I want to hear the answers to the hard questions, and I want to work on the hard problems and the hard choices that are before us.

Mr. President, I yield the floor.

Mrs. BOXER. I ask unanimous consent that at the completion of my remarks, Senator BAUCUS be recognized for as much time as he may consume.

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

FUNDING FOR IRAQ

Mrs. BOXER. Mr. President, before Senator FEINGOLD leaves the Chamber, I thank him for his comments. Since he is my seatmate on the Foreign Relations Committee, which in itself is an honor for me, I recall that we were very skeptical from the start about going it essentially alone in Iraq. He and I have pressed very hard to work through the U.N. weapons inspectors and to have the whole world breathing down Saddam's neck. Now, as it turned out, we essentially did it alone and we are bearing the burden of these tragic deaths every day, deaths that are almost going, I hate to say, unnoticed now, although some of us talk about the brave soldiers we are losing.

When it comes to the funding of this war, we are up to $45 billion to $50 billion a year, even without the rebuild. As my friend knows, because he has been a major force for fiscal responsibility, we cannot even share that burden. Even when countries such as the Poles come forward, and we are grateful to them for sharing the burden on the ground, we are paying for it. How can we sustain these costs at a time when our deficits are skyrocketing?

So we are in a bit of a mess, and I hope the President will move more forcefully toward internationalizing the rebuilding of Iraq and sharing the burden because that is the answer. That is what a real leader has to do.

We all said that the 21st century would be America's century but that does not mean we do it alone. It means we lead the world against tyrants and against the war on terror. So I wanted to thank my friend before he left the Chamber.

NOMINATION OF CAROLYN B. KUHL

Mrs. BOXER. Mr. President, I rise today to talk about a judicial nomination that has gotten no attention on the Senate floor thus far and yet we are going to have a vote on this nomination, as I understand it, tomorrow, the nomination of a woman from California which was ill advised from the start because there was no advice and consent done at all from this administration, at least to this Senator.

When I was notified that this nomination was going forward, I had several meetings with the Bush administration people and I asked, why are you choosing someone who is so far out of the center and so far to the extreme right, when the President said he would govern from the center?

In fact, I will never forget the night he declared victory, after the Supreme Court made their ruling, and the President came out, very appropriately, and I thought somberly, and said, I am going to bring this country together and I am going to govern from the center. I took him at his word.

When President Clinton was in office, I got a pretty stern lecture from Chairman ORRIN HATCH, for whom I have

great respect. He said, Barbara, I want you to know that if you recommend any judges that are outside the center, forget about it. It is not going to happen. We are not going to let it happen. We want moderates.

I do not understand why that does not apply now. It applied to President Clinton. It ought to apply to President Bush. When President Bush said, I want to govern from the center, I took him at his word.

When the Constitution says the Senate shall be part of the advice and consent function, that does not mean we roll over and play dead to any President, be he or she Democrat or Republican. It means the President should seek our advice and must win our consent.

So when we see a judicial nominee come to this floor, where one of the home-state Senators never even sent back what we call the blue slip, which is sort of the permission slip, giving permission to move forward, when we see that being ignored after it said for many years on the slip, this nomination will not go forward unless you send back the slip—I ask unanimous consent that the blue slip be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Tuesday, August 1, 2000.

DEAR SENATOR: You will kindly give me, for the use of the Committee, your opinion and information concerning the nomination of: to be .

Please return this form as soon as possible to the nominations office in Dirksen G–66. No further proceedings on this nominee will be scheduled until both blue slips have been returned by the nominee's home state senators.

Respectively,

ORRIN G. HATCH,
Chairman.

Via courier to:

REPLY

To: Senator Hatch, Chairman

_____ I approve

_____ I oppose

Comments:_____

_____
U.S. Senator.

Mrs. BOXER. There is a note from Senator HATCH when he was Chairman of the Judiciary Committee during the Clinton administration, which I would like to read. The blue slip we used to receive from Senator HATCH said: ''Please return this form as soon as possible . . . No further proceedings on this nominee will be scheduled until both blue slips''—that means from each Senator—''have been returned by the nominee's home State Senators.''

That is what we all used to receive from Chairman HATCH. That was his former policy. Then all of a sudden it changed when the President changed.

So on process, this was a nomination that should not be before us. Then the bar kept being raised. Senator FEINSTEIN said, let's have a hearing on this nominee and let me see whether I think she ought to move forward. Senator FEINSTEIN listened, asked deep questions, pondered, and then said, no. And she will express for herself why she said no.

So we have two home State Senators against this nomination. What happens? The nominee is coming to the floor for a vote. We have not even debated it or discussed it.

I wanted to apologize to my friend from Montana, because I know he is talking on another subject, but this is crucial. I predict this Senate will not give the go-ahead to this nominee and I want to make the record clear as to why.

It is pretty clear that if we look at the values shared by the American people on such matters as privacy, civil rights, women's rights, access to the courts, whistleblower protection, legal intimidation, the right to the disabled and the environment, on every single one of these very key American values this nominee is way outside the mainstream. There are years of actions that prove what I have said.

I do not relish this situation. Everyone who knows me knows that I fight so hard for women's rights and for women to move forward and to break the glass ceiling, but when we see the record of this nominee, I have no choice. I do not deserve to be here if I do not make the case against this nomination and why I believe the proceedings should not move forward.

So let me first show how many groups are against this nominee and how controversial this nomination is. I am going to go through these. I am not going to read every name on it but I want to give a sense of this list: the AFL–CIO, the Alliance for Justice—I am skipping some—Asian Pacific American Labor Alliance, Association of Flight Attendants, Breast Cancer Action—and I am going to explain why—Breast Cancer Fund, California Women's Law Center, Clean Water Action, Committee for Judicial Independence, Communications Workers of America, Defenders of Wildlife, Earthjustice, Feminist Majority.

Let's go to the next chart. I am skipping many of these because of the time constraints I feel but let me continue. Foundation for a Smoke-Free America—and I will explain why they got involved—Friends of the Earth, Japanese American Citizens League, International Federation of Professional and Technical Engineers, Los Angeles African American Women's Political Action Committee, Mineral Policy Center, MoveOn.org, NARAL Pro-Choice America, National Center for Lesbian Rights, National Council of Jewish Women, National Employment Lawyers Association, National Organization for Women, National Women's Law Center, Natural Resources Defense Council. Again, I am reading a partial list here.

Another list, and this is incredible. This is one judicial nominee that is coming before us the day before we leave when we are in the middle of an Energy bill that the other side says is so important. They are throwing at us one of the most controversial nominees one could find. Office and Professional Employees International Union, Progressive Jewish Alliance, San Francisco Board of Supervisors, San Francisco La Raza Lawyers Association, Sierra Club, Smokefree Educational Services, the Foundation for Taxpayer and Consumer Rights, UNITE, United American Nurses, United Farm Workers, United Food and Commercial Workers International Union. Again, I am reading a partial list.

The last chart: Union of Needletrades, Industrial and Textile Employees; Wilderness Society; Women's Committee, Labor Committee for Latin American Advancement; Women's Leadership Alliance; Women's International League for Peace and Freedom, and a number of members of the California delegation. This gives a sense of the breadth of opposition.

Let me start off telling a story why so many people are so upset about this nomination. It has to do with a case Judge Kuhl decided in the California courts that deals with a woman who is a cancer victim. I will read this woman's public statement.

My name is Azucena Sanchez-Scott. I am a survivor of breast cancer and Judge Kuhl's courtroom. I stand before you now because I want to tell my story so that other people will never have to re-live it.

This is a woman who was harmed by Judge Kuhl in a way she will never forget for the rest of her life.

Nothing about my cancer is easy. Not the chemotherapy, not the fear, and certainly not the emotional pain or disfigurement. As a person battling cancer, each visit to the doctor brings questions about my future and my health. That is where I was when my doctor and a stranger walked in. The doctor offered no introduction and proceeded to examine me and asked that I disrobe. It was only when I left the office and inquired with the receptionist that I learned that the stranger was a sales representative for a drug company with no medical reason for being there.

She continues:

As a cancer survivor, I trusted that my doctor would make decisions in my best interest and my doctor violated that trust. The injustice, however, did not end there.

Judge Kuhl heard my case and found no fault in the doctor's actions. She ruled that it was my obligation to protect my privacy in his exam room. That I should have battled cancer and my doctor's judgment at the same time. And, she denied my request to allow a jury trial to determine if the intrusion was highly offensive to a reasonable person.

We were taught not to question our doctors and I know as a medical health professional that I have an obligation to protect my client's privacy. I was shocked to find that the doctor did not honor this obligation and I think that is why Judge Kuhl's decision was unanimously reversed on appeal. If, however, there is any duty for a citizen to ask questions as a standard to protect our rights to privacy, it lies with the Judiciary Committee.

The point is, a woman has breast cancer. She goes to the doctor for a

brutally difficult exam. She is humiliated in the office of that doctor by a total stranger, a drug salesman she later finds out, and Judge Kuhl rules against this woman, against her privacy rights, and tells her she should have asked, she should have known to ask who this stranger was that her doctor brought into the room.

This is someone the Bush administration wants to promote and give a lifetime judgeship to?

I can tell you what the breast cancer groups say. They normally do not get involved in these fights, but they are involved in this one. This is from Breast Cancer Action:

On behalf of Breast Cancer Action and our over 8,000 members in California, I am writing in support of your opposition to the nomination of Judge Carolyn Kuhl to the Ninth Circuit Court of Appeals.

They say:

Based on Kuhl's refusal to protect fundamental woman's rights in cases such as this, the BCA opposes her nomination.

This is highly unusual.

We have another letter from another organization I want to share.

How can anyone be so cold and heartless as to tell someone suffering like this that they have to ask, Who is in the room? in a doctor's office?

The Breast Cancer Fund wrote:

Quite simply, Judge Carolyn B. Kuhl does not show the level of sound judgment necessary for an appellate court judge.

I know we have mostly men in the Senate, although we are moving forward with about 14 women. But any woman in the Senate will tell you, going for that type of an exam, even if you are totally healthy and not just coming out of a breast cancer operation, it is very difficult, it is very nerve racking, it is very embarrassing.

To have a woman judge rule against Ms. Sanchez-Scott's privacy is extraordinary to me. To have these kinds of letters from groups like this is extraordinary, and it ought to be extraordinary to every single Senator who should vote not to allow this nomination to go forward.

I will quickly go through the other issues where Carolyn Kuhl is outside the mainstream. We mentioned she is outside the mainstream on privacy rights. She is outside the mainstream on civil rights.

Kuhl urged the Reagan administration to adopt a position that would grant tax-exempt status to Bob Jones University. More than 200 lawyers in the Justice Department's civil rights division signed a letter in opposition to this position. The New York Times (May 26, 1983) characterized her as part of a ''band of young zealots'' who urged the legal switch.

She went forward and defended tax-exempt status for Bob Jones University even though it discriminated on the basis of race. Is this someone we want to elevate? She is outside the mainstream on civil rights.

She is also outside the mainstream on access to the courts. What makes our country so great is that we have the ability to go to the courthouse door and get into that courtroom. We have that right as Americans.

She argued that organizations do not have standing to sue in Federal court on behalf of their members. She called on the Supreme Court to reject the principle of associational standing, effectively undermining the ability of unions to enforce labor laws.

So if you believe, as she does, that a union does not have a right to sue on behalf of the members, that even, say, the NRA, the National Rifle Association, does not have a right to sue, whether the Chamber of Commerce should not have the right to sue, whether an environmental organization should not have the right to sue on behalf of its members, then go ahead and support her. But that undermines a basic, fundamental principle of our laws that organizations have standing to sue on behalf of their members. Whether it is the PTA or any other group, they should have the right and have their day in court.

Carolyn Kuhl is outside the mainstream on women's rights. As I go through this, I hope everyone understands it is not as if there were not other people who could have been nominated in California, great people who were Republicans in my State. And I begged the administration to do it. They said: Send a list. And I sent them a list of several wonderful Republicans in my State who would have been great nominees. No, they were going to go forward with this extreme nomination—whatever their reasons, I cannot say—even in the face of the two home State Senators' opposition.

Carolyn Kuhl supported a gag rule on title X funds, filing an amicus brief on behalf of the American Academy of Medical Ethics, an organization which represents more than 25,000 doctors who oppose abortion. She argued for restricted access to contraception, imposing additional requirements on recipients of title X funds.

We all know our country is divided on the right to choose. My State is very strongly pro-choice, that is true. But in the country it is split. I cannot believe we are split on the issue of contraception. Here we have a nominee who is for limiting access to contraception. This is outside the mainstream on women's rights. She ruled against a rape victim in favor of an insurance company when she had the opportunity to rule in favor of that victim and get that victim support.

She supported a restriction on access to abortion and urged reversal of Roe.

This is when she worked for the Department of Justice. This is what she said:

. . . Roe v. Wade is so far flawed . . . that the Court should reconsider that decision and . . . abandon it.

That is what she argued.

On the environment, Kuhl represented a large oil company that wanted to avoid cleaning up polluted land.

Is that an American value, to stand on the side of a polluter and say let the people take care of it if an oil company polluted their land? I say it is outside the mainstream on the environment.

Legal intimidation—and this is very serious:

Kuhl ruled against an individual subjected to intimidation and legal costs as a result of speaking out against Medicare and insurance fraud. In unanimously overturning Judge Kuhl's decision—

Unanimously overturning Judge Kuhl's decision—how far out of the mainstream can you be when a court that is dominated by Republicans overturns you unanimously?—

the California State Court of Appeals found her ruling ''would prolong both the [individual] defendant's predicament and the [corporate] plaintiff's outrageous behavior.

Outside the mainstream on tobacco.

Kuhl was part of a team representing a tobacco company in its effort to manipulate public policy.

That was the case State of Minnesota et al v. Philip Morris et al. On the wrong side, out of the mainstream.

She was out of the mainstream on exposing corporate fraud. Kuhl challenged the ability of whistleblowers to expose fraud against the Government.

Imagine, instead of taking the side of the whistleblowers—and who are whistleblowers? People who are willing to come out and tell the truth. She challenged the ability of whistleblowers to expose fraud against the Government. The case was United States ex rel Jason R. Madden v. General Dynamics Corporation.

She also misrepresented the U.S. Government's position on the constitutionality of the Federal whistleblower law in United States ex rel Rohan v. Newert, in 1993.

Outside the mainstream on rights for the disabled. She argued airline carriers do not have to abide by anti-discrimination statutes relating to the disabled.

Do you know whom she took on in this case? The Paralyzed Veterans of America.

It is hard for me to believe this record. It is hard for me to believe you are going to have to vote to move this nomination along. Why do we have all these groups very upset? Because they understand what her record has been. Fighting on the side against paralyzed veterans—it is unbelievable. Let me just say we will have a little more debate on this tomorrow, but I want my colleagues to understand that the way this nomination came to this Senate was just plain wrong. It went against Senator HATCH's own rules that he laid down when President Clinton was President. He said you had to have both Senators sending back their slips to allow this to go forward. Senator HATCH has changed that rule now that we have a different president.

Then, when we had two Senators against this nomination—we never expected it would be here—when I spoke to the President's men, they said:

''Give us some ideas of some mainstream people you might support. I was happy to do it. I sent them a list of wonderful people.

As a matter of fact, one of the people I recommended is known to the Senator from Oregon. One of the people I recommended for this position was known to the Presiding Officer.

Instead of reaching out to the Senators from California and coming in with a consensus nominee, for whatever reason the President chose to continue with this nomination. I can tell you, in all my years, I have never seen such an outcry from the people of this country.

I will close. A letter was sent to Senator FEINSTEIN on May 6, 2003, by Shirley Hufstedler, a former Ninth Circuit judge, and the first U.S. Secretary of Education. She said:

> I do not question Judge Kuhl's skill as a highly trained lawyer. I am troubled by her lack of candor before her Senate hearing and by her apparent insensitivity to the impact her rulings have on some of the people who have come before her as a judge.

That is an important point about which I didn't tell you. There were a number of statements Judge Kuhl made before the committee that, when asked in further detail after the hearing, she had to correct and clarify what she had said to the members of the Judiciary Committee. She said, Oh, I made a mistake. I was wrong. I didn't exactly say it right.

So whether you look at her performance before the Judiciary Committee, her actions within the Department of Justice during the Ronald Reagan years, her actions as a private lawyer, or her actions as a California judge, it all adds up to outside the mainstream, way outside the mainstream. And it goes against what I believed President Bush made as a commitment to the American people—that he would govern from the center.

I have voted for many judges here, probably 90 percent, maybe high 80s. Many were judges I did not agree with, who were conservative, who would not view the world as I view it. It is very rare—very rare—that I have taken to the floor to make this point. I do not do it lightly.

This is not a personal attack. I have met Carolyn Kuhl. She is delightful to talk to. But this is not about personalities and it is not about gender and it certainly is not about religion. It is about whether or not the advice and consent of the Senate was really sought in this. It is about how Senators were disregarded, the home State Senators who wanted to cooperate, who put forward names, and it is about her lifetime of fighting for everything that is outside the mainstream of America.

I do not think, after that decision on the breast cancer victim, and that alone, that someone who would be that insensitive to say to someone who was fighting breast cancer that you have to come in and you have to ask your doctor who is in the room with you, that it is your job—that kind of decision fails the test of compassion, sensitivity and, above all, the law. She was wrong on the law. She was overturned on the law.

For all those reasons, I beg my colleagues to stop this nomination from going forward. Let's get another nominee, a Republican nominee, I am sure—which President Bush has every right to do—but one who comes from the mainstream, with mainstream values and mainstream life.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank my good friend from California, Senator BOXER, for the statement she just made. For some, it is not easy to stand up on the floor of the Senate and oppose the nomination of a judge nominated by the President of the United States. For others, it is not quite as difficult. But for the Senator from California, I admire her for the clarity of her thinking and the position she has taken because, frankly, I agree with it.

All of us in this body took an oath of office to uphold the Constitution of the United States. The main framework of that Constitution is the separation of powers with its powers allocated equally among the legislative, executive, and judicial branches. When our Founding Fathers wrote that Constitution, they were unsure about what to do about judges. They debated. One of their proposals was that the Congress send the names of potential judges to the President and that the President choose from among those judges which one the President wanted, and that is the one that would be named. It was a very difficult issue to resolve. Why? Because the two branches of government would be deciding which people would have lifetime appointments serving in the third branch of Government; that is, the judicial branch.

Why is this so important? It is so important because judges must be impartial, and they must be fair. They have a very difficult job of trying to interpret laws and interpreting the Constitution. We as Americans feel much safer and we feel much better the more we know that the judges in the district courts, the courts of appeal, and the Supreme Court are people of the highest caliber.

Let me tell you that one of the greatest privileges I believe we have as Members of the Senate is to recommend the names of potential judicial nominees to the President of the United States. I have been able to do that several times. It is very much a privilege to me personally. In the exercise of that privilege, this is the process I followed. I think it is one that honors the position of the judge in either district court or the United States Courts of Appeals.

I asked in each instance seven or eight people in my State of Montana—Republicans, Democrats, it didn't make any difference, some lawyers, some law professors, businesspeople, people who I respected as some of the best and smartest and most able in my State—to come up with three names, one for the district court and one for the circuit courts of appeal. I asked them to give me the three very best people in my State. I don't care whether they are Republicans, Democrats, whether they are known as conservatives, whether they are known as liberals, just give me the best. And they did. I sat down with each of the three and interviewed each of the three for several hours.

I can tell you it was a very difficult decision because they are tremendous people.

Finally, I decided after a lot of thinking about all of this to recommend to President Clinton the name of Don Malloy. Thankfully, he nominated Don Malloy to the Federal District Court in the State of Montana. He is a terrific Federal judge.

Why do I say terrific? I say terrific because both the plaintiffs bar and the defense bar think he is just super. He is tough, he is fair, he runs that court well, and he works very hard. Both plaintiffs and defense attorneys think he is very fair and a very good judge. That says a lot to me.

I did the same in the other case. When we had the opportunity to recommend to President Clinton the nominee for the Ninth Circuit Court of Appeals, it was the same process. I asked for the best. I didn't care whether they were Republicans or Democrats. It didn't make any difference. Who were the best? The group I selected came back with three people—all just terrific people. You would be very proud of all of them, Mr. President.

Again, I had a hard time deciding which one was the best. But I made a decision. That person now serves on the Ninth Circuit. His name is Syd Thomas. He has the reputation of being one of the best judges on the Ninth Circuit Court of Appeals.

It is very important that we get the best judges. These are people who are nominated and serve for life. That is extremely important. It is important so they can maintain their independence. It is also important since once they are confirmed, they are there forever.

We self-destruct. As Senators we self-destruct every 6 years. House Members self-destruct every 2 years—some Governors 4 years and some 2—to go back and face the people, as we should go back and face reelection. Should we be continued in these offices, if we seek them, or not? It causes us to be very close to the people. In some cases, we are more attuned to the political currents that flow in our respective States. Not so judges. Judges are not to be attuned to political currents. They are to be independent, to be impartial, to go beyond politics, to do what is right according to what the law says

and what the Constitution says. That is who we want.

This is no light matter. One of the strengths of America is our independent judiciary. That is not true in most other countries. Most peoples in the world live where the continent might be under a system where the judiciary is not independent of the executive branch, not independent of the legislative branch; rather, it is under the thumb of one or the other. They are not independent.

That is one reason why this country has grown so strongly, why it has prevailed, and why we have risen so quickly and so far. It is because we have an independent judiciary, by and large, of judges who are extremely capable men and women. It engenders confidence so when people go before a judge they have the feeling this person can be fair and this person can be honest. They may not like the outcome, but at least it is a fair process. At least the President or the Governor didn't put his thumb on this judge and it wasn't a political decision. It was a decision a person made on the merits.

I say this because we as Members of the Senate have a higher obligation in passing upon judges than we do of other nominations—certainly of other executive branch nominations. When the President nominates somebody to be Treasury Secretary or somebody to be Secretary of State, or someone to be Defense Secretary, those are important jobs, very important. But they are executive branch nominations, and they are people who will be working for the President, and by and large the President should have people with whom he can work. We should, in my judgment, not have quite the same standard for executive nominations as we do for judicial nominations.

For judicial nominations, the standards should be of the highest. What should they be, roughly? They should be people who have the highest integrity and honesty. They should be people who are extremely competent, who know the law, and people who basically don't have an ax to grind or an ideological ax to grind; that is, they are basically in the mainstream. America is a mainstream country. We are not a country, hopefully, of ideologues, of people who have axes to grind, of people who want to work with each other and who live with each other. We should have judges who reflect America and in fact set the highest standards for America.

In my opinion, it is not even a close question. It doesn't even begin to be a close question. Some of the nominees before the Senate do not rise to those standards. They don't begin to. Some do. Most do. But some don't. Where they don't, we in a sense should also forget the politics and just do what is right. Is this nominee a person so qualified that he or she should be a district court judge or a judge on one of the courts of appeal? That should be the test.

It is easy for us to decide what is best and what is not best. We should not push pell-mell to follow the political flood and rush on either side of the aisle just because the President appointed the person, or because a group came out against their nominee we should or should not confirm that person.

This is a high solemn obligation we have, Mr. President. I urge all of us to take this responsibility under the Constitution, the Constitution which we all swore to uphold, very carefully.

Mr. President, turning to another matter, I would like to speak about an amendment I intended to offer today on the Energy bill that I think promotes a good commonsense solution to an issue that I think is very important to my constituents in Montana, and that is, protecting Montana's magnificent Rocky Mountain Front.

What is the Front? The Front, as we call it back home, is one of the largest and most intact wild places left in the lower 48 States. We call it the Front because that is kind of what it is; it is a front. Anyone driving across the State of Montana, driving westward, first encounters open plains and prairies; and then, suddenly, out in the distance, the Rocky Mountains, the Continental Divide just seems to jump out of the plains—this huge mountain range—and that is what we call the Eastern Front.

That is the eastern side of the Rocky Mountains which kind of juts out from the plains. It is magnificent. It is one of the largest and most intact wild places left in the lower 48 States.

This map I have is not a good map to show the beauty of it. But, rather, this is a map that shows where the Front is with respect to the Blackfoot Indian Reservation, the oil and gas leases, and some of the wilderness areas there. But to the north of the Front is an area here. This is the Blackfoot Indian Reservation. Glacier National Park is over to the northwest on this map. The area shaded in red is called Badger-Two Medicine. It is call Badger-Two Medicine in large respect because the Blackfoot Indian Reservation has ancestral rights and claims. It is a very special area to the Blackfoot. It is also a gorgeous area. I have hiked it many times. I think it is a very special place in the United States of America. This is sacred ground, Badger-Two. It is the area on the map that is shaded red located next to Glacier Park.

In January 2002, portions of the Badger-Two area, known as the Badger-Two Medicine Blackfoot Traditional Cultural District, were declared eligible for listing in the National Register of Historic Places.

If you turn just south of the Badger-Two, the Front includes about a 400-square-mile strip of national forest land and about 20 square miles of BLM lands. The BLM lands are scattered in through here, as shown on this map. These include three BLM Outstanding Natural Areas. As I mentioned, they are located right through this area shown here.

Now, the Front harbors the country's largest bighorn sheep herd—the country's largest—and the second largest elk herd in the entire country. That is on the Front.

The Rocky Mountain Front supports one of the largest populations of grizzly bears south of Canada and is the only place in the lower 48 States where grizzlies still roam from the mountains to their historic range on the plains, just as they did when Lewis and Clark came across. Actually, they crossed right up through here. Marias Passway is over here. So Lewis and Clark, when they came up, saw that area. Actually, they came the south. One of the groups came across Marias Pass.

Because of this exceptional habitat, the Front offers unsurpassed hunting, fishing, and recreational opportunities. Sportsmen, local landowners, local elected officials, hikers, local communities, and many other Montanans have worked for decades to protect and preserve the Front for future generations for nearly a century.

Now let me show you a couple of pictures of the Front so you get a sense of the feel for this magnificent landscape. This is a photograph of Ear Mountain. It is supposed to be shaped like an ear. If you have a good imagination, maybe you can see the ear. Frankly, a couple summers ago, I hiked up to the top of the ear with a good friend, Rick Graetz, and another friend, Jim Scott, and Jamie Williams, and it was just a gorgeous climb.

When you get to the top of the Ear—this picture, of course, was taken a little more in the wintertime, but at the top of the Ear, if you look east, you can see forever. It is wonderful.

We feel very strongly about the Front. The majority of Montanans believe very strongly, frankly, that oil and gas leases on the Front and throughout Montana's Rocky Mountain Range just don't mix. We think that because the habitat is too rich, the landscape too important to subject it to the roads and the drills and the pipelines and the industrial equipment and the chemicals and noise and human activity that come with oil and gas development.

Let me show you a couple for photos of the Front before I proceed.

This is typical—and I mean typical. I am not exaggerating. This is what Montana looks like. It is what the eastern Front looks like. It is gorgeous.

Here is another picture. This gives you a sense of the pristine nature of the area. It is special. We are known as the Big Sky State. And when you are out here, you can understand why we call Montana the Big Sky State.

Those are some of the photographs.

To give my colleagues some idea of what the area might look like if oil and gas were developed, I show you a picture of extensive oil and gas development along the Canadian Rocky Mountain Front in Alberta.

This is the Front. If you were to continue from Montana up north, this is what it would look like—with the roads and the development of the oil and gas leases.

So we believe such development is not warranted and it is not needed in Montana.

The administration recently completed an inventory of onshore oil and gas reserves on Federal lands at five basins in the interior West, including the Rocky Mountain Front, which is part of the Montana overthrust belt. The administration's study found that the overthrust belt area contains the smallest volumes of potential oil and gas resources of all five of the western inventory areas.

In addition, the administration's study concluded that in reality the vast majority of Federal lands in the interior West are available for leasing with few, if any, restrictions; that is, there are not many restrictions in the vast majority of the Federal lands of the interior West. And that is, we are not talking about the Front, we are talking the interior of the United States.

Although a large percentage of Federal lands in the Front are currently unavailable for leasing, many of those lands are unavailable in the Front because they lie under Glacier National Park, they lie under Indian lands, and already established wilderness areas. These areas comprise much of the Federal land in the Front.

As shown on the map, here is the Scapegoat Wilderness Area, Bob Marshall Wilderness Area, Great Bear Wilderness Area, Glacier National Park, Badger-Two, and the Blackfoot. So much of this is already restricted. So not only is the Front relatively poor in terms of oil and gas reserves, many of those reserves, by congressional mandate, Executive order or treaty, will never be available for leasing. So there is no oil or gas bonanza on the Rocky Mountain Front.

My amendment builds upon local conservation efforts in Montana that started nearly a century ago; that is, back in 1913. It also builds on previous congressional initiatives championed by former Members of the Montana congressional delegation, such as Congressman Pat Williams and the late Senator Lee Metcalf.

I ask unanimous consent that a timeline of these efforts be printed in the RECORD.

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

A CONSERVATION HISTORY OF MONTANA'S ROCKY MOUNTAIN FRONT

Montana's Rocky Mountain Front has been the focus of conservation efforts for over 90 years:

1913—The Montana state legislator takes the first step in protecting the wildlife habitat of the Rocky Mountain Front by designating the Sun River Game Preserve.

1928—Bob Marshall takes his first hike into the wild country which will bear his name, starting the Swan Range at Jewel Basin and walking over 100 miles to Holland Lake.

1940—Secretary of Agriculture H.A. Wallace signs an order uniting three Forest Service ''primitive areas'' and additional lands into the Bob Marshall Wilderness Area.

1947—The Sun River Game Range, first of five state and private wilderness reserves, is established on the Rocky Mountain Front. Choteau rancher Carl Malone put up the money for the purchase, until the state Fish and Game Department could raise funds.

1950s—Hunters and ranchers fended off Bureau of Reclamation proposals for the Sun Butte Dam, which would have flooded a vast portion of the upper Sun River.

1953—Flathead sportsmen initiate campaign to add portions of the Swan Range, Spotted Bear, and upper Middle Fork Flathead River to the Bob Marshall Wilderness.

1972—Conservationists persuade Congress to add the Lincoln-Scapegoat area to the Bob Marshall Wilderness. This was the first citizen-established wilderness in the country.

1973—Blackfeet Tribal Council passes resolution declaring the entire Badger-Two Medicine area of the Rocky Mountain Front as ''sacred ground.''

1978—The Great Bear Wilderness is designated, and a portion of the Teton-Birch Creek area of the Rocky Mountain Front is added to the Bob Marshall Wilderness.

1983—At the urging of Rep. Pat Williams, the U.S. House Natural Resources Committee orders an emergency withdrawal of the Bob Marshall Wilderness from oil and gas leasing.

1984–1994—In ten separate bills Congress adds lands to the Bob Marshall Wilderness complex.

June 1993—Secretary of Interior Bruce Babbitt establishes a moratorium on oil and gas development within the Badger-Two Medicine area. Later extended to 1996.

May 1994—The U.S. House of Representatives passes H.R. 2473 which includes additions to the Bob Marshall Wilderness complex, wilderness study area designation for the Badger-Two Medicine, and mineral withdrawal of lands near Gibson Reservoir.

February 1997—Montana's Senate Natural Resources Committee rejects an industry resolution urging extensive leasing of public lands within the Rocky Mountain Front.

September 1997—Lewis and Clark National Forest Supervisor Gloria Flora issues a historic decision to remove all national forest lands within the Rocky Mountain Front from further oil and gas leasing for the next 10 to 15 years.

January 2001—All national forest land in the Rocky Mountain Front is withdrawn from mineral entry to hard rock mining for 20 years.

May 2001—The 9th Circuit Court of Appeals upholds Flora's 1997 decision to ban new oil and gas leases in the Rocky Mountain Front (the decision had been appealed by industry).

Mr. BAUCUS. Most recently, in 1997, following significant public and private investment and an extensive public comment process, the Lewis and Clark National Forest decided to withdraw 356,000 acres in the Front of any new oil and gas leasing. This was a significant first step in protecting the Front from development, and I wholeheartedly supported it.

However, in many parts of the Rocky Mountain Front, oil and gas leases do exist, and they predate that 1997 decision, or they are located on BLM lands.

Many of the leases that predate the 1997 decision are located in the Badger-Two Medicine area. That is shown up here on the map, close to the Blackfoot Reservation. And that has been under an administrative lease suspension since 1996, pending review of the Blackfoot Traditional Cultural District.

This lease suspension could be lifted at any time now that the Blackfoot Traditional Cultural District has been declared eligible for listing in the National Register of Historic Places.

All of these existing leaseholders have invested time and resources in acquiring their leases. I understand that and am sympathetic. Several leaseholders have applied to the Federal Government for permits to drill.

In fact, the BLM and the United States Forest Service plan to begin analysis of about four leases in the Blackleaf Area of the front this fall.

These leases are subject of the study proposed in my bill.

However, history has shown that energy exploration and development in the front are likely to result in expensive and time-consuming environmental studies and litigation. It will take forever. This process rarely ends with a solution that is satisfactory to the oil and gas lessee. There are so many interests involved.

For example, in the late 1980's both Chevron and Fina applied for permits to drill in the Badger Two Medicine portion of the Front. After millions of dollars spent on studies and years of public debate, Chevron abandoned or assigned all of its lease rights, and Fina sold its lease rights back to the original owner. It was not worth it.

We should obviously be fair to those leaseholders. We want them to continue to provide for our domestic oil and gas needs, and we want to encourage them to find new domestic supplies. But they are going to have a long, difficult and expensive road if they wish to develop oil and gas in the Rocky Mountain Front.

My legislation would direct the Interior Department to evaluate for study, non-producing leases in the Rocky Mountain front and look at opportunities to cancel those leases in exchange for allowing leaseholders to explore for oil and gas somewhere else, namely in the Gulf of Mexico or in the State of Montana. In conducting this evaluation, the Secretary would have to consult with leaseholders with the State of Montana, the public and other interested parties.

When Interior concludes this study in 2 years the bill calls for the agency to make recommendations to Congress and the Energy and Natural Resources Committee on the advisability of pursuing lease exchanges in the front and any changes in law and regulation needed to enable the Secretary to undertake such an exchange.

Finally, Mr. President, my bill would continue the current lease suspension in the Badger-Two Medicine Area for three more years. This lease suspension would only apply to the Badger-Two Medicine Area, not the entire front.

This suspension will do two things: First, it will give the Secretary adequate time to conduct this study and

make recommendations to Congress; second, it will give the Blackfeet Tribe some breathing room to negotiate with the Interior Department about the long-term protection of Blackfeet historic and sacred sites in the Badger-Two Medicine area.

That's it. That is all my amendment would do. It doesn't predetermine any outcome. It doesn't impact any existing exploration activities or environmental review processes.

It just creates a process through which the Federal Government, the people of Montana and leaseholders can finally have a real, open and honest discussion about the best way to resolve the status of oil and gas leases along the Rocky Mountain front. My amendment is balanced and fair to all parties.

We look for ways to fairly compensate leaseholders for investments they've made in their leases if they decide to leave the front rather than waste years and millions fighting to explore for uncertain—and small—oil and gas reserves. And, a lot of Montanans, including me, just don't want to see the front developed, and they will fight to protect it.

Here is the alternative: So, developers can wait years, or decades, or most likely never, for oil and gas to flow from the front.

Or we can look at ways to encourage domestic production much sooner, in much more cost effective, appropriate and efficient ways somewhere else.

Let me quote from an editorial in the Missoulian, a Montana paper based in Missoula, MT, that emphasizes what I hope my bill will accomplish. They said:

> One of the things we ought to do, as part of setting our national energy policy, is quit squandering our own energy fighting the same old battles that will never yield a single BTU. Montana's Rocky Mountain Front has for too long been a battlefield for just that sort of energy-sapping conflict. . . There are no known reserves of oil and gas in there—just speculation that it might, based on the fact that similar geology north of the Canadian border has proved productive.

That editorial concluded by stating that my amendment ''acknowledges the property rights of lessees, but also the reality that they likely will be stymied indefinitely in any attempt to drill along the front. This is a proposal that protects a place Montanans so clearly desire to preserve. And it offers an opportunity to focus public and private-sector energies on actually producing useful energy.''

Montanans have spoken loudly and forcefully on this issue. We don't want any drilling in the front.

Montana is a natural resource-rich State and we are proud of our natural resource heritage. Montana has made, and continues to make, tremendous contributions to this Nation's economy through the development of its precious metals like copper, platinum, palladium and gold, through development of its coal, its oil and gas, its timber, and other natural resources. We will continue to do so because that's the right thing to do for Montana's economy and the Nation.

But the front is special to Montanans. Because we're also proud of our outdoor heritage, of preserving special places to take our kids hunting and fishing and hiking, just like we did when we were kids. We balance these two Montana priorities all the time. In this case, Montanans determined that the resources that might be under the front just don't justify endangering the front's unparalleled landscape.

That's why this amendment is so important, so we can strike the right balance in Montana on the Rocky Mountain Front. Let's listen to the locals.

I ask my colleagues for their support.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I would like to utilize the time allocated to me on H.R. 2738, the United States-Chile free-trade agreement.

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

U.S.-CHILE FREE-TRADE AGREEMENT

Mr. STEVENS. Mr. President, I objected to the consideration of this bill by unanimous consent because I wished to make this statement concerning the salmon fishing industry.

The U.S. salmon fishing industry is facing an economic crisis. Chile has dramatically increased their production of farmed fish and flooded the U.S. market with pen-raised, chemically altered farmed salmon. Last year the United States imported $400 million in farmed salmon from Chile—a 100 percent increase from 1997. In 1998 Chile exported 51,000 metric tons of farmed salmon to U.S. markets. By 2002 Chile's farmed salmon production capabilities doubled and exported over 100,000 metric tons of farmed salmon fillets to U.S. consumers.

This farmed salmon comes into the U.S. each year largely unrestricted and considering a study that was released this week on the high levels of PCBs and other pollutants in farmed salmon, we may want to consider greater testing of this product. Additional analysis may be needed to determine the levels of contamination in farmed salmon and warn consumers of any potential health risks.

It is these factory-scale farms that have developed contaminated, genetically altered fish and created a glut in the domestic salmon market, causing prices for wild-caught salmon to plummet. Increased competition from farmed salmon has significantly impacted the livelihoods of the men and women that participate in the salmon fishery. The U.S.-Chile free trade agreement will not address any of the adverse economic impacts faced by the U.S. salmon industry.

These adverse effects are not limited to the salmon industry alone. In my state of Alaska, the economy has taken the brunt of this crisis with processing plant closures, lost jobs and fishing boats that remained tied up at the docks. The Alaska commercial fishing industry as a whole is feeling the effects of deflated price in salmon.

Alaska's commercial fishing industry is a primary employer, providing 47 percent of private sector jobs, and is second only to the oil industry in generating revenue to the state. In 2001, the fishing industry in Alaska provided tax revenues to the State of over $51 million, down roughly $8 million from 2000. The Division of Commercial Fisheries in Alaska reports that more than 4.7 billion pounds of fish and shellfish with an ex-vessel value of $871 million were harvested in waters off Alaska in 2001. Of this amount the ex-vessel value for salmon in 2001 was $229 million.

The Alaska Department of Fish and Game reports the ex-vessel value of Alaska's 2002 salmon season was roughly $140 million for a catch of 130 million fish.

This continues a trend of declining season values for salmon. The Bristol Bay sockeye salmon catch received its lowest value since 1977, receiving approximately $25 million for 10 million fish. At 40 cents a pound, Bristol Bay salmon in the 2002 season were at prices lower than those received nearly 30 years ago.

Western Alaska fishing-dependent communities were extremely hard-hit by the depressed prices in salmon and declared an economic disaster area by the State of Alaska. The administration recognized this situation and last fall directed the Economic Development Administration, under the Department of Commerce, and the Labor Department to assist these communities experiencing sudden and severe economic dislocation.

Several antidumping investigations were initiated against Chile. There appeared to be strong spikes of increased imports of Chilean farmed-salmon during the summer months, the only time of the year that fishermen can deliver fresh wild-caught salmon to market. This is obviously unfair advantage taken of these exporters in the United States. The International Trade Commission ruled that there was a reasonable indication that material injury was caused to U.S. producers of salmon. Subsequently, antidumping orders were placed on various Chilean companies. These cases involved U.S. aquaculture concerns that were ultimately bought out by foreign companies and are strong evidence that the U.S. salmon industry has been adversely affected by unrestricted imports of Chilean farmed salmon.

Considering this history of bad acts and numerous concerns raised by the Alaska delegation and Alaska seafood producers, the U.S. trade representative was put on notice about the problems faced by the domestic salmon industry. However, the trade representative only negotiated recommendations that Chile make their trade practices more transparent.

The fact is, U.S. fishermen are treated far differently than other contributors to the domestic economy. Last year we passed an unprecedented farm bill that provided significant relief for U.S. farmers; the steel industry benefits from tariffs on imported steel; tariffs are levied on Canadian timber; and tariffs have increased substantially on imports of farmed catfish. The salmon industry does not receive any such protections, and it should have received a greater recommendation from our trade negotiators.

The reality for the salmon industry is they must go it alone and hope they can weather this dramatic change in world markets for salmon. My ardent hope is for this fishery to survive, and it can only survive if the trade representative and the other negotiators for the United States wake up.

This year, we have not taken any further efforts to block this bill. We will not do so. I want to put the Senate and administration on notice that this is the last year this will be allowed to continue. With the increased information we now have concerning the harm that this fish causes to our consumers—and we know the harm that is already caused to fishermen—it is time for the Congress and administration to work to protect our wild salmon production, and to help it get to market and not face this unreasonable competition.

I point out, the spikes in their imports take place when our fish are available. They are destroying the price by flooding the market with their product, which is a tainted product. Something ought to be done about it soon.

Mr. President, I yield back the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. MURKOWSKI. Mr. President, in 2002, Congress passed legislation providing more than $270 billion for farmers over a 6-year period. This included price support programs for commodities such as: wheat, cotton, rice, oilseeds, dairy products, peanuts, sugar, wool, and honey, just to name a few. This is not to mention other programs in existence today that buoy the price of products like lamb meat and apples.

Our Nation's farmers receive subsidies for their product through the Commodity Credit Corporation, to ensure their economic livelihood when market prices are low.

Overall, in 2000, corporate credit payments reached a record $32.3 billion for all farm-related programs and activities.

Also in 2002, the President imposed safeguard tariffs of up to 30 percent on a broad range of steel products. There were anti-dumping and countervailing duties of 29 percent slapped on imports of softwood lumber from Canada.

Taken together, 2002 was a banner year for industries seeking relief from foreign competition.

Just recently, the U.S. International Trade Commission upheld a determination to impose import duties on Vietnamese catfish—actually, basa—of up to 64 percent, a victory for domestic catfish farmers.

Unlike those other industries in the United States that face foreign competition, America's salmon fishermen are not on the receiving end of Federal largess. There are no safeguard tariffs put in place, nor are price supports implemented to aid this important industry. Suppliers of imported salmon do not face tariff rate quotas that benefit so many other domestic industries.

In 2002, America's salmon fishermen faced imports of nearly $400 million worth of Chilean salmon, the vast majority of which is farm-raised, which we consider to be a distinctly inferior salmon to the wild-caught salmon that comes from Alaskan waters. By comparison, in 1997, Chile imported less than $200 million worth of salmon. The amount of imports from that country has sky-rocketed in the past few years.

There is a direct correlation between the increasing amount of imported Chilean salmon and the decline in price that fishermen receive for their catch.

Between 1998 and 2002, Chilean salmon exports to the United States more than doubled from just less than 51,000 metric tons to over 102,000 metric tons. During the same time period, the price of sockeye, or red salmon, fell from $1.23 a pound to $0.55 a pound.

Now, while Alaskan fishermen are being put out of work by these increasing imports, Congress is set to provide preferential trade status to Chilean companies, to provide Chilean companies with greater access to the United States' marketplace.

I fully support the concept of free and fair trade. I recognize the benefits that trade gives to developing nations: strengthening a market economy; growing a middle class; and promoting the seeds of democracy.

Trade provides the American consumer with the ability to purchase a quality product at a reasonable price.

I also appreciate that many American companies support this preferential trade agreement as a means to level the playing field with Canadian and European competition. I am concerned, however, that this trade agreement is not fair to the State of Alaska and Alaska's fishermen.

This past April, I wrote to U.S. Trade Representative Bob Zoellick outlining my concerns about the impact a Chile Free Trade Agreement would have on Alaska's fishermen. The response I received suggested that the provisions of this preferential trade agreement ''strike a reasonable balance between the very strong export interests of Chile, and the concerns of Alaskan salmon producers.''

I have to ask, at what point are the concerns of Alaska's salmon producers ever addressed in this trade agreement? How is eliminating all tariffs on imported salmon a reasonable balance to putting Alaskan fishermen out of work?

I am told that Chile will eliminate all of its duties on fresh and prepared seafood products—that the United States is Chile's seventh largest supplier of fresh and frozen seafood—that this is a reasonable balance.

For a reality check, let's look at the numbers. And these numbers come from the U.S. Department of Agriculture, Foreign Agriculture Service.

Again, in 2002, Chile exported nearly $400 million worth of salmon to the United States. Over 100,000 metric tons.

On the other side of the equation, in 2002 the United States exported just $3,000—not millions—worth of canned salmon and zero dollars worth of salmon not in a can. So we have $3,000 versus $400 million.

In whose book is this a reasonable balance for America's salmon fishermen and Alaska's fishing-dependent communities? It is not just the salmon we are talking about. In 2002, Chile imported a total of $809 worth of fishery products from the United States, the vast majority of which fell under the catchall category of ''other fishery products.''

And while we are busy putting Americans out of work, they have nowhere to turn to seek relief. Alaska fishermen are not generally eligible for traditional trade adjustment assistance programs. They are self-employed and not part of a firm or group of workers.

Many fishermen independently own and operate their vessel with the help of their family, selling their catch to the local fish processor or cannery. They do not work for a company or firm, nor do they receive unemployment benefits when they are unable to fish.

In essence, America's fishermen have been, for too long, treated like a second-class citizen when compared with America's farmers or steel workers. While these workers have their income supplemented by federal dollars, fishermen face foreign competition to the best of their ability. And trade agreements like this, only deepen their plight.

As a result, I cannot support granting preferential trading rights to Chilean companies.

Not when Alaskan fishermen are being put out of work because of increasing imports of farm-raised salmon. Alaskan fishermen will tell you receiving TAA benefits would be nice, but it is not the same as being able to do their jobs, to put food on their tables to feed their families, to ensure that their children are cared for and have a future filled with hope.

Our fishermen face an uphill battle in keeping their jobs when faced with the

onslaught of imported Chilean salmon. Maybe the rest of the nation benefits from this trade agreement. Alaska suffers.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JEFFORDS. Mr. President, I send to the desk a resolution.

The PRESIDING OFFICER. Is the Senator asking the resolution be introduced and referred?

Mr. JEFFORDS. It is my intention to have the resolution introduced, that is correct.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Chair.

(The remarks of Mr. JEFFORDS pertaining to the submission of S. Res. 209 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we are in this very odd circumstance where we are waiting to learn what the decision will be with respect to the Energy bill. As one member, I send a message to those who are deliberating that if the best we can do is pass last year's bill, let's do it. We have a circumstance in which our energy dependence continues to grow. We are now more than 50 percent dependent on foreign sources of crude oil. That makes America vulnerable.

While last year's bill is not perfect, it did have broad bipartisan support and clearly will improve the energy situation in this country.

I believe last year's bill passed on a vote of 88 to 12, or very close to those numbers. It received long and careful attention on the floor. I believe there were over 140 amendments considered. I believe there were over 30 rollcall votes. I think there were actually 35 rollcall votes on that bill. We spent weeks deliberating the provisions of the Energy bill last year.

I would be the first to say I would prefer that we had concluded work on the Energy bill this year. I, for one, don't know why we wound up spending hours and hours talking about judges and engaging in what last night I thought was a very ugly scene on the floor of the Senate. Frankly, I was embarrassed for the Senate, to watch some of the statements being made last night. That did not reflect well on this body.

There should not be a religious test in any way for any position in the United States of America. This is a country dedicated to religious freedom. Whether people choose to be actively engaged in a church or not should play no role in the consideration for positions of responsibility in this country.

Thomas Jefferson, who played such a critical role in the formation of our Nation and its institutions, had written on his gravestone what he believed were his greatest accomplishments. One of those was the religious freedom that was part of the Constitution of the State of Virginia, a commitment to religious freedom which he thought was fundamental to the United States.

I hope cooler heads are going to prevail when we return in September and we are not going to see the kind of personal invective that infected this floor last night. That was an ugly scene. That is not the road we should go down as an institution. It is not the road we should go down as a country.

We can have a strenuous debate on candidates for judges. We do not have to slip over into a discussion of religion or who is a good Catholic or who is not so good a Catholic. My goodness, what is going on around here? That is not the Senate.

Returning to the Energy bill, we have an obligation. We have an obligation to reach a conclusion and, if the vehicle that allows us to reach a conclusion is the bill that was passed last year, let's do it. Let's do it on a bipartisan basis. Let's do it now. That bill had a lot of good and productive provisions in it that will make a meaningful difference over time.

No, it is not a perfect bill. It is the product of compromise. That is what this system is about. We do not all get our own way. None of us gets our own way. But if we work together, we can make meaningful progress.

I think last year's bill represents that. I urge my colleagues, we are not going to complete the bill that was out here. There are still hundreds of amendments pending. I have amendments pending on that bill. I have amendments pending I would like to have considered that I think are serious, productive amendments. But I am willing to forgo the opportunity to offer those amendments to get a bill passed.

When we get to September we are going to have appropriations bill after appropriations bill demanding our attention. The end of the fiscal year comes at the end of September. I plead with my colleagues on both sides, let's end this session on a productive and bipartisan note. Let's end the squabbling and the personal invective that has infected this body in the last 48 hours. It is not healthy. It is not productive. It does not build momentum for the work that faces us in the fall.

Let's get back to attempting to produce legislative outcomes that are positive for this country and that reflect well on this body. We have an opportunity to do it.

I say to my colleague from Vermont, who has deep feelings about energy policy and environmental policy, and has been a leader in this body on these issues, I say to him and others of our colleagues, please, let's come together and pass last year's bill and move it to conference and there try to improve it further. That strikes me as the only responsible course now remaining before us. There is no conceivable way we can finish work on the Energy bill that we have been contemplating. It is not going to happen.

I believe it would be irresponsible to leave here without finishing action on a bill. We have a bill on which a tremendous amount of time was spent last year. It does improve the energy circumstance for this country and we ought to pass it.

I hope somebody is paying attention. I thank my colleagues for listening. I hope we can move this ball off dead center and reach conclusion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I intend to use an extensive length of time on the Chile-Singapore free-trade agreements. I see my good friend from Iowa. If he would desire to precede me, I would be happy to yield to him.

Mr. GRASSLEY. No, go ahead.

CHILE-SINGAPORE FREE-TRADE AGREEMENTS

Mr. JEFFORDS. Mr. President, I rise today to express my strong opposition to the implementing legislation for the Chile-Singapore free-trade agreements. I do so not because I oppose these trade agreements but because I have serious concerns about the effect of these agreements on congressional authority over immigration and the negative effects it will have on the needs of our unemployed and underemployed citizens.

I know the importance of trade on our country and my State. In fact, trade with Canada and the rest of the world is an important part of Vermont's economy, which has led me to be a strong advocate of free-trade agreements in the past.

During my time in Congress, I have worked to promote free trade with other countries, both near and far. For example, I voted for the North American Free-Trade Agreement. I did so not because I believed it was crucial that we begin to integrate the economies of North America. I was concerned about the disparities in the economic opportunities available to Mexicans and Americans. I thought that only by giving our southern neighbors access to the engine of the American economy could we address important issues such as poverty, immigration, and exploitative labor practices.

I am aware, though, of the downside of international trade. When factories are closed or jobs move offshore because of more liberal trade policies, constituents have taken me to task because of my support for free trade. I do not blame them. Our trade policy must include strategies to help those adversely affected by the trade.

I have long supported a vigorous trade adjustment assistance program. In addition, I believe it is important that trade agreements include strong environmental and labor provisions.

Expanded trade should not lead to an ''environmental race to the bottom'' resulting in relaxation of environmental or labor standards that give our trading partners a competitive advantage over US businesses subject to more rigorous regulation. Because of its provisions guarding against relaxation of environmental controls and labor standards, I supported the Jordan Free Trade agreement during the last Congress.

I have also voted in favor of fast track procedures. I appreciate that foreign trade negotiators will never put their best offers on the table if they have to worry that Congress will endlessly amend a negotiated trade agreement. But when I supported fast track procedures, I expected them to be limited to areas related to trade. In giving up our rights to debate and amend trade legislation, I expected and intended that those concessions would relate to issues that are specifically trade-related.

However, the free trade agreements we face today violate this belief. My opposition to these agreements is not based on what I consider to be the crux of free trade agreements, the reduction of tariffs, it is based on something more. My stance today is based on my concern with the erosion of Congress' constitutional power, and the treatment of our nation's un- and under-employed.

As I mentioned earlier, I supported the imposition of fast-track procedures for trade agreements when it passed Congress in 2002. However, what I see in front of us today, and the rumor that these agreements are to be the template for future agreements, makes me reconsider this support.

The reason for this change lies squarely in the provisions of this free trade agreement that affect our immigration laws. These agreements create new categories of visas with different standards than currently exist in our immigration law, a law that has been considered and passed by Congress.

I have looked in my copy of the Constitution and it clearly states in Article 1, Section 8, Clause 4 that Congress has the power to establish a uniform rule of naturalization. Congress, not the United States Trade Representative, has this authority. What we have in front of us today is the executive branch telling Congress what the nation's immigration policy should be, and I for one could not let this go unchallenged.

In addition, this policy that is being forced upon Congress is not in any way uniform. These bills create new categories of visas, modify the standards and requirements of existing limits, and do so for people from only two countries. Is this any way to make immigration policy?

Rhetorically, I will answer that it is, if you work in an executive branch that is interested in usurping Congressional power for yourselves, and can do so by replicating these provisions in future free trade agreements.

Finally, and what I consider to be the greatest insult to Congressional power over immigration, Congress has very limited ability to change these provisions in the future. Congress could decide, with the full support of the administration at that time, that the need for temporary H–1B visas no longer exists. However, Congress could not modify or remove the provisions contained in these free trade agreements without the assent of Chile and Singapore.

We need to wake up in Congress to what enactment of these provisions means. Ultimately, if we keep passing this type of legislation there will be no immigration law for Congress to oversee, it will all be negotiated by the United States Trade Representative with other countries.

We need to make a stand and let the administration know that this type of negotiating will not be accepted.

While it is commendable to pass, and I fully support, a Sense of the Senate resolution stating that future trade agreements should not contain similar type provisions, we need to change the fast track authority to ensure that power-hungry administrations can no longer put the Congress in this quandary. I pledge to work today with all interested members to ensure that the constitutional right and power of the Congress over immigration law is protected.

I would like to take this opportunity to more fully inform my colleagues on how these free trade agreements differ from current law and what they will be enshrining permanently in our immigration law if the Senate passes these bills.

The Chile and Singapore Free Trade Agreements create an entire new category of visas for professional workers separate from the existing H–1B program. This legislation would allow 6,800 professional workers into the United States under this new visa each year with 5,400 coming from Singapore and 1,400 from Chile. Yet, under the current H–1B program 4,000 workers from these two countries are already coming into the United States each year. In addition, as we are not currently hitting the cap of the current H–1B program, why do we need to create a new type of visa for another 2,800 workers? I believe the differences between the current H–1B program and the new type of visa will answer that question.

First of all, the proposed Chile and Singapore agreements do not require H–1B dependent employers to make attestations that they are: No. 1, seeking to recruit U.S. workers; and No. 2, that they are not displacing U.S. workers. These two provisions in current law help ensure that employers do not negatively impact the U.S. labor market, and yet they are completely missing from the Chile and Singapore implementing legislation. They are missing.

This omission will enable employers of foreign workers to operate with less oversight from the Department of Labor. The legislation goes so far as to deny the department the right to self-initiate investigations based on information of abuse or fraud in the Chile and Singapore visa programs. This will allow employer abuse to go unchecked.

Secondly, the Chile and Singapore legislation does not explicitly forbid employers from demanding that their employees reimburse them for the $1,000 H–1B visa application fee. Beyond this, if Chile or Singapore decides to challenge the fee the agreements stipulate that a panel of international trade lawyers and not the administration or Congress makes the decision on what fees are allowed.

Another crucial difference between the impending legislation and current law is that the Chile and Singapore agreements do not limit the number of times that an individual is able to renew his or her visa, enabling the non-immigrant to remain in the United States on a permanent rather than temporary basis.

This stands in sharp contrast to the current H–1B program that puts a 6-year limit on non-immigrant visas. Consequently, an employee with one of the new visas could legally remain in the United States indefinitely.

Finally, the agreements define the term ''specialty occupation'' differently than current H–1B law. The new visas will only require that the nonimmigrant have knowledge that is ''specialized'' as opposed to the ''highly specialized'' knowledge demanded by the current H–1B law. This could be a substantial lessening of the requirements professional workers currently have to meet to be able to escape our immigration law.

What needs to be remembered concerning the substantial differences between this new visa category and the current H–1B program is that these provisions can not be changed by Congress. That may sound unusual. I think it is, so hopefully it will not ever be allowed. But, anyway, that is the way it is stated.

These provisions to our immigration policy are in effect a permanent change to our immigration law that was negotiated by the United States Trade Representative and not considered in the normal process by Congress.

My concern with these immigration provisions extends beyond its impact on Congress' constitutional authority, to its affect on our Nation's unemployed and underemployed. The United States has a serious problem right now with our economy.

The current unemployment rate is at a 9-year high of 6.4 percent. Mr. President, 15.3 million people are unemployed, underemployed in part-time jobs, or have given up looking for work. In June, the United States lost 56,000 manufacturing jobs, bringing the total to 2.4 million manufacturing jobs that have disappeared since January 2001. Finally, the Nation's economy has shed 3.1 million private sector jobs

since President George Bush took office. That is 3.1 million private-sector jobs lost since President Bush took office.

The preceding statistics lay out a serious problem, but are we considering legislation to address these problems today? No, to the contrary, we are considering these free trade agreements that will exacerbate an already terrible crisis. We should be expanding the Federal financial commitment to education and job training initiatives, not expanding the number of foreign workers allowed in this country.

This is where our answer lies. Since this Nation was founded in the late 1770s, we have struggled with the roles the various parts of our Government should play in our education delivery system. In the late 1940s, with the creation of the GI Bill, the percentage of the entire federal budget dedicated to education was 10.7 percent. Some 50-plus years later, that amount has dwindled to slightly less than 3 percent, which includes elementary, secondary, and higher education.

The first significant financial influence by the Federal Government into elementary and secondary education occurred in 1965. Under the leadership of President Johnson, the original Elementary and Secondary Act came into existence. The original purpose was to distribute money to compensate for inequality of educational opportunity and to stimulate plans for school integration.

Throughout the last 38 years, that purpose has continued to be the foundation of the Elementary and Secondary Education Act. However, sufficient funding has never been provided and the purpose has yet to be fulfilled. Since its inception in 1965, Title 1—the heart of the ESEA law has served less than 50 percent of the children who should be served under the program.

Horace Mann, who is often credited with developing the American public school system said—and I am paraphrasing—that every human being that comes into the world has the right to an education. Horace Mann made that statement in the 19th century. Two centuries later, we seem to still be baffled as to how we provide a quality education to all who seek it. I don't believe the answer is that complicated.

First and foremost, the Federal Government must increase its role in funding. It must reach back into history and return to dedicating 10 percent of the entire Federal budget to education.

Right now, in this fiscal year, the Federal Government is providing $50 billion in discretionary funding for education. This compares to almost $400 billion for defense programs.

Providing sufficient funding for defense is very important. However, it is just as important to provide sufficient funding and leadership to have the world's greatest education system. And we do not.

Some may ask, where can we find the money for education? We can find the money when we all finally understand that it will be a severe detriment to the survival of this Nation if we do not.

By vastly improving the Federal Government's monetary responsibility to education, we would go a long way to provide the resources needed to: first, serve every student who needs title I assistance; next, cover many of the mandates included in the No Child Left Behind Act—the President's new law—next, provide for quality early childhood education; also, provide additional funding for Pell Grants and other student financial aid programs to improve access to postsecondary education; in addition provide quality professional development for all school personnel, with a special emphasis on math and science; and provide the full Federal share for the Individuals with Disabilities Education Act, IDEA.

When I first arrived in Congress in 1975, one of the first bills I worked on was the law that created special education, now known as the Individuals with Disabilities Education Act, IDEA. The purpose of this legislation is to ensure that children with disabilities receive the special education and related services they need and are constitutionally entitled to receive.

We recognized that children with disabilities often require specialized services and that educating children with disabilities could be twice as costly as educating children without disabilities. Therefore, we authorized the Federal Government to pay up to 40 percent of each State's excess cost of educating children with disabilities. Unfortunately, we have failed to actually provide the States with that 40 percent we promised. We are currently only providing slightly over 17 percent of the 40 percent we promised 28 years ago. That promise is far from being fulfilled.

Our education system is also stressed at the postsecondary level. We have a higher education system that is the envy of the world. However, many in this country are unable to pursue postsecondary education opportunities, not only because of not being prepared academically, but also because of the astronomical financial burden.

One-third of all seniors graduating from higher education institutions graduate with more than $20,000 in Federal loan debt. The financial strain is having a direct impact on our job market.

Almost every community is facing a teacher shortage. How many graduates leaving college with at least a $20,000 debt are willing to sign up for a teaching job that pays on average a beginning salary of about $25,000 to $35,000?

The cost of higher education is a particular problem for the high-tech industries and the health care industries. A number of jobs in these two areas require postgraduate work. Many do not go on to graduate programs because they can't finance the first part of it. This has been a factor in the dramatic increase over the last decade of the number of H–1B visas that have been issued, which I talked about earlier. Our country is lacking the skilled workforce necessary to address many of our needs.

One initiative designed to address our job training needs is the Workforce Investment Act, which provides job-training activities for adults and youth. Unfortunately, Federal funding for job training programs have dropped $1.63 billion since 1985. These funds have dropped at the time when they have been needed the most and we are cutting.

Mr. President, these are the initiatives that we should be focusing on to ensure that our citizens are prepared for and qualified for these jobs, not legislation that is going to fill these jobs with foreign workers.

The Senate needs to take a stand today. We need to make this stand not only for the protection of Congressional authority, but also for the protection of our unemployed and underemployed citizens.

Mr. President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, would I be in order to speak on the Chile and Singapore free-trade agreements?

The PRESIDING OFFICER. Without objection, the Senator may use his time for that purpose.

Mr. GRASSLEY. Mr. President, I rise in strong support of these two trade bills.

The Chile and Singapore trade agreements are state-of-the-art agreements that will provide real economic and strategic benefits to America's workers, farmers, consumers and industry.

S. 1416, the U.S.-Chile Free Trade Agreement Implementation Act, implements into law our first bilateral free trade agreement with a South American country. And I think it is appropriate that Chile be one of the first.

Chile's open economy is a model for much of Latin America. Because of its free market philosophy, Chile is one of the fastest growing economies in the world. Over the past decade it has established itself not only as a strong democracy, but also as a leading advocate of free trade.

Chile already has trade agreements with sixteen other countries, including Mexico, Canada, Mercosur, and the European Union. As a result, its trade with these economies has grown while the U.S. share of Chilean imports has dropped over 30 percent between 1998 and 2002. Years of delay in reaching a free trade agreement with Chile has reportedly cost U.S. companies over $1 billion in lost export potential. Clearly, it is time for us to get back in the game.

I also want to note how pleased I am about the strong agriculture market access provisions found in the U.S.-Chile FTA. More than three-quarters of U.S. farm goods exported to Chile will be duty free within 4 years of the agreement's implementation. Immediate elimination of tariffs on U.S.

products will provide up-front gains to U.S. exporters and, importantly, will level the playing field for our farmers, ranchers and workers as they compete with products from the EU and Canada. These provisions are complemented by the removal of unnecessary sanitary and phytosanitary barriers to U.S. agriculture exports.

But this agreement doesn't just benefit U.S. agriculture. It also provides groundbreaking market access across the board. The agreement will immediately eliminate tariffs on more than 85 percent of all U.S. goods, with most of the remaining tariffs eliminated within four years.

The U.S.-Chile FTA also opens new opportunities for U.S. banks, insurance, and telecommunications services. It provides new protections for U.S. investors and high levels of intellectual property rights protection. The U.S.-Chile FTA can also strengthen momentum in the ongoing negotiations to create a Free Trade Area of the Americas. In short, the agreement vastly enhances our economic opportunities in a growing and important region of the world.

S. 1417, the U.S.-Singapore Free Trade Agreement Implementation Act, implements into law our first free-trade agreement with an Asian Pacific nation. Singapore is our largest trading partner in Southeast Asia and our twelfth largest in the world. Singapore is also a strong ally in the war against terrorism.

The U.S.-Singapore FTA is good for America. It opens up new markets and creates new opportunities for many sectors of our economy.

This FTA will guarantee fair and non-discriminatory treatment for U.S. services firms. This benefits our service industries, such as banking, insurance and the telecommunication industries.

The agreement also includes state-of-the-art provisions on e-commerce, transparency and competition, and strong intellectual property rights protection. This agreement continues our goal toward greater trade liberalization and higher standards, not only in the Pacific, but throughout the world.

Both agreements we are discussing today are the first to be considered under Trade Promotion Authority, or TPA, procedures. This is the first time in our history that the Senate has approved two free trade agreements in a single day. The fact that we were able to achieve this goal is a testament not only to the high quality of these agreements, but also to the power of Trade Promotion Authority.

It was almost a year ago today that the House and Senate gave final approval to the conference report for the Trade Act of 2002. This historic piece of legislation empowered the President, for the first time in almost a decade, to negotiate free trade agreements utilizing Trade Promotion Authority procedures. Today, with the passage of these two agreements, we are using TPA to take some of our first steps toward reengaging the world through international trade. It is a welcome development.

A fundamental part of TPA procedures is consultations. The TPA act requires that the Administration consult closely with Congress throughout the negotiating process. I know the Bush administration took these consultation requirements to heart. A number of modifications to the agreements and to the implementing legislation were adopted as a result of these procedures. That is the way the process is supposed to work—a partnership between the Congressional and executive branch to craft the best trade agreements for the American people.

Like any partnership, the more you put into it, the more you get out of it. I am disappointed that some of my colleagues who did not engage on these agreements early in the process are now complaining about some of the provisions they contain. I hope we can avoid similar problems as we work on future agreements.

Without Trade Promotion Authority, the United States fell behind on trade. But now we are back on track. The goal of TPA is to knock down barriers to trade and allow U.S. companies to compete on a level playing field around the world. These two agreements achieve that goal and more. I strongly urge my colleagues to join with me today and vote to approve these two solid agreements.

Mr. President, at this time I wish to highlight a number of the ways in which we stand to benefit from the United States-Chile Free Trade Agreement and the United States-Singapore Free Trade Agreement. I have spoken previously on how our farmers will benefit from improved market access for our agricultural exports as a result of these agreements. I want to elaborate on the benefits to agriculture, particularly with respect to sanitary and phytosanitary measures. I also want to take a moment to focus on some of the other benefits of these agreements, specifically the benefits of the telecommunications, services, and intellectual property provisions in the agreements, as well as the benefits for U.S. exporters of manufactured goods. Finally, I want to clarify how the short supply mechanisms for textiles will operate in these agreements.

With respect to agriculture, the agreement with Singapore commits Singapore to maintain its current open market for the importation of farm products from the United States, while the Agreement with Chile removes numerous barriers that previously limited U.S. exports of agricultural goods to that country. Chilean tariffs on 75 percent of U.S. agricultural products will go to zero within four years. These products include soybeans, corn, pork, and beef, all of which are major Iowa commodities.

Chile is committed to removing its price band on edible vegetable oils, wheat, wheat flour, and sugar under the FTA. Chile used its price band mechanism to protect its domestic producers of these products by keeping domestic prices within a predetermined range through the use of additional duties. As recently as 2000, this price band caused effective tariffs on wheat imported into Chile to rise as high as 90 percent. With the implementation of the agreement, Chile will eliminate its price band mechanism with respect to U.S. exports over a 12 year period.

U.S. agriculture will benefit in yet other ways under the Chile agreement. For example, up until now, the failure of Chile to recognize U.S. beef grading programs effectively blocked U.S. beef in consumer cuts from entering the Chilean market. This situation will change with the implementation of the agreement, as Chile is committed to recognize the equivalency of U.S. beef grading programs.

As a result of talks held in conjunction with negotiations of the free-trade agreement, Chile agreed to remove various non-science based barriers to imports of U.S. agricultural products. Of particular interest to Iowa's hog and cattle producers, Chile agreed to recognize the equivalency of the U.S. meat inspection system. Prior to this decision, Chile prohibited the importation of pork, beef, and lamb from U.S. facilities unless those facilities paid for Chilean inspectors to travel to the United States to inspect and certify them. Given the costs involved with this process, few U.S. plants were eligible to export meat to Chile.

With Chile's new meat inspection equivalency policy, and with duties going to zero under the agreement, barriers to the entry of U.S. pork, beef, and lamb into Chile will be removed. Following further review of its sanitary and phytosanitary, SPS, measures in conjunction with talks with the United States, Chile also agreed to permit the importation of grapefruit from Florida and cherries and stonefruit from California.

Achieving the removal of unjustified SPS measures through talks with Chile demonstrates that enhancing our trade relations with other countries can indeed provide the impetus for our trading partners to remove non-science based barriers to imports of U.S. agricultural products. Our experience with Chile creates an important precedent for other trade agreements the United States is negotiating, such as the Australia FTA, the Central America FTA, and the Free Trade Area of the Americas. The fact is, without the removal of scientifically unfounded barriers to trade, duty-free treatment under future trade agreements will mean little. I'm pleased that talks with Chile led to the lifting of these unjustified SPS measures.

With respect to telecommunications, these agreements introduce an important new concept on flexibility of choice and technology neutrality. Under Article 13.14 of the agreement

with Chile, and Article 9.13 of the agreement with Singapore, Chile and Singapore will endeavor to not prevent suppliers of public telecommunications services from having the flexibility to choose the technologies that they use to supply their services, including commercial mobile wireless services. This technology neutral approach to the regulation of commercial wireless mobile services is consistent with the practices of the U.S. Federal Communications Commission, FCC, which neither promote nor impede the use of particular wireless technologies in the U.S. market.

These provisions constitute an important first step. They introduce a key regulatory concept into free trade negotiations that can help to enhance competition and consumer choice. These provisions can also create export opportunities for U.S. manufacturers of communications equipment and thereby preserve U.S. jobs that depend on trade in technology products.

However, I view these provisions as only a first step because they are nonbinding commitments. As such, they should be viewed as a floor, and not a ceiling, on standards for future free trade agreements. Going forward, we should strive to negotiate binding and enforceable commitments in our free trade agreements, to ensure that suppliers of commercial mobile wireless communications services are not prevented by governmental action from using the technology of their choosing to provide such services. Only then will we guarantee that U.S. technology suppliers enjoy market opportunities and benefits similar to those that foreign suppliers receive in the U.S. market.

Services are another critical component of our economy. Services now account for 65 percent of the U.S. economy, and 28 percent of the value of our exports. With respect to services, the agreements establish an important precedent by adopting a comprehensive ''negative list'' approach, whereby any exception to the liberalization obligations contained in the agreements must be specified. This broad approach is preferable to that contained in the WTO General Agreement on Trade in Services GATS, whereby countries specify their commitments rather than exceptions. The negative list approach means more obligations for Chile and Singapore to liberalize their services exports and more jobs right here in the United States. The agreements also broaden commitments, so that they apply to government-owned or government-controlled enterprises.

With respect to intellectual property protection, these agreements generally set out among the highest standards of protection and enforcement for copyrights and other intellectual property yet to be achieved in a bilateral or multilateral trade agreement. These protections will permit the growth of trade in digital technologies and products while still protecting the legitimate rights of copyright owners. Strong enforcement provisions require the application of criminal procedures and penalties in cases of trademark counterfeiting or copyright piracy on a commercial scale, and both Chile and Singapore commit to seize, forfeit, and destroy counterfeit and pirated goods and the equipment used to produce them. These protections will apply to goods-in-transit and mandate both statutory and actual damages under Chilean and Singaporean law for intellectual property rights violations.

The agreements also incorporate a principle of ''first in time, first in right'' to trademarks, whereby the first to file for a trademark is granted the exclusive right to that name, phrase, or geographical place name. This approach creates an important precedent that we should seek to replicate regionally and globally, particularly in the face of efforts by the European Union to unduly expand protections for geographical indications in the WTO.

With respect to manufactured goods, Chile's commitment to eliminate tariffs immediately on 85 percent of U.S. exports, including such key sectors as computers and other information technology products, provides immediate benefits to U.S. manufacturers. By entering into this agreement, Chile will embrace the duty reduction commitments reflected in the 1996 Information Technology Agreement. These commitments can create new export opportunities for our manufacturers, which is critical in this period of increasing unemployment.

The National Association of Manufacturers has estimated that the absence of a free trade agreement with Chile has cost us about 20,000 job opportunities annually, and over $1 billion dollars in export potential. Well, that's about to change with the implementation of this agreement. And that is just the start. We need to aggressively pursue additional free trade agreements that will expand market access opportunities for our farmers and our manufacturers, to help add jobs to our economy and reverse the current trend in unemployment.

Finally, I note that the Finance Committee has received inquiries regarding the textile commercial availability provisions in the Chile and Singapore Agreements. I asked the Office of the United States Trade Representative to clarify the operation of the short supply provisions in these agreements, and I want to share that clarification today.

All products designated as not commerically available prior to November 2002 under the African Growth and Opportunity Act, AGOA, and Caribbean Basin Trade Partnership Act, CBTPA, preference programs would be deemed as not commercially available under the Singapore agreement. The Chile agreement does not incorporate such a provision. In the future, for both the Chile and Singapore agreements, to designate an item as not commerically available would require consultations under the provisions for revision of the rules of origin contained in each agreement. These provisions require the parties to consult, upon request, to consider whether particular goods should be subject to different rules of origin to address issues of availability of the supply for fibers, yarns, or fabrics in the free trade area, and require the parties to endeavor to conclude their consultations within 60 days. I hope that this clarification proves helpful.

In sum, I strongly support the Chile and Singapore free-trade agreements. I support them because they open markets for U.S. exports of agricultural products and manufactured goods. I support them because they open markets for U.S. exports of a wide array of services. I support them because they will create opportunities for job growth here in the United States. I support them because they enhance protections for intellectual property rights holders here in the United States. And I support them because they establish important precedents for future negotiations. For these reasons, I urge each of my colleagues to support the implementing bills before us today.

Mr. President, I rise to address the benefits to U.S. agriculture from the United States-Chile Free-Trade Agreement. U.S. agriculture needs trade agreements to expand sales and farm incomes. Since 96 percent of the world's population resides outside the United States, access to foreign markets is essential for the continued growth and viability of U.S. agriculture. Bilateral agreements such as the Chile FTA are essential because they provide strong benefits to U.S. farmers.

This agreement will provide America's farmers and ranchers new access to Chile's market of 15 million consumers. This agreement is comprehensive, calling for eventual duty-free, quota-free access for all products.

On tariffs, more than three-quarters of U.S. farm goods exported to Chile will be duty free within 4 years of the agreement's implementation. Let me just name some of the specific U.S. products that will benefit. Under the FTA, Chile will provide immediate duty-free access for soybeans and pork, two major Iowa products. Chile will also immediately eliminate its tariffs on U.S. apples, pears, cherries, breakfast cereals, pasta, and bread. Corn grown in Iowa and other States will receive duty-free treatment in 2 years. The agreement provides for duty-free access for beef offal immediately, and for all U.S. beef products within 4 years.

Under the FTA, Chile commits to recognize U.S. beef grading programs. I should note as well that, through talks held in conjunction with the FTA negotiations, Chile agreed to recognize the equivalency of the U.S. meat inspection system. Chile's recognition of the equivalency of U.S. meat inspections

and U.S. beef grading should greatly facilitate the export of U.S. pork and beef to Chile.

Chile's price band mechanism has been a major concern to many U.S. agricultural exporters. Well, under this agreement Chile will not only allow U.S. exports of durum wheat and pasta to enter duty free, but will also eliminate its price band mechanism for common wheat and flour in 12 years. This will open Chile's market to U.S. exporters for wheat and wheat flour.

American agriculture recognizes a good deal when it sees one. Let me read an excerpt from a July 9 letter from 32 agriculture organizations:

> Mr. Majority Leader, the undersigned organizations urge your support and vote for the Free Trade Agreement with Chile. The U.S.-Chile FTA, provides new market opportunities for U.S. agriculture products and resolution to outstanding trade concerns that U.S. producers have experienced with Chile.

And the letter is signed by such groups as the American Farm Bureau, the American Soybean Association, the National Corn Growers Association, the National Pork Producers Council, and many, many others.

This is a strong agreement for American agriculture. It sets a new standard for what we can achieve for American agriculture in a free-trade agreement. I urge my colleagues to do the right thing for American agriculture and support this strong trade agreement.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that after I complete my statement, the Senator from Louisiana be recognized for 15 minutes, and then the Senator from Texas, Mr. CORNYN, be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object, I understand the consent request is for the Senator from Arkansas, then the Senator from Louisiana, and then the Senator from Texas. For how long is the Senator from Texas going to speak?

Mrs. LINCOLN. Fifteen minutes.

Mr. HARKIN. Mr. President, I would like to amend that request so that after the Senator from Texas speaks, this Senator from Iowa be recognized for 15 minutes.

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

HONORING OUR ARMED FORCES

Mrs. LINCOLN. Mr. President, in March, Senator HUTCHISON from Texas and I joined to coordinate a daily tribute to the troops in recognition of the men and women serving in combat in Iraq. We developed these tributes as a way to honor the sacrifices of the soldiers serving in the Middle East as they fought to depose the brutal regime of Saddam Hussein.

The response was impressive, and I thank Senator HUTCHISON for working with me on this initiative, not to mention all of our colleagues who contributed, who came to the floor to share with one another, as well as the rest of this Nation, the incredible sacrifices being made by the service men and women of this country.

Given recent developments in Iraq, I wish to take a few minutes today to revisit the tribute to the troops.

On Tuesday, I learned that Jonathan Marshall Cheatham, an Army PFC from Camden, AK, assigned to the 498th Engineer Battalion, died in Iraq on Saturday.

Jonathan's convoy came under attack by enemy forces firing rocket-propelled grenades while traveling near Baghdad. Jonathan was killed in the attack. He was 19 years old. Our thoughts and our prayers—all of ours, not just mine as a Senator from Arkansas, but from all of the U.S. Senators—are with his mother Barbara Prochia and with his family and friends at this time of loss.

Jonathan was one of 51 American soldiers who have been killed in combat since the President declared an end to major combat operations on May 1.

In all, 164 U.S. soldiers have died in combat in Iraq. This is a stark and vivid reminder that, even though the major combat portion of the war may have been declared over, our troops are still fighting and they still face grave threats.

Let us not forget the challenges that these troops are encountering.

Marine Cpl Jason Smedley of Little Rock, who worked in my office prior to his service in Iraq, was wounded in combat on March 28.

I am happy to report that Jason has recovered from his injuries and has returned to work as a member of my staff here in Washington, DC this week.

Jason has regular contact with his friends and comrades with whom he fought in Iraq. Some have returned home.

Many have spent months thousands of miles away from their homes and families, stationed in a desert where the mail does not flow regularly and where they receive little news of what is happening at home.

For many of these young men and women, the undependable nature of communication causes tremendous stress and anxiety.

Many of them, trained for combat, are frustrated that they lack the training and tools to meet the challenges of a peace-keeping mission.

Others tell of the difficulties of being separated from their families.

Jason tells me of one Marine, Sergeant Eric Johnson, whose wife gave birth to a child in February. Only recently did Sergeant Johnson hold his five-month-old son for the first time.

I have no doubt that there are many other families trying to cope with similar difficulties.

Among the reservists who are serving in Iraq, there are other pressures.

Many of the troops serving in the Reserves have now been on active duty for up to 6 months or longer, meaning that they have been drawing only reserve pay over that time.

Their families are struggling to make ends meet, but they have no idea when their tour of duty will end or when their financial difficulties will be alleviated.

The sacrifices that these young men and women are making for their country are simply astonishing, and it is unlikely that we will ever be able to adequately repay the debt we will owe them.

Earlier this month, I received word from a doctor, a native of northeast Arkansas, who is currently serving in Iraq.

He and his unit were traveling to a military hospital about 45 miles north of Baghdad, where he would treat U.S. casualties.

He wrote of a vehicle traveling in front of his in traffic being hit by a rocket-propelled grenade, killing one person and injuring three others critically.

Upon arrival at the hospital, his camp received mortar fire three times in one night. He noted that ''luckily, the Iraqis are poor shots.''

On the Fourth of July, this young man was flown on short notice back to Baghdad, where extra surgeons were needed.

He noted that after he departed for Baghdad, his camp was attacked yet again, and that a tent about 100 meters from his was hit by mortar. Ten casualties resulted from that attack, he reported.

I point to this dramatic narrative because it illustrates a couple of important points I hope we do not lose sight of.

First, the war in Iraq is far from over.

I will note that each of the communications we have received from this brave young doctor, he has talked about coming under mortar fire from Iraqi irregulars, or watching coalition forces launch counter-attacks.

A good part of his labor centers on treating men who have been wounded in combat.

Clearly, even if the end of combat operations has been declared, the threat to our troops is ongoing.

As casualties mount and our troops continue to face daily dangers, it is important that we redouble our efforts to stabilize the country and help Iraq on the way to become a democracy.

Secondly, we should all recognize that, although our troops are faced with extremely difficult conditions, they continue their mission with courage and with a sense of duty and commitment. And they are making progress.

We learned last week that Saddam Hussein's brutal sons and presumptive heirs were killed by coalition forces in a firefight near Mosul.

Since then, coalition soldiers have received more tips and more information which will lead to the capture or elimination of Baath party holdouts and Iraqi guerrilla fighters.

Indeed, each day brings news that the noose may be tightening around Saddam Hussein himself, as bodyguards, aides, and others close to the former dictator are captured and interrogated.

We should do all we can to ensure that this progress continues, and we should ensure that our armed forces have the troops, materiel, and supplies they need to get the job done.

Finally, I would like to note that a National Guard unit from Arkansas, the 39th Infantry Brigade from Little Rock, is expected to be deployed in Iraq in April of next year, to augment security and to allow for troop rotation so that troops currently stationed in Iraq can be relieved.

With 3,400 people in the brigade, it is expected to be the largest deployment of National Guard troops from Arkansas in our State's history.

These men and women are preparing to spend a year in Iraq, at great sacrifice to themselves and to their families, so that we can look forward to a more secure future.

We owe all of them a tremendous, tremendous debt for their service.

All of us in this body are proud of the service men and women who are serving under incredible circumstances, in incredible times, and doing the best they can possibly do. We wish them the best, and we wish they are able to finish the job and return home as soon as possible.

I know my colleagues join me in again paying tribute to the troops, recognizing the incredible service of these service men and women who serve our Nation so proudly from each of our States. The different soldiers who are going out into battle, who are putting themselves in harm's way, we are lifting them up daily in our prayers, as well as their families, their needs, and their concerns. We hope we can bring this to a speedy end and we can make sure that they are all brought home as safely.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I associate myself with the remarks of my colleague from Arkansas who, along with our colleague from Texas, has organized and continues to organize a very appropriate tribute to our troops to let them know that while we work, while we try to fashion an Energy bill, while we pass trade legislation, while we attempt to pass the 13 appropriations bills that fund this Government, including the Department which funds their operations, we keep them in our minds. They are on our minds in the morning, at noontime, the early afternoon, and early evening, as it is today. I thank my colleague for her remarks, and I know she wishes the troops from Arkansas well and that they return home safely, as I do those from Louisiana, as does our whole Nation. So I thank her.

I will spend a few minutes speaking about the major issue at hand, and that is our Energy bill and our attempts to fashion an energy policy for our Nation. For a great part of the time since last Friday, the Senate has been engaged in a very important debate on this very complicated and far-reaching subject. That debate has followed along several weeks of intense debate and hard work done on the part of Democrats and Republicans on the Energy Committee to try to fashion a bill a majority of the Senators could support.

I have been in meetings myself all day on and off the floor about that very subject, and hopefully those meetings are proceeding well, trying to come up with some compromises to move us forward, to proceed so we do not get stalled on this energy legislation.

I remain very hopeful at this hour that those negotiations will be fruitful so we can continue our push, our bipartisan effort, to fashion a bill that increases supply, reduces demand, puts new measures in place that require conservation and that also will protect consumers in a new, more deregulated way.

Those are high goals, but they are important goals because if we do it right, consumers can save a great deal of money. If we do it right, we can save jobs. If we do it right, we can help this economy to get a strong foothold toward recovery. If we do it right, we can help our industries be more competitive and, in doing so, save and preserve jobs in the United States and increase prosperity.

I wanted to take a moment, while we had this time, to focus on one of the most important aspects of an energy policy, and, first, to recognize that most of the debate this week has rightly been Senators expressing their outrage at what went wrong in the last 12 or 15 months: The description brought again so vividly to the Senate floor by the Senator from Washington, Ms. CANTWELL; the comments made by Senator FEINSTEIN; the comments made by other Senators on the travesty that occurred in California and the outrage of the constituents there because of the doubling and tripling and quadrupling of energy prices.

I most certainly understand. We, ourselves, in Louisiana have been experiencing higher prices for different reasons. I understand that frustration.

As much as I support some—not all but some—of their efforts to remedy that situation, I will spend a few minutes talking about one of the real causes of that problem. While there was deception, there was manipulation, there was wrongdoing—and people like Ken Lay and others need to be on their way to jail, and we hope the prosecution will be vigorous for that wrongdoing—we would not be giving our constituents the whole picture if we did not talk for a minute about the underlying cause of that debacle. It is simply a lack of supply.

We have for the last 20 years implemented policies in this Congress that have mandated a dramatic increase in natural gas. Yet we have also mandated the same policies or allowed policies to develop that decreased our chances of producing natural gas.

As my chart shows, our main energy problem—what has happened and the reason we are spending weeks, and if we have to spend months, so be it—is we have to close this gap between natural gas demand and natural gas availability. That is what is causing the price of natural gas to be at historic highs and, quite frankly, at dangerous levels because it undercuts this economy.

Let me give a few specifics. Natural gas provides nearly 25 percent of the energy that powers our $10.5 trillion economy. I repeat: 25 percent of our entire economy rests on our natural gas policy. It is out of whack. When it is out of whack, it causes serious problems and serious consequences. That is what we are experiencing. More than 55 percent of residential customers use natural gas.

Visualize walking along any neighborhood in the country. In New Orleans, along Napoleon Avenue where I grew up; think about walking down Grand Isle, little Main Street on an island. I was just there a few weeks ago. Maybe you are in a suburb right close to Washington or maybe right on East Capitol Street. Every other house—50 percent of residential consumers—has natural gas access.

We have a shortage. When there is a shortage, prices go up. This country will see an increase, it is estimated, from $534 in 1999 to $900 in 2003. That means consumers—every other house, basically—will pay $70 billion more for gas in 2003 than they did in 2002. We gave a tax cut of $340 billion. Average it over 10 years, it is $34 billion. We are giving a tax cut of $34 billion. Yet because of our energy policy, we are taking $70 billion out of the pockets of residential customers.

It makes no sense. That is why people can say: Thanks for the tax cut, but I am not really feeling it because you are giving it on the one hand and taking it away on the other.

We have a solution. Natural gas is not only a fuel but an essential raw material for feedstock. Each year, the U.S. chemical industry converts 20 percent or $20 billion of natural gas-based fuel and feedstock into more than $200 billion of essential consumer products. When people say to me, Senator, your State is a natural gas State, you are concerned about natural gas, I am concerned about natural gas because, of course, it fuels every other house in the country, but also because it fuels so many of the plants that create all of the products we use for a variety of our entities, a variety of goods in our economy that we use every day, from plastics to chemicals to fertilizers. More than a million people work daily in the U.S. chemical industry, and 5 million people work in dependent jobs; that is 6 million jobs.

If I have to stay on the Senate floor all day today, all day tomorrow, if I

don't leave for the August recess, it is fine with me because we need to get people back to work. I know that even if we passed the most well-crafted tax policy, no matter if we pass the most well-crafted trade laws, no matter what we pass, if we do not pass an Energy bill that gives some vision for the future, confidence to the market and an increased supply and conservation, we are not going to be able to do anything else here that will save these jobs or create jobs for Louisiana or for the Nation as a whole.

This is not just an Energy bill; it is a jobs bill. At a time when our economy is weak, this Senate needs to be about jobs. That is why I hope these negotiations will be fruitful. We need a good bill.

In my State of Louisiana, ammonia plants in particular are feeling the effects. For these plants, the cost of natural gas represents 70 to 90 percent of the total cost of manufacturing. If I cannot get them relief on their price of natural gas, if I cannot help get this bill through, and we do not have some relief in sight, these plants will close, thousands of jobs will be lost, they will move overseas, and they are not coming back.

It is not like closing an office temporarily until conditions improve and then everyone shows up a few months later. These plants are huge. There is a tremendous amount of steel and processing equipment. When they close, they are not going to reopen.

We have gone from nine companies employing more than 3,500 people to three companies employing less than 100.

There is a solution: Improving our drilling opportunities in appropriate places for natural gas—out West, in the gulf coast, and importing liquefied natural gas is a start.

In my last 3 minutes I will explain one basic issue that gets to the heart of what I am trying to communicate. Again, let me say so that no one can say that Senator LANDRIEU is not concerned about deception and manipulation and scams that went on, I promise, the manipulation, deception, and scams were not the primary cause of our dilemma today. It was a cause, it was a significant cause, and it was criminal in many cases, but it was not the primary cause.

The primary cause is some States, in the last 20 or 30 years, consumed a lot of energy, but do not produce energy. I have a chart illustrating statistics from our Energy Department, including all types of fuels and energy: Nuclear, hydrogen, geothermal, wood, wind, waste, solar, oil, natural gas, and coal. This is from the U.S. Department of Energy, the Energy Information Agency. This includes all types of energy minus consumption. The States in dark red on the chart are the States that consume much more energy than they produce. And they are rated from the top, which is California; the second is New York; third is Ohio; and fourth is Florida. And it goes down to the States that produce more than they consume. They become net exporters of energy, the best State being Wyoming, then Louisiana, then West Virginia, Alaska, and it goes up.

Let me be quick to point out, because this is a very important chart, the country can never be energy independent until these States, and the regions they are in, become energy independent. One of the things the chairman, the Senator from New Mexico, has been trying to help this Congress understand is that you cannot even begin to be energy independent until these States and these regions come to terms with the fact that they are consuming huge amounts of energy and they are not producing. They have two choices: They can either cut their consumption, they can cut their consumption and can conserve anything they want, or they can produce more energy.

So that is part of what our chairman and ranking member, both from New Mexico, have been trying to explain to us.

I am going to submit this for the RECORD.

We have an energy deficit in this Nation. No matter how you look at it, no matter how many people you put in jail, no matter how much consumer regulation you put in place, we have a serious energy deficit. Until this is corrected, no matter what we do, we are still not going to have the kind of energy policy in this Nation that will help us keep jobs in America and strengthen our economy.

In conclusion, I want to say how proud I am that Louisiana is a producing State and we not only consume what we produce but we export energy. We are proud to do that, and we will continue to do that in appropriate, environmentally sensitive ways.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I have a few remarks I would like to make on the free-trade agreements with Chile and Singapore. Before that, I have some matters of housekeeping.

Mr. President, I ask unanimous consent that the time Senator HOLLINGS consumed be counted against the time he controlled on H.R. 2738 and H.R. 2739, the trade agreements.

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

FREE-TRADE AGREEMENTS WITH CHILE AND SINGAPORE

Mr. CORNYN. Mr. President, I rise today to speak in favor of the free trade agreements with Chile and Singapore.

These agreements are consistent with the longstanding policy of the United states to negotiate agreements that reduce foreign trade barriers, increase export opportunities for American businesses, and create jobs for American workers.

I understand the concerns of my colleagues about certain immigration provisions contained within these two agreements. I recently helped chair a Judiciary Committee hearing where representatives of the United States Trade Representative's office explained the reasoning for such provisions. I also had the opportunity to discuss this issue with Ambassador Zoellick last week in person.

The fact is that our lack of a free-trade agreement with Chile today costs American exporters an estimated $800 million per year in sales, affecting approximately 10,000 U.S. jobs. That's an enormous amount and that's just one of the reasons I am in favor of these free-trade agreements, because I believe they will be good for American markets, American businesses and American workers.

Immigration policy is the responsibility given to Congress under the Constitution. I assure my colleagues that enactment of these agreements does not infringe in any way on that authority or responsibility.

The United States Trade Representative has been very responsive and open to the concern of Senators. On at least seven occasions since October of last year, USTR provided formal briefings to Judiciary Committee staff about the immigration sections in these treaties. USTR has welcomed the input of Senators on immigration and other issues covered by these treaties.

Over the past several months, some of my colleagues have expressed reservations about the temporary nature of the visits under these agreements, as well as the funding for the new visa program, time limitations for these temporary visas, and numerical limitations.

The legislation we are being asked to vote on today represents the results of negotiations between the members of both parties on the Judiciary Committee and the USTR. With respect to the substance of the immigration provisions, there was bipartisan consensus about the content. All of us want to promote trade, but we also want to protect American workers from those who abuse our immigration laws.

Ambassador Zoellick recently expressed to me that he does not approach negotiations with the intention of including immigration provisions. Circumstances vary according to each negotiation and each country involved. Negotiating flexibility must be maintained to produce agreements that provide maximum benefits to American workers.

The inclusion of the immigration provisions protects the interests of U.S. businesspeople and will better enable them to pursue overseas opportunities to increase American exports. In most immigration matters, the United States expands the number of visas for foreign workers without receiving reciprocal assurances from other countries for access for Americans.

The Chile and Singapore free-trade agreements will enable an unlimited number of American businesspeople to

reside in these two countries while capping the number of annual entries at 1,400 from Chile and 5,400 from Singapore.

These limits will protect American business interests and American workers. And I applaud the U.S. Trade Representative's office for its efforts in reaching these agreements with Chile and Singapore.

At the same time, I believe this initial experience with this new authority which Congress has conferred on the President, to negotiate these agreements subject to an up-or-down vote in the Congress, has given the U.S. Trade Representative an increased appreciation for the need to actively consult with Congress on matters as sensitive and significant as immigration issues. Failing that, there is no question in my mind that future free-trade agreements are unlikely to receive Senate approval, and that would be a shame.

The United States-Chile free-trade agreement will provide numerous opportunities for United States workers and manufacturers.

U.S. companies currently operate at a disadvantage because competitors such as Canada, Mexico, and the European Union already have free-trade agreements with Chile. As I said before, our lack of an agreement costs American exporters an estimated $800 million per year in sales, affecting approximately 10,000 U.S. jobs.

The agreement with Chile will eliminate tariffs immediately on more than 85 percent of consumer and industrial goods, and most remaining tariffs will be phased out within the next 4 years. The result will be a $4.2 billion increase in the US GDP and a $700 million increase in Chile's GDP.

The U.S.-Singapore free-trade agreement will have a similar effect on trade and economic liberalization in Southeast Asia.

Despite its small size, the economy of Singapore is robust and highly competitive. Roughly 1,300 American firms have a significant presence in Singapore, including 330 regional headquarters for American businesses. The establishment of a free-trade agreement with Singapore will further increase opportunities for American workers through improved access to this important market.

I believe these free-trade agreements will be good for American markets, American businesses and American workers, and I will vote accordingly. I respectfully ask my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa is recognized for 15 minutes.

Mr. SESSIONS. Mr. President, I wonder if the Senator from Iowa would allow me to proceed for 2 minutes.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senator from Alabama be recognized for 3 minutes after which I then be recognized for my 15 minutes.

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

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I very much thank the Senator from Iowa.

I have been inclined to be supportive of these two treaties with Singapore and Chile. They came up in the Judiciary Committee. I was very surprised to see we will be amending immigration law. As I listened to the debate from other members of the committee, I concluded at that point I could not support the treaties. I voted no. I don't think there were a large number of people in the committee who voted no. But I did not like the fact that the first fast-track treaty had come up with amended immigration law which is under the plenary power of the Congress, and it is not capable of being amended. It is not capable of being changed. I think it is a bad mistake to do that.

Subsequent to that, we have worked hard to put in as part of the passage of this treaty a sense of the Senate. That sense of the Senate says:

> Trade agreements are not the appropriate vehicle for enacting immigration-related laws or modifying the current immigration policy; and future trade agreements to which the United States is a party and the legislation implementing the agreements should not contain immigration-related provisions.

This is really an important issue. I want to support this treaty. I hope to be able to support this treaty. Maybe I will be able to support this treaty. But I certainly respect the people of Singapore and respect the people of Chile. They are allies and friends. We want to work with them and improve trade. Hopefully, we will be able to do that.

In my home State of Alabama, Singapore has a 1,000-personnel company that is doing great business. I am proud of their work and enjoy getting to know those people. It is an important part of the community of which I am a part, which is an example of some of the good things that come from trade.

But we are concerned. A lot of the Members of this body are concerned. This crystal-clear sense of the Senate without equivocation says do not bring us any more treaties with these kinds of amendments on them. If you do, they are going to be in danger.

IMMIGRATION PROVISIONS IN THE SINGAPORE AND CHILE FREE TRADE AGREEMENTS

While I want to support agreements, the inclusion of immigration-related provisions in the legislation before us is deeply troubling.

Let met tell you what has happened-The U.S. Trade Representative, USTR, by implementing new immigration provisions in treaty negotiations, has encroached on the role of the legislative branch, without consent from this Congress.

The ''temporary entry'' sections that are in the Singapore and Chile trade agreements should not be there. Because of the fast-track process, Congress is not allowed to take out the immigration provisions that we don't like, no amendments are allowed. We are only allowed to vote up or down on these agreements.

The inclusion of immigration provisions in the Free Trade Agreements with Chile and Singapore has directly interfered with Congress' plenary power to regulate the nation's immigration policy. The power to make immigration law belongs to Congress alone and includes both the temporary and permanent admissions of foreign nationals into the United States.

Article I, Section 8, clause 3 of the Constitution authorizes Congress ''to regulate Commerce with foreign Nations, and among the several States'' and Article I, section 8, clause 4 of the Constitution provides that Congress shall have power to ''establish a uniform Rule of Naturalization.''

The Supreme Court has long interpreted the Constitution to grant Congress plenary power over immigration policy. As the Court found in *Galvan* v. *Press*, 347 U.S. 522, 531 (1954), ''the formulation of policies [pertaining to the entry of aliens and their right to remain here] is entrusted exclusively to Congress has become about as firmly imbedded in the legislative and judicial tissues of our body politic as any aspect of our government.'' And, as the Court held in *Kleindienst* v. *Mandel*, 408 U.S. 753, 766 (1972) (quoting *Boutilier* v. *INS*, 386 U.S. 123 (1967)), ''[t]he Court without exception has sustained Congress' 'plenary power to make rules for the admission of aliens and to exclude those who possess those characteristics which Congress has forbidden.' ''

At the hearing before the Senate Judiciary Committee on these agreements, the witness for the U.S. Trade Representative, Mrs. Regina Vargo, was asked what legal authority the U.S. Trade Representative, USTR, was relying on as a basis for including immigration law negotiations in trade treaties.

The USTR witness responded by differentiating between temporary and permanent entries into the United States, stating that because the Chile and Singapore Free Trade Agreements only contained provisions regarding temporary entries of foreign persons, the USTR was acting within the bounds of its negotiating authority.

This assumed authority was again stated by the USTR in the written answers that they submitted to the written questions submitted by members of the Judiciary Committee. This is not the case and I want to make it clear to the USTR that they do not have the authority to negotiate immigration law on behalf of the Congress. By negotiating and including immigration law provisions in a binding bi-lateral treaty that Congress does not have the power to amend, the USTR has established a dangerous precedent that will not be tolerated in future trade agreements.

Instead of changing the immigration law under these agreements for citizens

of Singapore and Chile, it would have been especially appropriate for the USTR to ensure that employers who repeatedly use the visa programs established under these trade agreements abide by all current U.S. laws governing the entry of these foreign workers.

As a Senator of this committee, which has jurisdiction over immigration policy, it is my duty to preserve the plenary power of Congress to make immigration policy. I am dedicated to opposing any erosion of that power. After the Judiciary Committee Hearing, I, along with Senator GRAHAM of South Carolina and Senator FEINSTEIN, sent a letter to the USTR asking them to withdraw the trade agreements and submit them again without the temporary-entry/immigration provisions.

Before we vote on the Chile and Singapore Trade Agreements, this Senate will unanimously pass a resolution I introduced. The resolution states that it is the sense of this Senate that:

> Trade agreements are not the appropriate vehicle for enacting immigration-related laws or modifying current immigration policy; and future trade agreements to which the United State is a party and the legislation implementing the agreements should not contain immigration related provisions.

I am glad that a strong statement defending Congress' authority over immigration law will be made today. I fully intend to defend that statement and ensure that future trade agreements comply with the unanimous desire of this body.

One reason I am so concerned about the inclusion of the immigration provisions is that four visa categories are permanently affected by the agreements. The legislation before us today effects four types of current visas:

No. 1. The H–1B—''highly skilled worker'';

No. 2. the B–1—business visitor;

No. 3. the E–1—treaty trader or investor visa; and

No. 4. the L–1—intra-company transfer visa.

H–1B requirements under the Chile and Singapore agreements are weaker than the requirements for other H–1B workers. The agreements require, without numerical limit, that business persons in the other three visa categories be entitled to entry. Under the H1–B category, this legislation permits the admission of up to 5,400 professionals from Singapore and up to 1,400 professionals from Chile each year.

This legislation also permits the almost unlimited renewal of the H1–B visas each year, which could have the effect of turning a temporary entry visa program into a permanent visa program; and

These agreements also require that dependent spouses and children be allowed to join the H1–B professionals that enter under these agreements—with no numerical cap.

I am concerned about including permanent immigration changes in trade agreements when we have unemployment among U.S. workers. I am dedicated to preserving the jobs of U.S. workers whenever possible. I welcome, when appropriate, foreign industries within our borders, and, when appropriate, I fully support foreign workers coming here to work.

But, I also believe that the suspected abuse surrounding some immigration visas should be examined—such abuse is possibly contributing to the level of unemployment in the U.S.—including the record unemployment level for U.S. high-tech workers. The only way to protect the job market for American workers is to preserve Congress' plenary power to make laws that affect the ability of foreign workers to displace American workers from their jobs. That is why the Judiciary Committee has hearings to oversee how the visa programs we have enacted are working. Just this week we held a hearing to examine the L–1 visa, one of the visa categories affected by these trade agreements.

After that hearing, Congress may decide that we need to reform the L–1 visa category. Any provision of a future trade agreement that restricts the ability of this Congress to reform such programs and to therefore protect U.S. jobs will not be looked upon favorably. If the U.S. Trade Representative continues to negotiate treaty terms such as the ones before us today, I will be unable to support them.

I deeply desire to support Chile and Singapore and had fully planned on voting for the Free Trade Agreements at every turn. I look forward to working with colleagues from each nation, but in particular, the businessmen and women who are engaged in the expansion of trade between our respective business communities. In Alabama we are indeed fortunate that several companies from Singapore found opportunities in Alabama—opportunties they developed into thriving businesses.

One such business is located in my home town of Mobile, Alabama. Mobile Aerospace Engineering—MAE—is Singapore owned, but more importantly it is a vibrant business employing over 1,000 local workers. MAE is a community leader not just in the number of its employees, but in its community outlook and community involvement. My visits have revealed that Singapore is indeed a valued economic partner and trusted ally.

I believe the Governments of Singapore and Chile clearly understand the message my colleagues and I have communicated to the USTR. Our commitment to trade is not diminished; our message however is quite clear: trade agreements are not the appropriate vehicle for enacting immigration-related laws or for modifying current immigration policy.

I thank so much the distinguished Senator from Iowa for his courtesy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I am a long-time supporter of policies designed to open foreign markets to our Nation's exports through new trade agreements. I have fought to break down the barriers that many other countries have erected to block our exports, and I have sought to reduce the practices by which many of them seek to compete unfairly in world markets. More fair trade can create jobs here at home, and American consumers can benefit from the resulting competition.

In 1991, I took a trip to Chile to gauge the prospects of entering into a free trade agreement with Chile, and I returned favorably disposed. I thought that we should negotiate a free trade agreement with Chile before doing so with Mexico, and I communicated that to the President at the time.

However, trade is not just about commercial transactions and whether or not imported products become cheaper and exporting companies increase their profits. Trade policy and the consequences of trade are linked with the preservation of the natural environment in both countries that are party to an agreement, as well as the legal rights and working conditions of workers. I take these matters into consideration when I determine whether or not to support a given trade agreement, as well as the economic gains that may be generated.

I am aware that U.S. groups representing a considerable variety of agricultural products support the Chile FTA. A total of 32 farm groups, producer groups, and agribusiness interests signed a letter in July, urging support for the agreement. Even some of those organizations have concerns about market access for specific products, or about addressing trade reform through a bilateral, rather than a multilateral agreement.

Over the 1998–2001 period, U.S. companies shipped an average of $125 million worth of agricultural goods to Chile, accounting for about 10 percent of their total agricultural imports. Until now, or major competitors in the hemisphere, Argentina and Brazil, have had an advantage in the Chile market because of their proximity and Chile's status as an associate member of Mercosur, the South American regional trade agreement. This FTA should help to level the playing field, although the cost of shipping goods more than 5,000 miles to the Chile market will always be a factor in determining the attractiveness of U.S. products.

Both of the trade agreements we are considering—the Chile and the Singapore agreements—also are good for the U.S. financial services sector. The president of Principal International, Norman Sorensen, testified recently before the Senate Finance Committee, and he listed a number of benefits for Principal and for other financial services companies. I note that Principal Financial Group is a major private employer in my State of Iowa.

Trade agreements—on the right terms—promise many benefits and opportunities. Notwithstanding these

benefits, we have increasingly come to realize in recent years that issues previously not considered to be trade issues in fact are trade issues intellectual property being one of those most prominent. That is why I have worked hard to improve the labor provisions in various trade measures, concentrating particularly on abusive and exploitative child labor. I want trade agreements to promote fair trade, fair competition, environmental protection and good labor conditions in all countries. That means trade agreements that support and reinforce existing international child-labor standards, not undercut them.

In examining any trade agreement, we must weigh the balance of these considerations. In the cases of the agreements now before us, I have reluctantly concluded that the benefits do not outweigh the potential harm.

As many of my colleagues know, I have been working on reducing abusive and exploitative child labor around the world for over a decade. I first introduced a bill on this issue in 1992. According to the best estimates by the International Labor Organization—ILO—there are at least 352 million child laborers between the ages of 5 and 17 who are engaged in today's global economy.

Of these 352 million child laborers, 246 million have never seen the inside of a classroom. These 246 million powerless children are working in the most hazardous conditions in mines in fishing operations and on plantations. It is appalling that this is still occurring in the 21st century. These children are robbed of their childhoods. Many are denied any hope for a brighter future. In this new century, they will grow up illiterate and exploited, creating a wellspring of future social conflict and strife.

We have made some progress over the years by increasing funds for programs to rehabilitate child laborers through our contribution to the ILO's International Programme for the Elimination of Child Labor—IPEC. In 2000, I and Senator Helms successfully amended the Trade and Development Act with a provision directing that no trade benefits under the Generalized System of Preferences—GSP—be granted to any country that does not live up to its commitments to eliminate the worst forms of child labor. We required that the President submit a yearly report to Congress on the steps being taken by each GSP beneficiary country to carry out its commitments to end abusive and exploitative child labor.

I want to explain clearly to my colleagues what I mean when I refer to abusive and exploitative child labor. It is not children who work part-time after school or on weekends. There is nothing wrong with that. That is not the issue. What I am referring to is the definition set out by ILO Convention 182 on the Worst Forms of Child Labor.

This is not just a Western or a developed world standard; it is a global standard that has been ratified by 138 countries. It has been ratified by Chile. It has been ratified by Singapore. The United States, I am proud to say, was the third country to ratify this convention. Unfortunately, the implementing legislation now before the Senate for free trade with Chile and Singapore actually would take us and the world a step backward when it comes to protecting children. That is right. This freetrade agreement with Chile, which replaces GSP provisions in governing the trade between our two countries, will take us backward with respect to abusive and exploitative child labor.

Under GSP, the President must report to Congress annually regarding Chile's child labor practices. And under GSP, if Chile is not meeting the obligations that Chile undertook as a signatory to the ILO Convention 182, if Chile is not acting to eliminate the worst forms of child labor, then trade sanctions are available to us to require enforcement in Chile of internationally recognized child labor standards. That is so that our companies, and our workers here in America, are not subjected to the unfair competition that abusive exploitation of children allows.

Under this new implementing legislation for free trade that we have before us now, if it is enacted, neither of those things I just mentioned will be true. The President will not be required to report on Chile's practices or Singapore's. And even if egregious violations of international child labor standards are reported, no trade remedy will be available. This new agreement merely allows voluntary cooperation between the two countries on issues such as abusive and exploitative child labor.

Our trade negotiators, for some reason, in this agreement before us, explicitly weaken existing protections against abusive and exploitative child labor.

They took us from mandatory Presidential reporting, with trade sanctions available, to the mere possibility of voluntary cooperation with no recourse to trade sanctions as enforcement.

My colleagues, we voted here in the Senate 96 to 0 in the year 2000 to include these protections. Senator Helms and I offered that amendment to the GSP. This Senate voted—with our eyes open, ears open—96 to 0 to include these protections in the GSP. It received unanimous, bipartisan support.

None of us in this body have voted for, and I am sure none of us have sought to have, those child labor protections undercut by our trade negotiators in an agreement with Chile or Singapore or any other country. But that is what they have done. And now, thanks to fast-track rules, which don't allow us to amend this legislation, we will not even be able to restore the protections we voted for 3 years ago in this agreement. If we vote for this trade agreement, we are voting to remove the protections that all of us here—96 Senators—voted 3 years ago to put into place to end the practice of abusive and exploitive child labor.

I would like to support a free-trade agreement with Chile. As I said, I went there 11 years ago to help promote a free-trade agreement. But I cannot vote for this because our negotiators took away from us the one thing we put in 3 years ago to end abusive and exploitative child labor.

This takes us in the wrong direction with respect to the world's children. Supporting abusive and exploitative child labor abroad does not help create jobs in America, it is just the opposite; it hurts that effort. Our workers and our local businesses should not be competing with the worst forms of child labor abroad. Our trade negotiators should not be weakening protections that we in Congress put in place to ensure that free trade can be consistent with respect for international child labor standards. What our negotiators did is wrong.

It has been said that these trade agreements with Chile and Singapore can be a model for future trade agreements, for example, with Central American countries. In the area of abusive and exploitative child labor, I hope that is not the case. A better model would be the free-trade agreement with Jordan, which we adopted in September of 2001. That agreement had broad support from business and labor. I supported it. In that case, we successfully moved the issue of abusive and exploitative child labor and other labor rights right into the body of the agreement where they rightfully belong. I cannot understand why we would turn back from that agreement and from the GSP provisions.

I am sorry to say this is not an academic or rhetorical issue in the case of labor practices in Chile. Chile is far from the worst government, even in our hemisphere, when it comes to meeting its international obligations to protect its children.

I don't mean to single Chile out. In fact, Chile has done a great thing in getting rid of the Pinochet dictatorship and returning democracy and free markets to Chile. But there is broad agreement among international observers—our own Department of Labor, the Department of State, UNICEF, the International Labor Organization—that the problem of abusive child labor persists in Chile. Approximately 65,000 Chilean children between the ages of 12 and 17 are working rather than attending school as they should. This is according to the ILO, UNICEF, and our own State Department. These kids are engaged in mining, agriculture, including street children, domestic workers.

The Government of Chile may be seeking to reduce the problem, as it should. But we should not be weakening our sole existing trade mechanism that allows us to monitor their progress and to back up the international standard with trade action. That is not the way forward for free and fair trade. That is not the way to lift up the Chilean economy or working families in the United States. Abusive

child labor perpetuates the cycle of poverty across generations. No country has achieved broad-based economic prosperity on the backs of working kids. Weakening our existing protections against the worst forms of child labor certainly should not occur in an agreement that might be a model for free trade with Central America.

Lastly, I am also concerned about the selective changes in immigration law on these trade agreements. These trade agreements would allow 1,400 foreign workers from Chile per year and 5,400 workers from Singapore per year to obtain 1-year visas to work in the United States, visas which are renewable indefinitely. That is a significant change from our current H–1B visa policy, where workers are granted 3-year visas that can be renewed only once. We should not be promoting the importation of skilled foreign workers for indefinite stays in the United States when there are 9 million Americans currently out of work.

I have a further concern with a provision inserted in the Singapore free-trade agreement. The integrated sourcing initiative, or ISI, allows predominantly information technology goods produced in third countries to be treated as if they had been produced in Singapore for the purpose of satisfying rules-of-origin provisions.

This ISI provision could allow goods produced in countries that routinely violate workers' rights, such as Indonesia, and possibly Burma, to be transshipped through Singapore in order to avoid United States limitations and bans. That is in the Singapore free-trade agreement.

I regret that our negotiators have presented us with flawed agreements. In the case of Chile, it is either sloppy work or they deliberately changed the child labor provisions. By allowing third countries to transship through Singapore, again, it is either sloppy work or deliberately trying to undercut United States limitations and bans on certain countries.

I particularly hoped that I could support an agreement for free trade with Chile. I started working for that over 10 years ago. But I do not believe trade can be called free when it promotes the exploitation and abuse of children by weakening our existing protections against the worst forms of child labor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I yield myself time under the time allotted for Senator SESSIONS.

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

Mr. CRAIG. Mr. President, I, too, rise this evening to express concern over the pending free-trade agreements with Chile and Singapore. My colleague from Iowa has just spoken to that. I will approach it from a slightly different manner but with the same concerns.

These trade agreements should have been focused largely on trade issues because our trading partners in this case need a relationship with us, and we have worked hard over the years to develop one with them. We have heard that our agreement with Chile would expand the GDP of this country by $4.2 billion and allow 75 percent of U.S. farm goods to enter Chile tariff free within 4 years. Both the Senator from Iowa and I would have to agree that is the way it ought to be. Certainly, I applaud our trade ambassador for working in that direction.

Unfortunately, during negotiations, our representatives went beyond the issues of free trade and threw our immigration laws on the table for negotiating purposes. As a result, the agreements with Chile and Singapore contain immigration provisions that I think raise very troubling issues.

Let me be the first to acknowledge that these immigration provisions may arguably benefit some U.S. companies, including companies in my home State. I have already visited with many of those companies. However, there are also problems with these provisions, problems with how they came into being in the first place, problems with their substance, and problems with their potential impact. What intensifies our dilemma today is that we run the risk that similar provisions would be included in future trade agreements, as the Senator from Iowa has already said, and I say here. Why? Because our trade ambassador has said it.

What we deal with tonight are templates or foundations from which we will deal with other countries in establishing free-trade agreements. Those negotiations are already underway with Australia and Morocco and South Africa, Central America, and 34 countries in the western hemisphere we are currently engaging with in free-trade agreements. I will tell you, if this is a template and if he plans to negotiate immigration law in the midst of a free-trade agreement, this is one Senator who will work very aggressively to block them until our trade ambassador understands that he is outside his prerogative.

Many of my colleagues will remember that last year more than 60 Senators expressed concern about our U.S. trade remedy laws being negotiated away and changed by our U.S. Trade Representatives without congressional consent or input. As we all know, once these trade agreements are sent to Congress, they cannot be changed or amended. Again, more than 60 Senators expressed concern about items that are within congressional purview and should be guided by Congress, not unelected officials down at the Trade Representative's office. These same fears and concerns apply to immigration provisions within the free-trade agreement.

It is Congress and not our trade negotiators that should be making changes in U.S. immigration law. Senators have been rightly concerned about how much consultation should be done with Congress before these provisions are finalized. It is my understanding that the USTR consulted with six private sector advisory committees when negotiating terms of the free-trade agreement, including the labor advisory committee which was critical to the temporary entry provisions. The USTR published a Federal Register notice soliciting comments on both agreements.

However, under the Trade Promotion Authority Act, the administration is required to consult with Congress while conducting negotiations. In this case, consultation was brief and given on very short notice, certainly with regard to the Judiciary Committee of which I am a member.

But what troubles me more—and would have been resolved had Congress been meaningfully consulted—is the substance of the proposed immigration provisions themselves and Congress' limited ability to amend the provisions even in the face of fraud or abuse that could occur within this trade agreement.

The free-trade agreement addresses four specific categories of temporary nonimmigrant admission currently governed by U.S. immigration law. These are business visitors, or B–1; treaty traders and investors, the E–1s and E–2s; intracompany transferees, the L–1s; and professional workers, the H–1Bs.

The potential for fraud in these visa programs is substantial. The free-trade agreement is specific that neither party may ''as a condition of temporary entry, require prior approval procedure petitions, labor certification tests, or other procedures of similar effect. . . .''

Yet labor certification requirements ensure that foreign workers do not displace or adversely affect the working conditions of Americans.

Current H–1B law requires attestation of H–1B dependent employees in order to reduce potential fraud. This requirement is necessary to prevent repeat users of H–1B visas from using temporary foreign labor as a strategy to avoid paying higher salaries to American workers. This requirement is not mentioned in the implementing language.

Also, while the administration has included a cap on the number of professionals entering under the H–1B category, there are no such limitations on the number of temporary workers entering under other visa categories, including the B–1 visa, the E–1 visa, and the L–1 visa. None of these categories are numerically limited under the agreement and, once enacted, Congress may not subsequently impose caps on these categories for national entry.

This is particularly problematic within the context of the L–1 visa category. Neither of the FTA agreements requires workers to be citizens of either Chile or Singapore. They can be from any country as long as they are working for a company located in either Chile or Singapore.

Many employers are exaggerating the specialized product knowledge of their professional workers so they qualify as L–1 visa applicants. As a result, the L–1 visa program is receiving an increased amount of scrutiny by the State Department, as we speak. The Department of Homeland Security is looking at it as we speak. Members of Congress and the General Accounting Office are doing the same. GAO is also investigating the L–1 visa program. And the Judiciary Committee recently held hearings on this issue.

What Congress must realize is that because the proposed legislation is implementing a free-trade agreement between the United States and Chile and Singapore, Congress' power to amend the proposed legislation is minimal even when Americans are being adversely affected.

Only those amendments that do not conflict with the free-trade agreement can be amended without violating the agreement. This is the interesting catch-22 of what we are about to do. In fact, when asked whether Congress would be able to enact laws making changes in the H–1B or the L–1 visa programs that affect Chilean and Singaporean nationalities, once Congress approved the implementing language, the USTR, in a written response to questions submitted during a Judiciary Committee hearing, stated: ''[the United States] may make modifications to the immigration law that was amended by the proposed legislation to the extent consistent with the obligations of the United States Under the Chile and Singapore Agreements.

This means that the United States ability to protect against fraud or protect U.S. workers from displacement by Chilean and Singaporean workers is reduced. The USTR states that ''neither agreement precludes the United States from modifying its law and regulation related to temporary entry after the Agreement enters into force, as long as those modifications do not unduly impair or delay trade in goods or services or the conduct of investment activities under the Agreements.'' However, the USTR has also stated that ''the international mobility of business persons, whether in their personal capacity or as employees providing services, has become an increasingly important component of component of competitive market for suppliers and consumers alike.'' This means that any restriction on visas may be viewed as unduly impairing or delaying trade in goods or services or the conduct of investment activities under the Agreements because employee services are so valuable.

As we have witnessed in this post-September 11th world, our immigration laws are a delicate work in progress as we try to find a solution to many of our immigration problems. As we continue to work on immigration provisions to further protect our nation we now have a new roadblock—a provision created and placed in these free trade agreements.

Should Congress, in the future, try to amend or change any of our current immigration provisions we must now always keep an eye on the provisions contained in these trade agreements. Why? Because should Congress change any of our immigration laws to adapt in this new world—and change any immigration laws that are subsequently also contained in these agreements—those new laws may in fact violate these very trade agreements—cause a tremendous problem. The problem is embodied within the provision.

As a result, Chile or Singapore, or any future country we negotiate with, could challenge us by challenging our immigration laws in an international court.

In other words the Senate of the United States, within these provisions, could be found in violation of the agreement, and therefore has lost control of its own ability to change our laws.

Having our immigration laws challenged in an international court is something I firmly believe Americans do not want questioned or subject to an international body. It is simply called national sovereignty.

Many of my constituents have always been concerned that, as we increasingly internationalize our economy, somehow we would lose our own ability to legislate and govern ourselves and control domestic policy. Tonight, with passage of these free-trade agreements, we have made a step, I believe, in that direction.

Effectively, the immigration provisions contained in these FTAs are tying the hands of Congress as it relates to ensuring American workers are not displaced or working conditions are adversely affected. Should something happen in the United States where Congress deems it absolutely necessary to change our immigration laws in the interest of National Security—I say good luck without incidentally dragging these trade agreements down and throwing the entire agreement into question or into an international tribunal, where we could easily be outvoted.

Many should be seriously asking the question why our Trade Representative is now our point person on immigration laws. The safeguards our Trade Representative left in these agreements in regards to the immigration provisions is minimal. Do these trade agreements allow the United States to block certain individuals of interest who are tying to come to this country under these new provisions? Yes it does. However, we did not negotiate a safeguard to suspend these new provisions without throwing the United States into violation of a Free Trade Agreement.

The bottom line is Congress has its hands tied. Should we try to correct an immigration law in the future, we may also be creating an additional problem while trying to correct another.

If these laws were vital to the free-trade agreement, I am certain the USTR, or those parties who have an interest in them, could and should have brought them to Congress as a free-standing amendment to our immigration laws and proposed them to us as a critical part of passing a free-trade agreement. That was not done. They were incorporated in the free-trade agreement because our trade ambassador knew they could not be amended once they were embodied. We would have to take them in part and in parcel.

However, under this agreement, now our hands are tied. I don't believe the American people want our hands tied when it comes to immigration law. They want us to be flexible, they want us to regain control of our borders, they want us to protect our workforce, while at the same time expanding where necessary, and an international workforce is needed. Clearly, in this country and in the future, that will be necessary. I hope we move in that direction. I will oppose these tonight because of that.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, as I understand it, the Presiding Officer would like to deliver his remarks. I ask unanimous consent that he be permitted to speak and then I be permitted to speak.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I wasn't able to hear that.

Mr. HATCH. I asked that the Senator from Texas, who is now presiding, be able to speak and then that I may speak immediately thereafter.

Mr. REID. The leaders are wishing to get the floor. How long will it be?

Mr. HATCH. Not very long.

Mr. REID. I have no objection.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I thank my friend from Utah for letting me do this.

I rise in support of the resolution offered by our colleague from Alabama, Senator SESSIONS. I have always been a supporter of free-trade agreements, as long as those free-trade agreements were fair.

My State has been a huge beneficiary of trade agreements. We are a strong economic factor in the United States. We want to continue to be, and we will continue to benefit from trade agreements as long as those agreements are fair.

But there is a problem here tonight with the two agreements we are going to be voting on—the agreements with Singapore and Chile. We are in very difficult economic times in this country. As a result of those difficult economic times, we have seen unemployment in this country reach the level of 6 percent, and actually now a little above 6 percent. My State has suffered just as every other State around the country with our fair share of those unemployed individuals.

Part of the displacement of those individuals is due to the immigration policies we have in effect in our country today, which allow people from other countries who want to come to America to work. We have always had an open-door policy, and we should continue to have an open-door policy, welcoming people from other countries to come to the U.S. to improve the quality of life for them and their families.

At the same time, with that open-door policy, we should not have a policy that displaces American workers when the American workers want and need the jobs they are losing because of individuals coming into this country.

As chairman of the Subcommittee on Immigration and Border Security of the Judiciary Committee, I held a hearing this week on one of our visa programs. It is called the L–1 program whereby individuals can come into this country on a visa from anywhere around the world and be put in a position that supposedly is not being used to displace an American worker.

As we found out at our hearing this week, it is happening over and over where the situation in the system is being taken advantage of, which results in abuses of that program that has the effect of displacing American workers.

We are going to hold another hearing in that subcommittee in September on the H–1B program. This has been a very valuable program to our country and particularly the high-tech industry that needed, during the nineties, an increase in the caps under the H–1B program to accommodate the technicians they needed to operate their businesses successfully.

What we found is that these individuals who come in under the L–1 and H–1B programs are being paid at lower rates than American workers they are displacing. With the slowdown in the economy and with the increase in unemployment, we are seeing that those H–1B and L–1 visa individuals who are coming into the United States are maintaining their jobs while Americans have been displaced. In part because of the abuses, the Americans, having been paid at a higher rate, are losing their jobs, and that is not right.

Lo and behold, with an agreement that is supposed to be an economic stimulus creating trade with Chile and Singapore, what do we see but the Office of the U.S. Trade Representative negotiating as a part of these agreements with Chile and Singapore a policy change in our immigration law which now allows some 5,400 individuals from Singapore, and 1,400 individuals from Chile per year, over and above all of the limits which are presently in place under H–1B, L–1, and L–2, and every other visa program we have in place, to come into the United States with no provision in these trade agreements for any kind of attestation that these people will not be allowed to come in from Singapore and Chile if they are displacing American workers. That is not right. That is also not the function of the Office of the U.S. Trade Representative.

It is the function of the U.S. Congress to set policy when it comes to the immigration laws of this country. We should not allow the U.S. Trade Representative to usurp that power and that authority which is given to Congress.

I rise tonight in strong support of the resolution offered by Senator SESSIONS. I think we need to send a shot across the bow telling the Office of the U.S. Trade Representative that we are not going to let him usurp the authority and the power that is given to the Congress of the United States by law in our immigration policy. It is our obligation to set that policy and not the obligation of the Office of the U.S. Trade Representative.

I have very grave concerns about these two agreements. I understand there are other agreements that are already being negotiated that have these same provisions in them. It was never the intention of any of us who voted to grant fast-track authority to the administration that the administration would be allowed to set immigration policy. It is wrong and it should not happen. Therefore, I strongly support the resolution of the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Utah is recognized under the unanimous consent agreement.

Mr. HATCH. Mr. President, I ask unanimous consent that the remaining time of the distinguished Senator from Alabama, Mr. SESSIONS, be yielded back.

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

Mr. HATCH. I ask unanimous consent that immediately following my remarks on these two speeches, that Senator MAX BAUCUS from Montana be permitted to speak.

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

Mr. HATCH. Mr. President, I rise today to speak in support of legislation implementing the free-trade agreements that have been negotiated between the United States and Chile, S. 1416, and between the United States and Singapore, S. 1417. I appreciated the remarks of my colleague who is the chairman of the Immigration Subcommittee of the Senate Judiciary Committee. I have great admiration for him, and I believe he has given an appropriate warning to the Trade Representative and the administration with regard to some of the criticisms that have been lodged against these agreements.

Let me begin by commending the Bush administration for negotiating these agreements with Chile and Singapore. Both Chile and Singapore are countries that represent economic stability and growth in their respective region of the world. These trade agreements will provide new market access for American workers and products including agricultural, manufactured products, telecommunications equipment and other high-technology products.

Let me also commend Senators GRASSLEY and BAUCUS for bringing these agreements through the Finance Committee in the same bipartisan fashion that has characterized all of the recent congressional actions with respect to international trade. I am pleased to work with them on trade matters in the Finance Committee.

As chairman of the Judiciary Committee, I note that both of these agreements contain chapters on matters of great importance to our Committee. These include: intellectual property; antitrust; e-commerce; telecommunications; and, last and certainly not least, immigration. In many ways, the substance of the negotiations on matters that fall within the jurisdiction of the Judiciary Committee focused on ways to encourage our trading partners to harmonize their law with current U.S. standards. We should take pride in this dynamic.

Let me turn first to S. 1416, the United States-Chile Free Trade Agreement. Despite its status as a relatively new democracy, Chile is regarded by many to be a model for the successful implementation of market-oriented economic reform measures since its first democratic elections in 1989. Although we have seen a slight trade deficit emerge in our trade with Chile over the past few years, I believe a free trade agreement between our countries is likely to stimulate growth in both economies.

The United States-Chile FTA will provide new market opportunities for United States workers and businesses. American companies currently operate at a competitive disadvantage in terms of trade with Chile, because many key foreign competitors, such as Canada, Mexico and the European Union already have executed free trade agreements with Chile. In fact, the National Association of Manufacturers estimates that without an FTA with Chile, U.S. exporters lose roughly $800 million per year in sales, which affects approximately 10,000 American jobs. With the adoption of the Chilean agreement, America would see an immediate elimination of tariffs on more than 85 percent of consumer and industrial goods. This will help eliminate the current trade deficit and will provide for increased export opportunities for U.S. companies.

Some estimates place the potential annual economic benefits of the United States—Chilean Free Trade Agreement at an impressive $4.2 billion annual increase in the U.S. gross domestic product and a $700 million increase in the Chilean GDP.

The Chilean FTA will provide numerous economic opportunities for my State of Utah, which is important to me. Currently, Utahns export approximately $657 million worth of consumer

goods to Chile every year. The major sectors of Utah's economy that will benefit most from a Chile FTA are manufacturers of computer machinery and components, high-tech computer software developers, manufacturers of medical devices, and dietary supplement companies.

Tariff-free trade with Chile will also result in expanded markets for America's farmers and ranchers, with more than 75 percent of U.S. farm goods becoming tariff-free within 4 years after enactment of the agreement. The agreement would also provide greater access for U.S.-based financial service companies to operate in the Chilean financial markets. This will result in new growth opportunities for U.S. banks, insurance companies, securities firms, and telecommunications companies.

Before entering into trade negotiations with the United States, Chile was required to adopt all provisions required for membership in the World Trade Organization. This includes the Trade-Related Aspects of Intellectual Property Rights Provisions, the so-called ''TRIPS'' provisions. The TRIPS provisions protect U.S. patent, copyright, and trademark owners.

The United States-Chile Free Trade Agreement is a very important step in building stronger political and economic ties, not only with Chile, but with all of South America. As I see it, Chile is a strategic ally in South America. Chile provides a strong economic and political base in a region of the world that is currently experiencing extreme economic hardships. The adoption of the Chile FTA is an important first step toward the expansion of hemispheric wide-open trade relations throughout North and South America through the proposed Free Trade Agreement of the Americas.

The United States-Singapore Free Trade Agreement, S. 1417, would have a similar effect on trade and economic liberalization in Southeast Asia. Like Chile, Singapore is a leader in its region for free trade-oriented reforms. It is very important to note that the United States-Singapore Free Trade Agreement is the first free trade agreement that the United States will have negotiated with an Asian nation.

Singapore is a relatively small nation geographically. It encompasses only 246 square miles and has a population of only four million people. Its economy is robust and highly competitive. It is one of the most open, well-regulated and secure markets for investment in Asia. Approximately 1,300 American firms have a significant presence in Singapore and all indications are that the establishment of an FTA with Singapore will provide additional opportunities for American industries through increased market access.

An FTA with Singapore also provides an opportunity for expansion in Utah's economy. Singapore currently receives almost 6 percent of Utah's international exports, amounting to more than $263 million. The top exports to Singapore from Utah include electronic machinery, plastics, perfumery, cosmetics, and telecommunications services and equipment.

The United States-Singapore Free Trade Agreement provides for reciprocal levels of market access, eventually eliminating the few remaining tariffs on American goods and services, and eliminating or reducing all non-tariff barriers to American exports. The Singapore FTA also requires observation of the TRIPS provisions.

The agreement with Singapore will provide opportunities for economic expansion and encourage free trade throughout Southeast Asia. This agreement merits the support of the Senate.

The Senate will soon have a chance to vote for, or against, both of these important free trade agreements. Last year a broad bipartisan group of 66 Senators voted for trade promotion authority. One of the chief reasons for adopting fast track procedures is to prevent trade treaties from death by amendment and procedural delays. Although no amendments are in order under the fast track rules, all Members of the Senate retain their ultimate authority to accept or reject any treaties or implementing legislation that the Administration proposes.

Because the Trade Act of 2002 calls for up or down votes without opportunity for amendment, it is important that Congress be fully consulted. This should occur at each step of the process. I know that this inability to amend the implementing language of these agreements has concerned many members of the Judiciary Committee.

From the perspective of the Judiciary Committee, I can tell my colleagues that the most controversial provisions of these trade agreements are those addressing the temporary entry of professional workers and intra-company transfers. Many members of the Judiciary Committee, Republicans and Democrats alike, have expressed their dismay over the immigration provisions.

Many Senators have unequivocally stated their objections to the manner in which the temporary entry provisions were transmitted to Congress. I share many of their concerns. The administration must consult with Congress, and specifically with the Judiciary Committee, on all matters within our committee's jurisdiction. At our mark-up on this implementing language, many members of the Committee made it plain that individual trade agreements are not the best forums for raising matters of general immigration law and policy. I trust that USTR will heed this message in the future.

To be fair to USTR, I understand that there were six briefings at the staff level prior to the transmission of the final implementing language. In addition, USTR briefed the committee staff on the proposed implementing language before it was finalized. There were also numerous additional informal consultations among committee staff on both sides of the aisle, and between committee staff and USTR and other administration officials over the last few weeks. Most, although not all, members of the Judiciary Committee sent representatives to these meetings.

Finally, the Judiciary Committee held a hearing on July 14 to allow the members of the committee to question USTR's principal negotiators on the draft implementing language for thee two agreements.

USTR worked to address the concerns expressed by Judiciary Committee members. Three main issues surfaced: first, time limits on the professional workers' visas; second, numerical limits on such professional workers; and, third protection of American workers. I want to discuss how these matters were resolved in the legislation.

With respect to the concern that there is a lack of a time limit for the professional workers' category, I note that contrary to how some may read the implementing language, the legislation does not allow indefinite stays. While it is true that the professional visa provision in the trade bills does not set a time limit, it does have to be renewed every year and is subject to section 214(b) of the Immigration and Nationality Act. This means that at each renewal, the applicant must show that the stay in the US is temporary and that there is not immigrant intent. In that sense, the safeguard against someone circumventing the permanent residence requirements is arguably greater than the safeguard contained in the traditional H1–B visa, which is expressly exempted from section 214(b).

Withe respect to the numerical cap, I would emphasize that the allocations for Chile and Singapore come under the overall cap for current H1–B visas. Therefore, there is no net increase of foreign workers because of these agreements. Moreover, the annual limits for Chile and Singapore, set at 1,400 and 5,400 respectively, are statutory ceilings. Our Government does not have to allocate the full amount every year.

Some of my colleagues are concerned about the fact that these agreements do not allow labor certification. First of all, I want to clarify that currently there are no labor certification requirements in our immigration laws for any visa category comparable to the ones described in the trade agreements. However, for the temporary professional workers, there is a requirement for certain employers to complete labor condition attestations. Before hiring a foreign worker, the employer must attest, among other things, that prevailing wages will be paid and the foreign workers will not be used as leverage in any labor dispute. In fact, if there is a strike or lock-out, foreign workers are not even permitted to come into the United States.

The implementing language also provides appropriate penalties for errors

and fraud in the attestations. Contrary to the suggestions made by some of my colleagues, the implementing language does indeed authtorize the Department of Labor to initiate random investigations of anyone who has failed to meet a condition of the attestation. The implementing language does expressly prohibit displacing American workers through lay-offs within 90 days of the filing of a visa application. As for labor certification or numerical limitations on business visitors, traders and investors, or intra-company transferees, we must understand that these visas, if used properly, are not intended to threaten American jobs at all. In fact, business visitors are not even permitted to receive a salary in the U.S. and may only remain for a few months just like tourists.

I appreciate the reality that some unscrupulous American employers have used the visa categories I just described to commit immigration and labor fraud. The visas have become ways for some to hire cheap foreign labor, and that has unfairly hurt American workers. I am sensitive to the difficulties faced by out-of-work Americans and their families. However, we need to understand that the existence of temporary worker visas in our laws is not the problem. The problem is the misuse of these visas by those who do not respect our laws.

We should not tolerate fraud and abuse of our immigration and labor laws. We should take appropriate actions to curb fraud and abuse in this area.

I understand that the Labor Department already has the authority to investigate visa fraud of this nature if a complaint is filed. But, if conferring more investigative authority upon the Labor Department is the key to solving the problem, then Congress should examine that option notwithstanding the lack of any labor certification. I was informed by USTR that the implementing language excluded some language in the current H1–B scheme because those provisions are due to sunset at the end of this fiscal year, but if those provisions are extended, they certainly may be applied to these treaty visas.

I would also like my colleagues to keep in mind that these agreements are reciprocal. Every gesture of courtesy extended to Chilean and Singaporean citizens is extended to American citizens. The same is true for all restrictions. A good illustration is the provision calling for disputes to be resolved in a so-called ''international review panel.'' The panel does not bind the U.S. government, and does not interpret U.S. law. It is a forum, however, where American businesses can address their grievances before an impartial reviewer. As Assistant USTR Ralph Ives testified before the Judiciary Committee the July 14 hearing, these review panels do not take the place of U.S. courts, and do not even review individual cases. Instead, they review allegations of patterns or practices by either party of the trade agreements.

Finally, some have raised a very good question about whether the Trade Act of 2002 confers authority to include matters of immigration in trade agreements. As early as the Commerce and Navigation Treaty with Great Britain of 1815, immigration provisions have been included in trade agreements that allowed for the entry of foreign nationals to conduct trade. Moreover, section 2102 of the Trade Act of 2002 calls for the President to reduce barriers to trade in services. Implicit in that authority is the mandate to provide access for U.S. businesses, including small to mid-size businesses, to foreign markets.

It is clear to me that the language we consider today has benefited from the interaction between Congress and the executive branch. Despite these improvements, some friction remains on the matter of taking up matters affecting general immigration policy as part of the negotiations on particular trade agreements.

Anyone present at either the Senate Judiciary Committee or House Judiciary Committee mark-up of the immigration implementing legislation for the Chile and Singapore FTAs got the message: Tread lightly and consult heavily.

Before I close, I want to reiterate that I have faith in the American worker. I have no doubt that with the right training, our workers can compete with the best in the world. I also believe that competition is good for America. We have no reason to fear foreign competition in the global economy so long as we are all playing by the same rules and on a level playing field.

I introduced The American Competitiveness in the Twenty-First Century Act that authorizes funds collected from H1–B visa application fees to be invested in training American workers in the fields where we have traditionally relied on foreign workers. I ask my colleagues to join me in efforts and prepare American workers to fill the needs of our job market, especially in the fields of math, science, and high technology. It is my hope that, in due time, we will no longer rely on foreign workers to help fill our needs in any sector of the job market.

In a global marketplace, American workers and firms must be given the opportunity to conduct business abroad. Indeed, we live in a world economy where free trade is vital to our economy. As I see it, the flexibility to send essential personnel from the United States to another country in order to provide much-needed, service-oriented support is an essential part of international commerce. Consequently, within the parameters of sound immigration policy, the United States must reciprocate the courtesy that we expect our trading partners to extend to American citizens working and trading abroad.

I support these two implementing bills. the FTAs with Chile and Singapore are good treaties. On balance, this legislation, despite some of the sensitivities in the area of immigration, will help bring the benefits of these trade treaties to the American public.

I think that a review of the record shows that after extensive discussion with both the Senate staff and the House staff, the administration satisfactorily addressed the vast majority of the concerns expressed by Republican and Democratic members of the Judiciary Committee.

When all is said and done, these are good trade agreements. One of the lessons I hope the administration has learned is that including immigration-related provisions in individual trade agreements that raise General matters of immigration policy is a very, very sensitive issue to us up here. In the future, I expect the administration will avoid negotiating immigration matters in trade agreements unless the Congress is broadly supportive of the provisions. If there are compelling circumstances to negotiate such agreements, I expect extensive consultation between the administration and Congress at both the Member level and staff level so that all of our concerns can be adequately addressed.

The issue of immigration aside, I believe there is a wide consensus that, overall, we have two good trade treaties and two good implementing bills. I urge every Member to vote in favor of the United States-Chile and United States-Singapore Free Trade Agreement implementing language.

NOTICE

Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDERS FOR FRIDAY, AUGUST 1, 2003

Mr. SUNUNU. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Friday, August 1. I further ask unanimous consent that following the prayer and pledge, the Journal of proceedings be approved, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. SUNUNU. Mr. President, for the information of all Senators, tomorrow the Senate will be in a period for morning business. There will be no rollcall votes tomorrow but Senators who wish to make statements are encouraged to come to the floor during tomorrow's session.

Tomorrow the Senate will recess for the August district work period. The majority leader will make further announcements on the schedule tomorrow, but I inform my colleagues that the next vote will occur on Wednesday, September 3, and all Members will be notified when that vote is scheduled.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. SUNUNU. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate recess under the previous order.

There being no objection, the Senate, at 11:08 p.m., recessed until Friday, August 1, 2003, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 31, 2003:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

STANLEY C. SUBOLESKI, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2006.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

W. SCOTT RAILTON, OF VIRGINIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2007.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MARY LUCILLE JORDAN, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2008.

DEPARTMENT OF TRANSPORTATION

ANNETTE SANDBERG, OF WASHINGTON, TO BE ADMINISTRATOR OF THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

ERIC S. DREIBAND, OF VIRGINIA, TO BE GENERAL COUNSEL OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM OF FOUR YEARS.

THE JUDICIARY

H. BRENT MCKNIGHT, OF NORTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NORTH CAROLINA.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MICHAEL YOUNG, OF PENNSYLVANIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2008.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

THOMASINA V. ROGERS, OF MARYLAND, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2009.

DEPARTMENT OF DEFENSE

LAWRENCE MOHR, JR., OF SOUTH CAROLINA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2009.

EXECUTIVE OFFICE OF THE PRESIDENT

JOEL DAVID KAPLAN, OF MASSACHUSETTS, TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

DEPARTMENT OF HOMELAND SECURITY

JOE D. WHITLEY, OF GEORGIA, TO BE GENERAL COUNSEL, DEPARTMENT OF HOMELAND SECURITY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF STATE

DONALD K. STEINBERG, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF NIGERIA.

CONSTANCE ALBANESE MORELLA, OF MARYLAND, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT, WITH THE RANK OF AMBASSADOR.

GEORGE H. WALKER, OF MISSOURI, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HUNGARY.

DEPARTMENT OF JUSTICE

DIANE M. STUART, OF UTAH, TO BE DIRECTOR OF THE VIOLENCE AGAINST WOMEN OFFICE, DEPARTMENT OF JUSTICE.

KAREN P. TANDY, OF VIRGINIA, TO BE ADMINISTRATOR OF DRUG ENFORCEMENT.

THE JUDICIARY

JAMES I. COHN, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.

FRANK MONTALVO, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.

XAVIER RODRIGUEZ, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.

JAMES O. BROWNING, OF NEW MEXICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL KENNETH M. DECUIR
BRIGADIER GENERAL BOB D. DULANEY
BRIGADIER GENERAL ROBERT J. ELDER, JR.
BRIGADIER GENERAL PAUL J. FLETCHER
BRIGADIER GENERAL DOUGLAS M. FRASER
BRIGADIER GENERAL WILLIAM M. FRASER III
BRIGADIER GENERAL STANLEY GORENC
BRIGADIER GENERAL ELIZABETH A. HARRELL
BRIGADIER GENERAL WILLIAM F. HODGKINS
BRIGADIER GENERAL RAYMOND E. JOHNS, JR.
BRIGADIER GENERAL TIMOTHY C. JONES
BRIGADIER GENERAL FRANK G. KLOTZ
BRIGADIER GENERAL ROBERT H. LATIFF
BRIGADIER GENERAL RICHARD B.H. LEWIS
BRIGADIER GENERAL HENRY A. OBERING III
BRIGADIER GENERAL MICHAEL W. PETERSON
BRIGADIER GENERAL TERESA M. PETERSON
BRIGADIER GENERAL GREGORY H. POWER
BRIGADIER GENERAL ROBERT L. SMOLEN
BRIGADIER GENERAL MARK A. VOLCHEFF

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE VICE CHIEF OF STAFF, UNITED STATES AIR FORCE, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 8034 AND 601:

To be general

LT. GEN. TEED M. MOSELEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. GREGORY S. MARTIN

THE FOLLOWING NAMED UNITED STATES AIR FORCE OFFICER FOR REAPPOINTMENT AS THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTIONS 601 AND 152:

To be general

GEN. RICHARD B. MYERS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C. SECTION 601:

To be lieutenant general

MAJ. GEN. ROGER A. BRADY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C. SECTION 601:

To be lieutenant general

LT. GEN. RICHARD E. BROWN III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C. SECTION 601:

To be lieutenant general

LT. GEN. STEVEN R. POLK

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE CHIEF OF STAFF, UNITED STATES ARMY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 688, 601 AND 3033:

To be general

GEN. PETER J. SCHOOLMAKER (RETIRED)

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. BYRAN D. BROWN

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. CHARLES S. RODEHEAVER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. DAVID T. ZABECKI

IN THE MARINE CORPS

THE FOLLOWING NAMED MARINE CORPS OFFICER FOR REAPPOINTMENT AS THE VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 154:

To be general

GEN. PETER PACE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT M. SHEA

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) ROGER T. NOLAN
REAR ADM. (LH) ROBERT O. PASSMORE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. KIRKLAND H. DONALD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF CHAPLAINS, UNITED STATES NAVY, AND APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5142:

To be rear admiral

REAR ADM. (LH) LOUIS V. IASIELLO

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. (SELECT) ERIC T. OLSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. GARYI ROUGHEAD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. JAMES C. DAWSON, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. RODNEY P. REMPT

AIR FORCE NOMINATION OF PATRICE L. PYE.

AIR FORCE NOMINATION OF *REBEKAH F. FRIDAY

AIR FORCE NOMINATION OF DENNIS HUSTON.

ARMY NOMINATIONS BEGINNING WILLIAM R. GLADBACH AND ENDING MALCOLM K. WALLACE, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 19, 2003.

ARMY NOMINATION OF REGINA M. CURTIS.

ARMY NOMINATION OF NANCY M. PRICKETT.

ARMY NOMINATIONS BEGINNING STEPHEN J. DEMSKI AND ENDING JOSEPH F. MARANTO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 26, 2003.

ARMY NOMINATIONS BEGINNING ANDREW S. KANTNER AND ENDING DANIEL A. TANABE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 26, 2003.

ARMY NOMINATIONS BEGINNING DAVID A. ARCHER AND ENDING DEBRA A. SPEAR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7, 2003.

ARMY NOMINATIONS BEGINNING NATHAN E. BAKER AND ENDING FREDERICK V. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7, 2003.

ARMY NOMINATIONS BEGINNING LISA M. *ANDERSON AND ENDING JAMES W. *TURONIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7, 2003.

ARMY NOMINATIONS BEGINNING BRETT T. *ACKERMANN AND ENDING MICHAEL J. *ZAPOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7, 2003.

ARMY NOMINATIONS BEGINNING ADIO ABDU AND ENDING RICARDO M YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7, 2003.

ARMY NOMINATIONS BEGINNING DAVID A BARR AND ENDING SAMUEL R YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7, 2003.

ARMY NOMINATIONS BEGINNING WILFREDO A. COLONMARTINES AND ENDING JEFFERY L. LEWIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22, 2003.

ARMY NOMINATIONS BEGINNING THOMAS B. HOWE AND ENDING MICHAEL J. VEASEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22, 2003.

ARMY NOMINATIONS BEGINNING JAMES G. LYNCH, AND ENDING RAFAEL A. ROLDAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22, 2003.

ARMY NOMINATION OF EVAN L. WILLIAMS II.

MARINE CORPS NOMINATION OF THOMAS D. GORE.

MARINE CORPS NOMINATION OF ADAM L. MUSOFF.

MARINE CORPS NOMINATION OF JASON K. FETTIG.

NAVY NOMINATIONS BEGINNING CHAD F ACEY AND ENDING FRANK A SHAUL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25, 2003.

NAVY NOMINATIONS BEGINNING CONRADO K ALEJO AND ENDING CARL B WEICKSEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25, 2003.

NAVY NOMINATIONS BEGINNING BARBARA M BURGETT AND ENDING ROBERT C WEITZMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25, 2003.

NAVY NOMINATIONS BEGINNING ROBERT J ALLEN AND ENDING HAROLD E WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25, 2003.

NAVY NOMINATIONS BEGINNING ERIC J BUCH AND ENDING ROBIN D TYNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25, 2003.

NAVY NOMINATIONS BEGINNING LEE K ALLRED AND ENDING DONALD L ZWICK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25, 2003.

NAVY NOMINATIONS BEGINNING ALLAN D ANDREW AND ENDING JOHNNY R WOLFE, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25, 2003.

NAVY NOMINATIONS BEGINNING ANGELA D ALBERGOTTIE AND ENDING JOSEPH B SPEGELE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25, 2003.

NAVY NOMINATIONS BEGINNING CHARLES J CHAN AND ENDING MATTHEW A WEBBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25, 2003.

NAVY NOMINATIONS BEGINNING CHRISTOPHER A ADAMS AND ENDING RICHARD J ZINS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25, 2003.

NAVY NOMINATIONS BEGINNING STEVEN S HARTZELL AND ENDING STANLEY D. RHOADES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22, 2003.

NAVY NOMINATION OF JAMES P. DRISCOLL.