United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, THURSDAY, NOVEMBER 15, 2001 No. 158

Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Faithful Father, Your words to Joshua so long ago sound in our souls as Your encouragement to us today: ''I will not leave you nor forsake you. Be strong and of good courage.''

Thank You for the consistency and constancy of Your presence. Your love and guidance are not on again off again. We can depend on Your steady flow of strength. Just to know that You are with us in all the ups and downs of political life is a great source of confidence. We can dare to be strong in the convictions that You have honed in our hearts and courageous in the application of them to our work in government.

Grant the Senators a renewed sense of how much You have invested in them and how much You desire to do through them in the onward movement of this Nation. It is for Your namesake, Your glory, and Your vision that You bless them. You guide and inspire them as leaders because You have great plans for this Nation that You want them to accomplish. You have chosen them. May they choose to be chosen today and lead with spiritual self-esteem motivated by this sense of chosenness. Your word for the day is ''Be not afraid, I am with you.'' You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. DASCHLE. Mr. President, this morning the Senate will conduct a period of morning business with Senators permitted to speak for up to 10 minutes. At 10:30 this morning, the Senate will consider the Agriculture appropriations conference report under a 1-hour time agreement with a vote on the adoption of the report at approximately 11:30. We also hope to consider the Commerce-State-Justice appropriations conference report during today's session. There will be other business as well, perhaps including some additional nominations.

I have just consulted with Senator HOLLINGS in regard to the airport security legislation. He has indicated that negotiations continue. He was encouraged by the progress made overnight. I have discussed the matter at some length with Senator LOTT over the course of the last couple of days. It is his view, as it is mine, that we just cannot leave today, this week, until this matter has been completed.

I know a number of Senators have been interested in the schedule for the balance of the week. I am not able to give them a definitive schedule with regard to votes, either today or tomorrow, until we know the timeframe involved in completing our work on the airport security bill.

It is my hope and expectation that it would be done sometime today. If not, of course, we will then take it up tomorrow, and Senators would be required to stay for the vote on that very important legislation.

I ask Senators' patience. As soon as the progress becomes more apparent, we will make a definitive judgment about the time involved in consideration of the conference report later this week.

I thank Senators for their attention and yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the Senator from Nevada, Mr. REID, will speak for up to 10 minutes. Under the order previously entered, the junior Senator from Nevada, Mr. ENSIGN, will be recognized to speak likewise for up to 10 minutes.

The majority whip.

YUCCA MOUNTAIN

Mr. REID. Senator ENSIGN and I rise to address the Senate on something we believe is extremely important.

For 20 years now, there have been attempts made to place high-level nuclear waste in the deserts outside Las Vegas. We have always believed that the process has not been fair. Originally, there was supposed to be three sites selected under the 1982 act. Washington, Texas, and Nevada were the three sites chosen.

In 1987, for various reasons, the two other sites were eliminated, and so there is only one site now being focused. That is Yucca Mountain in Nevada.

Let's assume that a person is charged with a crime and they learn later that the prosecutor and the person representing the accused were the same lawyer. People would be outraged. If you were in an automobile accident and you had a trial and you suddenly

learned that the person representing you, the person injured, also represented the insurance company, that would be unfair. That is what we have just learned has been going on at Yucca Mountain.

We found that the attorney who was giving advice to Yucca Mountain and being paid up to $16 million, this law firm also was representing the nuclear power industry.

Senator ENSIGN will outline for anyone within the sound of our voices how this came about that we learned that there was one law firm representing both sides in effect.

Mr. ENSIGN. I thank the senior Senator from Nevada. Back in July of this year, one of the local Las Vegas Sun reporters, Ben Grove, brought out in a news report that there was a potential conflict of interest involving a law firm based in Chicago, Winston & Strawn, which was representing not only the nuclear power industry but also the Department of Energy at the same time. We sent a letter together, dated August 1, to the Inspector General for the Department of Energy, asking that the inspector general look into this conflict of interest. Late yesterday afternoon, the inspector general met with the senior Senator from Nevada and myself and laid out the full report on their findings. As it turns out, the inspector general said that there has been virtually no clear evidence of a conflict of interest in his time period that he has been doing these types of investigations. From September 1999 until July 2001—and by the way, only because of the reporters bringing this thing to the public did Winston & Strawn terminate the relationship with the Energy Institute. But during that period of time, this law firm represented both the Department of Energy and the Nuclear Energy Institute.

Now, to paint what was going on there, the DOE had hired this law firm to give them advice on the licensing process and the legal process for building a permanent repository at Yucca Mountain. During the time that they were supposed to be getting unbiased information, they were being retained by the lobbying group that is pushing Yucca Mountain to be built. This is a clear conflict of interest.

There were over 14 employees, from what we read in the report. This report was released this morning publicly at 8 o'clock. It is on the Internet. But there were 14 employees that had done work both for the Department of Energy and for the Nuclear Energy Institute.

Potentially, up to $16 million is the total amount of lawyer's fees that the DOE could be paying out to Winston & Strawn for supposedly getting unbiased information. So I tell the senior Senator from Nevada, with this information that we have received—and I know that my friend agrees—there should be a full investigation by the Department of Energy and by the Nuclear Regulatory Institute, and anybody else involved in the licensing of Yucca Mountain, of how severely tainted was the information they received on building Yucca Mountain. This is supposed to be unbiased science and legal information. Was the science biased now? Did the Department of Energy buy biased science? They have obviously bought biased legal work.

So there needs to be a full investigation of this whole process. We have some very serious questions to come before the U.S. Senate next year. The Department of Energy is ready to make their recommendation in a favorable fashion on the suitability for Yucca Mountain. We think we need to put the brakes on all of this and take a whole fresh new look.

So, Mr. President, I say to the senior Senator from Nevada that I think we have some serious, serious matters before us that need the attention of quite a few people as we are going forward.

Mr. REID. If the Senator will yield.

The PRESIDENT pro tempore. The senior Senator from Nevada has the floor.

Mr. REID. As the Senator, my friend, from Nevada has indicated, 14 employees working for this law firm were, in effect, giving advice to both sides. This isn't like representing somebody who may have had a stop sign violation. This is a law firm that has represented the Department of Energy in an attempt to go forward on a licensing procedure that affects the life and safety of tens of millions of Americans. This not only involves the State of Nevada but the rest of this country. The nuclear waste is going to have to travel across this country on highways and railways.

The advice the Department of Energy has been getting from this law firm is tainted. This is a clear case of bias. It is an ethical meltdown. What the people of Nevada need now is a full accounting of how far this misconduct has spread. What my friend, the junior Senator from Nevada, has said is, has this gone over into the scientific calculations and considerations made.

Mr. President, I ask unanimous consent that Senator ENSIGN and I both have 20 minutes, and if the Chair will advise us when we have 2 minutes left.

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

Mr. REID. The people of Nevada need a full accounting of how far this misconduct has spread. The junior Senator from Nevada is a scientist. He is a doctor of veterinary medicine. He knows how easy it is to misinterpret, miscalculate scientific calculations.

I am a lawyer. I know what it means to have misconduct, to commit malpractice. Certainly, that is what you have here. This is an ethical meltdown. I think what this law firm of Winston & Strawn should be doing today is searching for lawyers to represent them because what they have done is, if not illegal, certainly unethical.

Mr. President, we have done this legislatively with the support of various administrations. Each Cabinet agency we have has an inspector general who is independent. The inspector general doesn't have to account to the Secretary of Energy. He is independent. Their terms go through different administrations. He was appointed during the Clinton administration, now in the Bush administration. He is giving the best advice that he can give. What he has determined is that this is one of the most serious ethical violations they have ever found in that department, and I think rightfully so.

The American people have spent millions of dollars on a biased report, biased advice given to the Department of Energy.

We can't blame this on the Department of Energy. We blame them for a lot of things, but we can't blame them for this conflict of interest. When they were filing an application to get this account, they asked questions such as: Do you have a conflict of interest? Do you represent parties adverse to giving good advice to the DOE? They said, without any qualifications, no.

I want to ask my friend from Nevada a question. The Senator is a scientist. He has a degree in veterinary medicine. He is a doctor. It is easy to spin science the wrong way, if you choose to do so, and not be fair; is that correct?

Mr. ENSIGN. If the Senator will yield, I will go even further and say that, in science, one of the reasons you even do what are called double blind studies is so that you don't prejudice yourself in going forward with a potential conclusion. What I mean by that—and I will try to give an example on this particular project—you would not want to have people who are saying upfront that Yucca Mountain is safe for a nuclear repository and, therefore, we are going to investigate it and prove that it is safe. You want people to look at it who are going to say: We don't know whether Yucca Mountain is safe or suitable for a nuclear repository or not, but we are going to do the investigation to find out whether it is suitable.

That would be an unbiased view. And then on top of that, if you have people who have a financial interest giving you information, you can imagine how that can taint the whole process.

I say to the senior Senator from Nevada that the potential for bias here in a scientific realm is very great and causes me great concern.

Mr. REID. Mr. President, DOE hired a biased lobbyist and an unethical law firm. What stops them from having already purchased biased or unethical science? Nothing.

I believe we need an independent scientific review of the science, an independent review by scientists who have never received funding from DOE for Yucca Mountain work.

With this review, we would have a program that could stand the light of day. Until we do this, we have a tainted program, one that should be stopped. This involves 43 of our United

States, with train and truck traffic going through every one of those States. This is very serious.

Mr. President, how much time remains?

The PRESIDENT pro tempore. Seven minutes remain.

Mr. REID. I yield the floor.

The PRESIDENT pro tempore. The junior Senator from Nevada.

Mr. ENSIGN. Mr. President, I want to point out a couple other items in this report. First, when the inspector general was giving us the briefing, one of the things that was pointed out to us was that Winston & Strawn had actually recognized in some of their internal documents a potential conflict of interest.

Some of their senior people said that we need to put up some firewalls within our firm to make sure if we have lawyers over here working one way, that they are in no way in concert with some of the lawyers working with DOE, say, versus the Nuclear Energy Institute.

Those firewalls were never put in place. Let me repeat, those firewalls which could have potentially stopped the conflict of interest were never put in place. Instead, 14 lawyers worked on both sides. If this is not a conflict of interest, if this does not spark people's outrage, not only at this law firm—by the way, upfront this law firm was asked: Do you have any clients who would present a conflict of interest?

When we let Government contracts, especially for law firms such as this, they are always asked that same question. From what I understand—and if the senior Senator, being a lawyer, will address this—there are people within law firms, there are ethical panels that review whether there are going to be problems representing one side or the other side to make sure that ethical violations do not occur simply because it is such a serious matter within the legal profession.

Will the senior Senator from Nevada address how that is set up within law firms, the whole ethics committee, to make sure they do not have these conflicts of interest?

Mr. REID. I will be happy to respond to the question of the junior Senator from Nevada.

One of the things we discussed yesterday evening with the Office of the Inspector General when they were going over the report they released this morning is that law firms have built-in mechanisms to prevent conflicts of interest. These large law firms can develop conflicts of interest, so every case they take is submitted to a committee. Even the relatively small law firms in Nevada that have 40, 50, 60 lawyers have an apparatus within them where every new file they take is looked over for conflicts.

I am astounded that Winston & Strawn did not have such a program. If they did not have such a program, that is malpractice. If they did have a program and avoided it, that is an ethical violation. That is why I have said several times today, I think they need to find themselves a lawyer because what they have done is either criminal or unethical.

Mr. ENSIGN. Mr. President, I want to point out one other item that is in this document to show what a conflict of interest we have. Winston & Strawn not only represented the Nuclear Energy Institute, but they also were representing a company that manufactured the nuclear waste containers. There is no company that would benefit more from having Yucca Mountain built than the company that builds these nuclear waste containers.

If they are representing people who are going to benefit financially from this project going forward—obviously, the Nuclear Energy Institute does as well—clearly the people who make the casks to store the waste are going to benefit hugely financially.

Those same lawyers representing this firm over here and also trying to give the Department of Energy unbiased information is so outrageous it is hard to even conceive.

I hope all our colleagues will take a fresh look at this issue because the Senate is going to be dealing with some very serious issues when it comes to Yucca Mountain over the next 12 months.

I hope, regardless of how people have voted in the past, that my colleagues will take a fresh look and say: Maybe we need a timeout on this issue.

About $7 billion has already been spent on Yucca Mountain. We appropriated another couple hundred million dollars this year. We are talking a lot of money that is potentially being wasted, being put down a rat hole. All of your colleagues need to take a fresh look at this because the GAO has said it is going to cost over $50 billion more to finish this project. That is serious money, and we need to take a fresh look.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ENSIGN. I yield the floor to the senior Senator.

Mr. REID. Mr. President, my final statement is, if this law firm, Winston & Strawn, had firewalls set up to see if there was a conflict of interest, these firewalls burned down. They burned to the ground. This law firm, in my opinion, has burned to the ground. They should refund the money to the Department of Energy, and I think the State Bar Association of Illinois should look at proceedings against this law firm.

What they have done gives not only lawyers a bad name but gives the entire process dealing with Yucca Mountain a bad name. With Winston & Strawn's malfeasance, malpractice, and unethical actions, I think they should refund the money, I repeat, and find themselves a good lawyer for the other activities in which they have been engaged.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

VETERANS BENEFITS ACT OF 2001

Mr. REID. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 2540, and the Senate proceed to its immediate consideration.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2540) to amend title 38, United States Code, to make various improvements to veterans benefits programs under laws administered by the Secretary of Veterans Affairs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I understand that Senators ROCKEFELLER and SPECTER have a substitute amendment at the desk. I ask unanimous consent that the amendment be agreed to, the bill, as amended, be read a third time and passed, the amendment to the title be agreed to, the motion to reconsider be laid upon the table, any statements relating to the bill be printed in the RECORD, all with no intervening action or debate.

The PRESIDENT pro tempore. Without objection, the several requests are granted. It is so ordered.

The amendment (No. 2149) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans' Compensation Rate Amendments of 2001''.

(b) REFERENCES TO TITLE 38, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION.

(a) INCREASE IN RATES.—Section 1114 is amended—

(1) by striking ''$98'' in subsection (a) and inserting ''$103'';

(2) by striking ''$188'' in subsection (b) and inserting ''$199'';

(3) by striking ''$288'' in subsection (c) and inserting ''$306'';

(4) by striking ''$413'' in subsection (d) and inserting ''$439'';

(5) by striking ''$589'' in subsection (e) and inserting ''$625'';

(6) by striking ''$743'' in subsection (f) and inserting ''$790'';

(7) by striking ''$937'' in subsection (g) and inserting ''$995'';

(8) by striking ''$1,087'' in subsection (h) and inserting ''$1,155'';

(9) by striking ''$1,224'' in subsection (i) and inserting ''$1,299'';

(10) by striking ''$2,036'' in subsection (j) and inserting ''$2,163'';

(11) in subsection (k)—

(A) by striking ''$76'' both places it appears and inserting ''$80''; and

(B) by striking ''$2,533'' and ''$3,553'' and inserting ''$2,691'' and ''$3,775'', respectively;

(12) by striking ''$2,533'' in subsection (l) and inserting ''$2,691'';

(13) by striking ''$2,794'' in subsection (m) and inserting ''$2,969'';

(14) by striking ''$3,179'' in subsection (n) and inserting ''$3,378'';

(15) by striking ''$3,553'' each place it appears in subsections (o) and (p) and inserting ''$3,775'';

(16) by striking ''$1,525'' and ''$2,271'' in subsection (r) and inserting ''$1,621'' and ''$2,413'', respectively; and

(17) by striking ''$2,280'' in subsection (s) and inserting ''$2,422''.

(b) SPECIAL RULE.—The Secretary of Veterans Affairs may authorize administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) is amended—

(1) by striking ''$117'' in clause (A) and inserting ''$124'';

(2) by striking ''$201'' and ''$61'' in clause (B) and inserting ''$213'' and ''$64'', respectively;

(3) by striking ''$80'' and ''$61'' in clause (C) and inserting ''$84'' and ''$64'', respectively;

(4) by striking ''$95'' in clause (D) and inserting ''$100'';

(5) by striking ''$222'' in clause (E) and inserting ''$234''; and

(6) by striking ''$186'' in clause (F) and inserting ''$196''.

SEC. 4. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 is amended by striking ''$546'' and inserting ''$580''.

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

(a) NEW LAW RATES.—Section 1311(a) is amended—

(1) by striking ''$881'' in paragraph (1) and inserting ''$935''; and

(2) by striking ''$191'' in paragraph (2) and inserting ''$202''.

(b) OLD LAW RATES.—The table in section 1311(a)(3) is amended to read as follows:

''Pay grade	Monthly rate	Pay grade	Monthly rate
E–1	$935	W–4	$1,119
E–2	935	O–1	988
E–3	935	O–2	1,021
E–4	935	O–3	1,092
E–5	935	O–4	1,155
E–6	935	O–5	1,272
E–7	967	O–6	1,433
E–8	1,021	O–7	1,549
E–9	[1]1,066	O–8	1,699
W–1	988	O–9	1,818
W–2	1,028	O–10	[2]1,994
W–3	1,058		

''[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,149.

''[2] If the veteran served as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,139.''.

(c) ADDITIONAL DIC FOR CHILDREN.—Section 1311(b) is amended by striking ''$222'' and inserting ''$234''.

(d) AID AND ATTENDANCE ALLOWANCE.—Section 1311(c) is amended by striking ''$222'' and inserting ''$234''.

(e) HOUSEBOUND RATE.—Section 1311(d) is amended by striking ''$107'' and inserting ''$112''.

SEC. 6. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) is amended—

(1) by striking ''$373'' in paragraph (1) and inserting ''$397'';

(2) by striking ''$538'' in paragraph (2) and inserting ''$571'';

(3) by striking ''$699'' in paragraph (3) and inserting ''$742''; and

(4) by striking ''$699'' and ''$136'' in paragraph (4) and inserting ''$742'' and ''$143'', respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 is amended—

(1) by striking ''$222'' in subsection (a) and inserting ''$234'';

(2) by striking ''$373'' in subsection (b) and inserting ''$397''; and

(3) by striking ''$188'' in subsection (c) and inserting ''$199''.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect on December 1, 2001.

Mr. ROCKEFELLER. Mr. President, as chairman of the committee on Veterans' Affairs, I am tremendously pleased to urge prompt, favorable Senate action on the pending measure, legislation that will provide a cost-of-living adjustment to veterans' compensation for next year. This measure includes the actual adjusted amounts as calculated, based on the increase in the Consumer Price Index. I thank my colleague on the Veterans' Affairs Committee, Ranking Minority Member Senator ARLEN SPECTER, for his diligence and commitment to providing this important increase to well deserving veterans.

The Veterans' Compensation Cost-of-Living Adjustment Act of 2001 directs the Secretary of Veterans Affairs to increase, as of December 1, 2001, the rates of veterans' disability compensation, as well as compensation for eligible dependents and surviving spouses. The legislation raises compensation by 2.6 percent, the same percentage as the increase provided to Social Security recipients.

It is particularly timely that we move this legislation during the week of Veterans Day. Veterans and their families depend on the cost-of-living increase to ensure that their well-deserved benefits not be eroded by inflation. Veterans' disability compensation rates must keep pace with the increasing cost of living.

I urge all of my colleagues to support passage of this bill.

Mr. President, I ask unanimous consent that a summary of the legislation be printed in the RECORD.

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

SUMMARY OF S. 1088

This bill contains the annual Cost-of-Living Adjustment (COLA) to veterans disability compensation. The manager's amendment strikes the text of the House bill and inserts the actual amount of the increased rates. The percentage of the increase will be the same percentage—2.6 percent—as Social Security recipients will receive. There are no other provisions contained in the bill as amended.

The bill (H. R. 2540), as amended, was read the third time and passed.

The title amendment (No. 2150) was agreed to, as follows:

Amend the title so as to read ''An Act to amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.''.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the conference report accompanying H.R. 2330, which the clerk will report.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330), making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agency programs for the fiscal year ending September 30, 2002, having met have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

(The report is printed in the House Proceedings of the RECORD of November 9, 2001, page H7962.)

The PRESIDENT pro tempore. Under the previous order, there will be 60 minutes of debate on the conference report with the time to be equally divided and controlled.

The Senator from Wisconsin.

Mr. KOHL. Mr. President, I am pleased to bring to the Senate, the conference report on H.R. 2330, the Agriculture, Rural Development, Food and Drug, and Related Agencies Appropriations Act, 2002. The House approved this measure day before yesterday, and we need to take swift action in the Senate on final passage in order for the President to sign this conference report into law as soon as possible.

This conference report includes $75.8 billion in total spending for fiscal year 2002. These funds will be used to support programs and services of the

United States Department of Agriculture—except for the Forest Service—the Food and Drug Administration, and the Commodity Futures Trading Commission. Of this total, $16 billion is discretionary spending, and this amount is within the subcommittee's 302(b) allocation.

As I have stated before, this is not simply an ''agricultural'' bill. This bill not only supports the rural sector, it supports all sectors. It supports families in the cities; it supports inspectors along our borders; it supports the availability of drugs and vaccines to respond to the challenges of today and whatever tomorrow may bring. I support this conference report, and I hope all Senators will do the same.

Again, I thank Senator COCHRAN, ranking member of this subcommittee, and his staff for their tireless and indispensable help this year. I also thank my staff and all people who have helped bring us to this final stage of the appropriations process.

The PRESIDENT pro tempore. Who seeks recognition?

Mr. COCHRAN. Mr. President, I yield myself such time as I may consume.

The PRESIDENT pro tempore. The Senator from Mississippi is recognized for such time as he may consume.

Mr. COCHRAN. Mr. President, I am pleased today to join my friend from Wisconsin, Senator KOHL, to present for the Senate's approval the conference report on H.R. 2330. This conference agreement provides total new budget authority of $75.8 billion for the programs and activities administered by the United States Department of Agriculture, the Food and Drug Administration, and the Commodity Futures Trading Commission. These include programs that provide housing opportunities for low and moderate-income residents of rural America, that protect our Nation's food supplies against pests and diseases, assure the safety and efficacy of drugs and medical products, and provide nutrition assistance for America's children and working families.

This is the seventh conference report of the 13 regular fiscal year 2002 appropriations bills to be presented to the Senate this year for approval. This conference agreement has been approved by the House of Representatives by a substantial vote in that body, and Senate passage of the conference report today would be the final step necessary to send this bill to the President for his signature. I am hopeful the Senate will approve the conference report and give our committee a vote of confidence in our efforts to resolve successfully the differences that existed between the Senate and House-passed bills.

We think we defended the Senate's interests aggressively, and we worked out a compromise that will serve the interests not only of the two bodies but of the American people as well.

Mr. President, I reserve the remainder of our time.

The PRESIDENT pro tempore. Who seeks recognition? Time is running.

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

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

The bill clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

Under whose time does the Senator seek recognition?

Mr. CRAIG. Under that of the ranking minority member, Senator COCHRAN.

The PRESIDENT pro tempore. From Senator COCHRAN. Very well, the Senator is recognized.

Mr. CRAIG. Mr. President, I thank the chairman of the subcommittee, Senator KOHL, and Senator COCHRAN, for the tremendous cooperation they have extended to me and Idaho agriculture as we have considered this very important appropriations bill. I am pleased the conference report is now before us.

We all know that agriculture over the last 4 or 5 years has had a very difficult time, especially at the production level, in finding a commodity with which the producer could break even or make a profit. That has certainly been true in my State of Idaho. While that has gone on, there have been opportunities to improve the research capability and certainly the conference report we have before us represents that. All of our Nation's agricultural production has historically benefited from Federal dollars that have flowed into research at our colleges and universities that ultimately produce hybrid crops, better techniques, better conservation, better use of water and soil. All of those things in combination make agriculture as great as it is in our country today.

I am always amazed at the abundance we have produced as a result of a private-State-Federal partnership. It can at times be a problem, too, and that explains part of where we are today. With phenomenal abundance and availability of commodities, commodity prices in the last several years have been at about their all-time lows in relation to the cost of production. As a result of that, certainly this appropriating subcommittee and the authorizing Committee of Agriculture here in the Senate, along with the House of Representatives, has made every effort to assure that production agriculture at least had a safety net so we would not lose this valuable part of the American economy.

I know our consumers oftentimes take for granted when they go to the supermarket, and go to the food shelf in that supermarket, finding such an abundance at such a low price. They oftentimes assume it is always going to be there. Very seldom do we have the ability to look behind at the thousands and thousands of American producers and processors that provide that high-quality food to the American consumer. This legislation assists in that important part of the American lifestyle and the American economy.

Also, as agriculture has dwindled, and especially in my State of Idaho where we have seen Federal policy and national attitudes over the last two or three decades that would suggest we ought not log or we ought not mine or we ought not graze because somehow it damages the environment, we have seen rural economies dwindle, unemployment rise, and many of our rural areas, which are farm and resource communities, in dire straits.

In this package is also a rural economic development component that is increasingly important to rural America. As agriculture struggles, many of the other associated service industries, and many of the industries that were very typical in my State, have suffered even more. Many of them have shut down. Over the last decade, and in part because of the philosophy of the former administration, we have seen an 80-percent decline in logging on public lands. That has cost Idaho, and other States like Idaho, tens of thousands of jobs. As a result, unemployment in those areas has grown to 12 percent and 14 percent.

Unemployment means people out of work. It means no food on the table. Oftentimes it means fewer clothes for the children. It means strife within the family because of the economic circumstances they are experiencing. To be able to turn that around is part of my job. But it is also part of the job of the Congress, to have sensitivity toward economic development of the kind that is, in fact, represented here as we strive to fund U.S. Forest Service programs, USDA programs that will benefit rural communities of the kind that make up a very large part of my State.

I thought it important and appropriate this morning that I come to the floor to thank the chairman, Senator KOHL, and the ranking member, Senator COCHRAN, for the cooperation and the sensitivity they have shown. Certainly, the chairman of the full committee, who is now the Presiding Officer here in the Senate, has always had an eye to rural America. I appreciate that because his State of West Virginia is much like mine. It is built on resources. It is built on mining. It is built on the rural lifestyle.

That has been and remains a major part of the American economy. This bill represents that sensitivity, and I thank them for that.

I yield the floor.

The PRESIDENT pro tempore. Who seeks recognition?

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, I thank the Chair.

How much time do I have, Mr. President?

The PRESIDING OFFICER. Senator BYRD has up to 20 minutes.

Mr. BYRD. Mr. President, I thank the Chair, Senator KOHL, who is also chairman of the agriculture appropriations subcommittee. I thank him for his good work on behalf of the people of his State, for his good work on behalf of the people of my State, and for his good work on behalf of the people of the Nation. He is an apt student of public service and of the legislative process. He is one of my favorites. When I speak in that term, I think of the legislative process and I think of this institution, the Senate.

I also thank Senator COCHRAN, who is the ranking member of the subcommittee. I thank him for his service to the Nation and to his people and to my people—to our people. Senator COCHRAN likewise does good work for the Nation and for the committee. He is a very able member of the Appropriations Committee.

This conference report includes $75.8 billion in total spending for fiscal year 2002. This amount is $3 million below the level passed by the Senate. Of the total amount provided, $16.0 billion is discretionary spending, and this amount is within the subcommittee's 302(b) allocation. This conference does not include one cent—not one copper penny—of emergency spending.

This conference report supports programs related to agricultural research, conservation, rural development, promotion of international trade, and many other traditional programs for which the agriculture bill has become so well known. This conference report also supports domestic food programs such as Food Stamps and the Women, Infants, and Children, WIC, program, as well as the other food safety and public health programs of the Food and Drug Administration and other agencies. The programs supported by this conference report serve the most basic of needs of the American people in nearly every facet of their lives.

On September 11—another day that will always live in history, a date that will not be a footnote in the annals of mankind—the American people were reminded of the importance of programs related to public health, food supply, and food safety. These programs have long been a part of the Agriculture Appropriations bill, and they are continued, and strengthened, by this bill.

I am particularly pleased that the conference report contains a number of provisions related to the treatment of animals—those creatures that cannot speak for themselves, those creatures without which mankind would perish. We should think of them, and we do think of them. There are two principle underlying statutes that provide authority to agencies under the jurisdiction of this conference report on the subject of animal treatment. They are the Animal Welfare Act and the Humane Slaughter Act.

The Animal Welfare Act was first authorized by Public Law 89–544, the Act of August 24, 1966, and is today carried out by USDA's Animal and Plant Health Inspection Service (APHIS). The primary purpose of this Act was to authorize the Secretary of Agriculture to regulate the transportation, sale, and handling of dogs, cats, and certain other animals intended to be used for purposes of research or experimentation, and for other purposes. Think of the service that those animals render to mankind. And they don't do it without a sacrifice to themselves. Today, in addition, this act is used to regulate individual dog breeders and handlers and larger operations such as circuses and zoos around the nation.

The Humane Slaughter Act was originally passed in 1958, and requires that animals be rendered insensitive to pain before they are killed in a slaughterhouse. This Act is today carried out by USDA's Food Safety Inspection Service, FSIS.

For a number of years, the level of funding at APHIS for inspections and enforcement of the Animal Welfare Act had been held stagnant. More recently, this Congress has been able to provide significant increases for these activities, including $2.5 million provided through an amendment I offered in the supplemental appropriations bill that was signed into law on July 20, 2001.

In this conference report, additional increases are provided for these purposes. In this conference report that we are debating today, I say, additional increases are provided for these purposes.

This conference report includes an increase of $2.4 million above the President's request for animal welfare inspections and the conferees have directed the agency to hire additional inspectors and support staff to increase the overall number of inspections, and to conduct more repeat inspections of facilities found to be in noncompliance with the act. Let's go back and look at them again, if they are not complying with the act. This year's appropriation of $15,167,000—in addition to funds made available in the supplemental—represents an increase of 60 percent since fiscal year 1999. So, at last, we are paying more attention—and we ought to pay more attention—to these animals and to the enforcement of the law in regard to their slaughter.

Increased inspections are logically followed by increased demand for investigations and enforcement. This conference report includes an increase of $1,852,000—that is in addition to funds made available in the supplemental—for APHIS investigation and enforcement activities. In addition, Statement of Managers language directs the agency to hire additional inspectors to service the backlog of animal care investigations. I would like to mention that the conference committee became aware of reported violations of the Animal Welfare Act regarding treatment of polar bears by a traveling circus, and Statement of Managers language is included directing the agency to investigate this matter, take appropriate action, and report to the Appropriations Committee.

Earlier this year, news accounts described incidents in meat slaughterhouses which were atrocious—atrocious—violations of the Humane Slaughter Act. As part of the $2.5 million amendment that I sponsored in this year's supplemental, an enhanced program of oversight within the agency has been initiated to ensure better enforcement of this act. Last month, the U.S. Department of Agriculture announced that it had begun this new initiative—using both funds provided by the supplemental and other Departmental funds—and had placed additional FSIS personnel in field district offices to work closely with plant inspectors and veterinarians.

These individuals, who will be officially known as ''Humane Handling Verification Experts and Liaisons''—let me repeat, these individuals, who will be officially known as ''Humane Handling Verification Experts and Liaisons''—will work to tighten up enforcement and oversight of the Humane Slaughter Act.

We are talking about animals. I am not one of those who claim that man is an animal. Man was created a little lower than the angels but above the beasts of the field. Read the Scriptures. Read Milton's ''Paradise Lost.'' Yes, the animals serve us every day in ways that we do not tend to remember. They serve us. But for the animals, mankind would not exist upon the Earth, in all likelihood. Oh, you say, he might become a vegetarian, but what about the beasts of burden? The righteous man looks to the welfare of his beast. So, I intend to watch this initiative. You can bet on it. I intend to watch this initiative with keen interest and will look forward to making sure that resources are continually provided to make it an effective tool to stop inhumane treatment of animals.

I guess my little dog Billy has had a great deal to do with my attitude toward animals. He has a little sister named Bonnie. Billy Byrd is 15 years old. But if there is a creature on this Earth that is absolutely and forever unfailingly loyal and dedicated to me—and there is—it is my little dog Billy, that Maltese terrier. He is an animal, but he feels pain. He must understand affection and love because he gives it to me and he gives it to Erma; and I give it and she gives it in return.

Yes, never does he let me leave the door for work that he does not follow me to the last step. That is an animal. We are talking about animals that are slaughtered for the food that graces

the table of men and women and children around the world—animals that we should treat humanely.

Mr. President, again I want to congratulate the chairman and the ranking member of the Agriculture Appropriations Subcommittee for a job well done. Well done, Senator KOHL. Well done, Senator COCHRAN. I also thank all members of the subcommittee for their contributions to this final product. I thank the members of the staff on both sides of the aisle, without whom, where would we find ourselves. I thank them. I support this conference report, and I hope that all Senators will do the same.

Mr. President, I thank the Chair and I yield the floor.

Mr. CONRAD. Mr. President, I rise to offer for the record the Budget Committee's official scoring of the conference report to H.R. 2330, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for Fiscal Year 2002.

The conference report provides $16.018 billion in discretionary budget authority, which will result in new outlays in 2002 of $12.038 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the report total $16.282 billion in 2002. By comparison, the Senate-passed version of the bill provided $16.137 billion in discretionary budget authority, which would have resulted in $16.118 billion in total outlays. The conference report is at its revised Section 302(b) allocation for budget authority and outlays. The conferees have met their target without the use of any emergency designations.

I commend Senators KOHL and COCHRAN for working together in a bipartisan manner with their House counterparts to complete in an expedited manner the conference to this very important piece of legislation, which provides funding for agriculture, conservation, rural development, and domestic food programs. I also commend Chairman BYRD and Senator STEVENS, as well as House Chairman YOUNG and Ranking Member OBEY on the significant progress made by the two appropriations committees over the last couple of weeks in completing the 2002 appropriations bill.

Mr. President, I ask unanimous consent that a table displaying the budget committee scoring of this bill be printed in the RECORD.

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

CONFERENCE REPORT TO H.R. 2330, THE AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002, SPENDING COMPARISONS—CONFERENCE REPORT

[In millions of dollars]

	General purpose	Mandatory	Total
Conference report:			
Budget Authority	16,018	43,112	59,130
Outlays	16,282	33,847	50,129
Senate 302(b) allocation: [1]			
Budget Authority	16,018	43,112	59,130
Outlays	16,282	33,847	50,129
President's request:			
Budget Authority	15,399	43,112	58,511
Outlays	15,789	33,847	49,636
House-passed:			
Budget Authority	15,668	43,112	58,780
Outlays	16,044	33,847	49,891
Senate-passed:			
Budget Authority	16,137	43,112	59,249
Outlays	16,118	33,847	49,965
CONFERENCE REPORT COMPARED TO:			
Senate 302(b) allocation: [1]			
Budget Authority	0	0	0
Outlays	0	0	0
President's request:			
Budget Authority	619	0	619
Outlays	493	0	493
House-passed:			
Budget Authority	350	0	350
Outlays	238	0	238
Senate-passed:			
Budget Authority	−119	0	−119
Outlays	164	0	164

[1] For enforcement purposes, the budget committee compares the conference report to the revised Senate 302(b) allocation.

Notes.—Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER (Mr. NELSON of Florida). Who yields time to the Senator from Illinois?

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Three and a half minutes.

Mr. BYRD. I yield the 3½ minutes to the distinguished Senator from Illinois.

Mr. DURBIN. I thank the Senator from West Virginia. First, I congratulate him on his excellent remarks. All of us who have owned pets and have developed a friendship and affection for them can certainly identify with his kind words about his beloved Billy Byrd and Billy Byrd's sister Bonnie. I say to Senator BYRD, I was not aware your dog had a sister. I am glad that has been reported formally in the CONGRESSIONAL RECORD.

I also congratulate Senator KOHL because he has worked hard on the Agriculture appropriations bill that is before us. I am happy to serve on the subcommittee. I know the hours that have been put in by the Senator and his staff.

Let me highlight two aspects of this bill that we ought to keep in mind. It is known as the Agriculture appropriations bill, but it is so much more.

As important as agriculture is to America, this bill contains as much money or more for nutrition and feeding as it does for agricultural programs.

This morning a man by the name of Robert Forney came to my office. Bob is an old friend. He was head of the Chicago Stock Exchange. When he retired last year, Bob Forney became the CEO of a program known as Second Harvest. Second Harvest is the largest emergency food provider in America. They keep the canned goods and other items of food available for families who are struggling.

Bob came to tell me this morning that the challenge facing food banks across America and feeding programs is growing geometrically; 415,000 Americans lost their jobs last month. Many of them lost jobs that don't qualify for unemployment insurance, and they are struggling to feed their children.

In this land of prosperity, children are going hungry and the numbers grow by the day. This bill, with its provision for WIC, for mothers, infants, and small children, as well as the provision for food stamps, addresses that. We ought to be mindful of the need to watch this closely. More money probably will be needed before the end of the next fiscal year.

There is an important element in this bill about food safety. I salute Senator BYRD, who stood here yesterday and said: Let us put money into food security at a time when American families are worried about bioterrorism. We lost because colleagues from the other side of the aisle said this is not an emergency. We know better. America knows better.

This bill, which funds the Food and Drug Administration and the U.S. Department of Agriculture to make certain that our food is safe, provides funds, but the bill offered by Senator BYRD would have given the additional resources needed for more inspectors, better inspection, better peace of mind for people all across America. That bill was defeated. I hope we have a chance to debate that again.

What happened yesterday really turned this Chamber on its head. We are supposed to listen to the people we represent. We are supposed to speak for them and advocate for them. What Senator BYRD came forward with yesterday was spending so that we could produce vaccines to prepare America for a possible bioterrorist attack. Some have said: There the Democrats go again, spending money right and left on porkbarrel. Vaccines to immunize our children and families in case of a bioterrorist attack is not porkbarrel or wasteful. It is prudent and thoughtful. I thank Senator BYRD for his leadership on that.

Putting money into law enforcement: We tried yesterday so that across Illinois and West Virginia and Wisconsin and across the Nation, our first responders, whether police or firefighters, will have the resources to respond to an act of terrorism.

Modernization for computers: The Senator from West Virginia may be stunned to learn, as I did recently, that a new FBI agent told me their computer system at the FBI does not have e-mail, nor does it have access to the Internet. That is the computer system of the premier law enforcement agency in America.

Senator BYRD put resources in that bill to modernize computers at the FBI and other important law enforcement

agencies. The Republicans voted against it, saying it was not an emergency.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. BYRD. Will the Senator yield 30 seconds?

Mr. MCCAIN. I am always happy to yield to the Senator from West Virginia.

Mr. BYRD. I thank the Senator.

I thank Senator DURBIN, the very distinguished and able Senator from Illinois, for his kind remarks and for his references to the amendment of yesterday. We will be back.

I again thank the distinguished Senator who yielded me the time.

Mr. MCCAIN. I thank the Senator.

Mr. President, the Agriculture appropriations bill is fundamental to the Nation's agricultural economy and supports foreign and domestic food programs. Unfortunately, porkbarrel interests also received remarkable support in this final conference report. While this final conference report includes less porkbarrel spending than the Senate bill passed just a couple weeks ago, it still includes $335 million in wasteful, unnecessary, and unreviewed spending which is $30 million more than the amount included in the final report passed last year.

Every single appropriations bill we have passed so far has an increase in porkbarrel spending over last year. We are now up to $9.6 billion of wasted, unnecessary programs.

While the Senator from Wisconsin is on the floor, I saw one of the more egregious things happen the other night when there was a managers' package which had 35 provisions in it. When we were about to vote on it, I asked: Does anybody here know what is in this package? No one did.

We found out what was in it. What was in it was a violation of a trade agreement we just concluded with Vietnam. We found 15 porkbarrel projects identified by State for members of the appropriations subcommittee. I tell the Senator from Wisconsin, I will not allow a vote again until the managers' package is examined. That was an egregious act that was done by the Senate. My constituents deserve a lot better than what happened the other night with a managers' package which was brought up late in the evening. No one had seen it. When we found out, it was certainly something that I never would have allowed to pass.

When the Senate considered and passed the Agriculture spending bill a couple weeks ago, the typical porkbarrel trickery reached unprecedented levels. Midnight legislative riders were covertly slipped in unseen by a majority of the Senate. Erroneous earmarks for special interest projects were tacked on—again, unseen and circumventing the normal committee process—and funding priorities in stark discord with that of the administration.

Many of my colleagues have spoken before the Senate about the economic struggle of America's farmers. Common sense would dictate that this bill be directed towards supporting those Federal programs that most benefit farmers in need. Instead, special interests reign and millions of taxpayers' dollars are diverted to funding research facilities, universities, and farming conglomerates.

Even emergency dollars provided by Congress for farmers do not reach intended beneficiaries. This porkbarrel bonanza includes millions for projects that administrations have proposed for elimination year after year. Yet generous benefactors on the Appropriations Committee keep the spigot open and continue to drain dollars from hard-working taxpayers.

This method of budget monopolization is ricocheting out of control. Let's take a look at the top 10 porkbarrel earmarks in this final Agriculture appropriations bill.

No. 10, $2.2 million for the Center for Cool and Cold Water Aquaculture in Leetown, WV. I come from a pretty hot State. It is starting to cool off now. Maybe we could get some of that money out in Arizona for cool and cold water aquaculture rather than have it all be devoted to Leetown, WV.

No. 9, $600,000 for a tristate joint peanut research project in Alabama. Naturally it is in Alabama, but it is tristate.

No. 8, $600,000 for agricultural waste utilization in West Virginia. Nowhere else in America—$600,000 for agricultural waste utilization in West Virginia. I guess agricultural waste needs to be utilized more importantly in West Virginia than any other part of America.

No. 7, Increase of $750,000 for the Wisconsin Livestock Identification Consortium. We now have a consortium in Wisconsin to identify livestock.

No. 6, $2 million to pay for efficient irrigation in New Mexico and Texas—efficient irrigation in New Mexico and Texas.

No. 5, $100,000 for the Trees Forever Program in Illinois. Trees Forever. I have mentioned on the floor, I would like to see a cactus forever program. Perhaps the appropriators might devote that to my State of Arizona.

No. 4, $200,000 for the Iowa Soybean Association. Last I checked, the Iowa Soybean Association was a private organization composed of individuals who decided to join in this association in support of soybeans. Now we are going to give them $200,000.

No. 3, $4.5 million for the U.S. Vegetable Laboratory in Charleston, SC.

No. 2, $230,000 for animal waste management in Oklahoma.

No. 1, $100,000 for the Weed It Now initiative in Massachusetts, New York, and Connecticut. Weed It Now. Mr. President, we need a Weed It Now program on these appropriations bills. We need to weed out this outrageous dispensation of American tax dollars.

I want to speak briefly about one of the concealed provisions slipped into the managers' amendment just before the Senate passed this bill. This provision effectively bans all imports of Vietnamese catfish into the United States. The sly wording of this measure doesn't mention Vietnam at all. But it does patently violate our solemn trade agreement with Vietnam, before the Vietnamese National Assembly has even ratified that agreement. The ink isn't even dry yet, and we are violating that. Why? No doubt it was inserted on behalf of several large, wealthy U.S. agribusinesses that will handsomely profit by killing competition from Vietnamese catfish imports.

Whether you are a free trader or an opponent of harmful special interest riders hidden in big spending bills, you can't help but find this sort of behavior to be a scandalous abrogation of our duty to the national interest. After preaching for years to the Vietnamese about the need to get government out of the business of micromanaging their economy, we have sadly implicated ourselves in the very sin our trade policy claims to reject. I will work with Senators KERRY, PHIL GRAMM, and others to see that this offensive trade barrier doesn't stand.

We have a great responsibility to American citizens. I urge my colleagues to exercise greater prudence and principle in this responsibility.

Mr. President, I have an article from the Wall Street Journal of yesterday, and I also have an article from the Washington Post of today. I ask unanimous consent that both of those articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 14, 2001]

ADD-ON SPENDING PROJECTS ARE ON COURSE TO EXCEED THOSE OF LAST ADMINISTRATION

(By David Rogers)

WASHINGTON.—After tough talk last spring, the White House appears to be retreating from its vow to stem the tide of year-end spending projects added by Congress to annual appropriations bills.

Soon after taking office, the administration proposed to write off billions of dollars in existing pork-barrel projects as ''one-time'' expenditures. But as the legislative session draws to a close just the opposite is the case, and the number of so-called spending earmarks by lawmakers may actually be growing.

Congress yesterday sent President Bush a $112.7 billion appropriations bill estimated to have close to 1,400 earmarks attached to science, veterans, housing and environmental programs. The list of projects in a single account in the Department of Housing and Urban Development consumed 10 pages of the Congressional Record, and space-science programs increasingly have become a conduit for grants to home state universities.

The action came as House and Senate negotiators approved a $75.9 billion agriculture budget adding scores of research projects along with an amendment to help U.S. catfish growers fight off imports from Vietnam.

Hours later, still more earmarks were approved as part of a final $39.3 billion Commerce, Justice, and State Department budget that adds money for maritime loan subsidies that the White House wants to terminate.

The administration has raised objections, but nothing like this week's veto threat over how much Congress can spend in response to the terrorist attacks. For example, in a recent five-page letter to negotiators on the HUD and science bill, the issue of earmarks was almost the last issue raised by Budget Director Mitchell Daniels Jr. His Deputy, Sean O'Keefe, insisted yesterday that progress is being made incrementally, but on a bipartisan basis, House Appropriations staff say the administration has been little help in curbing the more earmark-prone Senate. ''We haven't heard a peep,'' said James Dyer, chief clerk to the House Appropriations panel.

Last spring, the tone was very different, as the Office of Management and Budget tallied up more than 6,000 earmarks costing $15 billion in the last appropriations bills approved by the departing Clinton administration. In trying to make room for its own initiatives—including the president's tax cut—OMB assumed cuts of $8 billion from such earmarks and other ''one time'' expenditures. Failure to enforce this budget discipline, now, could come back to haunt the administration, which faces the prospect of rising costs because of terrorist strikes and a troubled economy.

The revised agriculture budget yesterday is a first sign of these pressures. As unemployment has risen, so has the projected caseload next year for federal nutrition programs, and lawmakers had to add $211 million to Mr. Bush's request to pay these bills.

All of this comes at a time of increasingly bitter relations between the Appropriations and OMB. Mr. Daniels is blamed by lawmakers in both parties for precipitating the veto clash this week with Mr. Bush. In a ''Dear Mitch'' letter, House Appropriations Chairman Bill Young (R., Fla.) and Wisconsin Rep. David Obey, the ranking Democrat, asked that OMB freeze all spending and transfers from an emergency fund until there is more consultation with the panel.

[From the Washington Post, Nov. 15, 2001]

IN CONGRESS, PORK STAYS ON MENU

PET PROJECTS SOMETIMES AT ODDS WITH NEW SPENDING DEMANDS

(By John Lancaster and Dan Morgan)

Last month, lawmakers rejected a proposal to add $131 million to a program that helps Russia keep track of its nuclear stockpile. It's not that they didn't like the idea: After Sept. 11, almost everyone in Congress agrees on the need to do more to stop terrorists from acquiring nuclear bombs.

But House and Senate negotiators meeting to decide the final shape of a $24.6 billion spending bill covering the nation's nuclear and water programs could not find room for the increase.

They had other priorities, including:

A museum at the Atomic Testing History Institute in Las Vegas ($1 million);

Aquatic-weed removal in the Lavaca and Navidad rivers in Texas ($350,000).

A study of erosion on Waikiki Beach in Hawaii ($350,000).

Targeting funds for specific projects at the request of individual lawmakers is a time-honored ritual on Capital Hill, and this year is no exception. But as Congress completes work on 13 annual spending bills, its business-as-usual approach to managing the federal budget is colliding with the new demands of fighting terrorism.

The soaring costs of responding to the attacks—Congress has already approved $40 billion for the purpose—have done little so far to curb congressional appetites for courthouses, highways, dams, parks and other purely parochial items. According to congressional aides, the number of such ''earmarks'' in this year's crop of spending bills is likely to approach or even exceed last year's record number, which was estimated by the White House budget office at 6,400 (a threefold increase from 1995).

Many of the earmarks, as in previous years, reflect political clout more than national need. Money is flowing disproportionately to the districts of appropriations committee members and congressional leaders—including self-described fiscal conservatives such as Senate Minority Leader Trent Lott, who secured millions for projects in his home state of Mississippi.

''These legislative hijinks are bad enough in peacetime,'' Sen. John McCain (R-Ariz.) told the Senate last week, after noting acidly that on Sept. 13, while the Pentagon and the World Trade Center ''still smoldered,'' the Senate approved $2 million for the Oregon Groundfish Outreach Program. ''America is at war. . . . Congress should grow up and stop treating the domestic budget as a political Toys R Us.''

There is no shortage of examples: $510,000 for a chapel at Kaneohe Bay Marine Corps Base in Hawaii; $100,000 to study the feasibility of converting a building in Martinsburg, W. Va., to a museum for Army artifacts; $70,000 to refurbish a bird observatory in Montgomery County, Pa.; $500,000 for the Montana Sheep Institute.

''Pork thrives in good times and bad times,'' said Allen Schick, a congressional expert at the Brookings Institution. He added, ''the problem is not the individual project, but the cumulative effect. . . . When you add up the total, it just blows your mind.''

Earmarks do not automatically swell the federal budget, because in some cases they merely direct government agencies to spend money for specific purposes within the limits of available funds. But many of this year's items were added on top of President Bush's budget request, sometimes in House-Senate conferences where they received little scrutiny. Successive administrations have insisted that such choices are better left to federal agencies, complaining that earmarks create upward pressure on the budget by crowding out more important needs.

Members of the appropriations committees—who note that the Constitution grants Congress authority over spending—say they can judge local needs better than federal bureaucrats because they have their ears to the ground back home.

Several congressional aides defended this year's earmarks, observing that spending legislation was largely drafted—and in some cases voted on by one or both chambers—before Sept. 11. They also noted that, whatever the particulars of individual bills, spending is on track to stay within the overall budget ceiling of $686 billion negotiated by the Bush administration and congressional leaders last month.

There is little question, however, that the fat surplus projections of recent years, now fading into memory, have eased pressure on Congress to show restraint. White House budget director Mitchell E. Daniels Jr. has all but abandoned the quest he launched earlier this year to contain the practice of earmarking. ''To be honest, the appropriators weren't that receptive,'' an administration official said.

Despite broad bipartisan agreement on the need to spend more to fight terrorism—lawmakers have tried without success to persuade the White House to lift the $40 billion ceiling on emergency spending related to the Sept. 11 attacks—they have been reluctant to do so at the expense of pet projects back home.

During a House-Senate conference on the energy and water bill Oct. 26, for example, Rep. Chet Edwards (D–Tex.) offered an amendment that would have added $131 million to an Energy Department program to help Russia safeguard its nuclear materials. He was responding, in part, to a January warning by a department task force—chaired by former Senate Republican leader Howard H. Baker Jr. (Tenn.) and former White House counsel Lloyd Cutler—that lax nuclear security in Russia was ''the most urgent unmet national security threat to the United States today.''

But conferees rejected Edwards's proposal to shift the money from a program to refurbish nuclear warheads in the U.S. arsenal. Nor did they consider taking funds from hundreds of local water projects or other earmarks, such as the atomic history museum.

''That's a very fair question to ask,'' Edwards said when queried about why he did not suggest the option.

Edwards said that while he would have been open to an across-the-board cut in water projects to fund the nonproliferation program, ''it is politically very difficult'' to eliminate individual earmarks—some of which, he acknowledged, he sought on behalf of his own constituents.

The $1 million earmark to pay for exhibits at the Atomic Testing History Institute was added by Sen. Harry M. Reid (D-Nev.), the assistant majority leader, who chairs the energy and water panel of the Appropriations Committee. Reid's hand is evident throughout the final bill, which adds 50 Nevada-specific items worth $146 million to Bush's original budget request.

According to a spokesman, Reid strongly supports the Energy Department's nonproliferation efforts but objects to shifting funds for the purpose ''at the eleventh hour.'' The spokesman, Nathan Naylor, said it was not surprising that a bill to fund nuclear programs would steer a lot of money to Nevada, given the state's central role in nuclear testing.

Naylor said the atomic history museum would ''chronicle the historic sacrifice that Nevada has made for the country during the Cold War,'' when some of its residents were poisoned by radiation from above-ground tests in the 1950s. ''This is part of our history, and if this is what it costs to protect that legacy, so be it,'' he said.

Reid is hardly alone in using his leadership post to channel federal resources to the folks back home.

Lott, for example, has joined the Bush administration in opposing additional spending for homeland defense, the military and New York City in a pending supplemental appropriations bill. ''He's concerned about spending just spiraling completely out of control,'' Lott told reporters last week. ''And I share that concern.''

But even as Lott was making that comment, the Senate was giving final approval to a spending bill that included $10 million for the Stennis Space Center in Bay St. Louis, Miss.; $50,000 for a street extension that will ''link cultural and entertainment districts'' in Jackson, Miss.; $500,000 for Lott's alma mater, the University of Mississippi; and more than $1 million for water systems in Jackson and Picayune, Miss.

In a similar vein, Rep. Jerry Lewis (R-Calif) used his power as chairman of the Appropriations defense subcommittee to steer a $10 million grant to the city of San Bernardino, in his district, to clean up the underground water supply. The bill would direct the Army to clean up radioactive waste at a site in the district of Rep. John P. Murtha (Pa.), the ranking Democrat on the panel.

Senate appropriators, meanwhile, used the $10.5 billion military construction bill, signed by the president on Nov. 5, to speed up stalled environmental projects in their states and districts. For example, the report attached to the enacted bill gives the Pentagon 90 days to submit a master plan for ''environmental remediation'' of Hunters Point Naval Shipyard in San Francisco, home town of the chairman of the military construction panel in the Senate, Dianne Feinstein (D).

According to a Senate study, the nine states that will receive the most earmarked military construction money are represented by senior members of the defense or military construction panels, or the two armed services committees.

To pay for earmarked projects while staying within a $10.5 billion ceiling established by the appropriations committees, House and Senate conferees adopted a 1.127 percent across-the-board cut in regular military construction accounts.

Mr. MCCAIN. Mr. President, I am against what is going on here. In a time of war, some have called it ''war profiteering.'' I think it is wrong. We are abrogating our responsibilities to the American people. I also think it is time the administration step in and the President veto some of these bills with these outrageous spending projects in them.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the time run equally on both sides.

The PRESIDING OFFICER. The time is running equally.

Mr. REID. The Senator from Arizona has said I can yield back his time.

The PRESIDING OFFICER. Without objection, the time is yielded back.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—H.R. 2500

Mr. REID. Mr. President, I ask unanimous consent that immediately following the action on the Agriculture appropriations conference report, the Senate proceed to the consideration of the conference report to accompany H.R. 2500, the Commerce-State-Justice appropriations bill, and that it be considered under the following limitations: 45 minutes for debate with time equally divided under and controlled as follows: 15 minutes each for Senator HOLLINGS, Senator GREGG, and Senator MCCAIN, or their designees; that upon the use or yielding back of time, without further intervening action or debate, the Senate proceed to vote on adoption of the conference report.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. It is my understanding that the order is that the vote begin at 11:30; is that right?

The PRESIDING OFFICER. The vote will begin when all time is yielded back.

Mr. REID. How much time is outstanding?

The PRESIDING OFFICER. There are approximately 4 minutes on each side.

Mr. KOHL. Mr. President, I yield back the remainder of the time on our side.

The PRESIDING OFFICER. The time is yielded back.

Mr. REID. Mr. President, upon the advice of the Republican staff, I yield back their time.

The PRESIDING OFFICER. All time is yielded back.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the conference report.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. TORRICELLI) is necessarily absent.

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

The result was announced—yeas 92, nays 7, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—92

Akaka	Domenici	Lott
Allard	Dorgan	Lugar
Allen	Durbin	McConnell
Baucus	Edwards	Mikulski
Bennett	Enzi	Miller
Biden	Feingold	Murkowski
Bingaman	Feinstein	Murray
Bond	Fitzgerald	Nelson (FL)
Boxer	Frist	Nelson (NE)
Breaux	Graham	Nickles
Brownback	Gramm	Reed
Bunning	Grassley	Reid
Burns	Hagel	Roberts
Byrd	Harkin	Rockefeller
Campbell	Hatch	Santorum
Cantwell	Helms	Sarbanes
Carnahan	Hollings	Schumer
Carper	Hutchinson	Sessions
Chafee	Hutchison	Shelby
Cleland	Inhofe	Smith (OR)
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Collins	Johnson	Stabenow
Conrad	Kennedy	Stevens
Corzine	Kerry	Thomas
Craig	Kohl	Thompson
Crapo	Landrieu	Thurmond
Daschle	Leahy	Warner
Dayton	Levin	Wellstone
DeWine	Lieberman	Wyden
Dodd	Lincoln	

NAYS—7

Bayh	Kyl	Voinovich
Ensign	McCain	
Gregg	Smith (NH)	

NOT VOTING—1

Torricelli

The conference report was agreed to.

Mr. KOHL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report to accompany H.R. 2500, which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2500), ''making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes,'' having met have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by all of the conferees on the part of both Houses.

(The report is printed in the House proceedings of the RECORD of November 9, 2001 page H7986.)

The PRESIDING OFFICER (Mrs. CARNAHAN). Under the previous order, there are 45 minutes for debate of which Senator HOLLINGS, Senator GREGG, and Senator MCCAIN have 15 minutes each.

Who yields time?

Mr. HOLLINGS. Madam President, I yield myself such time as is necessary.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Madam President, I am very pleased to present to the Senate today the FY 2002 State, Justice, Commerce, and related agencies conference report. The conference report before you combines the strongest components from both the Senate and House bills which passed a few months ago, and it addresses new priorities that have arisen since September 11.

I could not have done this without the help of the ranking member, Senator GREGG. He and his staff have worked diligently with me and my staff to produce a fair, well balanced, and bipartisan bill. I also want to thank Chairman WOLF and ranking member SERRANO, as well as their staffs, for their commitment to a positive and constructive conference. The outcome of this conference is a bi-partisan and bi-cameral piece of legislation. In fact, the House passed this bill 411–15 yesterday. I now call on the Senate to pass this bill as well.

I have always said that the funds appropriated under this bill affect the lives of all Americans in so many different ways. However, the importance of this bill became even more apparent in the aftermath of the September 11 attacks. The conference report before you today meets the following three goals: One, it provides funding at the Federal, State, and local level to combat terrorism here at home.

In fact, that is exactly what we were debating with Senator GREGG's initiative on counterterrorism at the time the Pentagon was struck that morning.

Second, it provides funds to protect American citizens and employees of

the American Government, while overseas, and three, this bill continues the numerous domestic programs that have had, and will continue to have, a positive impact on the American way of life.

First, this bill continues to fund the counter-terrorism programs under the Office of Justice Programs (OJP), Office of Domestic Preparedness (ODP). Most of these funds go directly to States in the form of formula grants for the purchase of equipment to respond to terrorist incidents at both the State and local level. The distribution of funds among State and local agencies are based on State plans that each State must submit to ODP prior to receiving grant funds. Funds provided to the office of domestic preparedness are also used to provide training to State and local law enforcement officials, as well as to provide real-time emergency exercises for first responders and Federal, State, and local executives.

The bill also provides a significant increase in funds over last year to ensure that agencies have the resources they need to prevent and fight terrorism. For example, the fiscal year 2002 bill includes a $280 million increase over last year for the Federal Bureau of Investigations and a $700 million increase for Immigration and Naturalization Services.

Second, as in past years, the conferees have placed significant resources—$1.3 billion for worldwide security upgrades and $458 million for Embassy construction—into ensuring that our overseas facilities are adequately protected. U.S. citizens and overseas employees utilizing these facilities should be safeguarded against possible terrorist attacks—and the funding provided in this conference report will help assure that they are.

Finally, the conferees have placed great emphasis on continuing funding for domestic programs that have a positive impact on the American way of life. It is imperative that the terrorist attack against this Nation does not force us to abandon the vital domestic programs that have made us a great nation. This conference report ensures that those vital programs are not neglected. It continues programs that make our Nation's primary and secondary schools safer by providing grants for the hiring of school resource officers. Funds are provided to protect all Americans by increasing the number of police officers walking the Nation's streets, providing additional funds to fight the growing problem of illegal drug use, guarding consumers from fraud, and shielding children from internet predators. In addition, people throughout this country benefit from weather forecasting services funded through this bill. These Americans include farmers receiving information necessary to effectively manage their crops, and families receiving lifesaving emergency bulletins regarding tornadoes, floods, torrential rains, and hurricanes. This conference report continues to assist States in their efforts to manage overwhelming economic growth in our coastal communities. It also provides funds to preserve our few remaining pristine estuarine areas. Funding is provided to assist our small businesses, to gather economic statistical data, to perfect our census process, to promote export of American products. All of these are vital programs that have contributed daily to the strength of this Nation.

In all, the CJS bill totals $39.3 billion in budget authority, which is $1.2 billion above the fiscal year 2001 amount. The Departments of State, Justice, and Commerce, as well as the Judiciary, all receive significant increases over prior year appropriations. I would like to take a few minutes to go over some of the specific funding highlights from the SJC bill the conferees are presenting to the Senate:

Once again, the FBI's Preliminary Annual Uniform Crime Report released this past May demonstrates how well these programs are working. According to the FBI's report, in 2000, serious crime has decreased 7-percent from 1998, marking 9 consecutive years of decline. This continues to be the longest running drop in crime on record. Bipartisan efforts to fund DOJ's crime fighting initiatives have impacted this reduction in crime during the past 10 years.

The conference report provides $3.5 billion for the FBI, which is $280 million above last year's funding level. To meet the critical need of sharing and storing information within the FBI, the bill provides the FBI with $142 million for the FBI's Computer Modernization Program, Trilogy. In addition, the conference report provides significant funding increases for vital programs such as $6.8 million to improve intercept capabilities; $7 million for counter-encryption resources; $12 million for forensic research; and $32 million for an annex of the engineering research facility, which develops and fields cutting edge technology in support of case agents.

The conference report provides $1.48 billion for DEA, $129 million above last year's funding level. Increased funds are provided for technology and infrastructure improvements, including an additional $13 million for DEA's laboratory operations for forensic support.

To combat drugs that are reaching our streets and our children, the conference report provides $32.8 million to fight methamphetamine and encourages the DEA to increase its efforts in fighting heroin and emerging drugs such as oxycontin and ecstacy. The conference report also directs the DEA to renew its efforts to work with Mexico in combating drug trafficking and corruption under the country's new President Vicente Fox.

For the INS, the conference report includes $5.6 billion, $2 billion of which is derived from fees. This is an $800-million increase over last year's funding level and provides the necessary resources to address border enforcement and benefits processing.

For border enforcement, the bill provides $66 million for 570 additional Border Patrol agents, and $25.4 million for 348 additional land border inspectors. To better equip and house these enforcement officers, the conference report provides $2 million for Border vehicles, $22 million for Border equipment, such as search lights, goggles and infrared scopes, $40 million to modernize inspection technology; and $128.4 million for Border patrol and detention facility construction and rehabilitation.

For INS' benefits processing efforts, the conference report provides an additional $45 million to specifically address the case backlog and accelerate processing times.

This conference report includes $3.24 billion for the Office of Justice Programs, which is $425 million above the amount requested by the President. This bill provides for the funding of a number of important law enforcement programs.

The conference report provides $251.4 million to the Office of Domestic Preparedness for equipment and training of State and local law enforcement regarding counter terrorism activities. In addition, $2.4 billion has been provided for State and local law enforcement assistance grants. Within this amount; $594.4 million is provided for the Byrne State and Local Law Enforcement Program; $400 million is provided for the Local Law Enforcement Block Grant Program; $390.5 million is provided for Violence Against Women Act, VAWA, Programs, including programs to assist disabled female victims, programs to reduce violence against women on college campuses, and efforts to address domestic and child abuse in rural areas; and $565 million is provided for the State Criminal Alien Assistance Program which reimburses States for the incarceration costs of criminal aliens.

Within the amount provided for the Office of Justice Programs, a total of $305.8 million has been included for Juvenile Justice Programs. These funds will go toward programs aimed at reducing delinquency among at-risk youth; assisting States in enforcing underage drinking laws; and enhancing school safety by providing youth with positive role models through structured mentoring programs, training for teachers and families so that they can recognize troubled youth, and training for students on conflict resolution and violence reduction.

The conference report includes $1.05 billion in new budget authority, for the COPS Office which is $195.3 million above the President's request. As in prior years, the Senate has provided up to $180 million for the Cops-In-Schools Program to fund up to 1,500 additional school resources officers in fiscal year 2002, which will make a total of 6,100 school resource officers funded since Senator GREGG and I created this program in 1998.

The conference report reflects Congress' continued commitment to providing grant funds for the hiring of local law enforcement officers through the Cops Universal Hiring Program. Although the President did not seek funding for this program in fiscal year 2002, the committee has provided $150 million to continue to hire officers, as well as to provide much needed communications technology to the Nation's law enforcement community.

Within the Cops budget, the conference report provides increased funding for programs authorized by the Crime Identification and Technology Act, CITA. In fiscal year 2002, $197 million is provided for programs that will improve the retention of, and access to, criminal records nationwide, improve the forensic capabilities of State and local forensic labs, and reduce the backlog of crime scene and convicted offender DNA evidence.

And finally, the conference report has provided $70.4 million within Cops to continue the Cops Methamphetamine Initiative. These funds will provide for the clean-up of meth production sites which pose serious health risks to law enforcement and the surrounding public. Funds will also be provided to State and local law enforcement to acquire training and equipment to safely and effectively dismantle existing meth labs.

A total of $5.51 billion is provided for the Department of Commerce in fiscal year 2002, this conference report focuses on the goals of improving departmental infrastructure and promoting the advancement of technology. The Department of Commerce consists of 37,000 employees working in agencies as diverse as the Economic Development Administration, the National Oceanic and Atmospheric Administration, and the Bureau of the Census. They are highly-trained experts who are responsible for a huge array of critical programs. These employees help minority businesses and small manufacturers flourish, run trade missions to open foreign markets to American goods, forecast hurricanes, estimate the Nation's gross domestic product, set standards and measurements recognized and used world-wide, fly satellites, manage the Nation's fisheries, conduct censuses, and process patents. These missions of the Department of Commerce are the glue that holds together the U.S. economy, both domestically and abroad.

There is no doubt as to the importance of the missions under the purview of the Department of Commerce. There is, however, a crisis looming in terms of the infrastructure available to the employees who work there. The conference report we have before us begins to turn the tide on infrastructure needs. In all cases, the conference report funds the President's request for capital upgrades. This includes new information technology systems at the Minority Business Development Agency, the Bureau of the Census, the Economic Development Agency, and the Office of Economic and Statistical Analysis. The conference report includes a $76 million increase for the next generation of polar-orbiting satellites. It also includes a new radio spectrum measurement system at the National Telecommunications and Information Administration. We also encourage the United States Patent and Trademark Office to reflect on its infrastructure needs and to report back on what we can do to help in the future.

The conference report provides $3.26 billion for NOAA. Funding is included to begin construction of 2 new research vessels and to refurbish 5 others. In addition, funding is included for repairs at the Beaufort, Oxford and Kasitsna coastal laboratories. Sufficient funding is provided to begin construction on regional National Marine Fisheries Service buildings in Hawaii and in Alaska. The bill provides funding to start building visitor facilities at national marine sanctuaries.

The funding provided in this conference report for these purposes is a down-payment on the future of a robust Department of Commerce. I believe that the people at the department are its greatest asset and that these targeted funds will allow these professionals to better do their jobs for decades to come.

In terms of advancing technology, in addition to the satellite programs, research vessels, radio spectrum management systems and other programs that I mentioned earlier, the bill provides $674.5 million for the National Institute for Standards and Technology, NIST. This amount aggressively funds scientific and technical research and services that are carried out in the NIST laboratories in Gaithersburg and in Boulder. The bill provides the current year funding level of $60.7 million for new ATP awards. The ATP is an industry-led, competitive, and cost-shared program to help the U.S. develop the next generation of breakthrough technologies in advance of its foreign competitors. ATP contracts encourage companies to undertake initial high-risk research that promises significant widespread economic benefits. Over one-half of the ATP awards go to small companies.

In the aftermath of the bombings of Dar es Salaam and Nairobi, the Department of State focused more on the security of our overseas infrastructure and peacekeeping missions than on the ''quality of life'' needs of its employees. Secretary of State Colin Powell should be commended for taking the approach that the morale of his employees does not have to be compromised in the name of safety. The conference report before the Senate today takes a good first step in that same direction. The conference report provides $7.36 billion in funding for the Department of State, an increase of $761 million above last year's appropriated level of $6.6 billion. This funding level includes $95 million for the Secretary's ''new hire'' initiative which will provide for an increase in 360 personnel, along with $12 million for training and recruitment, and $162 million in human resources enhancements. The conference report provides funding for recruitment, spousal employment, and civil service mobility. Funding also is provided for an additional 186 security personnel and for the replacement of obsolete equipment and motor vehicles overseas.

The conference report before the Senate today also addresses a significant weakness in the State Department's information technology infrastructure. The worldwide web has become essential to the conduct of foreign policy. Yet, at this moment, most of the State Department's overseas posts are dependent on obsolete computers and communications equipment to process information, and most posts lack secure internet browser access for their employees. Full funding is provided in this conference report to bring the internet to the desk top of all employees by January 2003 and also to protect the Department's classified global computer system from cyber-terrorism.

Finally, full funding in the amount of $1.3 billion is provided for worldwide security upgrades and $458 million for Embassy construction. Again, under Secretary Powell's leadership in the selection of General Williams to head the foreign buildings operations, millions of U.S. taxpayer dollars have already been saved in the re-evaluation of current construction projects. This prudent action should expedite the construction needs highlighted in the Crowe report and put us ahead of schedule in addressing the security needs of our vulnerable facilities.

Let me conclude by saying again this is a solid piece of legislation that addresses issues that affect the daily lives of all Americans. It is a good bill that balances the needs on many diverse missions, and the interests of members from both parties and both Houses. Every year, we face difficulties with respect to limited funding and multiple, sometimes competing, priorities. This year was no different. And, as in past years, the CJS conferees made those decisions in a bipartisan, bicameral, and judicious manner. This could not have happened without the assistance of Senator GREGG and the endless hours of work that both my and his staff put into drafting the conference report before the Senate today. Specifically, I would like to thank my clerk, Lila Helms, along with Jill Shapiro Long, Luke Nachbar, and Dereck Orr as well as Senator GREGG's minority clerk, Jim Morhard, along with Kevin Linsky, Katherine Hennessey, and Nancy Perkins.

This is a great conference report before the Senate and with the help of my colleagues, I look forward to swift passage at the end of this debate.

I thank the distinguished Chair. I again thank my distinguished ranking member.

I yield the floor and retain the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Madam President, as I understand the regular order, the Senator from South Carolina has 15 minutes, I have 15 minutes, the Senator from Arizona has 15 minutes, and then we go to a vote.

The PRESIDING OFFICER. The Senator is correct.

Mr. GREGG. Madam President, does the Senator from New Hampshire seek recognition?

Mr. SMITH of New Hampshire. I inquire of the managers if I may have 5 or 6 minutes to raise a point.

Mr. GREGG. I will be happy to yield you 6 minutes of my time after I have finished.

Mr. SMITH of New Hampshire. Thank you.

Mr. GREGG. Madam President, I begin by congratulating the Senator from South Carolina for bringing this bill forward. He has done a superb job. This is a bill that has a lot of moving parts. It covers a broad sector of the agencies of the Federal Government, some of the most critical agencies, of course, being the Justice Department, the State Department, the Commerce Department, SEC, FTC, FCC, and SBA. The list goes on and on, so it is a complex bill.

As is typical of the Senator from South Carolina, he has handled it with great ability and acumen. As a result, we have before us what I think is an extraordinarily strong bill, and a bill which aggressively funds and promotes these agencies, and the primary roles of these agencies, as well as making a point of focusing on certain initiatives which are critical to better governance in this country, especially in light of September 11.

A large percentage of the terrorism dollars that are domestically oriented, and the initiatives that are domestically oriented, are tied up in this bill with over $1.1 billion of funding. The initiatives which are necessary in order to secure strong action on the part of the Justice Department and the State Department are also part of the policy in this bill.

So I congratulate the Senator from South Carolina for doing a superb job. But he could not have done it, and I could not have participated in this bill, without having exceptional staff. His staff, headed up by Lila Helms, has done an exceptional job. His staff has been extremely supportive of the efforts on our side of the aisle, and has worked with our staff, led by Jim Morhard, extraordinarily well. I specifically thank my staff people, including Jim Morhard and Kevin Linskey, Katherine Hennessy, and Nancy Perkins. They all work around the clock at this time of the year, and we very much appreciate it. We have produced an exceptional bill because of those efforts.

The Senator from South Carolina has highlighted what amounts to the key areas in the bill, but I do want to return to a couple items and make a point to reinforce the commitment that this bill makes in those areas.

First is the area of terrorism, as I mentioned. This committee long before this bill was brought forward, has focused a great deal on the issue of how we try to get ourselves up to speed to deal with terrorism. Regrettably, obviously, we were not up to speed when September 11 occurred. But in the past, this committee orchestrated the Central Command Center for Crisis Management at the FBI. It has orchestrated the legate services overseas in order to try to improve our intelligence capabilities.

It was as a result of this committee that we undertook two major exercises in the area of terrorism, the top-off program, which showed us that we had cracks, but it also showed us where we needed to go. A lot of what is happening in the post-September climate is as a result of information we were able to develop especially out of the Denver bioterrorism top-off exercise.

The bill specifically has in it the creation of a Deputy Attorney General for Combating Terrorism, the concept being there are a lot of different agencies, a lot of different moving parts just within the Justice Department that have responsibility for terrorism—the INS, obviously; the DEA; most importantly, the FBI; and the Justice Department itself. There needed to be a central focus where there was one person thinking solely about the issue of how Justice specifically manages the question of terrorism.

There were some questions as to how this individual would relate to the Attorney General, and specifically to Governor Ridge in his role. My view is that he complements Governor Ridge in that he or she will give Governor Ridge a single point of contact where he can get action within the Justice Department and cut through red tape and turf. And, hopefully, as a result, this person will increase the capabilities of Governor Ridge as we try to manage the Federal response to terrorism. So I think it is an initiative which makes sense, and I understand that it has been worked out.

Secondly, I congratulate the chairman and his staff and the participation of our staff in the area of NOAA. This is an agency which is really one of the premier science agencies in our country; of course, specifically, science related to the atmosphere and ocean.

The maintenance of a series of vibrant NOAA programs is extremely important if we, as a country, are going to have the science we need in order to protect, preserve, and improve those resources, the ocean and our air, and manage issues such as hurricanes and tornadoes, and other potential God-driven catastrophes, and be ready for those events so that we can handle them more effectively as a Government.

In addition, as the Senator mentioned, we have made a huge commitment in the area of technology. This is a very important function for us, not only in the Justice Department but equally important in the State Department, where they really have been lagging in their technological capability. We think progress is being made in this area, rather dramatic progress, as well as, of course, as was mentioned, the attempt to upgrade our facilities overseas, and especially harden them in light of the terrorist threat which they confront.

One area that was left out of this bill, which was not left out because of any actions by the chairman—it was left out because of the House Ways and Means Committee—was the issue of conflict diamonds. When this bill passed the Senate, it had language in it which would limit the use of conflict diamonds. Conflict diamonds are those diamonds being produced primarily in Sierra Leone. They are diamonds which have blood on them. They are diamonds which are being used to fund not only the terrorist elements in Sierra Leone, known as the RUF, but it appears now there is a connection between those diamonds and al-Qaeda and the organizations of Osama bin Laden. These diamonds, where people are basically held in slavery in order to produce them, and children are used, child labor is used, and people are tortured in order to produce these diamonds, should not be on the open market in free countries.

Therefore, we put in language which would attempt to set up a system that would track diamonds. Diamonds are an important part of our culture, especially when we get around the holidays. There are a lot of folks who express their love and concern for individuals by using diamonds, but we want Americans to know when they buy diamonds they are not funding terrorist organizations such as al-Qaeda or the RUF.

Regrettably, that language—which I think is very important, and which I know the chairman on the House side, Congressman WOLF, strongly supported because he was one of the authors of this language on the House side—was forced out of the bill on a procedural issue raised by the House Ways and Means Committee. It is my understanding the Ways and Means Committee is going to have hearings on this issue. I hope they have them soon. I hope we do not leave this session of Congress without having passed effective conflict diamond language.

Again, in conclusion, I thank Chairman HOLLINGS. I thank his staff, led by Lila Helms, and I thank my staff, led by Jim Morhard. I thank them all for the excellent job in producing what I think is an exceptional piece of legislation, which more than adequately aggressively funds our efforts to try to address the issue of terrorism, but it also strongly funds the agencies which are under our jurisdiction, especially agencies such as NOAA.

Madam President, how much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. GREGG. I yield the remainder of my time to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Madam President, I thank my colleague for the 5 minutes.

I simply want to use this time to raise a point that I think should concern all of us in the Senate in terms of procedures. I understand that the Parliamentarian would rule against me and so, therefore, I will not offer it. I cannot because of the unanimous consent agreement, but I raise this point—and I hope the Parliamentarian will pay attention—because I believe this is a serious matter.

There was language in both the House and Senate bills that dealt with taxpayer dollars not being used to interfere in any pending lawsuits with some of the survivors of the Bataan Death March.

It was a controversial issue, but both the House and the Senate agreed verbatim with the language. Not one word, no date, no comma, no letter, nothing, nothing misspelled, no changes in spelling; it was verbatim. The language was exactly the same.

Under rule 28.2, it states:

> Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained, the report is rejected or shall be recommitted to the committee of conference if the House of Representatives has not already acted thereon.

This is very complicated and it is parliamentary language. It is difficult to understand. In essence, what has happened here is the House and the Senate, as prescribed by rule 28.2, had identical language. And because under the rules you substituted the Senate bill for the House bill, you have now used that as a technicality to rule against me and to rule against this provision.

What happens is, the House and the Senate agree on something. You go into conference. Nobody disagrees. But it comes out. Mysteriously, it is taken out by somebody in the conference committee, of which the rest of us are not privy. It violates the rules. And if it does not violate the rule, it violates the spirit and intent of it, clearly.

This is very troubling. It is not just this issue. It could be any issue down the road where somebody has worked hard on both sides, the House and Senate, to put in the language. Then it is taken out in conference in violation directly of rule 28.2. It clearly violates it.

When you say you can substitute a Senate bill for the House bill to get around that, that means any provision to which we agree can be held, if you want to apply that standard. That is simply wrong.

I would just say to the Parliamentarians that we ought to clarify this. If this is what we are going to do, then throw out rule 28.2 and say it is irrelevant. You are throwing it out because you are using this substitute which is a gimmick to take out language that somebody just decided they didn't like.

Again, the language is the language. You have a bunch of POWs now who are going to get screwed by this, to put it bluntly. That is not the issue as much as it is who is next and how many times does this have to happen before we correct it and do the right thing.

I am not picking on this particular bill or the two managers here. The point is, it happens to be something I was involved in and I know about it.

If I had had the chance, I would have made the Parliamentarian rule. But I didn't get down here in time before the unanimous consent. I think you should rule and we can prove that it is an incorrect ruling.

You have to decide. I hope we will take 28.2 out, if that is what we are going to do. My preference is that it would stay in and you would stop the interpretation, because if you can substitute a Senate substitute for the House, how then can you have a conference? What is the purpose of a conference if you can say, I am going to substitute the Senate version for the House version, take the House version and throw it out the window? That is where it goes, right out. There is no conference. You have now substituted bill A for bill B, and there is no conference. And anything that you have in here, whatever you have in this book, in your report, is no good. The language is irrelevant because you have now said you can substitute one bill for another.

It is wrong. It is absolutely wrong. It is what makes the American people sick of what we do here, that they see stuff passed. They see it in both Houses. They see it go into conference, identical language. At least you could have changed the date and made it legal. Instead, you took verbatim language and threw it out. It is wrong. And I want to make that point. I am very sorry it happened.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina.

Mr. HOLLINGS. Madam President, the distinguished Senator from New Hampshire, generally speaking, is correct. We tortured over this. Bottom line, the White House opposed it. So question: Do we pass a bill that is going to be approved or do we pass a bill that is going to be disapproved?

On page 171 of the report language:

> The conference agreement does not include language proposed in both the House and Senate bills regarding civil actions against Japanese corporations for compensation in which the plaintiff alleges that, as an American prisoner of war during World War II, he or she was used as slave or forced labor. The conferees understand that the Administration strongly opposes this language, and is concerned that the inclusion of such language in the act would be detrimental to the ongoing effort to enlist multilateral support for the campaign against terrorism. The conferees strongly agree that the extraordinary suffering and injury of our former prisoners of war deserve further recognition, and acknowledge the need for such additional consideration.

In fairness to the position of the White House, we did have in 1951 the treaty of San Francisco settling the claims of prisoners of war against the Japanese Government. Maybe it wasn't adequate. For 50 years we have adhered to that treaty, and now with the terrorism attacks in the United States out with an affirmative action plan to win friends and influence people, to form a coalition, now is no time for us to take treaties and start abrogating them 50 years past or 1 year hence.

The truth is, the U.S. Senate ratified that treaty. On this particular vote, the Senate bill was—the Senate bill—in the nature of an amendment to the House bill. The entire bill was in the nature of an amendment. That is how technically, under the rule cited by my distinguished colleague from New Hampshire, it can be found as parliamentarily sound. That is what we had to do in order to get the bill approved. I am sorry these occasions arise. It was a measured judgment.

We agree with our distinguished colleague from New Hampshire, but that is the best we could do under the circumstances.

Mr. SMITH of New Hampshire. Will the Senator yield for 30 seconds?

Mr. HOLLINGS. Yes.

Mr. SMITH of New Hampshire. I say to the Senator from South Carolina, you are correct. I am not challenging the technical aspect. I think it is a violation of the spirit of the rule. My point is, I know how you feel about it. We had the debate on the floor. I respect your view. I know you respect mine. The House, by 393 to 33, disagreed with you. And the Senate, by a vote of 58 to 34, disagreed with you. I thought we had separate but equal branches of Government. If the White House wants to veto the bill over that, then veto the bill over it. We will bring it back here and talk about it. I don't think it is right to violate the spirit and intent of the rules.

Mr. HOLLINGS. It was just like President Lincoln, during the Civil War, when he put a vote to his Cabinet and all the Cabinet voted aye and President Lincoln voted no. And he said: The ''no'' vote prevails. That is what prevailed here.

I yield the remainder of our time under the agreement.

NATIONAL DOMESTIC PREPAREDNESS CONSORTIUM

Mrs. HUTCHISON. Madam President, I thank Chairman HOLLINGS and Senator GREGG for their leadership and efforts on the Commerce, Justice, State appropriations bill for fiscal year 2002.

This bill contains funding for many of the important law enforcement activities and counterterrorism training that is vital in the wake of the September 11 attacks.

I want to comment on one aspect of this bill and that is the funding for the National Domestic Preparedness Consortium. The consortium has been fulfilling the important role of training the Nation's first responders and training cities and communities on how to assess their own vulnerabilities to an attack for over 3 years. I believe the bill funds the consortium at a level of $13.969 million, divided evenly. This is a significant reduction in funding from last year, and it is my understanding that additional funding is expected to be provided in the supplemental appropriations bill.

The components of the consortium each have an important role to play, however, the National Emergency Response and Rescue Training Center, NERRTC, at Texas A&M has been the leader in the number of first responders trained. It would be my hope and willingness to assure increased funding for the NERRTC and the consortium as a whole.

Mr. HOLLINGS. I will be happy to review the need for increased resources for the consortium and consider further funding in the supplemental bill.

Mr. GREGG. I agree that additional funding for the consortium should be considered in the supplemental bill to support our antiterrorism efforts.

Mrs. HUTCHISON. I thank Chairman HOLLINGS and Senator GREGG for their consideration.

DETENTION FACILITY ON CHOCTAW RESERVATION

Mr. COCHRAN. Madam President, I would like to take the opportunity to clarify language included in the Commerce, Justice, State, appropriations bill for fiscal year 2002. My distinguished colleague, the chairman of the CJS Appropriations Subcommittee, Mr. HOLLINGS, worked with me to ensure that a very important project for the Mississippi Band of Choctaw Indians was included in the Senate version of the bill and the subsequent conference report.

The Senate-passed version contained $16,300,000 for the construction of an adult and juvenile detention facility on the Choctaw Reservation. The tribe has encountered many obstacles as it has sought to satisfy both the Bureau of Indian Affairs and the Justice Department through compliance with their varying jurisdictions, regulations, and varied interpretations of law enforcement for Indian tribes over the past decade. These delays have resulted in a deterioration of law enforcement, and an escalation in the costs of the facility. Further delays will only exacerbate these problems.

The Choctaw Tribe is firm in its view that detention is essential to the maintenance of law and order of the reservation. The detention facility the tribe currently utilizes was built by the Bureau of Indian Affairs in 1973 as a temporary holding facility designed to hold 18 prisoners for up to 72 hours. Today, an average of 33.4 offenders are being held daily. Because of the lack of space, only the most serious and repeat offenders are incarcerated and the tribal court has been forced to rely on ''deferred sentencing'' for less serious offenses. This has created a large backlog of convicted inmates waiting to be placed in jail. The current facility is simply inadequate to meet existing needs and the projected law enforcement needs of the tribe and its growing population.

The tribe is in need of a new facility and the gentleman from South Carolina recognized this requirement and included funding for the construction of the Choctaw jail in the Senate bill. I thank the conference committee for its inclusion of language directing the Department of Justice to fund the Choctaw detention facility. I would like to clarify, however, that it was the intention of the Senate to provide $16,300,000 for the construction of the Choctaw jail facility.

Mr. HOLLINGS. Indeed, my colleague from Mississippi is correct. The Senate did include funding in the amount of $16,300,000 for the Choctaw Indians to construct their jail facility. It was the intention of the Senate that the tribe receive this needed funding for this project as noted in the conference agreement.

Mr. COCHRAN. Madam President, I thank the Senator for clarifying this issue and for his support of this project.

SLAVE LABOR IN JAPAN

Mr. HARKIN. Mr. President, I rise to express my deep disappointment with the conference committee on the FY 2002 Commerce-Justice-State appropriations bill for eliminating the provision that would allow World War II POWs, who served as slave laborers in Japan, to have their day in court.

The amendment, sponsored by Senator SMITH of New Hampshire and myself, would have prohibited the U.S. State Department and the Department of Justice from blocking attempts by American veterans to obtain compensation in court from Japanese companies who used the POWs for slave labor during WWII.

Some 30,000 Americans were taken prisoner in the Philippines in the months following Pearl Harbor and forced to perform as slave laborers for Japanese companies. For more than 3 years, our POWs endured horrific conditions and received little or no compensation. It is wrong and unfair that the U.S. Government is using taxpayer dollars to fight against these men and women who served and suffered for us during WWII, and deny them the compensation they deserve.

Some 60 families and POW survivors in Iowa are affected.

I ask the Senator from New Hampshire if it was appropriate for the committee to cut out this provision, considering both the House and Senate voted to include it in the bill?

Mr. SMITH of New Hampshire. Mr. President, this decision clearly disregards the wishes of the House and Senate. I taught history and civics when I was a teacher. I always taught my students that conference committees were intended to resolve differences between the House and Senate versions. There is not difference in this case.

Let me read from the report:

> The conference agreement does not include language proposed in both the House and Senate bills regarding civil actions against Japanese corporations for compensation in which the plaintiff alleges that, as an American prisoner of war during World War II, he or she was used as slave or forced labor.

There was no difference between the two versions, just a decision by a small group of conferees to impose their own will on both Houses of Congress. This is not the way things should work.

The House passed this amendment in July with a 393–33 vote. The Senate later passed the exact same provision with a 58–34 vote.

Congress should not turn its back on the 700 prisoners of war and their families who are seeking long-delayed justice. They have gone to court to demand compensation from the Japanese companies that used from for slave labor. Throughout the war, these Americans worked in mines, factories, shipyards, and steel mills. They labored every day for as long as 10 hours a day in dangerous working conditions. They were beaten on a regular basis. They were given no compensation by these companies.

Now they deserve their day in court without interference by the U.S. State Department or the Department of Justice. That's what our amendment had set out to do—allow our POWs to seek the long-delayed justice and compensation they deserve.

Mr. CONRAD. Madam President, I rise to offer for the record the Budget Committee's official scoring of the conference report to H.R. 2500, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act for fiscal year 2002.

The conference report provides $38.656 billion in discretionary budget authority, of which $567 million is for defense and $438 million is for conservation activities. That budget authority will result in new outlays in 2002 of $26.126 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the report total $38.847 billion in 2002. By comparison, the Senate-passed version of the bill provided $38.641 billion in discretionary budget authority, which would have resulted in $38.744 billion in total outlays. The conference report does not include any emergency designations.

Because the conference report exceeds the outlay allocation provided to the subcommittee for conservation activities, the report is in violation of section 302(f) of the Congressional Budget Act of 1974.

I ask for unanimous consent that a table displaying the budget committee scoring of this bill be inserted in the RECORD at this point.

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

THE CONFERENCE REPORT TO H.R. 2500, THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002, SPENDING COMPARISONS—CONFERENCE REPORT

[In millions of dollars]

	General purpose [2]	Defense [2]	Conservation	Mandatory	Total
Conference report:					
Budget Authority	37,651	567	438	572	39,228
Outlays	37,853	631	363	581	39,428
Senate 302(b) allocation: [1]					
Budget Authority	37,651	567	439	572	39,229
Outlays	38,653	0	203	581	39,437
President's request					
Budget Authority	37,178	465	284	572	38,499
Outlays	38,016	538	259	581	39,394
House-passed:					
Budget Authority	37,534	567	440	572	39,113
Outlays	37,913	632	360	581	39,486
Senate-passed:					
Budget Authority	37,782	604	255	572	39,213
Outlays	37,880	660	204	581	39,325
SENATE-REPORTED BILL COMPARED TO:					
Senate 302(b) allocation: [1]					
Budget Authority	0	0	−1	0	−1
Outlays	−169	0	160	0	−9
President's request:					
Budget Authority	473	102	154	0	729
Outlays	−163	93	104	0	34
House-passed:					
Budget Authority	117	0	−2	0	115
Outlays	−60	−1	3	0	−58
Senate-passed:					
Budget Authority	−131	−37	183	0	15
Outlays	−27	−29	159	0	103

[1] For enforcement purposes, the budget committee compares the conference report to the Senate 302(b) allocation.

[2] The 2002 budget resolution includes a contingent ''firewall'' in the Senate between defense and nondefense spending. Because the contingent firewall is for budget authority only, the Senate appropriations committee did not provide a separate allocation for defense outlays. This table combines defense and nondefense outlays together as ''general purpose'' for purposes of comparing the conference report outlays with the Senate subcommittee's allocation.

Notes.—Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Mr. MCCAIN. Madam President, I thank the conferees of this bill for their hard work. This legislation provides funding for fighting crime, enhancing drug enforcement, and responding to threats of terrorism. It further addresses the shortcomings of the immigration process funds the operation of the judicial process, facilitates commerce throughout the United States, and supports the needs of the State Department and other agencies.

This conference report spends at a level 4.9 percent higher than the level enacted in fiscal year 2001. In real dollars, this is $828 million in additional spending above the amount requested by the President, and a $1.9 billion increase in spending from last year.

Once again, however, I find myself in the unpleasant position of speaking before my colleagues about parochial projects in yet another conference report. I have identified $1.8 billion in earmarks, which is greater than the cost of the earmarks in the conference report passed last year, which totaled $1.5 billion. so far this year, total porkbarrel spending has already hit a staggering $9.6 billion.

There are hundreds of millions of dollars in porkbarrel spending throughout this bill. The avalanche of unrequested earmarks buried in this measure will undoubtedly further burden the American taxpayers. While the amounts associated with each individual earmark may not seem extravagant, taken together, they represent a serious diversion of taxpayers' hard-earned dollars at the expense of numerous programs that have undergone the appropriate merit-based selection process.

Let me read a quote from Allen Schick, a congressional expert at the Brookings Institution:

Pork thrives in good times and bad. The problem is not the individual project, but the cumulative effect. . . . When you add up the total, it just blows your mind.

Now I want to turn to some examples of earmarks in this bill:

There is $250,000 for the Central California Ozone Study; $500,000 for the International Pacific Research Center at the University of Hawaii; $1 million for the National Coral Reef Institute in Hawaii; $3.7 million for the Conservation Institute of the Bronx Zoo; $750,000 for the Alaska Fisheries Development Foundation; $3.35 million for the New Hampshire Institute of Politics at Saint Anselm College; and $6 million for the Thayer School of Engineering at Dartmouth University for the nanocystalline materials and biomass research initiative.

There are many more projects on the list that I have compiled, which will be available on my Senate Web site.

Once, again, I must remind my colleagues that the administration has urged us to maintain our fiscal discipline to ensure that we will continue to have adequate funds to prosecute our war against terrorism, to aid those in need, and to cover other related costs. We should let the people who run the programs we fund decide how best to spend the appropriated funds. After all, they know what their most pressing needs are.

I am also greatly concerned by the Appropriations Committee's decision to fund the controversial Advanced Technology Program at $184.5 million. In his budget request, the President recommended that Congress suspend new funding for ATP, pending a reevaluation of the program. The Secretary of Commerce has not released the results of that review nor any recommended changes to the program to the Commerce Committee. I urge my colleagues to await the results of the Secretary's review, before we consider funding this program. As we all know, the country is currently involved in both war and economic downturn, and this $184.5 million should be spent on higher priorities than a welfare program for special corporate interests.

Furthermore, I am equally concerned that of the $62.4 million in the National Institute of Standards and Technology's Construction account, $41.5 million is for non-construction related ''pork'' projects. Earlier this year, I wrote to the Secretary of Commerce expressing my concerns about the physical conditions of the NIST laboratories, home of two recent Nobel Prize winners. I am amazed to see that we are more concerned about ''pork'' than supporting world-class research facilities.

Several items provided under funding for the State Department stand out for their questionable role in advancing American foreign policy interests. The report language directs the Department to make available $500,000 to the Northern Forum, which works to ''improve international communication, cooperation, and opportunities for economic growth in northern regions of countries'' around the world. I am from the Southwest, so perhaps I am geographically biased, but I have trouble understanding how this earmark serves the national interest.

There is also a $200,000 earmark for a conference in human trafficking at the University of Hawaii in this bill. I am pleased the conference report does not include language earmarking $9 million for the East-West Center, as proposed in the Senate bill, although it does contain a plus-up for the center of $500,000, and it does not include Senate language earmarking $5 million to the State of Hawaii for hosting an Asian Development Bank meeting.

Five new educational exchange earmarks found their way into this conference report, although the report language refers only to ''$500,000 for one-time seed funding for five new exchange activities listed in the Senate chart.'' Since the conference report neglects to list them, I will: they are the Jointer Fellowships in War, the Padnos International Center, the UNI–Cedar Falls Russo-American Exchange, the UNLV Global Business Exchange, and the UNR International Business Exchange. In addition, the conferees have generously provided $400,000 for ''exchanges to build linkages between American and foreign musicians and musical institutions.''

In closing, I urge my colleagues to curb our habit of directing hard-earned taxpayer dollars to locality-specific special interests.

Mr. INOUYE. I rise to congratulate and commend Chairman HOLLINGS and Senator GREGG and their staff for their tireless work in crafting the Conference Report on the Fiscal Year 2002 Appropriations Bill for the Departments of Commerce, Justice, and State and the Judiciary. Because of their efforts, we have before us today a fair bill that puts aside partisan politics in favor of delivering to the American people the governmental programs and support they need. I know from personal experience how difficult it can be to strike balances among competing interests, and the introduction of the tragic events of September 11, 2001, have only compounded these difficulties.

The efforts of my friends, Chairman HOLLINGS and Senator GREGG, were supported by the work of their extraordinary staff. Under the leadership of

Ms. Lila Helms on the majority side, and Mr. Jim Morhard on the minority, this dedicated crew stayed late and came in on weekends to help my distinguished colleagues put together a conference report that every one of us can vote for with pride.

Accordingly, I also wish to extend my congratulations to each member of Chairman HOLLINGS' staff, Ms. Lila Helms, Ms. Jill Shapiro Long, Mr. Luke Nachbar, and Mr. Dereck Orr, and to each member of Mr. GREGG's staff, Mr. Jim Morhard, Ms. Katherine Hennessey, Mr. Kevin Linsky, and Ms. Nancy Perkins.

Ladies, gentlemen, my esteemed colleagues, I salute you all.

Mr. KERRY. Madam President, I am pleased to vote for the Commerce, Justice, State, and the Judiciary, CJS, conference report today. This legislation is critical to our continuing efforts to fight terrorism and increase homeland security.

I am troubled, however, that the conference report appropriates only $14.4 million for the Police Corps Program, an amount which I believe is insufficient to adequately fund this critically important program. I strongly support the $30 million level of funding that was included in the Senate version of the CJS appropriations bill. The CJS conference report before us today slashes the budget of the Police Corps program in half. It is more important now than ever before that we work to ensure that Americans feel safe within their communities and that our Nation's police forces have strong federal support.

The Police Corps Program helps police and sheriffs' departments to increase the number of officers with advanced education and training. It provides Federal scholarships to highly motivated students who agree to serve as police officers or sheriffs' deputies for at least 4 years. Participants in the program are assigned to areas of the country that are in the most desperate need for additional officers. All of the participants serve on community patrol.

The benefits of this program can be seen in many ways. By encouraging educated young men and women to enter into the police force, Police Corps improves the quality of law enforcement in towns and States throughout the country. Police Corps reduces the local costs of hiring and training new officers by providing Federal funding law enforcement training. In addition, the Federal Government pays police departments that hire participants $10,000 a year per participant for the first 4 years of service.

Police Corps also offers a scholarship program for children of officers killed in the line of duty. Eligible children can receive up to $30,000 to cover educational expenses. There is no service or repayment obligation and the application process is non-competitive. I can think of no time in our recent history more appropriate than now, in the wake of the terrible loss of police officers on September 11, to ensure that this program is adequately funded.

Every police department in the country is being called upon to increase their vigilance, to expand their duties, and to do more to respond to the threat of terrorism. Increased funding for the Police Corps Program would improve the quality and capabilities of police departments throughout the country by educating and training qualified, motivated young people. The whole country stands to benefit from this program. I deeply regret that the CJS conference report does not contain, at a minimum, level funding for the Police Corps Program and am saddened that the program has been so drastically cut.

Mr. DODD. Madam President, I would like to draw attention to what I believe is an unconstitutional amendment that was recently added to the final conference report of the FY02 Commerce, Justice, State and the Judiciary Appropriations Act. This amendment, which was first offered by Senator CRAIG on September 10 in the Senate version of the bill, would prohibit any U.S. funds from being used ''for cooperation with, or assistance or other support to, the International Criminal Court or the Preparatory Commission.''

The Craig amendment, which was opposed by the administration, seeks to prevent our government from having a role in shaping the definition of the crime of aggression and other key issues pertaining to the International Criminal Court, ICC. It is my belief that this attempt to curtail the power of the President to negotiate treaties is unconstitutional and I urge the administration to remain engaged in a process vital to our country's national security.

In addition to highlighting the constitutional concerns raised by this amendment, I would also like this opportunity to raise a broader concern. The legislative maneuvering that led to the adoption of this amendment follows European Union and German requests that our government refrain from adopting anti-ICC legislation. In late October the Belgium Foreign Minister Louis Michel wrote on behalf of the European Union to Senator DASCHLE and Secretary of State Colin Powell, expressing the EU's strong support for the ICC. German Foreign Minister Joschka Fischer wrote to the Secretary of State directly on October 31, noting that, ''In view of the international effort against terrorism . . . it is particularly important for the United States and the European Union to act in accord in this field too.'' He continued, ''The future International Criminal Court will be a valuable instrument for combating the most serious crimes. It will provide us with an opportunity to fight with judicial means crimes such as the mass murder perpetrated by terrorists in New York and Washington on 11 September 2001.''

While Members of the Senate may have real questions and concerns pertaining to the ICC, now is not the time to be pushing legislation that undercuts the administration's efforts to work with our closest allies in building a strong coalition against terrorism. In addition, the President's recent order allowing military tribunals to be created for trials involving members of al Qaeda suggests that a long-term fight against terrorism will include a variety of legal structures ranging from Lockerbie type tribunals to the International Criminal Court. It is thus imperative that our government remains engaged in the development of the ICC. I strongly hope that the Bush administration will do that.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. It is my understanding, Madam President, that the Senator from Arizona, who had the other 15 minutes, is willing to yield back his time. I believe that is correct. So I yield back our time on this side, and I understand we are setting the vote for 12:45.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the time is yielded back.

Mr. HOLLINGS. I ask unanimous consent that all time on the conference report be yielded back and the Senate vote on adoption of the report.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HOLLINGS. Madam President, I ask for the yeas and nays on the final vote on the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. The question is on agreeing to the conference report to accompany H. R. 2500. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. TORRICELLI) is necessarily absent.

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

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—98

Akaka	Dorgan	Lott
Allard	Durbin	Lugar
Allen	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Byrd	Harkin	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Helms	Schumer
Carnahan	Hollings	Sessions
Carper	Hutchinson	Shelby
Chafee	Hutchison	Smith (NH)
Cleland	Inhofe	Smith (OR)
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Collins	Johnson	Stabenow
Conrad	Kennedy	Stevens
Corzine	Kerry	Thomas
Craig	Kohl	Thompson
Crapo	Kyl	Thurmond
Daschle	Landrieu	Voinovich
Dayton	Leahy	Warner
DeWine	Levin	Wellstone
Dodd	Lieberman	Wyden
Domenici	Lincoln	

NAYS—1

McCain

NOT VOTING—1

Torricelli

The conference report was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand in recess from 2 p.m. until 4 p.m. today. There is already an order in existence that the time we are in be morning business.

Mr. BYRD. Mr. President, reserving the right to object, I certainly don't want to be an impediment to what the distinguished majority whip is trying to do. I do have a couple of speeches I want to make. I will go down to my office to get them. One has to do with Thanksgiving. The other has to do with another matter of great importance.

Mr. REID. Mr. President, if I could amend that request, we have from 3 to 4 o'clock for which the Chaplain has arranged for the Senate family to be together in the Russell Rotunda.

I amend that request so that we end at 2 o'clock, or whenever Senator BYRD completes his remarks.

I was present last year and the year before when Senator BYRD gave his Thanksgiving speech. I hope I can be present this year when the speech is given. It is something I look forward to. It has become, at least for me, kind of a Thanksgiving tradition to hear the things for which Senator BYRD is thankful because they always trigger in my mind the things I am thankful for, or that I should be thankful for.

I renew my request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

ENERGY

Mr. MURKOWSKI. Mr. President, I would like to share with my colleagues a situation developing that I think deserves attention as we contemplate the Thanksgiving recess and shortly thereafter, hopefully, the break for the Christmas holidays.

Throughout the year, our new President has requested that Congress take up and pass an energy bill. The question of our Nation's energy security, the question of our continued dependence on imported oil from overseas, and the question of our vulnerability relative to terrorist activities here at home bring to this body the reality of taking positive action to correct that situation.

The circumstances surrounding our vulnerability need some examination. That examination should focus, first, on the lessons of history.

Many people in this body, and many young people in this country, do not remember 1973. They do not remember the Arab oil embargo. They do not remember the gas lines that were stretching around the block. They do not remember the inconvenience that was associated with that reality.

What were the circumstances, then?

We were 37 percent dependent on imported oil. The public was indignant at that time. They blamed the government. They blamed everybody. How could this country allow itself to become that dependent on external sources of oil?

Today, we are 57 percent dependent on imported oil. The Department of Energy has indicated by the year 2010 we will be somewhere in the area of 66 percent dependent on imported oil.

What do we do about that?

There are two logical steps we can take. One is to use less oil by being more creative with technology, increasing efficiency; and the other is to produce more domestically.

Where does America's oil come from? Fifty-seven percent comes from overseas. The rest of it comes from Texas, Louisiana, Pennsylvania, Colorado, and my State of Alaska. However, it is important to note that Alaska has produced about 20 percent of the total crude oil produced in this Nation for the last 27 years.

We had a great debate in this body in the early 1970s. That debate was whether or not Congress should authorize the building of an 800-mile pipeline from Prudhoe Bay to Valdez to move the oil. There was a tie vote in the Senate. The Vice President, Spiro Agnew, broke the tie, and the pipeline was authorized. As a consequence, we have been producing for many, many years up to 2 million barrels of oil a day. Now that pipeline is producing a little over 1 million barrels a day.

The important point to recognize, as we reflect on what we can do now—and what we can do now is to open up that small sliver of the Arctic known as the ANWR Coastal Plain—is what that will mean to this Nation's dependence on increased imports from overseas. It will reduce that dramatically.

We do not really know what is in ANWR because Congress has never authorized the opening of this area. But the geologists estimate somewhere between 5.7 and 16 billion barrels. That may not mean much in the overall scope of things, but it is estimated that the current proven oil reserves of Texas are about 5.3 billion barrels. So this could be very, very significant.

Let's compare it back to Prudhoe Bay because Prudhoe Bay is an actual experience. We have been there for 27 years. The experts indicated that field would produce about 10 billion barrels. Today, it is on its 13th billion barrel. It is still producing a million barrels a day.

So when you talk about what might be in ANWR, whether it is 5.7 or 16 billion, even if it is 10 billion, it is as big as Prudhoe Bay. It has a very significant potential in reducing, if you will, our dependence on imports.

What is involved here? I have stood in this chamber numerous times and have indicated that you have to get a feel for the magnitude of the area. The ANWR area is a million and a half acres in the sense of the classification of 1002. I do not want to confuse Members, but what I am saying is that only the 1002 area—or a million and a half acres—can be authorized by Congress out of the 19 million acres that are in ANWR. Nineteen million acres is the size of the State of South Carolina, a pretty big piece of real estate. Out of that 19 million acres in ANWR, we set aside 8½ million acres in a wilderness in perpetuity. We set aside another 9 million acres in a conventional refuge, leaving this million and a half acres only for Congress to consider making available for exploration.

The House passed an energy bill, H.R. 4. In that bill they authorized that only 2,000 acres of the 1002 area could bear a footprint of development. That reminds me of the Hollywood movie star, Robert Redford, who is very much opposed

to opening this area. He has a 5,000-acre farm in Utah. I mention that to put things in perspective. A 2,000-acre footprint out of 19 million acres, that is what we are talking about.

I know America's environmental community is very much opposed to this. This is an issue that is far away. The American people cannot see it. They cannot see the good record of Prudhoe Bay or the contribution of the 27 years of production from Prudhoe Bay. So it is an ideal issue for America's environmental community. It is like a cash cow, if you will pardon the expression. They have milked it for all it is worth, and they will continue to do so because it is warm and fuzzy. They throw in a polar bear. They do not tell you that you cannot take a polar bear for trophy, cannot shoot a polar bear in Alaska because they are protected marine mammals. You can go to Russia or you can go to Canada if you want to shoot one. They talk about the porcupine caribou herd. They talk about the Gwich'in people. But they do not tell you that the Gwich'ins in Canada are leasing their land for oil exploration. They are developing their corporation and their opportunity for jobs, a better lifestyle, a better education, and so forth. They do not tell you that we have had experience with the central Arctic herd of caribou in Prudhoe Bay that was 6,000 strong in 1978 and that is now over 27,000 because you cannot shoot them, you cannot take them.

So every argument that the environmentalists use against opening ANWR is a bogus argument. These arguments are not based on sound science; they are based on emotion.

What is this issue really all about? It is not about replacing imported oil, if you will, but it is about reducing our dependence on imported oil. If we made a commitment in this body to open up ANWR, one of two things would happen, or perhaps both. OPEC would, in my opinion, increase production because they would know that the United States means business about reducing its dependence on imported oil. As a consequence, you would see a stabilization in price.

What OPEC has done now is they have put together a self-disciplined commitment of the countries that make up OPEC to have a floor and ceiling. The ceiling is about $28 a barrel, and the floor is about $22 a barrel.

If you do not believe that, just look at what OPEC did the other day. They decreased production a million and a half barrels. What does that do? It makes the price go up. We are caught in that leverage. Of course, right now, we have seen a tremendous reduction in oil demand because of the terrorist activities, lack of air traffic in this country, the reduction of people driving. But that isn't going to be the case forever. We are going to go back and begin to use fuel at a higher degree.

I am all for alternatives. I am all for renewables. I am all for wind and solar. But let's face it, America and the world moves on oil. We have no other means of transportation currently available. Our airplanes, boats, and trains all move on oil. There is no relief in sight. We use heating oil to fuel our homes. So until we develop a new technology, America is going to have a continued dependence on oil.

We have an opportunity here, in the stimulus package, to address a real stimulus. A real stimulus is opening up ANWR because here is what ANWR would do: It would provide at least 250,000 direct jobs.

This isn't something the Federal Government has to underwrite or the taxpayer has to basically contribute to. These are private sector jobs, skilled labor, welders, pipe fitters, Teamsters, you name it. These unions support this. They are in contrast to the environmentalists who are opposed to it. This is the biggest jobs issue in the stimulus package.

What else is there in this proposal? There is an opportunity for the Federal Government to garner about $3.3 billion in bonus bids as a result of this 1002 area being put up for lease. That is a lot of money. That can offset some of the responsibilities we have to address in response to terrorism, the cost of the war, security. There are lots and lots of things that we can use this revenue for.

If you look at the jobs, if you look at the revenue and recognize that none of this is going to cost the taxpayer one red cent, we should consider the real merits of a stimulus package that contains a provision to provide the authority to open up this area.

We have brought this to the floor time and time again. We have proposed opportunities for committee action. As the ranking member on the Energy and Natural Resources Committee, I can only express my disappointment in the process. The Democratic leader has taken away from the authorizing committee, the Energy and Natural Resources Committee, and the chairman, the ability to address the formation of an energy bill in the committee. For some reason there is a terrible fear to have a vote on this issue in committee or, for that matter, on the floor.

I know there are several Members from time to time who have ideas of Presidential aspirations. This body and the American people have a right to have an energy bill debated on the floor of the Senate and voted upon. The President has asked for it continually. He deems it as a stimulus. We don't seem to be able to move.

What happened is—as a member of the Energy Committee, I am obviously pretty close to it—I thought we could proceed, have a markup in the committee, vote it out of committee, and take it to the floor. The Democratic leader intervened, took the authority away from the chairman of the committee. We have been waiting for the majority leader to come up with an energy bill and present it to us. He has not done it. We know it will not include ANWR. There is absolutely no question about that.

Yet, here we are with a situation that is ongoing. Time runs and nothing is done. We face a crisis associated with our vulnerability and dependence on foreign oil.

Let me add a couple more points that bear some reflection. Currently we are importing almost 1 million barrels of oil a day from Iraq. How can we justify on the one hand becoming more dependent on a source that was our enemy just a few years ago when we fought the war in the Persian Gulf and on the other hand, importing oil from that country and enforcing a no-fly zone over Iraq on a daily basis? We are putting the lives of our men and women at risk in enforcing that. We occasionally take out targets in Iraq. I have said it before and I will say it again: We take their oil, put it in our airplanes, and enforce a no-fly zone. They take our money, develop missile capability, a biological capability, and aim it at our ally Israel. We don't know what they are doing because we don't have inspectors over there anymore. It is a grossly inconsistent policy.

We have differences of opinion, of course. I respect my colleagues with regard to issues such as this. I find it ironic that the spokespersons who stand before this body communicating directly their feelings on the issue have never been up there. They have never taken the time. Each year Senator STEVENS and I offer trips to ANWR. They don't come. Yet they are experts.

Members have opinions on this, but they don't go up and see for themselves. They don't evaluate. They don't talk to the people who live there. My Native and Eskimo people have rights, too. There are 95,000 acres of private land that they own in the 1002 area, the 1.5 million acres in question. The Native and Eskimo people have no access. They can't even drill for gas to heat their homes. Is that democracy? Is that fair and equitable? Should they not have the same rights as any other American who owns private land? This is a terrible travesty on the people of my State. It is unjustified.

We are a big piece of real estate with a small population. We have real people. We have a village in the area. Some people say: This pristine area, it is an extraordinary area. It is a huge area. To suggest that a 2,000 acre footprint suddenly is going to have a disastrous activity associated with it is absolutely inconsistent with reality.

We have a village there of 300 people. It has a little school, a health care facility, a little airport. These are real people. They have real hopes, real aspirations. They are very disappointed that this body fails to hear their cry and the Members who feel very strongly about this are refusing to go up and talk to them, to recognize that they are really there.

I have said this before, as we look at terrorist activities, as we look at vulnerability, let's look at the Mideast for a moment. Look at Saudi Arabia. Some individuals predict that Saudi Arabia is setting itself up for what happened a few decades ago with Iran, the fall of the Shah, America's ally.

Bin Laden's terrorist activities in the oilfields of Saudi Arabia could wreak havoc. What you would see is the price of oil skyrocketing. A couple of tankers in the Straits of Hormuz taken out by terrorist activities could accomplish the same effect.

These are the real risks associated with our increased dependence. If you look at the terrorists who we can identify with the Trade Center disaster, a lot of them had Saudi Arabia citizenship, including bin Laden. Where does the money come from? You and I are associated with the business community. We know where it comes from. It comes from oil. That is the wealth of the Mideast; it funds terrorism. Make no mistake about it.

A good friend of mine, a Member of this body for many years, Mark Hatfield, is a pacifist. He said: I would vote for ANWR any day than send another man or woman of our Armed Forces to fight a war on foreign soil, a war over oil.

This Senator has been a good soldier. I have been here 21 years. I have lived with this issue for 21 years. I have asked for votes. We passed this bill in 1995 in both the House and the Senate. It was vetoed by President Clinton. It is not going to be vetoed by the White House this time around. The point is, we can't get the leadership to bring it up.

I am going to have to filibuster something around here. There are a few things left to get some kind of a commitment from the Democratic leadership to get a vote on this issue in a timely manner. We have that right. All we want is a vote. We will take our lumps. But they don't want to vote on it.

They don't want to vote on it, even to the point where they are fearful if I were to bring this up in committee and prevail, that somehow it would pass and it would represent a position of strength.

Let me conclude by alerting Members that we are not going to let this issue go away. We are going to force a vote. If I have to force a filibuster, I will. This time this issue is going to come up before this body and be addressed once and for all.

I thank the Chair for the time. I thank my colleague for his indulgence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I am pleased to follow my distinguished colleague from Alaska, who has been here for 21 years. I can personally attest to that and take an affidavit to that fact because I came here on the same day that he did. We have worked together over the years and we have a curious relationship, in the sense that he is senior to me in the Republican caucus because it was done alphabetically, and ''M'' comes before ''S.'' I am senior to Senator MURKOWSKI in the Senate because I come from a State that is somewhat larger population-wise but not geographically. But it is always a pleasure to follow Senator MURKOWSKI on the floor or any other time.

TRYING TERRORISTS AS WAR CRIMINALS

Mr. SPECTER. Mr. President, I have sought recognition to comment on a couple of subjects today. First is a subject that is very much in the forefront of the news, which is the proposal to try terrorists in military tribunals as opposed to trials in U.S. courts of law.

The Attorney General of the United States is quoted in this morning's press as citing circumstances that the administration believes would require this change in procedure, and it is a matter that I believe ought to be considered by the Congress, because under the Constitution the Congress has the authority to establish military courts and tribunals dealing with international law.

I have written today to the chairman of the Judiciary Committee suggesting that prompt hearings be held on this subject. We are going to be returning after the Thanksgiving recess, and we will have a chance to look into this matter. Events are unfolding very rapidly now in the war in Afghanistan, with major advances being made by the Northern Alliance, with U.S. commandos on the ground, moving in an effort to find Osama bin Laden. I have predicted consistently since September 11 that we would find him and, as President Bush has said, we would either bring bin Laden to justice, or we would bring justice to him. So the issue of military courts is something that may be upon us sooner rather than later.

The Constitution provides that the Congress is empowered to define and punish violations of international law, as well as to establish courts with exclusive jurisdiction over military offenses. Under articles of war, enacted by Congress, and statutes, the President does have the authority to convene military commissions to try offenses against the law of war. Military commissions could be convened to try offenses, whether committed by U.S. service members, civilian U.S. citizens, or enemy aliens, and a state of war need not exist. So there has been a delegation of authority by the Congress. But under the Constitution it is the Congress that has the authority to establish the parameters and the proceedings under such courts.

In World War II, in the case of Ex parte Quirin, 317 U.S. 1, eight German saboteurs were tried by a military commission for entering the United States by submarine, shedding their military uniforms and conspiring to use explosives on unknown targets. After their capture, President Roosevelt proclaimed that all saboteurs caught in the United States would be tried by military commission. The Supreme Court of the United States denied their writs of habeas corpus, holding that trial by such a commission did not offend the Constitution.

In World War II, we obviously faced a dire threat. The decision was made, understandably at that time, to have that kind of a trial procedure and not in regular civil Federal courts. Our current circumstances may warrant such action at the present time, but I do believe it is something that ought to be considered by the Judiciary Committee.

I note the presence of the distinguished chairman of the committee in the Chamber. I just commented, Senator LEAHY, that I have signed a letter to you on this subject. I thought it worthwhile to go far beyond the letter and to talk about this subject because I believe it is a matter of very substantial importance.

Mr. LEAHY. If the Senator will yield for a moment, I haven't seen the letter, but the press described it to me and asked me about it. I told them I totally agree with you on that, that we should have hearings on this—actually a number of these steps. One of the difficult things, as the Senator knows, is getting the Attorney General to come up here and testify. I think the last person to be able to even ask him a question in our committee was the senior Senator from Pennsylvania during the terrorism bill.

I only heard part of what the Senator was saying, but his usual fashion is to lay out the law and the history very clearly. I do believe we should have hearings. I intend to have a meeting with the FBI Director this afternoon. I am also going to talk to the Attorney General on this and a number of other issues, including some about which the Senator has expressed concern to me. He really should come up here before we finish for the year. We should discuss some of these issues.

I think the Senator from Pennsylvania is absolutely right in raising this. I appreciate him doing it. He does us all a service.

Mr. SPECTER. I thank my colleague from Vermont for those comments. I think the Attorney General would come up on an invitation. We are due back here on the 26th. I think it would be in order to make this the first order of business of the committee on the 27th. That would be 12 days' notice.

I note that there is a very extensive Executive Order implementing this procedure. This matter is not something which burst upon the scene yesterday. It has been under consideration.

I noted that a key Member of the House of Representatives was quoted in this morning's press as not having been consulted. I noted the chairman is also

quoted in the press as having not been consulted. That is the President's right. He can take his action, but under the separation of powers we have our own rights. The Congress has the authority to make those determinations. That is what the Constitution says. We have the authority to decide how those trials will be conducted. Of course, we are in a very difficult situation. We face a struggle for survival with what happened on September 11. The executive branch is entitled to great deference, but we are entitled to know the reasons for the President's order and its scope. Such a military tribunal need not have a trial by jury, which would be expected. Not to have a trial by jury is a military court-martial. There is no explicit privilege against self-incrimination. That is something we have to consider.

There is even no right of the defendant to choose his counsel. I don't think that would be the case in every tribunal, but these are powers that are very broad, and just as we found it necessary to take some time on the terrorist bill, our job is to take a look at it. And the executive will be immeasurably strengthened if the Congress backs the President.

Mr. LEAHY. If the Senator will yield further on that point, first off, I could not agree more with him. I think his last point is one that bears emphasis—how they might be strengthened. The Senator from Pennsylvania and I have served here longer than most Members of this body. I think it is safe to say that we have seen more bipartisan—virtually nonpartisan—support for the President in the last 2 months than we have for any President, Republican or Democrat, during the times he and I have been privileged to serve together in this body. That can be very helpful for the President.

However, it raises one certain danger. That support in our common goal to fight terrorism and to protect our fellow citizens in this country is good, but if it goes beyond that, and nobody has a question, ultimately the Presidency is hurt, the Senate is hurt, and the country is hurt. I think we have to ask these questions. You have a question of basic rights such as counsel, jury trial, and whatnot. Obviously, there are exceptions. We understand that. But if the exception becomes the rule, then all of us suffer. We have seen this in efforts to go after organized crime and in other efforts. It is easy to push the envelope because we only need it this time.

We have to ask what are the standards, what is the trigger for using this. I have read the Executive order. It is obvious it was thought about a lot. George Terwilliger, a former prosecutor from Vermont and former Deputy Attorney General, is quoted today as saying a lot of these items have been around the Justice Department in both Republican and Democratic administrations—my words, not his—for a long time and are being dusted off. Some were not dusted off in the past because cooler heads prevailed.

I think the American public will, as the Congress has, support the President in a fight against terrorism, but the American public deserves having questions aired and answers given. The Senator from Pennsylvania does a service in raising that. I can assure him there will be a time set. The Attorney General will be requested to come before us prior to the Senate adjourning. There has not been consultation with either the Republican or Democratic leadership in the Congress on each of these issues. I do not know how many other shoes will drop between now and the time of the hearing, but whatever is there, we will ask about them.

I do not want to interrupt the Senator from Pennsylvania any further, but I came to the Chamber simply to thank him for raising what is a very valid point.

Mr. SPECTER. Mr. President, I thank the Senator from Vermont for those comments. These are issues of very considerable moment. These are matters which need to be analyzed very carefully.

The war against terrorism is a very vital war. Some suggestions have been made there might be a concern about convicting bin Laden, but I remind them, he has been under indictment since 1998 for killing Americans in Mogadishu in 1993 and the blowing up of our embassies in Africa in 1998, and there evidence against him linking him to the attack on the U.S.S. Cole. So there is considerable evidence. However that may turn out, this is a matter which should receive deliberation by the Judiciary Committee because there are very weighty issues to be considered.

There is not a great deal of time. We are scheduled to have a recess to get a secret briefing later today on what is happening in Afghanistan. So I ask unanimous consent to print in the CONGRESSIONAL RECORD a CRS Report for Congress, dated October 29, 2001, on ''Trying Terrorists as War Criminals,'' which outlines some of the key considerations.

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

TRYING TERRORISTS AS WAR CRIMINALS

(By Jennifer Elsea, Legislative Attorney, American Law Division)

Summary: In the aftermath of the September 11 terrorist attacks on the World Trade Center and the Pentagon, the question of whether to treat the attacks as acts of war or criminal acts has not been fully settled. The purpose of this report is to clarify the rationale for treating the acts as war crimes and the ramifications of applying the law of war rather than criminal statutes to prosecute the perpetrators. The discussion focuses on the trial of alleged terrorists and conspirators by a military commission rather than the federal courts.

In the aftermath of the September 11 terrorist attacks on the World Trade Center and the Pentagon, the question of whether to treat the attacks as acts of war or criminal acts has not been fully settled. The distinction may have more than rhetorical value. The purpose of this report is to clarity the law enforcement implications of treating the terrorist acts as war crimes and to identify the possible ramifications of applying the law of war rather than criminal statutes to prosecute the alleged perpetrators.

Law Enforcement versus Law of War. Some observers have expressed concern that treating terrorist acts as acts of war may legitimize the acts as a lawful use of force and elevate the status of the Taliban and the terrorist networks to that of legitimate state actors and lawful combatants. However, it may be argued that an application of the law of war to terrorism does not imply lawfulness of the conflict, nor does it imply that perpetrators are not criminals. Terrorists do not, by definition, conduct themselves as lawful combatants. Under this view, they may be treated as war criminals and if captured, are not entitled to prisoner-of-war status under the Geneva Conventions. As suspected war criminals, they may be tried by any nation in its national courts or by a military commission convened by one nation or many.

The Justice Department is reportedly exploring whether to adopt the law of war approach to prosecute those responsible for the September 11 attacks. It appears that there are few legal impediments to adopting such an approach. Other practical considerations that may arise include the following questions: Must war crimes be investigated by military police, possibly implicating the Posse Comitatus Act? If federal or state police are used, must they follow the same standards that they apply to criminal cases? How will it affect the United States' ability to extradite terrorists captured abroad?

Such an approach could also have an impact on civil matters. Will there be any effect on the possible civil liability of terrorists to compensate victims? Would it matter if a particular victim was a government employee or someone located at a ''military target'' at the time of an attack? Will there be an effect on the liability of insurers? A decision to adopt a law of war approach to the terrorist acts currently at issue, or to all future terrorist acts, could also have significant foreign policy repercussions.

What is the Law of War? As a subset of the law of nations, the law of war is a composite of many sources and is subject to varying interpretations constantly adjusting to address new technology and the changing nature of war. It may also be referred to as jus in bello, or law in war, which refers to the conduct of combatants in armed conflict, as distinguished from jus ad bellum—law before war—which outlines acceptable reasons for nations to engage in armed conflict. The main thrust of its principles requires that a military objective be pursued in such a way as to avoid needless and disproportionate suffering and damages. Sources of the law of war include international agreements, customary principles and rules of international law, judicial decisions by both national and international tribunals, national manuals of military law, treatises, and resolutions of various international bodies.

At the risk of oversimplifying the concept, three principles derived from the law of war may be applied to assess the legality of any use of force for political objectives.

Military necessity. If the use of force is justified, that use must be proportional in relation to the anticipated military advantage or as a measure of self-defense. The principle applies to the choice of targets, weapons and methods. This principle, however, does not apply to unlawful acts of war. There can be no excuse of necessity if the resort to the use of arms is not itself justified.

Humanity. Lawful combatants are bound to use force discriminately. In other words,

they must limit targets to valid military objectives and must use means no harsher than necessary to achieve that objective. They may not use methods designed to inflict needless suffering, and they may not target civilians.

Chivalry. Combatants must adhere to the law of armed conflict in order to be treated as lawful combatants. They must respect the rights of prisoners of war and captured civilians, and avoid behavior such as looting and pillaging. They may not disguise themselves as non-combatants.

Although these principles leave a great deal of room for interpretation, there can be little doubt, assuming such acts can be viewed as acts of war, that the attacks of September 11 were not conducted in accordance with the law of war. Even if one considers the Pentagon to be a valid military target, the hijacking of a commercial airliner is not a lawful means for attacking it. Acts of bioterrorism, too, violate the law of war, regardless of the nature of the target.

Constitutional Bases for Establishing military Commission. The Constitution empowers the Congress to define and punish violations of international law as well as to establish courts with exclusive jurisdiction over military offenses. United States law recognizes the legality of creating military commissions to deal with ''offenders or offenses designated by statute or the law of war.'' Under the former Articles of War and subsequent statute, the President has authority to convene military commissions to try offenses against the law of war. Military commissions could be convened to try such offenses whether committed by U.S. servicemembers, civilian citizens, or enemy aliens. A declared state of war need not exist.

Precedent. Although the current crisis does not fit the typical mold associated with war crimes committed by otherwise lawful combatants in obvious theaters of war, there is precedent for convening military commissions to try accused saboteurs for conspiring to commit violations of the law of war outside of the recognized war zone. In the World War II case of Ex Parte Quirin, eight German saboteurs (one of whom was purportedly a U.S. citizen) were tried by military commission for entering the United States by submarine, shedding their military uniforms, and conspiring to use explosives on unknown targets. After their capture, President Roosevelt proclaimed that all saboteurs caught in the United States would be tried by military commission. The Supreme Court denied their writs of habeas corpus, holding that trial by such a commission did not offend the Constitution.

Power of the Military Commission. As a legislative court, a military commission is not subject to the same constitutional requirements that apply to Article III courts. Defendants before a military commission, like defendants before a court-martial, have no right to demand a jury trial before a court established in accordance with rules governing the judiciary. There is no right of indictment or presentment under the Fifth Amendment, and there may be no protection against self-incrimination or right to counsel. While Congress has enacted procedures applicable to courts-martial that ensure basic due process rights, no such statutory procedures exist to codify due process rights to defendants before military commissions.

Congress has delegated to the President the authority to convene military commissions, set rules of procedure, and review their decisions. This authority may be delegated to a field commander or any other commander with the power to convene a general court-martial. Statutes authorize prosecuting persons for failure to appear as witness, punishing contempt, and accepting into evidence certain depositions and records of courts of inquiry.

Procedural Rules. Procedural rules and evidentiary rules are prescribed by the President and may differ among commissions. Courts-martial are conducted using the Military Rules of Evidence set out in the Manual for Courts-Martial; however, these rules need not apply to trials by military commission. Subject to the statutory provisions above, the President may establish any rules of procedure and evidence he deems appropriate.

Although there may be little judicial review available to persons convicted by U.S. military commissions, it is surely necessary to provide for trials that will be fundamentally fair under both U.S. and international standards regarding the application of the law of war. Telford Taylor noted in evaluating World War II war crimes trials: ''It is of the first importance that the task of planning and developing permanent judicial machinery for the interpretation and application of international penal law be tackled immediately and effectively. The war crimes trials, at least in Western Europe, have been held on the basis that the law applied and enforced in these trials is international law of general application which everyone in the world is generally bound to observe. On no other basis can the trials be regarded as judicial proceedings, as distinguished from political inquisitions.''

There is some historical precedent from which an international norm regarding procedural rights for accused war criminals might be derived. The Nuremberg Tribunals provide a good starting point, as further refined by the International Criminal Tribunals for Yugoslavia and Rwanda. Perhaps the most recent embodiment of the requirements of the international law of war is to be found in the procedures of the not-yet-operational International Criminal Court established by the Rome Statute.

The evidentiary rules used at Nuremberg and adopted by the Tokyo tribunals were designed to be non-technical, allowing the expeditious admission of ''all evidence [the Tribunal] deems to have probative value.'' This evidence included hearsay, coerced confessions, and the findings of prior mass trials. While the historical consensus seems to have accepted that the war crimes commissions were conducted fairly, some observers argue that the malleability of the rules of procedure and evidence could and did have some unjust results. For some, the perception is that ''victors' justice'' was all that was sought.

Assuming that ordinary procedural and evidentiary rules are unsuitable for the task, it will likely be necessary to adapt or develop a more fitting set. The necessity to protect civil liberties will be seen to require balancing with the need to protect vital national security information and the public safety.

Possible Challenges. Although federal courts do not have jurisdiction to review the decisions of legislative courts, a defendant sentenced by a military commission may file a writ of habeas corpus claiming a violation of the law of war, the Constitution, relevant statutes, or military regulations. A challenge based on an interpretation of the law of war is not likely to succeed. Because of Congress' power to define and punish violations of international law, and due to national security implication, courts are likely to defer to the political branches. Due process claims are also unlikely to succeed. Case law demonstrates the difficulties such a challenge would face. A U.S. citizen charged with aiding and abetting the foreign terrorists might be able to argue that the charges against him amount to treason, for which the Constitution contains explicit limitations. Aiding and abetting a hostile (but lawful) force, however, may be distinguishable from conspiring to commit a war crime.

The broad delegation of authority to convene military commissions makes a statutory claim unlikely to succeed. A defendant could argue that Congress, by passing comprehensive anti-terrorism legislation that does not authorize trial by military commission, implicitly withholds such authority. A similar argument failed in Ex Parte Quirin. However, the Supreme Court noted that the Espionage Act of 1917 and the Articles of War explicitly kept open concurrent jurisdiction with military tribunals.

A last option would be to argue that the military commission violated its own rules. For such a challenge to succeed, the court would have to find that the military reviewing authority committed an error which probably affected the verdict. If the appeal were successful, the court would likely remand the case to the military authorities for retrial.

RECLASSIFICATION OF SCRANTON-WILKES BARRE-HAZELTON, WILLIAMSPORT, AND SHARON METROPOLITAN STATISTICAL AREAS

Mr. SPECTER. Mr. President, on another subject of great importance to Pennsylvania, on two amendments which I am considering offering on the stimulus bill, one relates to the reclassification of the Scranton-Wilkes Barre-Hazelton metropolitan statistical area and also the reclassification of the Williamsport metropolitan statistical area, and the reclassification of the Sharon metropolitan statistical area. These areas' hospitals are in dire straits because the Medicare reimbursement formulas allow them less compensation than that to which they should be entitled.

This matter was considered near the end of the last Congress, and there were quite a few areas which wanted to have a reclassification. All were omitted. The pain for these areas in my State has become more intense. An appropriate vehicle would be the stimulus package because these reimbursement shortfalls have a direct bearing on the economies of these three very important areas.

There has been a great problem which has resulted from the Balanced Budget Act of 1997, and these areas have a much lower reimbursement rate than adjacent areas. For example, if you take the Scranton-Wilkes Barre-Hazelton area, they receive $6,010 in Medicare payments per case compared to Monroe County, an adjacent county, which receives $7,390, more than $1,380 more, an enormous differential.

What is the result? The nurses and the medical personnel go from one area to the higher paid area. The Allentown area, again adjacent, receives $6,665 compared to the $6,010 for the Scranton-Wilkes Barre-Hazelton area. The Williamsport area, which is in the same region, is similarly disadvantaged, and so is Sharon, PA.

I ask unanimous consent that a 2-page summary on reclassification of these areas be printed in the CONGRESSIONAL RECORD since there is relatively

little time remaining, and the summary will explain in some greater detail the reasons, and also a copy of the proposed amendment which Senator SANTORUM and I are considering offering when the stimulus package comes before the Senate.

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

RECLASSIFICATION OF SCRANTON-WILKES BARRE-HAZLETON, WILLIAMSPORT, AND SHARON METROPOLITAN STATISTICAL AREAS

Many of Northeastern Pennsylvania's hospitals faced operating losses over the last few years, a troubling reality felt all across the country. In addition, the area is one of the most aged communities in the country, therefore the region's hospitals are extremely dependent on Medicare reimbursement.

The region has also seen one of the most rapid and dramatic shifts to managed care in the country: over the last five years, managed care grew from virtually no presence to almost 50% of the commercially insured population and 20% of the Medicare population.

While virtually no hospital in the nation has been left untouched by the cost pressures inflicted by BBA 97 and other factors, hospitals in the Scranton-Wilkes Barre-Hazleton Metropolitan Statistical Area (MSA) and in the Williamsport MSA face a unique situation.

Both of these MSAs contain areas or border on areas from which Geisinger Medical Center, a 437 bed teaching hospital in Montour County, Pennsylvania, draws its patients—and more importantly, its workforce.

Due to the understandably high wage costs of operating its large tertiary care facility, Geisinger has been reclassified to be deemed part of the Harrisburg MSA. (Its original classification was part of the rural area of Pennsylvania.)

Therefore, Geisinger Medical Center is being reimbursed based on a wage index that is currently more than 12% higher than the wage indexes of the Scranton-Wilkes Barre-Hazleton MSA and the Williamsport MSA. This results in unsustainably low Medicare reimbursements within those MSAs, particularly since the costs of living are similar to those in Geisinger's area.

From 11/13/01 Citizen's Voice (Hospitals' Numbers): Medicare Payment per case in Scranton/Wilkes-Barre/Hazleton—$6,010—compared to: Monroe County: $7,390; Allentown: $6,665; and Harrisburg: $6,359.

The Scranton-Wilkes Barre MSA wage index has been steadily falling, reduced from 0.8578 last fiscal year to 0.8473. The actual wage index for the area is around 0.80, but federal law does not permit an MSA to go below the state's rural rate, which will be 0.8473.

Nursing Shortages Intensifies: the Hospital Association of PA has identified Northeast PA as the area in the state with the worst shortage of nurses. Moreover, other skilled care givers remain in very short supply. These shortages drive up the cost of health care and the need to increase wages—something which these hospitals have done.

Sharon, PA, in the Northwestern part of Pennsylvania, faces similar difficulty hiring skilled workers, due to an unacceptably low reimbursement rate and its need to compete with bordering areas which qualify for higher wage indices.

Sharon Regional Medical Center, UPMC Horizon and United Community Hospital are located in the Sharon MSA. Sharon Regional Medical Center is 1 mile from the Ohio border and 12 miles from Youngstown, OH.

However, further reductions in the wage index will make it impossible for the hospitals to retain or recruit all the caregivers that the communities require. Nearby regions, including Newburgh, Allentown and Harrisburg, continue the Scranton skilled workforce. For Sharon, it must compete with the Erie area to the North and Youngstown to the West.

All of the hospitals in the Sharon MSA compete with Youngstown for nurses, pharmacists, radiology technicians, and other allied health professionals. Youngstown pays nurses $2–$3 more per hour than hospitals in Sharon, yet those hospitals receive nearly the lowest area wage index in Pennsylvania (.850). Youngstown is a larger city/region with a much higher area wage index.

An MSA reclassification for Sharon, PA is crucial if its hospitals are to maintain their ability to provide quality health care to its citizens.

A National Solution is Still Years Away: These hospitals cannot afford to wait for this.

The amendment we intend to offer seeks to remedy this disparity. Our language would reclassify for a period of three years the Williamsport MSA to the Harrisburg MSA: all of the counties within Scranton-Wilkes Barre-Hazleton MSA into the Newburgh, NY MSA; and the Sharon MSA into Youngstown, OH.

AMENDMENT NO.—

(Purpose: To provide for the reclassification of certain counties for purposes of reimbursement under the medicare program)

At the end of title IX, add the following:

SEC. ___. THREE-YEAR RECLASSIFICATION OF CERTAIN COUNTIES FOR PURPOSES OF REIMBURSEMENT UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, effective for discharges occurring during fiscal years 2002, 2003, and 2004, for purposes of making payments under subsections (d) and (j) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) to hospitals (including rehabilitation hospitals and rehabilitation units under such subsection (j))—

(1) in Columbia, Lackawanna, Luzerne, Wyoming, and Lycoming Counties, Pennsylvania, such counties are deemed to be located in the Newburgh, New York-PA Metropolitan Statistical Area;

(2) in Northumberland County, Pennsylvania, such county is deemed to be located in the Harrisburg-Lebanon-Carlisle, Pennsylvania Metropolitan Statistical Area; and

(3) in Mercer County, Pennsylvania, such county is deemed to be located in the Youngstown-Warren, Ohio Metropolitan Statistical Area.

(b) RULES.—The reclassifications made under subsection (a) shall be treated as decisions of the Medicare Geographic Classification Review Board under paragraph (10) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), except that payments shall be made under such section to any hospital reclassified into—

(1) the Newburgh, New York-PA Metropolitan Statistical Area as of October 1, 2001, as if the counties described in subsection (a)(1) had not been reclassified into such Area under such subsection;

(2) the Harrisburg-Lebanon-Carlisle, Pennsylvania Metropolitan Statistical Area as of October 1, 2001, as if the county described in subsection (a)(2) had not been reclassified into such Area under such subsection; and

(3) the Youngstown-Warren, Ohio Metropolitan Statistical Area as of October 1, 2001, as if the county described in subsection (a)(3) had not been reclassified into such Area under such subsection.

REHABILITATION, PRESERVATION, AND IMPROVEMENT OF RAILROAD TRACKS

Mr. SPECTER. Mr. President, I wish to make one more point before yielding the floor, and that is another amendment which I am considering offering on the stimulus package. That is an amendment which would add $350 million for capital grants to be made by the Secretary of Transportation for the rehabilitation, preservation, and improvement of railroad tracks, including bridges, roadbed, and related track structures to short-line railroads.

Legislation has been pending in the House of Representatives on this subject which has more than 100 sponsors. Legislation is pending in the Senate which has 7 sponsors. This would be a tremendous stimulus because it would immediately put many people to work on the reconstruction of the short-line railroads in the short run, providing very extensive jobs, and in the long run, by improving the infrastructure which would be enormously helpful to the economy of Pennsylvania and similarly to other areas where there are short-line railroads.

At my request, the McFarren Group prepared an extensive analysis of proposed railroad costs to be included in the Federal stimulus package. Because of the shortage of time, Mr. President, I ask unanimous consent that a limited portion of this report be printed: The executive summary and the third page of the summary, together with a summary of factors in support of this amendment and a copy of the amendment itself.

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

EXECUTIVE SUMMARY

PROPOSED RAILROAD COSTS TO BE INCLUDED IN THE FEDERAL ECONOMIC STIMULUS PACKAGE, OCTOBER 31, 2001

Background

At the request of Senator Arlen Specter, the Keystone State Railroad Association conducted a survey of member and non-member Pennsylvania railroads to ascertain the degree of infrastructure improvements needed across the Commonwealth's rail system. Respondents were asked to provide information related to project readiness, safety and infrastructure conditions, security and insurance cost estimates, and estimates on the number of jobs that could be created if listed projects were undertaken.

Summary of Findings

Pennsylvania railroads responding to this survey indicate more often than 60% of the short line and regional railroad infrastructure is in need of extensive rehabilitation, including more than 170 bridges. Excluding the Bessemer & Lake Erie and Delaware & Hudson railroads, both of which have heavy load infrastructures, the short line and regional railroads are capable of handling the heavier 286,000-pound loads on only 70% of their infrastructure. The funds needed to upgrade these lines and the related bridge infrastructure will exceed many preliminary cost estimates. Many customers are beginning to demand the use of 315,000-pound cars, which will dramatically escalate funding needed for these rail lines even further.

The cost of most extensive bridge repairs can easily exceed $1 million each for smaller spans. Short line and regional railroads also indicate that more than 300 rail crossings are in need of serious rehabilitation and repair.

Projects that could be undertaken to address Pennsylvania railroad infrastructure needs total some $280 million. Of these projects, construction could be initiated on 44% of them, totaling more than $120 million, in the next six months.

While it may be difficult to quantify, a clear correlation undoubtedly exists between derailments and rail infrastructure conditions. Railroads indicated that more than 350 derailments occurred during the past twelve months resulting in only nine worker injuries. This is a tremendous testament to the railroad industry's excellent safety record. A majority of the derailments occurred at low speeds in yard and switching operations. It is estimated that more than 540,000 carloads of hazardous materials cross Pennsylvania's rail system each year.

In the aftermath of the tragic events of September 11, business and government are taking a much harder look at ways to improve the security of the nation's transportation system. A group of Class I railroads has already met to discuss a series of security measures. Any efforts undertaken by Class I railroads will also need to be addressed by regional and short line railroad systems. The costs of augmenting manpower at critical points along the system can be extremely prohibitive to many small and medium-sized operations.

The September 11 disaster has already escalated insurance costs in most sectors. Several railroads have been warned that their risks and their rates will be re-evaluated. Some railroads may not even qualify for any affordable insurance coverage. It is conceivable that railroads receiving funding for infrastructure projects will be forced to spend an equivalent amount in additional security and insurance costs in coming years. An addendum provides an overview of current insurance conditions, as it relates to the railroad industry.

There is no doubt that investment in the nation's railroad infrastructure is warranted. The American Short Line and Regional Railroad Association (ASLRRA) recently surveyed members nationwide and reported that the nation's short line and regional railroads could invest $1.2 billion in infrastructure upgrades in the next six months if the financial resources were available. KSRRA's findings in Pennsylvania certainly bear this out. The most modest forecasts for the movement of freight by the Federal Highway Administration (FHWA) indicate that increases of up to 70% can be expected in the Northeast over the next ten years. A fraction of this type of growth would severely congest the national transportation network unless investments are made today. Railroads remain the safest and most viable mode for transporting hazardous materials, coal, industrial raw materials and large quantities of goods. It is clear that an investment in an improved rail infrastructure is an investment in the country's economic future.

The funding of railroad infrastructure projects also creates powerful economic stimuli as more than 650 new construction and maintenance jobs could be directly created if the attached projects were funded. This does not include the hundreds of additional jobs that would need to be added by railroad tie manufacturers, steel rail manufacturers, the stone industry and other additional suppliers. Typically, a multiplier of four is applied to measure the overall economic impact. These infrastructure projects would also be of tremendous benefit to the nation's steel industry since new rail would be purchased from domestic steel sources, as required in most government funded projects. Pennsylvania railroads responding to this survey have painted a compelling picture for investment in rail infrastructure.

Attached is a detailed listing of projects that Pennsylvania railroads are prepared to undertake, as well as an addendum pertaining to railroad security.

* * * * *

Any economic stimulus package should include expenditures that will initiate further economic activity and that will produce a long-term economic benefit. Any such stimulus must be timely and result in meaningful product development rather than merely being an additional burden on future government spending patterns.

Many transportation authorities have continually pointed to the dramatic need to invest in our major transportation infrastructure. These improvements in most cases are already part of the strategic transportation plan. The projects, which we have analyzed and produced for your consideration, have already been engineered and prioritized by the respective railroad companies. These projects can be initiated with very short notice and the economic stimulus will be immediate. The additional employment will be needed immediately.

From a national security perspective, railroads are one of the best ways to produce a more secure system for transporting dangerous or hazardous products. By further improving the infrastructure, the overall railroad operating system can become even safer and more difficult to disrupt by any terrorist group. These needed changes and the additional security measures will add substantial costs to industry operations but the changes and improvements are long lasting and a fraction of the cost incurred in other areas.

Transportation is the centerpiece of industrial production and energy generation. Railroads transport more than 60% of coal used by generating facilities and some 70% of motor vehicles from the factory to a regional distribution facility. Some 30,000 miles of the railroad network is part of the strategic national defense corridor system. The regional and short line railroads are the feeders and supporting players in this overall transportation network. The network is only as strong as its weakest link. Therefore, the $280 million of projects for Pennsylvania short line and regional railroads is an absolute priority in any national economic stimulus package.

FACTS IN SUPPORT OF PROPOSED SPECTER-SANTORUM AMENDMENT

GENERAL POINTS

The amendment would provide $350 million in track rehabilitation funds for short line railroads. It would be distributed based on the criteria established in S. 1220, pending legislation that would authorize this expenditure. This legislation was moving quickly through the process prior to September 11th. It was passed unanimously by the House T&I Committee and awaiting floor action. It has strong bipartisan support in the Senate including sponsorship by the Chairman and Ranking Member of the Senate authorizing subcommittee of jurisdiction. It is supported by the Class I railroads and by rail labor.

There are over 500 Class II and III railroads that together operate approximately 50,000 miles of track, or just under one third of America's railroad route mileage, and employing approximately 25,000 people.

The short line industry keeps the less populated areas of the country connected to the national railroad main line network. It does so over track that was very marginal in the Class I system because it never generated enough traffic to justify sufficient investment. With a lower cost structure and more flexible service, short line companies that purchased the track have been able to keep these lines going. However, the revenue is still not high enough to make up for past years of neglect.

Today, two factors have combined to bring this situation to a head. First, the advent of the heavier 286,000-pound cars that are becoming the standard of the Class I industry require substantially higher investment in the track. Second, as the Class I's put a greater premium on speed and precisely scheduled operations, the short line railroads must meet these higher standards or be cut off from the national system.

Transportation is at the heart of industrial production and energy generation. Railroads transport more than 60% of coal used by generating facilities and are a major mover of automobiles, industrial chemicals and mining products. The short line and regional railroads are the feeders and supporting players in this transportation network and the network is only as strong as its weakest link.

POINTS RELATED TO THE STIMULUS PACKAGE AND SECURITY

Money spent on railroad capital programs can be spent immediately. Replacing rails and ties and rebuilding equipment is an ongoing process for railroads. The engineering and planning were done long ago. Unlike highways, railroads control their rights-of-way and the timing of their traffic. To double or triple the number of rails and ties installed requires virtually no lead-time. The short lines national association surveyed its entire membership following September 11th and found that the short line industry could spend over $400 million on infrastructure improvements in the next three months and over $1.2 billion in the next six months. Over 6,000 workers would be directly employed for the three month period and nearly 9,500 workers would be directly employed for the six-month period. These jobs would be in addition to the railroad's in-house work forces and would not include additional workers in the tie and rail supply industry.

A large portion of this investment involves the purchase of rail and in testimony before the Senate Commerce Committee on November 1 the short line association president indicated that the short lines have agreed they will purchase only US made rail with this money.

One of the recommendations being made by security experts in the wake of September 11th is that we find ways to transport hazardous materials around heavily populated areas. The nation's short line railroads offer a ready-made transportation network that bypasses our nation's most heavily populated areas. Today, 20 percent of all short line customers ship hazardous materials.

Keeping America's light density railroad lines connected to the national railroad system is important under any circumstances. Today it is even more important. The events of September 11th have caused major disruptions in all our transportation systems. As we sit here today, the federal government is determining how to best inspect truck cargo and is surveying all of America's railroads to determine the location of critical infrastructure assets such as bridges and tunnels and how and where we move hazardous materials near large population centers. Today, America's entire transportation infrastructure is under duress and we should be concerned that America's entire transportation infrastructure is up to the task.

September 11th has already escalated insurance costs in many sectors. Several railroads have been warned that their risks and

their rates will be re-evaluated. Some railroads may not even qualify for affordable insurance coverage. As small railroads are hit with higher and higher insurance costs, they will have less and less to invest in needed rehabilitation.

POINTS RELATED TO PENNSYLVANIA

Sixty percent of Pennsylvania's short line and regional railroad infrastructure is in need of extensive rehabilitation, including more than 170 bridges. Over 300 rail crossings require significant rehabilitation. Excluding the Bessemer & Lake Erie and Delaware & Hudson railroads, both of which have heavy load infrastructures, almost one third of Pennsylvania's short lines and regionals cannot effectively handle the heavier 286,000-pound cars that are becoming the new standard in the industry.

A recent survey of the state's short lines indicate that infrastructure needs total some $280 million, and over 40% of those projects could be initiated in the immediate future.

More than 540,000 carloads of hazardous materials cross Pennsylvania's rail system each year.

The most modest forecasts for the movement of freight by the Federal Highway Administration indicate that increases of up to 70% can be expected in the Northeast over the next ten years. This growth will severely congest the national transportation network unless investments are made today. Railroads remain the safest and most viable mode for transporting hazardous materials, coal, industrial raw materials and bulk commodities. Investment in rail infrastructure is an investment in the country's economic future.

AMENDMENT NO.—

(Purpose: To provide additional funding for capital grants for rehabilitation, preservation, or improvement of railroad track of class II and class III railroads)

At the appropriate place, insert the following:

SEC. . There is appropriated to the Department of Transportation for the Federal Railroad Administration for fiscal year 2002, out of any funds in the Treasury not otherwise appropriated, $350,000,000 for capital grants to be made by the Secretary of Transportation for rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Funds appropriated by the preceding sentence shall remain available until expended.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. We are recessing at 2 p.m. Has the Senator completed his statement?

Mr. SPECTER. I have. I thank the Chair and yield the floor.

Mr. REID. Mr. President, I ask unanimous consent that at 4 p.m. Senator BYRD be recognized to speak in morning business.

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

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 4 p.m.

Thereupon, the Senate, at 1:59 p.m., recessed until 3:59 p.m. and reassembled when called to order by the Presiding Officer (Mr. JOHNSON).

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

BIOLOGICAL WEAPONS CONVENTION-NUCLEAR ARMS TREATIES

Mr. BYRD. Mr. President, the Nation's attention is focused on the threat of biological weapons. The pernicious nature of these types of weapons has been shown in the anthrax-laced mailings that were sent to the office of the majority leader, TOM DASCHLE, NBC news in New York, and American Media in Florida, which have resulted in contamination of a number of post offices in Washington, D.C., New Jersey, Florida, and perhaps elsewhere.

One question is on all American's minds: how can we defend ourselves against a threat that is literally microscopic? In the days of the Cold War, we became accustomed to being able to quantify the threats posed to the United States: we could count the number of Soviet missiles, bombers, tanks, and soldiers, and respond by increasing the capabilities of our own military.

But now, the threat to our security has changed. We can not quantify this threat and we can not track its movements until it might be too late. Building up our military will not affect our security from biological weapons. We must adjust our thinking on how to deal with these abhorrent weapons of pestilence.

Mr. President, remember that Jesus said: You shall hear of wars and rumors of wars, but the end is not yet. For nation will rise against nation and kingdom against kingdom. There will be famines and pestilences and earthquakes.

Pestilences, that is what I am talking about; germ warfare, viral warfare, anthrax. Building up our military, I said, will not affect our security from these pestilences. We must adjust our thinking, I say again, on how to deal with these abhorrent weapons of pestilence.

We do not yet know for certain whether the anthrax attacks were carried out by foreign or domestic agents, by someone across the seas or someone in our midst. We also do not know when the next biological weapons attack might happen, what type of germs or viruses might be used, or who might be planning it. But the U.S. must take action. The time is right now, in the midst of intensified international condemnation of the use of biological weapons, to form an international regime to eliminate the manipulation of nature for violent purposes.

Over 140 countries have signed the Biological Weapons Convention of 1972. It is one of the simplest arms control treaties in existence. Parties of the treaty agree not to develop or retain any biological toxins or agents that are to be used for other than peaceful purposes. There are no means to verify this binding commitment, but the Convention has succeeded in its limited purpose by confirming among most of the world that biological weapons are abhorrent to all mankind.

Negotiations began in 1995 on how to add a binding protocol to the Biological Weapons Convention to create a regime that would verify compliance with the treaty. Parties to the Convention would thereby submit themselves to the same kinds of inspections that are conducted at nuclear facilities under the Nuclear Non-Proliferation Treaty and chemical facilities under the Chemical Weapons Convention. The purpose of these inspections would be to assure the whole wide world that potentially dangerous microbes, which are needed to conduct scientific and medical research, are handled in a safe manner, and are not being diverted to nefarious purposes.

Representatives at the last conference on the Biological Weapons Convention, which took place in July, hoped to gain consensus on the final text of the protocol, which may open for signature within weeks. The results of that conference were disappointing. Rather than negotiating toward the resolution of many outstanding issues on the protocol, the Bush Administration took the view that no protocol would be preferable to a negotiated protocol. Like much of the world, I was left wondering whether this Administration takes arms control seriously.

I am pleased to see that on November 1, the Administration unveiled a number of proposals to complement the Biological Weapons Convention. These voluntary measures are well-intentioned and they make sense. However, they do not go far enough.

I am wary of addressing our urgent and serious national security concerns simply through voluntary measures by foreign countries. With no formal multilateral protocol to spell out exactly what each country's responsibilities are, I fear that the future of the international ban on biological weapons will be a patchwork quilt of full compliance, non-compliance, half-measures, and more talk and less action. This could ultimately leave us even less secure from these horrific weapons.

There are other important treaty matters before our country. We are closing in on an agreement with Russia for sharp reductions in our nuclear stockpiles, and negotiations will continue on altering the Anti-Ballistic Missile Treaty of 1972 to allow increased national missile defense testing. These deals, if concluded, would be a major development in our relationship with Russia and have a major impact on geopolitics. The strategic arms of the two biggest nuclear powers would be cut to between 1,700 and 2,200 warheads, which is less than a third of our present level. We have not had as few as 2,000 strategic warheads in our nuclear arsenal since 1955.

I am not against reducing the nuclear stockpile. I am not against reducing the number of missiles, the number of warheads. I am not against that. But as important as this agreement would be, I am shocked by the President's view that an agreement on arms reductions need not be on paper. Legally and

technically he is right. It need not be on paper. But, Mr. President, it ought to be on paper. The President said that he was content to conclude arms reduction talks with nothing more than a handshake. Nothing more than a handshake.

Now, that is troubling me. If I sell a piece of property or if I buy a piece of property, I will shake hands with the person who buys my property. I will shake hands with the person from whom I buy property. But there will also be a deed and it will be registered at the courthouse in the county where the property exists. There will be a handshake—that is fine. A handshake carries with it the indication of honor. ''It is an honor to deal with you—it is a pleasure, I have enjoyed doing business with you.'' But it is that deed that is in writing that assures my grandchildren, and their children if necessary, that that property, that transfer of property is on record.

So I say again, the President said—he is reported to have said that he was content to conclude arms reduction talks with nothing more than a handshake. Are you? Are you, the people who are watching this Senate floor through those electronic eyes behind the Presiding Officer, are you content? Are you content that arms reduction talks be concluded with nothing more than a handshake?

We are closing in on a historic compact, and I cannot understand why this agreement should not be done as a formal written treaty. That would require a two-thirds vote, yes. But a simple handshake leaves many questions unanswered. I would like to see one or both Houses of the Congress having some say in that, and backing up that handshake, if needed, with their votes, the representatives, the elected representatives of the people.

A simple handshake leaves many questions unanswered. What will happen to the nuclear warheads once they are removed from their missiles? I must note that in this year's budget request, the Administration cut more than $131 million from the programs that keep these powerful weapons from falling into the wrong hands. How will we verify? How will we verify that Russia carries out its arms reductions, and how will Russia, how will President Putin verify that we carry out ours? That we are carrying out our arms reduction? It was Ronald Reagan himself that said, ''Trust, but verify.'' In other words, yes, shake hands. But verify.

And what will happen to the agreement when President Bush and President Putin leave office? President Bush under the Constitution can serve 3 more years after this year, and if he is then elected again, he can serve 4 more years. But who knows what the attitude of his successor will be. If there is no treaty, no formal agreement in which this Senate, or on which the Senate and House—whichever type of agreement it might be—has been able to put a stamp of approval, who knows what his successor might say. Or who knows how the successor to Mr. Putin might feel about it. A written treaty could provide clear answers to each of these important questions.

It would be a real mistake to make such an important international agreement in any other form, I think, than a treaty. We do not need fly-by-night arms control. We need arms control measures that are carefully examined to support our national security. We do not need hush-hush agreements with other countries on our nuclear weapons. We need public confidence in our military and foreign policy. Lacking the full confidence of the public, an informal agreement on nuclear arms and national missile defense is not worth the paper that it is—or is not—written on.

President Franklin D. Roosevelt once said, ''Treaties are the cornerstones on which all relations between nations must rest.'' Treaties are useful in clearly elaborating the responsibilities of each party, and formal ratification of treaties indicate a country's full acceptance of those responsibilities. The Founding Fathers of this country The Founding Fathers who wrote this Constitution and made reference to treaties in that Constitution, understood that, and that is why they secured for the Senate advice and consent responsibilities to any treaty made by the President.

We should not turn away from this treaty-making process for the simple convenience of the executive branch.

The Kings of England make treaties. The Kings of England have always made treaties. But this country has no King. This Republic has no King. Gentlemen's agreements on matters as important as international security or the control of weapons of mass destruction are simply not sufficient to inspire the confidence of the public in this or other countries. By making treaties, with the advice and consent of the Senate, the United States shows itself to be a reliable ally to our friends, and a principled actor to our opponents.

We should also consider the President's role in conducting our foreign policy, and his role as commander-in-chief. Is his hand in conducting future negotiations with Russia, in the case of the ABM Treaty and nuclear arms reduction, or with the other nations of the world, in the case of the Biological Weapons Convention, the Kyoto Protocol, and a host of other treaties, strengthened if he concludes these types of agreements without the advice and consent of the Senate?

Is his hand strengthened if he doesn't have the advice and consent of the U.S. Senate standing behind him? No. I don't think his hand would be strengthened. I would think just the opposite.

Senate approval or ratification of important international agreements is a signal to all the world that our nation not just a branch of our government approves of and will carry out those agreements negotiated by the President. Senate approval of important treaties, such as a protocol to the Biological Weapons Convention or a new strategic agreement with Russia would strengthen the Chief Executive's hand to negotiate from a position of strength on other international matters, such as the Kyoto Protocol, possible NATO expansion, and future arms control treaties.

So I say that legally and technically, the President might not need to have it written on a piece of paper. Legally and technically, he may be able to do it with a handshake.

Let me say again that I am not proposing that we shouldn't reduce our nuclear weapons stockpile. I am not proposing that at all. I think the MX missile, for example, is old, and we shouldn't continue to keep that around. But a handshake is not enough. I don't rest easy. Do you, Mr. President? I am saying to the Presiding Officer, and I am saying to other Senators, would you rest easy with just a handshake in a matter of this nature?

The two issues I have just discussed, the Biological Weapons Convention and our strategic situation with regard to Russia, are very important to the security of our country. The United States must take a leadership position on these issues to crack down on the use of germs and viruses as weapons, and to clarify our relationship with the nation that has emerged from our Cold War opponent. These matters cannot rest on voluntary measures or unwritten pacts. I urge the Administration to pursue formal agreements on these issues in order to recognize their importance to Americans and the world.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THANKSGIVING

Mr. BYRD. Mr, President, nearly 4 centuries ago, a courageous little group of people left their homeland, boarded a small, flimsy sailboat—it was not a steamboat; it was a sailboat, a sail ship—and they journeyed across a mighty ocean, and settled in an inscrutable unfriendly wilderness. They did all of this, took all of these risks.

Think about the risks that they took. They did not have any cell phones. They did not have any radios. They did not have any weather predictors. They did not have any newspapers to tell them what might lie ahead or what the weather conditions might be 24 hours away. They did not have any hospitals nearby. But they had faith. They had the guiding light of God's word. Many of them took all these

risks so that they could go to church, the church of their choice. Think about it. How many of us today have difficulty getting up on Sunday morning in order to go to church? I do. Ah, how I like to lie in bed on Sunday morning. My little dog Billy gets me up many times, or that alarm clock does. But I like to go back to bed on Sunday morning. Can't do it on Monday, you see. Can't do it on Tuesday. But Saturday and Sunday—ah, Sunday.

How many of us do not like to walk those few blocks or drive those few miles to go to church? But here were the Pilgrims, crossing a vast ocean—2,500 miles, 3,000 miles—a vast body of water, facing the darkest of unknowns. They did not know what would lie in wait for them. They knew it would be a long time before they could get back home, and perhaps there would not be friendly winds that would bring their sail ships back home. They faced the darkest of unknowns just to preserve the sacred right to worship as they pleased, or not to worship, to go to this church or that church, the church of their choice. Many of them came for that reason only.

Stop and think about it. Doesn't one stand in awe, absolute stark awe, as one thinks of the courage of those men and women to strike out across the stormy deep, in awe of their courage and their devotion to God? One cannot help but be awed by that courage that they had to go against odds, to face hunger and deprivation and danger, to be away from their loved ones there in the British Isles or in the Netherlands or in Germany or in France or Italy, or wherever, to leave those friends and relatives, those loved ones, perhaps forever, not knowing whether they would ever in this world see those loved ones, those friends, those acquaintances again.

The journey was not easy. Turbulent weather, including rough winds and strong currents, forced the Pilgrims to anchor at Cape Cod, MA, far north of their destination and well outside the boundaries of their patent. This meant that, once on land, there would be no legal authority or government over them.

Therefore, before disembarking, the Pilgrim leaders assembled together all the adult men who made the journey on the Mayflower in order to formulate a government.

It was a covenant. One might call it a contract. I prefer to call it a covenant. Drawing upon their church covenant which vested religious authority in the congregation, they established a form of self-government.

It seemed simple enough, but little could these men aboard the Mayflower that fateful November night in 1620 have realized the mighty forces that they were unleashing. By binding themselves into a ''civil body politic,'' by giving themselves the power to enact laws for the common good, and obligating themselves to obey such laws, the Pilgrims were establishing the fundamental, the basic principles of democracy in America, namely a belief in self government, the rule of law, and government by mutual consent.

The Pilgrims had also established that the government of their new world would be a government under God. The Mayflower Compact made this intent perfectly clear as it read, in part:

> In the name of God, amen, we whose names are underwritten . . . Having undertaken for the Glory of God . . . Do by these Presents, solemnly and mutually in the Presence of God and one another, covenant and combine ourselves together into a civil Body Politik, for our better Ordering and Preservation. . . .

There you have it. These were our forebears. The next year, these same men and women established the custom of gathering together each year to express their gratitude to God for protecting them, for the harvests that their labors had brought forth in the new land, and for the preservation of their community.

In the middle of October of 1621, a group of hunters sent out by Governor Bradford brought back a great store of wild turkeys. I can just see them. They wouldn't go the back streets with this big bundle of turkeys they had shot. No, they would go the front street, wouldn't they? They would go right down front street so that everybody could see the turkeys they had bagged, a great store of wild turkeys. When these were added to the collection of lobsters and clams and fish and corn and green vegetables and dried fruits that the community had collected, the Pilgrims had the makings of a great feast. Hot diggity dog, they had it, didn't they. They had something good to eat. Yes, indeed. So they invited their neighbors to join them in a day of celebration and worship and in a common giving of thanks.

Two years later, in 1623, the Pilgrims made this day of thanks, feasting, and worship a tradition. The spirit of that glorious day, which some people recognize as the first official Thanksgiving, was captured in a proclamation attributed to Governor Bradford. That proclamation read in part—let us read it together:

> Inasmuch as the Great Father has given us this year in an abundant harvest of Indian corn, wheat, peas, squashes and garden vegetables, and made the forest to abound with game and the sea with fish and clams, and inasmuch as he has . . . spared us from the pestilence and granted us freedom to worship God according to the dictates of our own conscience, now I, your magistrate, do proclaim that all ye Pilgrims, with your wives and ye little ones, do gather at ye meeting house, on ye hill, between the hours of nine and twelve in the daytime on Thursday, November ye 29th, of the year of our Lord one thousand six hundred and twenty-three, and the third year since ye Pilgrims landed on ye Plymouth Rock, there to listen to ye Pastor and render Thanksgiving to ye all Almighty God for all his blessings.

''Thanksgiving day,'' wrote President John Kennedy, ''has ever since been part of the fabric which has united Americans with their past, with each other, and with the future of mankind.''

Thanksgiving has become one of America's oldest and most beloved holidays. It is one of our most important holidays. It has become a day devoted to turkey, mashed potatoes, and cranberries. I can tell these pages to savor that day when they can meet at mom's house and have all these goodies. They are not going to Shoney's or some other restaurant. They are going to eat with mother or grandmother, with their parents, with their brothers, with their families.

It has become a day devoted to turkey, mashed potatoes, cranberries, family togetherness, football games, parades, and the beginning of the Christmas holiday season. But it also remains a day that should be devoted to God and country because it always has been.

During the American Revolution, following the important American victory over the British at the Battle of Saratoga in October 1777, which marked a turning point in the war, the Continental Congress approved a resolution proclaiming December 1 as a day of ''Thanksgiving and praise.'' You see, our fathers did not forget. Our fathers and mothers remembered the great God of heaven. They remembered the God who had watched over them through that perilous trek across the deep waters and had protected them in their homes and the forests, had provided food and sustenance for them. They remembered. They gave thanks to him.

Following the establishment of the new Government of the United States in 1789, President George Washington issued a ''Thanksgiving Proclamation'' designating Thursday, November 26, as a ''day of public thanks-giving and prayer to be observed by acknowledging with grateful hearts the many favors of Almighty God.'' This is George Washington. This isn't ROBERT BYRD. This is George Washington, our first President, the greatest of all, George Washington. ''By acknowledging with grateful hearts,'' he said, ''the many favors of Almighty God, especially by affording them an opportunity peaceably to establish a form of government for their safety and happiness.'' Those were George Washington's words. At President Washington's request, Americans assembled in churches on the appointed day and thanked God for his blessings.

One thing, if I forget all else, that I will always remember about President Eisenhower is this: In his first inaugural address, he, Dwight D. Eisenhower, prayed. In his first inaugural address, President Eisenhower prayed. I shall never forget that, and I shall never fail to honor him for that. Dwight D. Eisenhower prayed a prayer in his first inaugural address.

During the American Civil War, following the bloody battle of Gettysburg that marked a turning point in that war, President Abraham Lincoln asked the people of the United States to set

aside the last Thursday of November ''as a day of thanksgiving and praise to our beneficent Father.'' This was Lincoln, not ROBERT BYRD. ''In the midst of a civil war of unequal magnitude and severity,'' President Lincoln proclaimed the country should take a day to acknowledge—listen to his words—the ''gracious gifts of the most high God, who, while dealing with us in anger for our sins, hath nevertheless remembered in mercy.''

Two towering Presidents, Washington and Lincoln, humbled themselves to call upon God's name and to give him thanks.

This year, as was 1863, has been a year of tragedy and adversity for our Nation. We again find ourselves at war. Because of this, on this Thanksgiving, as in 1863, there will be too many empty chairs at the table. Nevertheless, as in 1863, we should recognize that there is so much for which to be thankful.

While I recognize that today, as in 1863, we live in a time of uncertainty and danger, we should all be thankful that the American people have the steadfastness and the determination to move forward.

While I recognize that many young American men and women will spend this holiday in harm's way protecting our country and protecting the values we hold dear, we can all be thankful we do have the best, the bravest, and the most determined Armed Forces—and always have had—in the world, Armed Forces that are now fighting the scourge of terrorism. I am thankful we live in a country that can confront a crisis with strength and moral certainty, without forcing us to abandon the very principles and values that we hold most dear.

Like President Washington, I am thankful for ''the many favors of Almighty God,'' including a government that ensures our ''safety and happiness.''

Like President Lincoln, I am thankful for the ''gracious gifts of the most high God, who, while dealing with us in anger for our sins''—and there are many—''hath nevertheless remembered mercy.''

Finally, I am thankful for those men and women, who, 381 years ago, had the courage, the faith, and the devotion to God to challenge the most difficult and dangerous of journeys and face the darkest unknown. They left friends and homes and warm hearths to launch out upon a dangerous, deep journey, led and guided only by the faith they had in a higher power and a desire to create a new home where they could go to the church of their choice. Thank God for them.

On this Thanksgiving, let us remember:

Our fathers in a wondrous age,
Ere yet the Earth was small,
Ensured to us an heritage,
And doubted not at all
That we, the children of their heart,
Which then did beat so high,
In later time should play like part
For our posterity.
Then fretful murmur not they gave
So great a charge to keep,
Nor dream that awestruck time shall save
Their labour while we sleep.
Dear-bought and clear, a thousand year
Our fathers' title runs.
Make we likewise their sacrifice,
Defrauding not our sons.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Delaware is recognized.

SIGNIFICANT STRATEGIC ISSUES

Mr. BIDEN. Mr. President, I compliment the distinguished leader—and he is still my leader—the chairman of the Appropriations Committee, Senator BYRD, on his speech and his remembrance relative to Thanksgiving.

I also rise to compliment him on his speech that I only heard in my office relating to strategic doctrine and strategic weapons. Quite frankly, I am a little embarrassed. I thought he was going to make the Thanksgiving speech first. I wished to be here for his comments on what is going on now in Crawford, TX, with President Bush and President Putin.

Today, I think we all agree we have an opportunity to reach a reasonable agreement with the Russians on the three most significant strategic issues of our day: missile defense, strategic arms reductions, and nonproliferation. Senator BYRD and I and others have had a chance to meet with Mr. Putin in a larger group. Based on private discussions with him and on reports of what he has said in his meetings with President Bush, it seems as though genuine progress has been made in the summit this week between President Bush and President Putin.

I respectfully suggest—and I believe the President would probably agree—that much more needs to be done. It seems to me that, in conjunction with what Senator BYRD said earlier, it is vital for us to continue to make progress, and it is equally vital that the United States refrain from actions that would make further agreements on these vital issues difficult, if not impossible.

President Bush has made clear—in the ten months since he has been President—his determination to proceed on the development of a limited missile defense system, despite any limitations in the Anti-Ballistic Missile Treaty of 1972. Now, we have had very conflicting accounts from his representatives in the administration before the Intelligence Committee, the Armed Services Committee, and the Foreign Relations Committee as to whether or not they were ''prepared to break out of the ABM treaty'' based on planned testing, or needed testing, to further determine the feasibility of a limited missile defense.

But one thing has come through consistently: President Bush has stated his determination to do whatever it takes to develop a limited missile defense. Obviously, Russian officials have heard him, and they understand his determination to proceed.

But—and it is a big but—President Putin, in his discussion with some of us Senators and in his public statements, has made it clear that he still considers the ABM Treaty a critical element in the agreements that govern strategic relations between the United States and his country.

President Bush and President Putin seem to have achieved a personal rapport over the last 6 months that bolsters President Putin's confidence that we mean no harm to Russia. I have said before, somewhat facetiously but only somewhat, that as a student of history—although not to the extent of my friend from West Virginia, and I mean that seriously—I cannot think of any Russian leader, other than a tsar Peter the Great, who looked further west than this gentleman, Mr. Putin, seems to be looking.

He seems to have made a very fundamental and significant decision that the future of his country lies in the West. He has taken some political chances at home. How significant they are, we do not know, but nonetheless, he has, to use the vernacular, stiffed both the browns and the reds, the nationalists and the former Communists, in making such a dramatic statement about his intentions to live and thrive in the West. He has even dismantled Russia's listening post in Cuba as a demonstration of the lack of feeling of hostility toward the United States.

I will say that President Bush has succeeded in communicating to the President of Russia that we mean no harm; that the Cold War is over. In fact, Secretary Powell said in Asia that the post-Cold War is also over. This is the opportunity for a fundamental new beginning. But the beginning does not necessarily mean the end, and clearly to Putin it does not mean the end, to the ABM Treaty. President Putin appears to have internalized President Bush's assertion that he is not an enemy and that Russia is not an enemy—but President Putin is still unwilling to bend the ABM Treaty.

He is willing, however, to let the United States proceed with the testing and development of missile defense, so long as the ABM Treaty remains in force. That seems to me to be a sensible arrangement.

The part that gets difficult is the part to which the Senator from West Virginia spoke. If, in fact, we are, in practical terms, about to amend the ABM Treaty—this is a government with equal branches—that is something about which we in the Senate get to have a say. We should be in on that deal, as Russell Long used to say. That is a deal we should be in on.

I am very happy the President appears not to be intent at this moment on withdrawing from the ABM Treaty,

which I think would be a tragic mistake—not only substantively as it relates to arms control but diplomatically as it relates to our relations around the world. I am anxious to hear what the President has in mind, however, in terms of how, in effect, to ratify—not in the constitutional sense, necessarily—but how to ratify whatever agreement he reaches with Mr. Putin.

If I am not mistaken, my friend from West Virginia said that President Bush said—and I recall President Bush saying this, but I am paraphrasing—we can do this on a handshake.

Handshakes are great—and I admire and I trust the President's resolve and I trust his sense of honor and I believe he means what he says and will stick to it when he shakes hands. I am even prepared to acknowledge that is probably true with President Putin as well—but a handshake is not the stuff upon which these kinds of agreements should rest ultimately.

The goal of our policy should not be to withdraw from the ABM Treaty, as some continue to urge. I think they miss the point. The goal should be to maximize our national security interests rather than to win some debating point over the relevance of arms control agreements in this post-cold-war era.

With regard to strategic weapons, President Bush announced this week that the United States will reduce its force level over the next 10 years to somewhere between 1,700 and 2,200 deployed warheads.

The devil is in the details—for example, ''deployed warheads.'' To date, I have not gotten an explanation of what is going to happen with ''all the other warheads,''—roughly 4,000 additional warheads, not just ours, but the Russians' as well, because President Putin promised to do the same thing, to cut his forces as well. I assume—and this is a little premature—but I assume he is also talking about ''deployed'' nuclear weapons, as opposed to all the nuclear weapons in your possession.

That is excellent progress as far as it goes, Mr. President, and I do not mean to sound as if I am trying to rain on the President's parade. I think what he is doing is very helpful. Now, though, it seems to me—and obviously to the chairman of the Appropriations Committee—Presidents Bush and Putin should agree on a means by which they can verify that each country is complying with its promise.

Even if the Lord Almighty came down and stood in the well of the Senate and said: I guarantee to all you Senators and all America and all the world that both Putin and Bush will keep their agreements, that would not be quite good enough for me. God willing, Presidents Bush and Putin will remain healthy, and I am sure President Bush expects to remain in power for 4 years beyond his term. But it may be that he will not be President in 3 years, and Mr. Putin may not be President in 3 years. For great countries to have such fundamental decisions rest upon personal assurances between two honorable men is not sufficient—not because the men are not honorable, not because they are not intent on keeping their promises, but because they are not immortal; they are not going to be around forever.

It seems to me they should make sure, whatever each side is promising, that it is able to be determined with some objectivity. This would avoid significant misunderstandings of the sort that, I remind my colleagues, have plagued us in the past regarding the Russian promises on tactical nuclear weapons made a decade ago.

U.S. force planners benefit from predictability in Russian strategic forces. The more we know about what is going on in the Russian nuclear force posture, the easier it is to determine how we should deal with them, how we should counter them. With a handshake, all we know is what President Putin says to the press or in private to President Bush. That is all we know. With a written agreement, we have specific commitments. U.S.-Russian relations will benefit from knowing what each has promised—and what we and they have not promised.

I go back to the promises made by both Presidents Gorbachev and Yeltsin. In fact, what happened was that Gorbachev and Yeltsin made an agreement they intended to keep, and they may, in fact, have kept it.

In January of this year, I remind my colleagues, some of our friends who do not like arms control agreements and were much less trusting of Russia than they seem to be today raised questions over whether Russia had violated its 1991 and 1992 promises to cut back on tactical nuclear weapons. That was an issue before this body in the beginning of this year, discussed in this town among the nuclear theologians, discussed in this town among those interested in strategic doctrine and strategic weapons. Had the Russians kept their promise?

Part of the problem was that people were not sure what Gorbachev or Yeltsin had actually promised to do. That was part of the problem.

Verification obviously helps. Without a formal agreement of some sort, however, generally one does not get verification.

The allegation in January of 2001 was that Russia was storing nuclear weapons in Kaliningrad and people wanted to inspect those sites. We heard some concern from my friends, saying the Russians have these missiles hidden in barns and they took them out of silos but they have them on rail, and on and on, trying to demonstrate a short 8 months ago that we cannot trust the Russians.

It caused a bit of a furor because one of the arguments concerning why we should do away with the ABM Treaty was that we ought to do away with this treaty because the Russians do not keep these treaties, and Lord only knows what they are doing, and we have to build this national missile defense. That was only in January of this year.

But when people suggested that we inspect those sites—because we thought, as some asserted, they had stored nuclear weapons there—there were no grounds to request the inspection, let alone demand one, because there was no agreement attendant to the promise of Gorbachev and Yeltsin to, in fact, allow for verification.

Why do I bring this up? To say the Russians cannot be trusted? No.

What happens is that when there is doubt about issues such as nuclear weapons, people always err on the side of the worst case because we almost cannot afford not to—because if we are wrong, we are, no pun intended, dead wrong; we are really wrong.

So what happened as a consequence of the January dispute about whether or not they had kept their 1991 promise? What happened was it bred mistrust. Remember all the articles that occurred in January and February and March and actually began during the last campaign? This administration got off to an incredibly rocky start with Russia.

The President has made that right, and I compliment him for it, but now we have stalled. We have sort of stumbled through 9 months of lost opportunity.

The point is, when there is no independent means to verify—when a new President comes into office, the next President, whoever that is—how does he or she judge whether or not the commitment is being kept? I promise he or she will be buffeted on every side by those within the Defense Department, the intelligence community and the think-tanks who are whispering in his or her ear saying: Hey, they are not keeping the deal.

The same problems can and do occur regarding strategic weapons. How will we know if Russia has reduced its weapons numbers? Will it remove them from launchers and silos, or only say that certain weapons are no longer operational? How will we know? That was the basis of a big debate not too long ago, I remind my friend—although I do not have to remind my friend—from West Virginia. That was the basis of a big debate.

How are we going to know? What is Russia really promising to do? The only misunderstanding that is worse than one that was intended is one that was unintended. Maybe they are going to be keeping their word, but how will we know?

I promise, there will be many voices questioning whether the Russians are keeping the agreement, and if there is no independent means to verify it, our questioning then breeds distrust as to whether or not the Americans really are looking for a way out: Are they really with us? Did they really mean to enter into this?

What is Russia really promising to do? That, I hope, will be made clear, because even that is in question.

It is not wise to make assertions that you will reduce weapons to between 1,700 and 2,200. I guarantee there will be people in this Chamber saying the Russians really said they would be down to 1,700 by such and such a date, and there are 2,200.

I might add, what is going to happen to those warheads that are not deployed? For that matter, how will Russia or the American people know if the United States reduces its arms? What are we promising to do? Are we promising to destroy the weapons, as the START agreements require us to do, such that when we get the force numbers down, we get rid of the rest? Or are we only promising we will decommission them in the sense that we will put them in a barn, we will put them in a hangar, able to be reloaded, but we are not going to have them on station and targeted somewhere?

Will Russia change its training doctrine in the absence of a formal treaty? I remind people when Gorbachev and Yeltsin agreed with the first President Bush to reduce tactical nuclear weapons, they said that without a formal agreement they could not change Russian training.

What does that have to do with anything? Rather than deciding they were going to act as if they had decommissioned the weapons, which they said they had, what did they do? They continued to train Russian forces to make war with the weapons they said were no longer deployed. So what then happened?

I am sure my colleagues from West Virginia and Montana and I must have attended intelligence meetings where we would be told the following: They said they had decommissioned these weapons, but yet look at the manual; their doctrine still says they are going to plan to use them. So that must mean they have not decommissioned them. How do we know? And yet Gorbachev and Yeltsin had said at the start, without a verifiable agreement we are not going to change our manual because we may have to pull those suckers out of storage and use them if you guys turn out not to keep your side of the deal.

What will we do? Will we, too, train our troops to make war with weapons we say are no longer deployed? Will other countries take heart because we have fewer deployed weapons, or will they look at our total stockpile and say that our reductions are a sham?

Again, I have no doubt that President Bush will keep his word and do the right thing, but we cannot, in my view, expect other countries to have as much trust in us as we have in ourselves.

I will never forget the first time I was sent by the man who is now the chairman of the Appropriations Committee, and who was then the leader of the U.S. Senate—he may remember—asked me as a relatively young Senator in 1979, when the SALT II agreement was under consideration, to lead a group of new Senators who were uncertain about whether or not they were for this new arms control agreement. It was in the face of this scare that the Russians had bases in Cuba, and we were trying to push the treaty through. The Carter administration wanted it. I led a delegation of 10 or 12 Senators—great Senators who are no longer in the Senate, Bradley, Boren, Pryor, and a number of others, because they were just elected that year. We sat down with Leonid Brezhnev, who was the Russian President at the time. Brezhnev came into their Cabinet room. We were all on one side, and Brezhnev and Kosygin on the other side, and it opened the following way: He welcomed us. We had contemporaneous translation.

Brezhnev looked at me, and he said: ''Let's get two things straight, Senator. The first thing is, when I was your age I had an important job.'' He went on to tell me his job, along with Kosygin, was to supply Leningrad in the siege of Leningrad, making it clear ''you are a young man, Senator.'' He wanted me to know he had been important for a long time. I got the message.

The second thing he said, and this is literally what he said: ''Let's agree that we do not trust each other, and we have good reason not to trust each other.''

He went on to say: ''You Americans believe, with every fiber of your being, that you would never use nuclear weapons.'' You believe you would never use them against us first. But I hope you understand why we think you might.

Then he went on to say: ''You are the only nation in the history of mankind that has ever used nuclear weapons. You used them against civilian populations.''

He quickly added: ''I am not second-guessing that, but you used them. So you have to understand we might think you might use them again.''

A point well taken. No matter how well intended either side is, we cannot expect other nations to trust our resolve as much as we trust our resolve. So if we want others to trust us and we want to be able to trust Russia in the years to come, we should remember Ronald Reagan's advice: Trust but verify.

I am encouraged by President Bush's statement, following his force reductions announcement: If we need to write it down on a piece of paper, I would be glad to do that.

He should. I hope he will. I also hope that piece of paper comes our way for us to take a look at. A new START III treaty would not be difficult to draft. It would ensure not only rigorous verification but also proper respect for the constitutional role of the Senate regarding international agreements.

There are also grounds for hope regarding the problem of proliferation and Russia's relations with Iraq and Iran. For the first time, Russians are saying there is no longer a strategic rationale for putting trade above nonproliferation in Russia's relations with Iran and Iraq. The question now is money. It is not a question of Russia's place in the world. That place is clearly with us in the West and in opposition to proliferation.

We and our allies can provide the money that Russia needs to maintain economic growth and well-being, in return for new Russian policies and actions that refrain from proliferating weapons in that part of the world.

We can offer Russia debt relief on its Soviet-era obligations to the United States and other countries. Russia could use a significant proportion of the proceeds of that debt relief on nonproliferation programs to secure its sensitive materials and to provide new, civilian careers for its many weapons scientists who could otherwise become prey to offers from rogue states or terrorist groups.

Senator LUGAR of Indiana and I have encouraged the Administration to consider this option. We also have legislation to authorize such debt relief, which the Foreign Relations Committee has approved unanimously.

The U.N. could authorize a major increase in the Iraqi Oil for Food program—which would revitalize Iraq's oil production infrastructure—in return for devoting the proceeds to payment of Iraq's foreign debt, especially its debt to Russia. That would free Russia to pursue the issue of United Nations inspections on the basis of strategic concerns alone.

Senators DOMENICI and LUGAR propose that we provide loan guarantees to Russia in return for Russia reducing its fissile material stockpiles.

Missile defense, strategic arms and non-proliferation affect not only Russia and the United States, but the future of the whole world. The opportunities for U.S.-Russian cooperation—if we seize them—hold the promise of a transformed world in which international cooperation is the norm, with Russia and the United States leading the way.

But we must seize those opportunities.

And we must not waste those opportunities by engaging in purely ideological actions, like withdrawing from the ABM Treaty when there is no rational need to do that.

I conclude by saying that I compliment my friend from West Virginia who is, as usual, the first person to come to the floor and speak to this issue. It is vitally important. I hope the President and the administration listen to his advice. I think he is dead right.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 3 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Delaware for his statement. I well remember in 1987, with respect to the INF

Treaty, the Reagan administration sought to reinterpret the provisions of the ABM Treaty—to reinterpret those provisions because the Reagan administration did not want to live up to the ABM Treaty. They wanted to get away from that ABM Treaty. There were some people in that administration who sought to reinterpret the ABM Treaty. But as we prepared for the subsequent approval by this U.S. Senate of the ratification of the INF Treaty, the distinguished Senator from Delaware was adamant in insisting that there be an amendment written to provide that there be no reinterpretation of any treaty by a subsequent administration; that the treaty had to be interpreted based on the four corners of the treaty plus interpretation of the treaty as explained by witnesses of the administration in power at the time the treaty was ratified. Any new understanding would have to be agreed upon by the executive branch and the legislative branch.

The distinguished Senator from Delaware rendered a great service in that instance, as did the then-Senator from Georgia, Mr. Nunn, who was chairman of the Armed Services Committee; the then-Senator from Oklahoma, Mr. Boren, who was chairman of the Intelligence Committee; and the then-chairman of the Foreign Relations Committee, Mr. Pell.

Mr. BIDEN. That is correct.

Mr. BYRD. Those three Senators and I insisted on having it in writing from the Soviets. And Secretary of State Shultz went to—I guess it was Paris—went to Europe, at least, and worked with Mr. Shevardnadze, I believe, and came back with a document in writing saying that all parties agreed that that would be the interpretation, that there would not be any subsequent reinterpretation by any administration, any subsequent President. Because if that were the case, how could we ever depend upon any treaty as having credibility, if a subsequent administration could reinterpret it according to its own wishes?

How would a subsequent administration interpret an ''understanding'' that was entered into by a handshake? All the more reasons for wanting to see it in writing and having it debated by the elected representatives of the people.

I thank the distinguished Senator.

Mr. BIDEN. I ask unanimous consent to speak for 30 seconds.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, to reaffirm what the Senator says, I do not think anyone should read in this that the Senator from West Virginia and I aren't happy that the President wants to bring down the number of nuclear weapons.

Mr. BYRD. No.

Mr. BIDEN. We are very supportive of that. We want to make sure when it is done, it is done.

Mr. BYRD. It is done.

Mr. BIDEN. And we know it is done.

I thank the Senator and I thank the Chair, and I particularly thank Senator BAUCUS for his kindness in allowing us to proceed.

Mr. BYRD. I join in the thanks.

Mr. BAUCUS. Mr. President, I compliment the Senator from West Virginia as well as the Senator from Delaware. They as well as many others over the years have provided terrific service to our country, keeping their eye on this ball with respect to the former Soviet Union, current Russia, and the key question of nuclear proliferation. I thank them very much. On behalf of the American people, I thank them, too.

The Senator has done a terrific job.

Mr. BYRD. Mr. President, let me say I am deeply appreciative, and I thank the very able Senator from Montana for his observations.

WTO MINISTERIAL MEETING

Mr. BAUCUS. Mr. President, I rise today to discuss the just-concluded World Trade Organization Ministerial in Doha, Qatar.

The administration has announced that WTO members reached an agreement to launch new negotiations on a number of international trade topics. Our trade negotiations hailed this as a major victory.

I recognize the considerable efforts of our trade negotiators in this process. That said, I am unsettled by the results of this session in several areas.

The agreement reached today in Doha makes it even more clear why Congress must have deeper involvement in our international trade policy.

Without a doubt, there are positive items in the documents to launch the negotiation. I am pleased that the United States was able to negotiate forward-looking language on agriculture. There are some good things there—for example, goals of improving market access and reducing market distortions, particularly export subsidies.

But these are vague commitments, and Europe and some of its allies have already demonstrated their strident opposition to meaningful progress in this area. The devil is in the details—and the details have yet to be worked out.

On the other side of the ledger, I am extremely troubled by the decision to re-open the agreements reached just a few years ago on antidumping and antisubsidy measures. Both Houses of Congress have made it clear that they oppose negotiations to further weaken U.S. trade laws.

Let's be absolutely clear on this point. Our trading partners have only one goal here: to weaken our trade laws. That is something the administration should not tolerate—and that Congress will not tolerate.

These problems demonstrate why Congress must take a hard look at trade negotiations. The Constitution assigns responsibility for international trade to the Congress. Yet the administration is now acting without a mandate from Congress.

Congress must have a more prominent role in trade negotiations. As chairman of the Senate Finance Committee, I plan oversight hearings on these negotiations.

The problems I have outlined also make clear why any new grant of fast track negotiating authority must address the concerns of Congress on issues like preservation of U.S. trade laws. It must also ensure that Congress has an active role in trade negotiations.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE STIMULUS PACKAGE

Mr. DORGAN. Mr. President, while we are waiting for some intervening Senate business, I wish to make a couple of comments about international trade. I am inspired to do that by my colleague from Montana.

Before I do that, let me compliment my colleague, Senator BAUCUS, on the work he has done on the stimulus package. I told him yesterday in a private conversation how impressed I was with what he brought to the floor dealing with taxation and other issues to try to provide some lift and recovery to this country's economy. I think it was the right bill. It was the right thing. I commend him for his leadership, and I appreciate his leadership on that.

I was sorely disappointed that there was a point of order raised against that which prevailed last evening because I think Senator BAUCUS, along with Senator DASCHLE and others of us who were pushing very hard to get this done, had put together a piece of legislation that really would provide some boost to the American economy.

We are not in a position where we can just decide to stand around and wait and see what happens. I mentioned earlier that we had a trade history during President Hoover's period where this country seemed to be sinking into a deep abyss. And the attitude was: Well, there is not much we can do about that; we will sit around here and wait and see what happens. That is not what should have been done then, and it is not what we can do now.

What we did was positive; that is, try to put together a legislative program that does the best we can to say to the American people that we are trying to give lift and boost to this economy in a way that provides jobs.

I say to my colleague from Montana that I thought he did a great job, and I appreciate his work.

INTERNATIONAL TRADE

Mr. DORGAN. Mr. President, let me talk just for a moment about international trade because there has been a trade conference in Doha, Qatar. I expect the people who run the WTO chose that place largely because they did not want to have a trade conference where there were a lot of hotel rooms. Experiences in trade conferences in recent years have not been good. Thousands and thousands of people from around the world have come to demonstrate and express concerns about one thing or another. So they decided to have a ministerial conference in Doha. My understanding is there are so few hotel rooms in Doha that they had to bring in cruise ships in order to provide lodging for visitors to Doha.

Because of other business this week, I didn't pay a lot of attention to what they did at Doha.

I do know that all these trade folks converged and they had a long visit. I watched part of a similar visit in Montreal some years ago. I watched part of the visit they had in Seattle. So I know they all get together. They have the same backgrounds, and they talk the same language. They actually have shorthand for all the trade lingo that they develop. Apparently now, from the experience of recent days in Doha, they have decided they have reached some agreements on a new round, and so forth.

So I want to point out just a couple of concerns I have about where we are with international trade.

I have a chart that shows a series of balloons that represent the very serious trade problem confronting us in this country. It is a trade deficit that is ballooning, year after year after year. It is the largest trade deficit in human history.

We spend a lot of time worrying about the fiscal policy budget deficit that about 9 years ago was almost $300 billion a year. There was hand wringing and teeth gnashing and people wiping their brow, and they would come to the floor of the Senate, saying they wanted to change the Constitution, they wanted to do this and that. Why? Because we had this growing budget deficit, this tumor that was growing in the fiscal policy of this country. It was going to hurt this country.

It is interesting that there is a deafening silence in this country about the trade deficit. It, too, is growing, much more rapidly, in many ways, than the fiscal policy deficit did. It is much higher at this point than our budget deficit was at its height. One can make the case, as an economist, that the budget deficit is something we owe to ourselves. This deficit we owe to others. This deficit will ultimately be repaid by a lower standard of living in the United States.

My point is, this deficit is growing and growing and growing. After round after round of trade negotiations, we are in worse and worse shape. The question is, why?

It is interesting, if you ask economists, they all give you different answers: It is because the dollar is too strong; the dollar is too weak; it is because our budget deficit is too high, not high enough; productivity isn't high enough. It depends on the economist that you ask.

Having both studied and taught economics in college, I understand that the field of economics is certainly not a science. I consider it psychology pumped up with just a little bit of helium. All you have to do is ask, and you get an answer. It does not mean it is an informed answer. There are 100 different answers as to why our deficit is out of control. Ask any economist. They don't have the foggiest idea. We had a $449 billion merchandise trade deficit last year in this country.

Now let me describe some of the details of trade. It is interesting that everybody talking about trade, especially those at the ministerial conferences, want to talk about the big picture: global trade. They never want to the talk about specifics. So here is a specific.

We trade with Korea, which is a good friend of ours. This chart shows that last year Korea sent 570,000 automobiles to the United States to be sold in the United States. Do you know how many automobiles the United States sent to be sold in Korea? Was it 570,000? No, not quite. The answer: 1,700. So 570,000 cars coming our way and then we were able to export 1,700 cars to Korea. Get a Ford Mustang convertible here in the United States, send it to Korea, and it costs twice as much for a Korean consumer. Why? Because Korea does not want our cars. They do not want our cars coming in and competing. They have all kinds of mechanisms and devices to discourage our ability to move a car to Korea. The result is, 570,000 Korean cars in the United States; 1,700 United States cars to Korea. Fair trade? I don't think so.

Is that something we ought to correct? In my judgment, it is because these numbers translate to jobs. A working family, a man or a woman getting a job on an assembly line in a manufacturing plant, a job that pays well, a job with security, a job with benefits, these are good jobs. This means we export these jobs to other countries that produce products and send them to us and then keep their market closed to our products, which means fewer manufacturing jobs in the United States.

I have another chart I did not bring to the Chamber. It shows T-bone steaks in Tokyo. Do you know that 12 years after the last beef agreement we reached with Japan, the conclusion of which resulted in feasting and rejoicing by everyone engaged in the trade negotiations—you would have thought they just won the gold medal in the Olympics. The headlines trumpeted the beef agreement with Japan. What a wonderful agreement. Twelve years later, by the way, every pound of American beef sent to Japan has a 38.5-percent tariff attached to it—every single pound. Is that fair trade with Japan? No. Fair trade would be more T-bone steaks to Tokyo, in my judgment. But we have a 38.5-percent tariff on every single pound.

Going back to Korea: What about potato flakes to Korea? Up in my part of the country, in the Red River Valley, where the Presiding Officer also represents some potato growers, those potatoes are cut into flakes. Those potato flakes are sent around the world, and they are put into chips in fast food. Potato flakes are used for fast food. Well, that is probably a pejorative. I shouldn't say ''fast food.'' I should say ''snacks.'' Potato flakes are used for snacks.

If you raise a potato in the Red River Valley and then turn it into potato flakes and send it to Korea, guess what happens to it? Korea slaps a 300-percent tariff on potato flakes.

Are potato flakes going to threaten the Korean food market? I do not think so. Is it fair to an American potato farmer to confront a 300-percent tariff? Where I live, it is not fair.

I could spend a lot of time talking about these things.

China: We have a huge trade deficit with China. We also have a huge trade deficit with Japan. We have a big deficit with Europe. We have a huge deficit with Canada and Mexico. But China, we sent 12 American movies into China in the last year. Why? That is all China would let into their country, 12 movies. Fair trade? I don't think so.

Or how about this? In the last trade agreement we negotiated with China, we sent our negotiators to China. Now, presumably, these are the best negotiators we have. We sent them to China. I do not know how we sent them there, probably not on a slow boat, as the saying goes; probably in an airplane.

They got to China and negotiated a bilateral agreement with China, which was the precursor to allowing China to join the WTO. They brought back the bilateral agreement, which we did not vote on because we do not have a vote on a bilateral trade agreement with China. Guess what we discovered?

Let me give you an example. Automobiles: After a long phase-in, we have decided—our negotiators agreed with the Chinese negotiators—we would have a 2.5 tariff on Chinese vehicles being sent into the United States, and China could have a 25-percent tariff on the United States vehicles sent to China. In other words, our negotiators sat down with the Chinese, with whom we had a $60 billion deficit, and we said to them: OK, we will agree to this deal. You go ahead and impose a tariff on U.S. cars sent to China that is 10 times higher than the tariff we will impose on any Chinese cars you send to the United States, and we will sign that agreement. That is what our negotiators said. So that is our agreement.

I don't know, my feeling is these negotiators need to wear jerseys. They do in the Olympics. The jerseys should say: USA. At least they could look down, from time to time, and understand on whose behalf they are negotiating. They can say: Oh, yeah, that is who I represent. That is whose interests I represent, and not be bashful about standing up for our economic interests.

By what justification ever should we agree to this sort of one-sided agreement: T-bones in Tokyo, automobiles to Korea, potato flakes to Korea, high-fructose corn syrup to Mexico, durum wheat to Canada. I could tell stories for an hour about this. In each and every circumstance, it is this country signing up to a trade agreement that is fundamentally bad for our producers.

Our durum growers. I should, just for therapeutic purposes, spend 15 minutes to talk about unfair durum trade coming to us from the Canadian Wheat Board, which would be an illegal entity in this country, a state-sponsored monopoly that sends durum wheat into this country to undercut American farmers' prices, and then thumbs their nose at us when we say we want to see the prices at which you are selling because we believe they are violating our trade laws. I could spend a long time talking about that, about the day I went to the Canadian border with Earl Jensen in a 12-year-old, orange, 2-ton truck.

All the way to the Canadian border we met 18-wheel trucks carrying Canadian durum south into the United States.

So we got to the Canadian border, after meeting truck after truck, bringing Canadian durum south. We had 200 bushels of durum in Earl's little, orange truck, and the Canadians said: No, you can't come into Canada with 200 bushels of durum. Why not? Just because you can't. It is just the way life is. It is a one-way track across that border with durum wheat.

I will not go on further. I know my colleague wants to speak. That is all a precursor to say this.

My colleague, Senator BYRD, the other day, spoke about trade protection authority or fast track. In my judgment, what we ought to do is decide that we are going to stand up for this county's economic interests in international trade.

Don't give anybody any fast-track trade authority. Say, go negotiate some good trade agreements, bring them back here, and we will sign up to vote for them. First thing in the morning, count us as supporters. Go negotiate bad agreements, which you have done time and time and time again, and understand they won't see the light of day here because we are sick and tired of it.

I will not support fast track. We have been fast-tracked right into a huge hole, a trade deficit that has ballooned now to a $450 billion merchandise trade deficit. I will not support fast track.

I agree with my colleagues, Senator BYRD and others: We need expanded trade. There is no question about that. I want to see global markets that are fair. I want to see opportunity for our farmers and our manufacturers around the world. But I also demand that we see trade agreements that step forward and protect this country's interests requiring fair trade. It is not fair trade with respect to movies in China, durum in Canada, high-fructose corn syrup with Mexico, cars in Korea, potato flakes in Korea and Mexico. It is not fair trade with autos in China. None of that is fair trade. There ought not be anybody who is nervous or worried about standing up and demanding fair trade with our trading partners around the world.

I have not spent much time on this, but I intend to in the coming days, if the House and the administration, buoyed by the success in Doha, Qatar, decide they want to try to bring enhanced trade authority to the Senate.

There is no problem at all negotiating trade agreements without fast track. The last administration wanted fast track. They didn't get it. But they said they negotiated 300 trade agreements. That means you can negotiate trade agreements without fast track. You just need to be careful to negotiate good ones because if you don't, you won't get them through the House and Senate.

The inability to have fast track actually promotes more responsibility on the part of those who are required to negotiate these trade agreements.

I wanted to follow on the remarks of Senator BYRD of 2 days ago on the subject of fast track. He and I and others will work very hard to try to see if we can't make some sense out of this mess, this trade problem that is now choking this country with very large trade deficits and is destroying manufacturing jobs and injuring this economy. We can do better than that even as we expand opportunities, even as we expand international trade. We can do better than that by standing up for fairness for American producers and farmers.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I did not intend to speak on this subject, but since the Senator from North Dakota has raised it, it is important to put all of this in perspective. Matters could be much better, but they are not quite as bleak as outlined by my good friend from North Dakota, not in my judgment. It is clear that other countries still intend to take greater advantage of America in trade matters than we do of them.

We are a country of the world. There are other countries of the world. We have our views. They have their views. We have our social structure. They have theirs. It is incumbent upon us to find a way to be effective in protecting our American interests.

Because the Senator from North Dakota might find this interesting, I would like to talk about beef, and beef with Japan and Korea, for that matter. I have forgotten how many years ago—it must have been maybe 10, 12 years ago—Japan had a quota on foreign beef into Japan. It amounted to, if I recall, about 28,000 tons of hotel/restaurant-cut beef. That is a quota on all beef coming to Japan. That is American, Australian, and Argentine beef. That amounted to one 6-ounce steak per Japanese person per year—a very strong, tight quota against American beef sales in Japan.

At the same time, we Americans imported considerably more pounds of beef than we exported worldwide. We imported far more beef worldwide—lower cut grades for hamburgers and other things—than we exported.

I decided I wanted to do something about the problem with Japan. I tried everything under the Sun. I remember in the Mike Mansfield Room—Senator Mansfield was Ambassador to Japan, very highly regarded, very revered—I said: Why don't I invite the Japanese diplomatic corps up to the Mansfield Room and we will show to them how good Montana beef is. We will do all we can to get that quota reduced or eliminated.

That was naive. Nothing happened. I might say, one member of the Japanese Parliament had the audacity to say the reason they have a quota on foreign beef is that their digestive system can't handle foreign beef. It is total nonsense.

At the same time, maybe a few years earlier, we had a difficult time importing American skis into Japan, and their excuse then was: Well, Japanese snow is a little different. That is why we can't take American skis. They were totally ludicrous arguments.

I decided I had had it with the Japanese on beef. So I had a press conference over in the Hart Building, and about 20 Japanese journalists showed up. I had a button on me. The button said, ''I have a beef with Japan.'' And I said to the Japanese, very respectfully, trade has to be a two-way street. I said: Japan, we take a lot of your products. We take your VCRs, we take your Hondas, we take your Seiko watches, and you don't take our beef. Trade has to be a two-way street. It can't be one way. As you can see, it is one way. It is not right, and I am going to do what I can to stop that.

At about that time, there was legislation on the Senate floor called domestic content legislation. That legislation required a certain percentage of content, manufacture, and assembly of autos in America to be American content, not foreign. It was domestic content legislation. At that point, I did not favor that legislation. I thought it was too prescriptive. It was wage/price controls—too controlling—although I agreed with the purport and the direction it was going.

I said: If you don't take American beef, I am going to go right to the Senate floor and do all I can to get that domestic content legislation passed because that will be two way; that will be fair.

My gosh, I could see scribbling of all kinds of notes, cameras going on. The next day there was a big article about my statement in the Japanese newspapers. My photo was in the Japanese newspapers. I can't read Japanese, but I know basically what I had said.

Guess what. Within a couple of weeks, the Japanese sat down at the bargaining table. Mike Armstrong was our trade negotiator at the time. They needed to negotiate, and they agreed to eliminate that quota entirely. But they did replace it with a 70-percent tariff. That is pretty high, but at least our industry said: That is great; the quota is eliminated. We can start importing beef into Japan.

I go over to Japan a couple, three times. I know about two words in Japanese. I learned this one. It is ''Oishii,'' which means delicious. I would stand in front of the Japanese cameras and say: American beef is Oishii, delicious. At the same time, a Japanese polling company showed that the Japanese housewives and Japanese citizens of Tokyo wanted American beef by far. Under the Japanese constitution, because the rural districts have disproportionate voting power, they want to protect themselves. That is why they had that quota. The quota was eliminated, replaced with a 70-percent tariff.

We also agreed to bring that tariff down. The Senator from North Dakota says it is now down to around 28 percent. That could well be. It is my recollection that eventually that tariff will be down at a lower rate. The point is that we have made progress with Japan. We now, by the way, export more beef overseas than we import. That line was crossed about 2 years ago. So there is progress.

These things are more complicated than meets the eye. But we certainly have a lot more to do and further to go. As in the Korean situation, Korea had this provision—this was about 2 years ago—called the shelf life law. They wouldn't let boats unload beef products, canned beef, for over 2 weeks. Their distribution system wouldn't let foreign beef get to the grocery stores. That was bad beef under Korean law.

The Korean Prime Minister was, for about 2 or 3 months, coming over to the United States.

So I got ahold of him. I said: Mr. Ambassador, your Prime Minister is coming over. I have a letter signed, with many Senators cosigning who are opposed to this. I don't think you want your Prime Minister to come over when we are getting up on the Senate floor being critical of Korea.

He got the message. Within 2 weeks, they repealed the provisions and allowed in American beef.

So it is important for us to think of how we can get this job done and make sure these other countries play fair. If we work well in a concerted effort with the trade negotiators, we can get some things done. But I have also learned deeply that no country altruistically is going to lower a trade barrier. You need leverage.

I urge that as we move forward to protect American interests, we find the proper persuasion to help each other. I see the assistant majority leader anxiously waiting to seek recognition.

I yield the floor.

(Ms. CANTWELL assumed the Chair.)

Mr. REID. Madam President, I thank my friend. I extend my appreciation to the chairman of the Finance Committee, the senior Senator from Montana, who is so important to this institution.

UNANIMOUS CONSENT AGREEMENT—H.R. 1552

Mr. REID. Madam President, I ask unanimous consent that we now proceed to the consideration of Calendar No. 204, H.R. 1552, the Internet tax moratorium bill; that when the bill is considered, it be under the following limitations: that there be 20 minutes for general debate on the bill, with that time divided as follows: 5 minutes each for the chairman and ranking members of the Senate Commerce and Finance Committees, or their designees; that the only first-degree amendment in order be the following: an Enzi-Dorgan amendment regarding extension, on which there will be 60 minutes for debate prior to a vote in relation to the amendment; that if the amendment is not tabled, then Senator GRAMM of Texas be recognized to offer a relevant second-degree amendment to the Enzi-Dorgan amendment; that there be 20 minutes for debate prior to a vote in relation to the Gramm of Texas amendment, with no amendments in order, with all time equally divided and controlled between the proponents and opponents; that upon the disposition of all amendments, the use or yielding back of all time, the bill be read the third time, the Senate vote on passage of the bill, with this action occurring with no further intervening action or debate.

I further ask unanimous consent that the Enzi-Dorgan and Gramm of Texas amendments, which are at the desk, be the amendments in order under the provisions of this agreement.

The PRESIDING OFFICER. Is there objection?

The Senator from Minnesota.

Mr. WELLSTONE. Reserving the right to object, and I say to the whip that I will not object, I want to be clear that on the record tonight the Senate, in wrap-up, will proceed to Calendar No. 191, S. 739, the Homeless Veterans Improvement Act, which Congressman LANE EVANS and I have worked on for the last 3 weeks. There has been an anonymous hold. My understanding is that tonight this will pass in wrap-up without any objection.

Mr. REID. The Senator has our assurance that will be handled in wrap-up.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

INTERNET TAX NONDISCRIMINATION ACT

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

The legislative clerk read as follows:

A bill (H.R. 1552) to extend the moratorium enacted by the Internet Tax Freedom Act through November 1, 2003, and for other purposes.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Since I see the Senator from North Dakota here, I suggest that perhaps we could make our opening statements as part of the 60 minutes of debate on the Dorgan-Enzi amendment. If that is agreeable, I would be glad to do that. I move to modify the agreement that we move immediately to the Enzi-Dorgan amendment with the 60 minutes of debate equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Madam President, reserving the right to object——

Mr. MCCAIN. I withdraw that. I will proceed with my statement. I was trying to save the Senate some time. Obviously, we will take more time in discussing whether I was saving the Senate time or not.

First, I ask unanimous consent to have printed in the RECORD a Statement of Administration Policy concerning H.R. 1552, the Internet Tax Nondiscrimination Act, from the President of the United States.

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

H.R. 1552—INTERNET TAX NONDISCRIMINATION ACT

The Administration supports Senate passage of H.R. 1552. The Administration believes that government should be promoting Internet usage and availability, not discouraging it with access taxes and discriminatory taxes.

As passed by the House, H.R. 1552 extends the Internet tax moratorium enacted by the Internet Tax Freedom Act for two years. While a five-year extension would be preferable, a two-year extension will provide additional time to analyze the impact of e-commerce on local and State tax receipts while ensuring that the growth of the Internet is not slowed by new taxes.

The moratorium expired on October 21, 2001. The Administration supports rapidly reinstating the moratorium. The Administration encourages the Senate to pass H.R. 1552, without amendment, to enable its expeditious enactment into law.

It basically says that the administration supports Senate passage of H.R. 1552. He concludes by saying that the administration encourages the Senate to pass H.R. 1552, without amendment, to enable its expeditious enactment into law.

On Sunday, October 21, the Federal moratorium on Internet taxes expired.

State and local taxing jurisdictions, reportedly over 7,000 of them, are now free to tax Internet access, and to impose multiple and discriminatory taxes on e-commerce.

I strongly support H.R. 1552, which would extend the moratorium by 2 years. This proposal for a simple, short-term extension of the moratorium is supported by diverse interests, including, among many others, the National Conference of State Legislatures, the United States Conference of Mayors the Information Technology Association of America, the American Electronics Association, and the National Association of Manufacturers.

I urge my colleagues to support this measure that has already passed the House of Representatives, and to oppose the Enzi/Dorgan amendment. Let me explain why.

There is broad consensus that the moratorium on the imposition of access taxes should be extended. This has not been done, however, because of the separate issue of the collection of sales taxes on remote transactions. A number of Senators believe that this separate issue must be addressed if the moratorium is extended for more than a few months.

State and municipal governments are concerned that they will lose significant revenue as more and more consumers buy goods on-line. Most of these consumers are required by state laws to pay taxes on these transactions, but they seldom do. While the loss of tax revenue from remote catalog sales has been of concern to states for many years, the prospect of many more untaxed on-line transactions has worried main street merchants and state and local governments that rely on sales tax revenue to support critical functions including education and emergency response. Their concerns are legitimate.

A group of Senators have tried, literally for years, to address these concerns. Senators DORGAN, ENZI, KERRY, VOINOVICH, HUTCHISON, WYDEN, and ALLEN, among others, have held countless meetings to try to balance concerns about loss of State and local revenue with concerns about imposing unwarranted and perhaps unbearable burdens on remote transactions. I have participated in many of these meetings at which countless drafts of legislation have been circulated, and I have been continually impressed at how committed, creative, and open to compromise these Senators have been.

Unfortunately, however, there is not yet a consensus on if or how Congress should permit states to require out-of-state retailers to collect sales taxes on remote transactions. After the events of September 11 refocused out efforts, it became clear that we would not resolve this issue before the moratorium on Internet taxes expired.

While we are much closer to an agreement on legislation relating to the collection of sales taxes we are not yet there. In the past, Congress has held protracted debate on the question of Internet taxes. Although the issue is extraordinarily controversial, we don't have time to thoroughly consider the still-divergent proposals. This controversy, however, should not prevent us from proceeding on the separate, and non-controversial issue of extending the moratorium on Internet access taxes.

Just as there is agreement that the moratorium on Internet access taxes should be extended, there is also agreement that state sales taxes must be radically reconciled and simplified to remove both practical and legal barriers to remote collection and remission.

This simplification, however, has not yet occurred. And it is not the Federal Government's responsibility to see that it does.

Recognizing the need for simplifications, thirty-two states last year joined the Steamlined Sales Tax Project to develop a plan for simplifying remote sales and use tax collection. The National Conference of State Legislatures has since undertaken to develop model legislation to create uniform definitions and remove the burden on retailers of collecting and remitting sales taxes. Next month, the 20 states that have passed legislation this year indicating their intent to proceed on sales tax simplification will meet in Salt Lake City to do this.

Although these efforts are underway, the simplification is complex and will not happen overnight. Reconciling definitions among states of what is or is not taxable, and resolving the allocation of tax revenues among localities within states will not happen in 8 months. Frankly, it probably will not happen in 2 years. Nevertheless, I think that substantial progress toward simplification can be made in 2 years, and Congress will be in a much better position then to determine whether to consent to allowing states to require out-of-state retailers to collect and remit sales taxes on remote transactions.

In the meantime, I think it is imperative that we extend the moratorium on the separate issue of Internet access taxes.

The recent economic success experienced by the United States, the longest economic expansion in U.S. history was due, in part, to the Internet. Now the sectors of the economy tied to this vehicle of growth are experiencing troubled times and the nation is spiraling into recession. During times of economic uncertainty, we must restrain ourselves from further burdening an already ailing sector, particularly one which provides the most promise for successful recovery and further growth.

Prior to September 11, the high tech sector began to suffer dramatic losses. Since the beginning of this year alone, revenue for U.S. Technology sales, including computers, semiconductors, and communications equipment, had fallen by 35 percent. Mass layoffs plagued the sector with 479,199 high tech jobs eliminated since the beginning of the year, 47,250 of which were eliminated in September alone.

Industry leaders such as AOL, Sun Microsystems, and Intel have seen both stock prices and profits plunge. According to the research firm of Thomson Financial/First Call the high technology companies on the Standard & Poor's 500 are expected to see fourth quarter profits fall to 58 percent of last year's levels.

This grim picture is expected to decline further, with tech profits expected to fall sharply in the first quarter of 2002, before recovering by the end of next year. Allowing access and multiple and discriminatory taxes on electronic commerce will inevitably lead to harder times for an ailing industry.

We are now faced with the choice, will we allow the Internet tax moratorium to remain expired, further hampering the recovery of the high tech sector and the entire economy, or will we act now to extend the moratorium and support the recovery of this economy.

Again, I reiterate my appreciation to the Senator from North Dakota, Mr. DORGAN, who has, along with myself, the Senator from Oregon, the Senator from Virginia, and others, had countless meetings. We have tried to come to an agreement. I believe there will come a time when we reach agreement. There will come a time when there are enough States that have come together to come up with a simplified system of sales taxes that can be fair to everybody. But we are not there yet.

Other colleagues of mine will make arguments on both sides of this issue. I wish we could reach that stage because I am fully aware that State and local revenues are being unfairly diverted, or not collected because of the failure to have any taxes imposed on Internet transactions. But we are not there yet. I believe, particularly at this time when we are in an economic situation that is clearly unpleasant, it would not be the time for us to impose taxes on the Internet which is already in a state of fragility.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has used his time. Who yields time?

Mr. BAUCUS. Madam President, who is controlling time?

Mr. MCCAIN. May I ask the parliamentary situation?

The PRESIDING OFFICER. The Senator from Arizona has consumed his 5 minutes. There is 5 minutes to the chairman of the Commerce Committee and 5 minutes each to the chairman and ranking member of the Finance Committee.

Mr. MCCAIN. In other words, there is no time available under the unanimous consent agreement, so we would have to move to the amendment in order for other Members to speak; is that correct?

The PRESIDING OFFICER. There is 1 hour available on the first-degree amendment.

Mr. MCCAIN. On the amendment. Madam President, parliamentary inquiry. I suppose the next speaker will then be taking time on the amendment.

The PRESIDING OFFICER. If the amendment is called up, time will be available on the amendment.

The Senator from Montana.

Mr. BAUCUS. Madam President, I understand I have 5 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAUCUS. Madam President, I will try to make the best use of those 5 minutes.

Madam President, I rise in support of a simple 2 year extension of the Internet Tax Freedom Act. In my judgment, a short-term extension represents a reasonable, bipartisan compromise.

While I support a clean 2-year extension, we should be firm in our resolve that this will not be the first of an endless line of moratorium extensions.

I make a strong plea that this be the last time we impose a moratorium without taking the meaningful steps needed to bring interstate tax rules into the 21st century.

While progress has been made on the issue of sales tax simplification, State and local governments will certainly need more than 6, 12, or even 18 months to come up with a system that works.

Moreover, we do not need a quick fix; we need a real solution. Let us continue to keep the parties at the table long enough to make a meaningful change that works.

The debate and negotiations that occur from this point forward must be about resolving issues regarding taxation of the Internet and not about the length of any future extensions.

More importantly, the focus must be on how the traditional tax rules should apply to ''new economy'' businesses. These are issues the Finance Committee has been and will continue to examine.

The States have been working hard to create a model simplified sales and use tax system. A limited extension of the moratorium for 2 years is needed in order to provide an adequate time to assess their progress.

More importantly, as chairman of the Finance Committee I represent the State of Montana, which does not have a sales tax.

As a Senator from Montana, I will work to ensure that any simplification plan will not place a undue burden on Montana businesses. Sales tax simplification should also be truly simple, and easy for businesses to comply with.

Hopefully, by making this a short 2-year extension, we can encourage the States and the business community to move expeditiously to resolve outstanding issues and design a truly simplified sales and use tax system.

This debate is not only about the structure of State sales and use taxes. There is also concern with how States assert a direct tax liability on an out-of-State company.

States impose business activity taxes—corporate income and/or franchise taxes—on corporations that have property or employees in the State. The businesses that pay these taxes receive some governmental benefits and protections afforded by that State.

A similar situation exists internationally, where foreign jurisdictions impose a direct tax liability on businesses operating within in the country.

Therefore, as the rules for sales and use taxes are simplified, it is also important that we pay special attention to the rules regarding business activity taxes.

What we used to think of when we heard ''property,'' ''goods,'' or even ''employees,'' is now very different in a world of digital goods, bits of electrons, and telecommuters.

I stress the need to sort through these issues because I am certain that the rules we establish for ''interstate'' commerce will be the model for ''international'' commerce.

We need to be very careful we do not set up a system that makes U.S. companies a tax collector for every jurisdiction around the world.

On Internet access taxes, I believe we should look for ways to reduce barriers to access, including taxes.

If our intention is to make Internet access tax-free, we must be certain that an appropriate definition of access is developed. Moreover, it is important to ensure that otherwise taxable product provided over the Internet are not inappropriately shielded from tax.

I appreciate the hard work of my friends, Senators ENZI, GRAHAM, DORGAN. They have worked hard. They have a proposal which may have merit.

But the devil is always in the details, and the details have not been examined by the Finance Committee, or any committee for that matter.

In fact, there have been no hearings on the Dorgan-Enzi amendment to give interested parties, academics, and Members of the Senate the opportunity to discuss the consequences of this legislation and assess the workability of this bill.

This amendment may be a reasonable starting point, but as with all legislation of this magnitude, the Senate, through its committees, should give it careful consideration.

Some people may say that we have talked too much already. They say that the parties have already had three years to iron out their differences.

That may be, but we must be very careful because this bill raises more questions than it answers.

For example, how does this legislation make sure that the uniform rates among states stay uniform over time?

Does the definition of ''Internet access'' allow nonincidental content, such as music and movies, to be provided tax free if bundled with Internet access?

Are business activity taxes adequately addressed?

These are difficult issues, and they deserve serious and deliberative consideration.

It is for this reason, that I encourage my colleagues to support a short, 2-year clean extension of the Internet Tax Freedom Act.

In my judgment, 2 years is adequate time to give the Finance Committee an opportunity to address these important, but difficult, tax issues.

I emphasize that the work remaining involves tax issues that must be resolved by the Finance Committee. There is a long-term precedent of the Senate Finance Committee having jurisdiction over issues involving the taxation of the Internet.

A 2-year extension of the Internet Tax Freedom Act is a reasonable compromise and deserves the support of the Senate.

Mr. LEAHY. Mr. President, I want to add my support to promoting electronic commerce and keeping it free from discriminatory and multiple State and local taxes.

I strongly support the Senate quickly passing H.R. 1552 to extend the Internet tax moratorium for 2 years.

Last month, I was pleased to join the senior Senator from Oregon and the senior Senator from Arizona as an original cosponsor of the Internet Tax Moratorium Extension Act, the Senate counterpart to H.R. 1552. I commend Senator WYDEN and Senator MCCAIN for their continued leadership on Internet tax policy.

Although electronic commerce is beginning to blossom, it is still in its infancy. Stability is key to reaching its full potential, and creating new tax categories for the Internet is exactly the wrong thing to do.

E-commerce should not be subject to new taxes that do not apply to other commerce.

Indeed, without the current moratorium, there are 30,000 different jurisdictions around the country that could levy discriminatory or multiple Internet taxes on e-commerce.

Let's not allow the future of electronic commerce, with its great potential to expand the markets of Main Street businesses, to be crushed by the weight of discriminatory taxation.

Many Vermont companies have contacted me in the last month and weeks in support of extending the moratorium, including Green Mountain Coffee Roasters, the Army & Navy Store in Barre, and the Vermont Teddy Bear Company.

Cyberselling is working for Vermonters.

We also need a national policy to make sure that the traditional State and local sales taxes on Internet sales are applied and collected fairly and uniformly. This 2-year extension of the current moratorium gives our Governors and State legislatures time to simplify their sales tax rules and reach consensus on a workable national system for collecting sales taxes on e-commerce.

Indeed, the National Conference of State Legislatures has endorsed our legislation to extend the Internet tax

moratorium for two more years to give States time to complete work on sales tax simplification.

I must also raise some serious questions about the approach of some Senators to pass legislation to waive Congress's authority to carefully review and approve interstate compacts. As chairman of the Senate Judiciary Committee, which has jurisdiction over interstate compacts, I cannot understand why we should recede congressional authority to approve an interstate compact on sales tax issues if 20 States join any compact.

Despite good intentions of its proponents, this approach is asking the Senate to buy a pig in a poke.

I am a strong supporter of interstate compacts where appropriate, such as the Northeast Dairy Compact, but the Senate should not approve of any interstate compact without carefully reviewing its details first. When the Northeast Dairy Compact was approved by the Congress, every detail and every aspect of it was known far in advance.

It also raises constitutional questions for legislation to mandate that Congress automatically approve an interstate compact on sales taxes without reviewing its text since the Constitution explicitly requires Congress to approve interstate compacts.

The Enzi amendment allows 11 jurisdictions to continue to tax Internet access, but permanently bans Internet access taxes everywhere else in the country. By permanently prohibiting taxation of Internet access in some States, but approving of such taxation in other States, the Enzi amendment may violate the ''uniformity clause'' in Article I, 8 of the United States Constitution.

The uniformity clause states that ''all Duties, Imposts and Excises shall be uniform throughout the United States.''

The uniformity clause requires that Federal legislation levying taxes follow a consistent plan and apply in all portions of the United States where the subject of the tax is found.

In United States v. Ptasynski, the Supreme Court held that it will subject geographic distinctions in Federal taxation to heightened scrutiny. In a unanimous decision, the Court stated that ''Where Congress does choose to frame a tax in geographic terms, we will examine the classification closely to see if there is actual geographic discrimination.''

The Enzi amendment proposal to lock in discrimination between States in taxation of Internet access raises questions under the uniformity clause that require careful consideration.

In the case of a temporary moratorium, such as the one in the House bill, the grandfathering of Internet access taxes in a limited number of States may be explained as freezing the status quo while Congress comes up with a permanent solution to the Internet tax issue. Thus, it is unlikely to raise the geographic discrimination problem the Supreme Court discussed in Ptasynski, and would survive heightened scrutiny.

In contrast, the Enzi amendment's permanent discrimination on the basis of where an Internet user lives is much harder to explain under the heightened scrutiny required by the Supreme Court. If courts treat the Federal Government's establishment of a discriminatory regime of taxation by the States as raising the same uniformity clause issues as the Federal Government's levying of discriminatory taxes, the Enzi amendment's Internet access tax moratorium will be ruled unconstitutional.

As a result, this amendment appears to raise serious constitutional concerns.

E-Commerce is growing, our moratorium law is working, and we should keep a good thing going. I am proud to cosponsor the Internet Tax Moratorium Extension Act to encourage online commerce to continue to grow with confidence and to continue to allow the States to move ahead with sales tax simplification efforts.

I urge my colleagues to vote for a straight forward 2-year extension of the internet tax moratorium.

Mr. BURNS. Madam President, multiple, confusing and inconsistent State tax rules impose an incredible burden on interstate commerce and the economy, and therefore it is imperative that the Senate move quickly to extend the moratorium on Internet access taxes and to continue protecting electronic commerce from multiple and discriminatory taxation.

As a result of the U.S. Senate's failure to extend the moratorium before it lapsed on October 21, 2001, it is now possible for the more than 7,600 State and local taxing jurisdictions to impose multiple and discriminatory taxes on electronic commerce and taxes on internet access.

On October 16, the House adopted H.R. 1552 under expedited floor procedures. This bipartisan legislation would extend the current moratorium created by the Internet Tax Freedom Act for 2 years. H.R. 1552 is supported strongly by a wide range of groups, including the entire high-tech business community, the National Conference of State Legislatures, State and local municipal groups, the U.S. Chamber of Commerce, the National Association of Manufacturers, and many other business and retail groups that have put aside their differences in support of a clean, 2-year extension of the moratorium.

Given recent events and the current economy, this is the wrong time to saddle consumers with Internet access taxes or with multiple and discriminatory State taxes on electronic commerce. Enacting H.R. 1552 now would provide us with additional time to continue to work together to try to reach consensus on clear and simple tax rules for a borderless marketplace.

We should not be focusing on how to make our tax codes less cumbersome for the purposes of Interstate sales tax collection, especially at this late hour. That is why I ask that my colleagues table this amendment.

SECTION 5(a)(8)

Mr. DURBIN. Madam President, I would like to have a discussion with the managers that I hope will clarify the meaning of an important element of this legislation. Section 5(a)(8) of the bill calls for ''State administration of all State and local sales and use taxes'' to be part of the streamlining process that would allow States and localities to be able to collect taxes due on remote sales. I believe it is important to make clear—in the legislation itself—that the requirement for ''State administration'' applies only to those taxes on out-of-State remote sales. The fact that, in a particular State, a single locality might on its own continue to collect local taxes on other sales would not affect that State's eligibility to be part of the streamline compact.

By way of example, the city of Chicago has a number of local use taxes that are imposed on different types of transactions. The city both imposes and collects those taxes from sellers wherever they are located in the State of Illinois. While the city and the State might agree to State administration of out of State remote sales, I would not want to see this legislation mandate that only the State of Illinois could collect these taxes on other sales.

I believe that this interpretation is intended by the legislation. Section 5(a) call for States and localities to work together to develop a streamlined tax system ''in the context of remote sales.'' However, I am concerned that this intent is not clearly enough spelled out. When the legislation returns from conference, I hope that this intent would be made absolutely clear. This could be done by changing section 5(a)(8) to read ''State administration of all State and local sales and use taxes on remote sales.'' It would also help to add a general use clause that would state that ''nothing in this Act shall be construed to divest the authority of local governments to collect taxes on sales other than remote sales as defined in this Act.''

Would the managers agree to this interpretation and assure me that the final legislation will make this interpretation absolutely clear?

Mr. DORGAN. I thank the Senator for his observations. I agree with his interpretation that the requirement of State administration of sales and use taxes applies only to remote sales. While I believe that this is the intent of the current wording, I will work in conference to assure that this point is absolutely clear.

Mr. ENZI. I am in agreement with both the Senator from Illinois and the Senator from North Dakota. I also agree that the requirement for State administration of sales and use taxes applies only to remote sales, and that this is the intent of the current wording. However, I will join with the Senator from North Dakota in working to

further clarify this language in conference.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time? The Senator from Wyoming.

AMENDMENT NO. 2155

(Purpose: To foster innovation and technological advancement in the development of the Internet and electronic commerce, and to assist the States in simplifying their sales and use taxes)

Mr. ENZI. Madam President, apparently under the unanimous consent agreement, that brings us to the amendment itself. As such, I yield myself 8 minutes, and I call up amendment No. 2155.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI], for himself, Mr. DORGAN, Mrs. HUTCHISON, Mr. GRAHAM, Mr. VOINOVICH, Mr. BREAUX, Mr. HUTCHINSON, and Mr. CARPER, proposes an amendment numbered 2155.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, 2 years ago we passed a simple extension of the moratorium. That is exactly what we did 2 years ago, and now we are saying there have been no hearings held on it and there has been no committee work on it.

There have been individuals working on this because 2 years ago there were a number of us who were deeply concerned about what was going to happen to revenues for cities, towns, counties, and States. We have been working on it in the meantime. We have been working with people from the committees. We have been having groups come in.

I particularly want to mention Senator DORGAN of North Dakota, Senator GRAHAM of Florida, Senator WYDEN of Oregon, Senator VOINOVICH of Ohio, Senator ALLEN of Virginia, and Senator Carper of Delaware. A lot of us have been working and meeting with any group that would meet with us to talk about how we could handle this sales tax loophole.

There is pain out there, there is agony out there, and through a process—not a popular process because this amendment does not wind up with what any one group wants. Usually the process around here is to say: This group has enough votes to pass this, and I am going to join that group and we will build in what we can for other people and expand the vote. That is not what can happen because it does not put in any degree of fairness for anybody who is involved in the system.

So what we tried to do with this bill was go into a leveling process, one that would provide for sales tax collections so sales tax revenues would not go down. It would take care of an extension of the access tax, and it would provide some encouragement for the States to do something to streamline and simplify their sales tax system.

A very important procedure in this provision is one that protects start-up and small businesses, and that is an exclusion from having to collect any tax, even should the Congress at a future date say that needs to be done, on sales of less than $5 million. That is not a start-up business. That is not a small business. So what this amendment actually does is extend the access taxes, in a very conservative way, so we would not overreach on access taxes, but so we would put a prohibition on access taxes.

Then it gives some encouragement to the States to simplify their tax systems. It does not agree it will be done. It does not put any tax into effect. It gives them encouragement, and that is something Congress has not been giving them for the last 2 years. We have not been giving them encouragement, other than a few meetings we have had with them to see what kind of work they can do, and they have been meeting. They have been streamlining. They have been working to come up with a system that will make it possible for people to collect the sales tax in a way that will benefit the States and the marketers.

I hope my colleagues will take a look at the bill. I know this is something that has been talked about, reviewed by a lot of people, particularly since we turned in this last version of the bill, but through all of the versions that we have worked on. I know the guidelines have been seen that are outlined for the States. There is some flexibility for the States yet, and that is a necessity while they finish out their work, but this bill contains some guidelines for them. Then it provides for us to vote on their provision when they get 20 States together, if they can get 20 States together. That is a pretty large group of people to be able to get into a compact. The encouragement for them to join the compact is, even if Congress approves the compact, they cannot have remote sales tax collections without joining the compact. So we have some requirements we have asked for them for the simplification, and then we have put a provision in if they can get 20 States together—and again, I want to mention how hard that is—the Congress will vote on whether they have simplified or not, whether they have met criteria that we have imposed either in the bill or in our minds since that time. It will require a vote of Congress, and that complies with Federal and Supreme Court direction we have had before.

I have a bill. I am pleased with the support. I do want to mention it has been a difficult process. We have worked with the National Governors Association. We have worked with the National League of Cities. We have worked with the International City-County Management Association. We have worked with the National Association of Counties and the Council of State Governments. All of those folks have endorsed what we have done and asked for Congress to take this step of extending the moratorium with encouragement.

In their letter they state, irrespective of previous letters on the Internet tax moratorium and contrary to some dear colleague letters circulating in the Senate, we do not support legislation to reinstate the Internet tax moratorium for 2 additional years. The letter is from those groups I mentioned.

Besides those groups, we have been working with retailers from virtually every State. We have been working with direct marketers and the Direct Marketing Association. We have been working with realtors. They have a huge stake in this whole process as well.

I have to say there are not provisions in this bill that satisfy any one of those groups, but they recognize the need to do this in order to get the States in a position where they can provide for the kinds of services they have to provide in their communities.

I reserve the remainder of my time, and I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, as the original Senate sponsor of the Internet Tax Freedom Act, I have spent 18 months trying to find common ground on this issue. For hour after hour, we have gone at it, because obviously the technology sector is being pounded and local governments are understandably concerned about their revenues. Today, however, and I want to emphasize this to the Senate, many in both camps are in agreement on what the Senate should do. Groups as diverse as the American Electronics Association and the National Conference of State Legislatures are in agreement.

There ought to be a simple 2-year extension of the current Internet Tax Freedom Act. It would be a mistake to support the substitute, although well-intentioned, by the Senator from Wyoming. The current Internet Tax Freedom Act makes it illegal to discriminate against electronic commerce, and no jurisdiction in the country has been able to show that they have been hurt by their inability to discriminate. I want to emphasize to our colleagues tonight, a vote for the Enzi substitute means millions of Americans could be hit with new taxes for clicking on a Web page.

The substitute is bad news because it changes the definition of Internet access so if Internet access includes receipt of content or services then Internet access can be taxed. That would mean, for millions of Americans, the first thing they would get when they get on to the Web, news or weather or sports, that could be taxed. If this were

not damaging enough, the substitute actually makes it possible to inflict those taxes retroactively to 1998.

I am of the view most Senators believe there ought to be a permanent ban on Internet access taxes, that Internet access taxes widen the digital divide, and yet the substitute goes in the opposite direction.

Our first economic responsibility ought to be to do no harm, but the substitute creates new opportunities for economic mischief.

For many Americans, basic Internet access is about plugging the computer into a plain old phone line, dialing an Internet Service Provider, such as Erol's or Earthlink, and logging on to the Internet. Obviously, the blank screen does no one any good; most people when they click on to the Net they get a Web page and start receiving information and content on that Web page. For that, the substitute opens those millions of people up to new taxes.

The second flaw with the substitute is it would not prevent every tax jurisdiction from imposing new taxes on the Internet. Any of the 7,600 taxing jurisdictions in America could go out and concoct new taxes. For the life of me, I cannot figure out why that would be good for the economy right now.

The third flaw in the substitute is it allows discrimination against remote and on-line sellers, forcing them to pay different tax rates than in-State businesses. The substitute permits the remote seller to be taxed differently than an in-State business and, as a result, millions of small businesses will face significant large, new burdens trying to navigate a system of multiple and varying tax rates.

For example, in one part of Colorado there are five distinct tax rates within a single zip code. No software exists today that can help the small businessperson navigate the sea of bureaucracy and redtape, and I hope the Senate won't force that daunting task on unsuspecting small businesses.

I will conclude with this comment. Tonight, the Senate is being presented with two different views of Federal policy towards the Internet. The first, which is contained in the underlying bill, stipulates that there ought to be a short, clean extension of current law barring discriminatory taxes on electronic commerce and nothing else. The substitute—the Senate Finance chairman is absolutely right, and I am grateful for his support on this—hasn't had a hearing. It exposes millions of Americans to the prospects of new taxes, creates the possibility of a crazy quilt of Internet regulation throughout the country, and looks to the possibility that we would see scores of forms and paperwork that would chew up a vast amount of time in compliance.

I hope my colleagues will support the underlying bill, will reject the substitute, and join a diverse coalition that includes the American Electronics Association and the National Conference of State Legislatures, two groups that, on this issue, have in the past disagreed again and again. Those two groups, the American Electronics Association and the National Conference of State Legislatures, are united saying the way for the Senate to proceed is to go for a clean 2-year extension of this moratorium and reject the substitute.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I request the Chair please notify me when I have used 4 minutes.

Madam President, we need to decide what this debate is about and what it is not about. This is not a debate about a new tax. It is not a debate about a new tax. My colleague referred to that. That is not accurate, and I would be happy to have a long and extended debate about that. But let's understand what it is and is not.

I support the Enzi-Dorgan substitute. I think it is an important piece of legislation. Let me describe what it does.

We have two problems. One of the problems is that more and more sales in this country now are being conducted by remote sellers—Internet, catalog, and so on. On Main Streets of our communities we have sales being conducted by small business men and women. When they make those sales, they collect the tax. They compete against a remote seller who makes a sale but does not charge the tax, even though a tax is owed on the transaction. The tax is owed on a transaction with the remote seller, but it is never paid because it is a use tax and people don't file millions and millions of use tax returns. The result is State and local governments are losing a substantial amount of money—$13 billion it is estimated this year; by the year 2006, $45 billion, most of which goes to support local schools. So State and local governments are rightly concerned about funding for their schools.

There is also the issue of fairness for Main Street. That is a problem: Lack of funding for schools, a tax that is owed but not paid, fairness for Main Street retailers.

The second problem is a problem for remote sellers. A remote seller says: I don't want to have to collect a tax and submit it to 5,000 or 7,000 jurisdictions. That is a fair point. They should not have to do that. That is burdensome and too complicated. So we say solve both problems.

Require State and local governments to make dramatic simplifications in their tax systems. When they do, through a compact, submit that compact to the Congress for approval or disapproval. If the Congress approves that, then allow them to require remote sellers to collect the tax that is already owed on the transaction, solving both problems and dramatically simplifying compliance for the remote sellers. And we will not approve it if it does not do that.

Second, at the same time, collect a tax that is already owed and make it much simpler for those who owe that tax to comply with current law.

We can do both of those. We can solve both of those by beginning with this substitute. This substitute itself doesn't solve the problem, but we have two choices. We can decide to ignore this problem and do nothing. But you know and I know it will not go away. We will be back here next year or the year after or 5 years from now. This problem is going to grow, not recede. We can solve this problem now or we can just do the moratorium, which, incidentally, I have supported and do support, but I support it with a solution to the other problem.

We can do these in tandem by providing support for the Enzi substitute, saying we want to do a number of things. We want to extend this moratorium. We don't believe in punitive taxation. We don't believe in taxing access. We want to do all the things Senator WYDEN talked about with respect to the moratorium, but we want to do more than that. We want to solve another problem out, festering, and growing. It is not a problem that deals with a new tax. Anybody who talks about that is just dead wrong. It is a problem dealing with school finance, with fairness on Main Street, a problem with ballooning revenues that need to come to support our schools, revenues that are now being lost because they are not being paid.

That is the choice, and I hope we make the right choice tonight.

Let me make one final point. When we pass the Enzi substitute, we have not done anything except say to the States: You go ahead and develop this process and submit it to us later, and we will then make a judgment on whether we will allow you to impose this collection. But our judgment will be based on whether you substantially have simplified your tax laws.

That is what the Enzi substitute does, and that is why I support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Madam President, I yield myself 8 minutes off the time of the opponents of the amendment.

The PRESIDING OFFICER. The Senator is recognized for 8 minutes.

Mr. ALLEN. Madam President, the reality is, if we pass the Enzi-Dorgan amendment, the substitute, what we are in effect doing is imposing Internet access taxes and allowing discriminatory taxes on the Internet. This is a measure on which I know Senator ENZI and Senator DORGAN have worked hard. Nevertheless, it has been changing almost by the day and certainly almost by the hour in recent weeks. There has not been any scrutiny to it.

Let me associate myself, though, with the remarks and observations of Senator WYDEN of Oregon. This does complicate the Tax Code. It is a very complex issue which actually makes it

worse. There are unfair taxes that could occur even within a State if this were adopted and, indeed, it has added taxes.

If we allow this amendment to be put on, let's have no doubt about it; the House is not going to conference. We will have this expired moratorium continuing. There are already States that have access taxes that are grandfathered. These are taxes, such as the Spanish-American war tax that was put on for telephone service, a luxury. Once taxes are put on by a State or locality, it is very hard to get them off.

There are two sides. There is a choice Senators are going to need to make. The opponents are for a tax-free Internet. The other side is on the pro-tax-collector side. The first decision we need to make is whether we extend the Internet access tax moratorium or do we vote for the Enzi-Dorgan amendment which would result in allowing Internet access taxes and discriminatory Internet taxes.

The opponents of this amendment side with individuals. We side with entrepreneurs rather than siding with the tax collectors.

We have heard that this is a loophole, the fact that someone who has no physical presence in a State, gets no benefits from fire or police services, that they do not have to collect and remit sales and use taxes to 7,600 jurisdictions—that that is not a level playing field, or it is a loophole.

I look at the Internet as an individualized enterprise zone where the consumer, the individual, the human being is the one making the decisions, not tax-collecting bureaucracies.

As far as this level playing field, let's assume you wanted to get your son or daughter a Harry Potter CD. If you ordered it on line, it would cost $16.26. That is including shipping and handling. That would be getting it in 3 to 5 days in shipment. It would be 5 times more in cost of shipping if you wanted it overnight. Off line, at a store, it would be $14.62.

With the velour dress, here are cowboy boots and a computer. Let me go through the specification on each of these to show how this playing field is relatively level and, in fact, you actually save money by going to a store, as well as convenience. Amazon.com on line, total price, shipping and handling, is $16.26. If you go to Best Buy in Springfield, VA, paying a sales tax, it is $14.62. Savings by going to the store is $1.64. Again, we took the lowest shipping and handling.

Again, this is where we take the lowest shipping and handling.

Let's assume you wanted to buy yourself or your bride a dress. There is a velour dress from Spiegel.com, on line, at $89. The price at the store is actually a little more. At Tyson's Corner, at Macy's, it is $95. But when you put in the tax versus shipping and handling, you save money by going to the store.

Say you wanted to buy yourself some boots. This is what it would cost on line—$120. It is $121 at the store in Springfield. But, again, the savings is $3.50 if you go to the store over shipping and handling.

If you buy a Dell computer on line, the price is exactly the same price as it is at Circuit City in Charlottesville, VA. But you would save money in that the sales tax is $71. Shipping and handling is $95. You would save approximately $24.

Put all of that into context. If you are buying a dress, or somebody is buying boots, you may like to try them on. You may want to put them on to see if they fit. That is the advantage those in the stores have over somebody buying on line. You can touch it. You can feel it. You can see how they fit. If there is a problem, you bring them right back to that store. You don't have to pay handling and shipping and go through all that annoyance and aggravation of handling and shipping.

Say you wanted to buy your son or daughter the Harry Potter soundtrack but didn't want to wait 5 days. Maybe you wanted to get an Allen Jackson soundtrack and listen to it driving home. You would want to get it right away. Again, the convenience is there.

The point is there is competition. The idea that this is not a level playing field is not just borne out by the facts. While this is all very well intentioned, the solution is not burdening the free enterprise system. The solution is not harming the Internet, and the capabilities and potential and possibilities of the Internet for education, communication, and commerce.

Indeed, what is being tried here with the Enzi-Dorgan amendment is to abrogate and negate a settled constitutional law from Supreme Court decisions, whether it was the Quill decision or whether it was the Bella Hess decision, which say there cannot be taxation without representation.

I would like to work with the proponents of this amendment to find a system where the folks who care about their local schools, as Senator DORGAN said, can pay those use taxes. But I am going to stand on the side of freedom—freedom of the Internet, trusting individuals and entrepreneurs—and not on the side of making this advancement in technology easier to tax for the tax collectors.

I reserve whatever time I may have remaining.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Madam President, I yield myself 4 minutes.

Madam President, I rise in support of the amendment offered by my colleagues, Senators ENZI and DORGAN. Most experts agree that this explosion in electronic commerce, made possible through the Internet, helped fuel our most recent economic surge and contributed to the greatest sustained period of growth in our nation's history. However, most would agree that the current framework of thousands of state and local tax jurisdictions is now well-built for this ''new economy.'' Technology has made it possible for commerce to transcend traditional local, state and even national borders.

The issue here is how can we continue to grow the Internet while at the same time preserving state's rights to collect revenues on sales that traditionally would be generate sales taxes. Frankly, I believe that no state is in favor of creating new taxes so as to cripple the growth of the Internet. But I do feel that states and localities should be able to collect taxes on legitimate transactions that have a substantial nexus with their state so that they would be able to collect sales taxes on those transactions if they were to physically take place in their state.

And many other organizations agree.

This legislation is supported by the National Governors Association, National Association of Counties, National League of Cities, Council of State Governments, International City and County Management Association, National Retail Federation, National Association of Retailers, E–Fairness Coalition and companies such as Gateway, Compaq, VerticalNet, Walmart, Target, HomeDepot, and Circuit City.

This issue is truly about federalism—the delineation of the role the federal government plays relative to state and local governments and the people.

With regard to sales taxes, there are currently 45 states that rely on some form of sales tax. These states receive, on average, almost 33 percent of their annual operating budgets from sales taxes. In my state of Ohio, it's 31.4 percent.

Our States are in a very serious situation. A recent study prepared by the University of Tennessee shows that states could lose nearly $440 billion in sales tax revenue over the next decade in Internet tax revenues if Congress does not empower our states to collect revenues from remote sales.

These are revenues that would not be available to build schools, pave roads, pay for emergency services or meet other fundamental responsibilities.

In my home state of Ohio, our state government will lose more than $475 million in fiscal year 2002 and Ohio is projected to lose $596 million in fiscal year 2003 in revenue forgone from their ability to raise funds from Internet sales.

And as our economy moves more and more towards E-commerce, the fiscal impact on Ohio and other states will continue to damage the abilities of our states to fund their own services. This lost revenue merely exacerbates the difficult fiscal challenges Ohio and other states face as they suffer revenues losses from the current economic downturn.

For the federal government to shield Internet sellers from state tax collection responsibilities would usurp the autonomy of the states and force them to cut services and/or raise revenue elsewhere through additional taxes or fees.

In my view, preempting the states in such a critical area as e-commerce without addressing the state and local revenue needs suggests that Congress is not as committed to the principles of federalism.

And it could force the states to come to Washington in order to make up the funds we have taken away from them. For those concerned about the growth of the federal government, as I am, it will be very difficult to say ''no'' when states argue for more money if Congress by inaction has taken away a revenue source.

That is why this amendment by Senators ENZI and DORGAN is so important.

It provides a permanent extension of the moratorium on Internet access taxes, and extends the moratorium on multiple and discriminatory taxes for five years.

In addition, this amendment encourages states to develop a streamlined system of sales and use taxes that provides: a centralized multi-state registration system for sellers; uniform rules for attributing transactions to particular taxing jurisdictions; uniform procedures for exempt purchases; uniform software certification procedures; uniform tax return and remittance forms; consistent electronic filing and remittance methods; and protections for consumer privacy.

This amendment will also allow Congress to remain involved before any state moves to tax any Internet transactions. Once 20 states have developed and adopted an Interstate Simplified Sales and Use Tax Compact, the states will submit the Compact to Congress.

Our State and local governments are not interested in putting a damper on the expansion of the Internet; they want it to prosper like all of us.

The real question before us is: how can we ensure that our businesses and our nation are able to compete in this new, technology driven economy without sacrificing the principles of federalism which have served us well for over 200 years? State economies benefit from the healthy and unfettered growth of electronic sales. All they and traditional retailers ask is fair treatment.

Federalism can adapt and even flourish when we remember to work as partners with our state and local governments. That is why I urge my colleagues to support the Enzi-Dorgan amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, I yield myself 5 minutes in opposition to the Enzi amendment.

The PRESIDING OFFICER. The Senator may proceed.

Mrs. BOXER. Thank you very much, Madam President.

I rise in strong opposition to the Enzi amendment, and I hope we will defeat it by a very strong bipartisan vote.

I have read this amendment over and over. It has changed mightily during the last month or so. But it is very clear to me that if this amendment were to become law—by the way, the House would never allow it to become law. But let's say it could become law. I think it would wreak havoc on Internet commerce. Let me tell you why.

Look at page 3 of the amendment. Look at section 3, and look at paragraph A. There is a 1, which clearly states that Internet service providers could be forced to go back retroactively to 1998 and remit Internet access taxes to the States.

Can you imagine the burden that would put on this country at a time in our history when we are in a major recession?

Second, Senator ENZI's amendment would not prohibit new taxes on Internet access and, although it would keep the moratorium on ''discriminatory and multiple'' taxes, it may not prevent ''new'' taxes on electronic commerce.

Finally, I want to state that these are statements made by my friend and colleague from Oregon, RON WYDEN, in a far more articulate way than I. I am trying to underscore what he said.

If you look at page 4, you see that the Enzi proposal would allow taxes on Internet content. It is very clear that the moratorium on Internet access taxes would no longer apply to Internet content.

Can you imagine people connecting to the Internet and suddenly being charged every time perhaps they connected to the Web?

In my view, this is a very dangerous kind of amendment because if it does become law it will wreak havoc on business on the Internet, and not only business, but just the right to get on the Web and read content and to be able to do that without extra charges. This is not the time for that.

Madam President, this was updated as of October 5, 2001. The Wall Street Journal has printed 30 pages of companies that have gone out of business. I will give you some of them. AdMart: announced plans to shut down, lay off 334 employees. Advertising.com: announced plans to lay off 72 employees, or 25 percent of its staff. And it goes on and on and on.

You will remember some of these companies. We remember the Webvan that went out of business. But it just goes on and on. You would recognize some of these companies.

Is this a time, I would ask my colleagues, to go after this industry? It is the wrong time. It is the wrong time, and it is a dangerous time. I will give you some more examples.

Barnes & Noble.com said in February 2001 it will cut 350 jobs, or 60 percent of its workforce.

Beautyjungle.com, a cosmetics seller, laid off 60 percent of their workforce and then shut down.

I will go on. eToys: In January 2001, it said it would lay off 700 people, or 70 percent of its workforce. In February 2001, it said it would let go the remaining 293 employees by April. Later in February, it said it would file for bankruptcy protection.

Here is the Webvan Group story. Cut staff in April 2001 by 30 percent or 885 employees. They also closed operations in Sacramento, CA, and in Atlanta, the latest in a series of shutdowns. In July 2001, they announced plans to close all remaining operations and terminate 2,000 employees.

The general economy is in trouble. We have seen more layoffs in 1 month than we have in 21 years.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. Madam President, I ask unanimous consent for 30 seconds to conclude my remarks.

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

Mrs. BOXER. So, in closing, this amendment is flawed. It will allow new Internet access taxes. It will force the collection of Internet access taxes going back to 1998. It will allow taxing on content. And it comes at a time when the economy is tanking.

For goodness sakes, we cannot even get an economic stimulus package passed, and the first thing we do, late on a Thursday night, is look at ways to get more people laid off.

I hope we will vote, in a bipartisan way, against the Enzi amendment.

I yield back my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Florida.

Mr. GRAHAM. I yield myself 5 minutes off the proponents' time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. GRAHAM. Madam President, this is the most important vote that we are going to take in this Congress, first or second session, on education, on public services, and on fundamental fairness in America's marketplace.

Why do I make that statement? I make that statement because, first, State and local governments are very dependent on the sales tax in order to fund their basic public service responsibilities, specifically education, police, and fire.

Let me just give you some examples. The city of Boston: 10 percent of its revenue comes from its local sales tax. That represents approximately half of its annual cost of its police and fire services.

The city of Detroit: 10 percent of its total revenue comes from its local sales tax. That represents two-thirds of the cost of its police and fire services.

In Milwaukee, 23 percent of the local revenue comes from its sales tax which represents almost 100 percent of the cost of its police and fire.

At a State level, to use my State of Florida as an example, 73 percent of our general revenue comes from the sales tax, and 70 percent of that general revenue is used to finance education and the public emergency services, such as State police and our judicial system.

If there were to be a significant erosion of our sales tax, in these cities in my State, and the other 45 States which are very dependent on the sales tax, there would be an immediate impact on their primary responsibilities of education and public services.

Second, State governments and local governments are facing a hemorrhaging of the sales tax. To use my State again as an example, the State of Florida collects approximately $30 billion a year in sales tax. The General Accounting Office has estimated that by the year 2003, there will be a 4-percent erosion of that sales tax revenue by virtue of sales tax that will not be required to be collected because the sale will be made by a distant seller.

Then, according to a study made by the University of Tennessee, 3 years later, in the year 2006, that will go up from 4 percent to almost 8 percent of our State's sales tax revenue.

That is what I call a hemorrhaging of the ability of a major State—illustrative of the other 45 sales tax States—to be able to finance basic public services.

Third, there is no rationale for this discrimination in favor of one group of retailers over another group of retailers. This is not a new tax. This is a responsibility to collect a tax which is paid by the ultimate consumer and which has been in place in most States, including mine, for over a half a century. This is not a new tax. It is a responsibility for equality of treatment in the collection of an existing tax.

This will do serious harm. It will do more harm to our traditional Main Street retailers. Why should we say to a local bookstore that they have to collect the sales tax on the Harry Potter book, but that if you buy it from a distant store, they do not have to collect the sales tax? There is no rationale to that policy.

There have been, in the past, times in which there has been a public policy that said, we will provide a lessened sales tax or some other preferential benefit in order to stimulate the sale of a product that we consider to be in the public interest.

In my State, we did it, for instance, for solar energy. But we are not talking about new products here; we are talking about books, we are talking about clothes, we are talking about electronic items. It is not the product; it is the method of sale of the product that is getting the discriminatory beneficial treatment.

Finally, there have been statements made about all of the horrors that are going to happen if we pass this amendment. People forget, this amendment had no life, had no vitality until this Congress, by a separate independent affirmative act, at some point in the future, voted to institute this authority of the States to collect the sales tax through distant sellers.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAHAM. Madam President, this is an extremely important issue for the most important services rendered by our State and local governments. I urge a vote against the motion to table.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I rise in opposition to the amendment and yield myself 5 minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. GREGG. Madam President, there are a number of issues that are raised by this amendment which are very significant. It comes to us tonight without having any hearings, without having any airing in the public sector of any significance. Yet it addresses some of the most fundamental issues of constitutional law, and the relationship between States and between the Federal Government and States, that we could confront as a Congress. It is simply precipitous to pass this amendment in this rushed format.

The amendment would go right at the heart of what has been a long history of case law settled by the Supreme Court and reverse it. It would reverse the Bella Hess case and the Quill case which, essentially, are cases which said that there must be a nexus between the seller of the goods and the State in which the goods are sold before a tax can be assessed against the seller of the goods.

This amendment would reverse that. That is the purpose of this amendment. It does not affect just Internet transactions.

There is an equally large effort here to reverse the issue as it has been dealt with in catalog sales. Yet the proposal is going to be dealt with in 2 hours in the Senate Chamber. Clearly, it is precipitous because the implications are huge.

The second major constitutional problem with the amendment is that it creates this brandnew regime where 20 States can bind the other 30 States. This is truly an excess of the minority over the majority. It reverses the concept of federalism and turns it on its head and says if 20 States reach agreement, then the rest of the 30 States have to follow that agreement. If you are going to change constitutional law, you have to have a three-fifths vote. There is no way you can do it with 20 States. And yet that is the attempt here.

This is a roundabout way of trying to amend what is essentially a constitutional procedure without using the appropriate constitutional procedures. If it were passed, it would truly set up a precedent which would fundamentally harm the concept of federalism. If it is used here, I can see this concept of 20 States getting together and ganging up on the rest of the States being used fairly regularly.

The amendment itself on the issue of substance is wrong and inappropriately presented. It certainly is wrong on the issue of the manner in which it has been brought forward in that it should have gotten more hearings. If this idea makes sense, it should go through a proper hearing process before it comes to the floor. It would create an atmosphere where 7,000 different jurisdictions across the States could end up taxing the Internet. That would be chaos and would fundamentally undermine this engine of prosperity and economic growth which we had and which we continue to have and which we continue to lead the world in, which is the Internet.

Those are the substantive reasons why this is a bad idea at this time. There is probably an equally, if not more important procedural reason. If this amendment passes, it is a poison pill. It will kill the Internet tax moratorium. It will mean that there will be no moratorium for the next 2 years.

The House has said it is not going to take this language. It is not going to conference this language. So as a practical matter, the Internet tax moratorium is dead. The underlying bill here would cause a 2-year tax moratorium. And if the language of this amendment makes sense, that will give us more than ample time to proceed in the proper course through the proper hearing procedure to listen to the arguments for this proposal. It can be passed any time during this next 2 years.

What can't be done during the next 2 years, if we don't have an Internet tax moratorium, is put back together Humpty Dumpty because we will literally have thousands of jurisdictions which will put in place taxes against the Internet as soon as they have that opportunity, as soon as it is clear that there is going to be no moratorium. We will have chaos which we will never be able to sort out.

The amendment, although obviously sincerely principled and aggressively pursued, has serious substantive problems. I hope we will not pass this amendment because it will represent a poison pill and it will end up killing the Internet tax moratorium.

The PRESIDING OFFICER (Mr. MILLER). Who yields time?

The Senator from Delaware.

Mr. CARPER. Mr. President, I rise in support of the amendment and yield myself 4 minutes.

The PRESIDING OFFICER. The Senator may speak.

Mr. CARPER. Mr. President, Delaware is one of five States that has no sales tax. One might think as a result we have no dog in this fight. We do. I think we all do, whether we happen to be from a sales tax State or not.

My colleague who spoke immediately before me said we haven't had hearings on this proposal. We have had discussion in this Chamber, in the House, in State houses across the country, certainly in Governors' meetings for the last 3 years. We don't need a hearing to know that States are under duress. Their economies are struggling. Their revenue growth is down and in some cases negative. Spending is up. Unemployment is up. Out-of-pocket costs for

health care for Medicaid are up, and they are in between a rock and a hard place.

We have been debating this week how can we help those States in their time of need. Some have said: Let's increase the Federal share for Medicaid. Others have said: Let's provide an extension of unemployment insurance and pay for it with Federal dollars. Others have said: Let's pass a stimulus package. Maybe we should provide a sales tax holiday and let the Federal Government pay for that—something I don't think is a good idea, but that has been put forward.

A much better idea is the Enzi-Dorgan amendment that lies before us today, the product of many years work between the States, between Governors, mayors, county executives, legislators here, and previous administrations as well as the current administration. What does it do? Anybody listening to this debate has to be confused.

This amendment provides for extensions of bans on multiple and discriminatory taxes for 5 years, and it extends the ban on access taxes permanently. That is what it does. What it also does is it empowers the States to work among themselves to see if 20 of them can agree on a simplified approach toward collecting taxes from remote sellers. If they can come to an agreement and provide that kind of a simplified approach, then that plan would come to us and we would have the opportunity to vote yes or no as to whether or not States can actually proceed. If we vote no, they can't proceed.

Our voting for this amendment today, even if it ended up in the final bill signed by the President, would not authorize the collection of a sales tax by remote vendors. It simply sets in motion a process which could lead to another vote by us somewhere down the line.

My last point: If you happen to be a brick and mortar vendor in a State and you have a sales tax and you are required to collect a sales tax and are selling a piece of luggage or a shirt or wallet, a CD player, and you have to collect sales taxes on those items and charge more for those items and there is somebody who is buying it remotely from another State, where are people going to shop? More and more they are shopping on the Internet. They are not going to the local vendor. It is not fair to the local vendor who is collecting the taxes that pay for the schools and public safety and transportation and other things. It is just not fair.

One aspect of this amendment I am not comfortable with deals with Amazon.com and the eBay issue which I have discussed with Senators ENZI and DORGAN. I hope when we get to conference, we will have an opportunity to address those issues.

I yield to Mr. ENZI for whatever time he consumes.

Mr. ENZI. I thank the Senator from Delaware, particularly since he is from a non-sales-tax State, for supporting this issue and realizing how important it is to other States. I will definitely work to get that done. What we are trying to do is have an even playing field here. I will work to get that as part of the definition and clarification.

Mr. CARPER. I thank the Senator for his assurances.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I rise as an opponent to the amendment and yield myself 3 minutes.

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

Mr. SMITH of New Hampshire. Mr. President, I rise in opposition to this amendment because e-commerce is at the very heart of our economy. It brings billions of dollars in revenues, provides huge surpluses to local, State, and Federal coffers throughout the country. Why, particularly in an economic slowdown, would we want to saddle an industry with huge new tax increases and heavy bureaucratic and regulatory burdens? It does not make sense.

The National Bureau of Economic Research concludes that imposing these multibillion dollar tax increases and government burdens would result in a 30 percent reduction in purchases over the Internet. Think of what that would do to the economy. It would have a devastating effect.

For the first time in history, government bureaucrats in one State will have the power to tax the people in another State. That is not right. The hours and capital required to comply with the Tax Code from the IRS and State and local taxing agencies are going to be overwhelming under this amendment. Not only would businessowners be under the glass with the usual suspects, but now they are going to be open to thousands of bureaucratic agencies looking into their business to get a cut.

I can assure you if a State or local official spends money to come across the country to audit you, he is going back with some money. In New Hampshire, we don't have a sales tax, and I believe it is a regressive tax that disproportionately affects the poor and working class. It is a State's decision as to whether they want to impose the tax. Under this legislation, New Hampshire residents would be forced to pay these taxes to businesses all across the country. Due to the increased costs of paying these out-of-State taxes, and the flood of audits, our residents would pay substantially higher prices for goods and services.

So allowing State and local governments the power to target taxpayers outside their own State, where those people have nothing to say at the ballot box, would set a horrible precedent. Frankly, I believe it is unconstitutional.

States would then be able to use this new sword to target businesses and States that were competing with their own. Of course, with local businesses and consumers in an uproar, States would have to retaliate. Then we come to lawsuits. At some point, the Federal Government is going to step in and be called to set regulations and taxing levels, and here we go on down the road where the Government sets the sales tax rate. They would then have the venue they needed to have a national sales tax.

Some have argued for a national sales tax, but this would be on top of the income tax. If you don't like the income tax, you are not going to be too happy about having a sales tax on top of it.

This is a multibillion-dollar increase, a regulatory monster, and it must be stopped. I urge my colleagues to vote against the Enzi amendment and support Main Street and freedom.

The PRESIDING OFFICER. Who yields time?

Mr. WYDEN. Mr. President, we are moving to wrap this up. I want to come back to a couple points because I think there is confusion, for example, on the Internet access charge issue. There is a sense among some Senators that this is something that would have to be approved by this body. That is not correct. This amendment—the substitute—changes the definition of Internet access, and it can be applied to millions of Americans without any further action by the Senate.

In particular, what the amendment says is that it would be possible to ''tax content or services.'' That is virtually everything. Nobody wants a blank screen on their computer. Of course, they are going to have a Web page with news, weather, and basic information. The fact is that the substitute means that millions of Americans could be hit with new taxes just for clicking on a Web page, and this could be done without any further action by the Senate.

I think most Senators believe there ought to be a permanent ban on Internet access taxes, that Internet access taxes widen the digital divide. Yet the substitute on the Internet access tax issue goes in just the opposite direction. A lot of Americans think Internet access is plugging the computer into a phone line, dialing up the Internet provider, and logging onto the net. Then you would get a blank screen. Of course, you want information and content. People need to know, as they move to this vote, that they could be taxed for getting those kinds of services that many of them believe are essential, such as the weather.

At the end of the day, I pledge to continue to work with the Senator from Wyoming. He has been extremely sincere and extremely dedicated. However this vote comes out, I want to make it clear that I will work closely with him, Senator DORGAN, and all the Senators who see this differently than I, Senator BAUCUS, Senator MCCAIN, and others. We are going to have to stay at it.

When you vote tonight, you are talking about two very differing approaches with respect to Internet policy. One approach that we advocate tonight is backed by the American Electronics Association and the National Conference of State Legislatures. The other is opposed by virtually all of the technology groups in the country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I yield myself 3 minutes.

I thank all of those people who have been dedicated in their work on this issue. There have been innumerable meetings, and Senator MCCAIN, Senator DORGAN, Senator KERRY, Senator WYDEN, and I have been the primary people. We have met with these different groups to see what parts of the Internet were their interests.

This bill is as close as we can come to pulling everybody to the center. No, it doesn't please everybody. Does it please most of the people? I certainly hope so, and we will have a vote to determine whether it does or not. But this does make permanent the Internet access tax prohibition. Now that is something that Gateway, VerticalNet, Compaq, and other high-tech folks have wanted and do want.

This bill does not have new taxes in it. This bill has a provision so that States will be encouraged to simplify their taxes and, at some future time, in order to comply with the Supreme Court decisions mentioned here, there will be a vote to see if Congress approves of their simplification. Unless the vast majority of the States are involved in that, I am sure they won't get approval.

We passed a moratorium 2 years ago, and we promised all of these governmental agencies and all of the other people with an interest in sales tax that we would put a bill together, solve their problem, bring them a solution. Have there been hearings? Everybody says there have not been hearings. There have been a lot of meetings. There has not been a bill produced other than what we have here.

This is a promise we made to local and State governments 2 years ago. This is some action we can take on it. It doesn't make anything final, but it provides incentive to get people together to work on a problem that is necessary. Cities, towns, and counties, not to mention States, have been put under some unusual circumstances just since September 11. We need to have a mechanism for them to be able to fund them. We have not promised funding for everything. We have made them do a lot. This gives them an opportunity to work out a system whereby they can continue to operate, continue to have revenues that are on a declining basis at the moment, and this is something so that we can have a vote. This just provides for a vote of Congress at a future date when there has been streamlining.

The extension of the current moratorium of the Internet Tax Freedom Act of 1998 expired this past Sunday on October 21, 2001. I believe this amendment would thoroughly address this issue as well as the simplification of State and local use tax systems.

We had to take a look at the Internet sales tax issue for people who might be using legislative vehicles to develop huge loopholes in our current system. We need to preserve the system for those cities, towns, counties, and states that rely on the ability to collect the sales tax they are currently getting. I believe that the moratorium on Internet access taxes and multiple and discriminatory taxes on the Internet should not be extended without addressing the larger issue of sales and use tax collection on electronic commerce.

Certainly, no Senator wants to take steps that will unreasonably burden the development and growth of the Internet. At the same time, we must also be sensitive to issues of basic competitive fairness and the negative effect our action or inaction can have on brick-and-mortar retailers, a critical economic sector and employment force in all American society. In addition, we must consider the legitimate need of State and local governments to have the flexibility they need to generate resources to adequately fund their programs and operations.

As the only accountant in the Senate, I have a unique perspective on the dozens of tax proposals that are introduced in Congress each year. In addition, my service on the state and local levels and my experiences as a small business owner enable me to consider these bills from more than one viewpoint.

I understand the importance of protecting and promoting the growth of Internet commerce because of its potential economic benefits. It is a valuable resource because it provides access on demand. Therefore, I do not support a tax on the use of Internet itself.

I do, however, have concerns about using the Internet as a sales tax loophole. Sales taxes go directly to state and local governments and I am very leery of any Federal legislation that bypasses their traditional ability to raise revenue to perform needed services such as school funding, road repair and law enforcement. I will not force states into a huge new exemption.

While those who advocate a permanent loophole on the collection of a sales tax over the Internet claim to represent the principles of tax reduction, they are actually advocating a tax increase. Simply put, if Congress continues to allow sales over the Internet to go untaxed and electronic commerce continues to grow as predicted, revenues to state and local governments will fall and property taxes will have to be increased to offset lost revenue or States who do not have or believe in state income taxes will be forced to start one.

Furthermore, State and local revenues and budgets are especially critical now as these governments are responding to protect the security of all of our citizens and businesses. Any action to extend the current moratorium without creating a level playing field would perpetuate a fundamental inequity and ignore a growing problem that will gravely affect the readiness of the nation.

After months of hard work, negotiations, and compromise, this amendment has been filed. I would like to commend several of my colleagues for their commitment to finding a solution. I know this amendment is the solution. The amendment makes permanent the existing moratorium on Internet access taxes, but extends the current moratorium on multiple and discriminatory taxes for an additional four years through December 31, 2005.

Throughout the past several years, we have heard that catalog and Internet companies say they are willing to allow and collect sales tax on interstate sales, regardless of traditional or Internet sales, if states will simplify collections to one rate per state sent to one location in that state. I think that is a reasonable request. I have heard the argument that computers make it possible to handle several thousands tax entities, but from an auditing standpoint as well as simplicity for small business, I support one rate per State.

I think the States should have some responsibility for redistribution not a business forced to do work for government. Therefore, the amendment would put Congress on record as urging states and localities to develop a streamlined sales and use tax system, which would include a single, blended tax rate with which all remote sellers can comply. You need to be aware that states are prohibited from gaining benefit from the authority extended in the bill to require sellers to collect and remit sales and use taxes on remote sales *if* the states have *not* adopted the simplified sales and use tax system.

Further, the amendment would authorize states to enter into an Interstate Sales and Use Tax Compact through which members would adopt the streamlined sales and use tax system. Congressional authority and consent to enter into such a compact would expire if it has not occurred by January 1, 2006. The amendment also authorizes states to require all other sellers to collect and remit sales and use taxes on remote sales once Congress has acted to approve the compact by law within a period of 120 days after the Congress receives it.

The amendment also calls for a sense of the Congress that before the end of the 107th Congress, legislation should be enacted to determine the appropriate factors to be considered in establishing whether nexus exists for State business activity tax purposes.

I strongly support this amendment because I do not think there is adequate protection now. It is very important we do not build electronic loopholes on the Internet, an every-changing Internet, one that is growing by leaps and bounds, one that is finding new technology virtually every day.

Mr. President, I recognize this body has a constitutional responsibility to regulate interstate commerce. Furthermore, I understand the desire of several senators to protect and promote the growth of Internet commerce.

I am very concerned, however, with any piece of legislation that mandates or restrict State and local governments' ability to meet the needs of its citizens. This has the potential to provide electronic loopholes that will take away all of their revenue. This amendment would designate a level playing field for all involved—business, government, and the consumer.

The States, and not the Federal Government, should have the right to impose, or not to impose, consumption taxes as they see fit. The reality is that emergency response personnel, law enforcement officials, and other essential services are funded largely by states and local governments, especially through sales taxes. Passing an extension of the current moratorium without taking steps toward a comprehensive solution would leave many states and local communities unable to fund their services. I urge my colleagues to vote for this amendment.

In the current definition in §1104(5) of the ITFA:

> The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to users. Such term does not include telecommunications services.

I do want to address one very important issue that has not been addressed in this amendment. One of the most important aspects of this legislation deals with State and local taxation of Internet access services. There is general agreement in this body that there should be no new State and local taxes on basic Internet access as a way to assist every American to be able to take advantage of the Internet and its resources. That is a goal I obviously support, and my amendment will do that.

As you know, however, I have serious concerns with the current definition of Internet access. I am concerned that without further work, it will subvert our intent, discriminate against some Internet Service providers, and impact state and local governments. Thus, I want to continue to work with my colleagues at a later date to refine that definition so that we accomplish our aim without doing harm.

The problem is that the current definition is so broad, and technology is changing so fast that the current definition could unfairly discriminate against many businesses that provide similar content or services over the counter, over a cable wire, or via any other means. The discrimination could affect a variety of products and services that I don't think any of us envisioned as part of access to the Internet. In a nutshell, the current definition essentially includes anything and everything, except telecommunications that could be offered as a part of a package of Internet access services, including television programs, radio broadcasts, games, books, music, motion pictures and other such products and services.

Following mergers of Internet service providers and media and entertainment companies, it is not hard to envision an ISP that provides these services and includes all of the items in one bill to a customer. For example, an ISP could provide downloadable movies to customers—allowing a customer to download a set number of movies each month includable in their monthly fee for Internet access, while paying extra for any movies beyond the included amount. This sets up some perverse and discriminatory situations. First, for example, someone who pays $9.95 for basic Internet service that doesn't include movies would have to rent movies separately and pay tax on those rentals, while customers of an ISP that include movies in its $21.95 service would not pay tax on those movies. Second, the tax-exempt benefit of purchasing more expensive Internet access services doesn't stop at just movies. Providers could also include music, publications—and someday soon, downloadable nightly cable broadcasts—and under the current definition these would also be exempt from tax. I don't think any of us ever envisioned when we first debated and enacted a temporary moratorium that the scope of services provided over the Internet was intended to cover anything beyond basic access.

I believe that the current definition of Internet access needs to be examined closely by the Congress so that we don't do damage where we intend to do good. I have tried a number of different approaches to defining it, and each of them has issues and problems. I am not ready to give up, however.

Furthermore, there are also some that believe the current definition of Internet access needs to be changed because it unfairly discriminates among providers of Internet access and gives some providers advantages over others. The current definition favors large companies over small. It also excludes telecommunications services from the definition of access. In doing so, the language could be interpreted to exclude Wireless Web Access because all services provided by wireless companies are considered ''telecommunications.'' Thus, Internet access purchased from one company might be exempt, but it could be taxable if purchased from a wireless provider. I know our intent is not to discriminate among Internet access providers, but that is the effect of current law.

If we don't continue to work on this definition, we will go contrary to the findings in the legislation we are considering. If we allow the current definition of Internet access to remain unchanged, we will be authorizing the disparate treatment of the sales of identical products depending on whether the sale occurs online or not. In simplest terms, the current definition of Internet access would exempt the sales of many products and services that would be taxed if sold in any other way. Besides the fiscal problem this would cause for states, this is also fundamentally unfair, and should be prevented. I think formulating a good definition of Internet access presents a host of opportunities that we should not let pass by. It gives us an opportunity to define a critical component of the infrastructure of our new economy—and, in doing so, provide a definition that allows all new economy companies, both large and small, to operate on a level playing field. It provides us with an opportunity to provide a clear definition that reduces the probability of litigation over the exact meaning of the statute. And, it provides us with an opportunity to insure that we do no harm to the fiscal stability of many levels of government—while providing a positive environment in which business can survive.

I hope to continue to work with my colleagues at a later date to develop a definition of Internet access that preserves the tax-exemption for access to the basic services and resources of the Internet.

The Internet is such a powerful tool of education and commerce that we should do everything we can to make sure that each American can take advantage of it. At the same time, we need to insure that our goal assisting in the provision of basic access is not subverted by an overly broad definition of access that allows a host of digital goods and services to be bundled together and sold tax exempt. Such subversion would only serve to weaken state and local governments at this important time in our nation's history.

I ask unanimous consent that a letter from the National Governors Association, National League of Cities, International City/County Management Association, National Association of Counties, and Council of State Governments be printed in the RECORD.

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

NATIONAL GOVERNORS ASSOCIATION, NATIONAL LEAGUE OF CITIES, INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION, NATIONAL ASSOCIATION OF COUNTIES, COUNCIL OF STATE GOVERNMENTS,

November 6, 2001.

Hon. THOMAS A. DASCHLE,
Majority Leader, U.S. Senate, The Capitol, Washington, DC.

Hon. TRENT LOTT,
Minority Leader, U.S. Senate, The Capitol, Washington, DC.

DEAR SENATOR DASCHLE AND SENATOR LOTT: Irrespective of previous letters on the

Internet tax moratorium and contrary to some ''Dear Colleague'' letters circulating in the Senate, we do not support legislation to reinstate the Internet tax moratorium for two additional years. Four organizations listed below support legislation by Senator Enzi (S. 1567) that would create a level playing field so that remote and Main Street sellers receive equal treatment. The National League of Cities is working closely with Senator Enzi and believes that S. 1567 represents a promising opportunity to resolve this critical issue.

Sincerely,

RAYMONG C. SCHEPPACH,
Executive Director,
National Governors Association.
DONALD J. BOUNT,
Executive Director,
National League of Cities.
WILLIAM H. HANSELL,
Executive Director, International City/County Management Association.
LARRY MAAKE,
Executive Director,
National Association of Counties.
DANIEL MY. SPRAGUE,
Executive Director
Council of State Governments.

The PRESIDING OFFICER. The Senator has consumed his 3 minutes. Does the Senator yield back his time?

Mr. ENZI. I reserve the remainder of my time. The other side has used their time?

The PRESIDING OFFICER. The opponents have used all of their time. The proponents have 2 minutes.

Mr. ENZI. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, on behalf of myself and Senator WYDEN, I move to table the Dorgan-Enzi amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 57, nays 43, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—57

Allard	Edwards	McConnell
Allen	Ensign	Miller
Baucus	Feinstein	Murkowski
Bennett	Frist	Murray
Biden	Gramm	Nelson (FL)
Bond	Gregg	Nickles
Boxer	Hagel	Reid
Brownback	Hatch	Roberts
Bunning	Inhofe	Schumer
Burns	Inouye	Sessions
Byrd	Kennedy	Smith (NH)
Campbell	Kohl	Smith (OR)
Cantwell	Kyl	Snowe
Cochran	Landrieu	Stevens
Corzine	Leahy	Thompson
Craig	Lieberman	Thurmond
Crapo	Lott	Torricelli
Dodd	Lugar	Warner
Domenici	McCain	Wyden

NAYS—43

Akaka	Carnahan	Clinton
Bayh	Carper	Collins
Bingaman	Chafee	Conrad
Breaux	Cleland	Daschle
Dayton	Hollings	Rockefeller
DeWine	Hutchinson	Santorum
Dorgan	Hutchison	Sarbanes
Durbin	Jeffords	Shelby
Enzi	Johnson	Specter
Feingold	Kerry	Stabenow
Fitzgerald	Levin	Thomas
Graham	Lincoln	Voinovich
Grassley	Mikulski	Wellstone
Harkin	Nelson (NE)	
Helms	Reed	

The motion was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, I think we are in agreement the major aspects of this legislation have been decided. So I do not think, unless someone desires it, that we need another recorded vote.

The PRESIDING OFFICER. If there be no amendment to be offered, the question is on the third reading of the bill.

The bill (H.R. 1552) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is on the passage of the bill.

The bill (H.R. 1552) was passed.

Mr. MCCAIN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I appreciate the debate. I appreciate the efforts made on both sides of this very difficult issue. The closeness of it really dictates that we do sit down and work something out on this issue with Senator DORGAN, Senator KERRY, Senator ALLEN—all of those with whom we have met in numerous, countless hours on this issue. It is very clear we need to come to some kind of agreement rather than go through moratorium after moratorium.

Mrs. BOXER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I conclude by saying I think we should begin meetings as soon as possible so we can resolve this issue so there is a reasonable resolution. I know the proponents of this amendment which was just defeated spent great labor and effort on it. I congratulate them for their arguments. I look forward to working with them. This is an issue that needs to be resolved.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I say to the distinguished Senator from Arizona, we spent a lot of hours working through this with Senator ENZI, Senator DORGAN, Senator MCCAIN, myself, and many others. This was a very difficult vote for many of us. We do not support any tax on the Internet itself. We don't support access taxes. We don't support content taxes. We don't support discriminatory taxes. Many of us would like to see a permanent moratorium on all of those kinds of taxes.

At the same time, a lot of us were caught in a place where we thought it important to send the message that we have to get back to the table in order to come to a consensus as to how we equalize the economic playing field in the United States in a way that is fair.

I hope the Senator from Arizona will follow up with us, so we can come back to that table to do what is sensible and fair. I look forward to the chance to do that.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before the Senator from Massachusetts leaves, I want him to know, as the original Senate sponsor, I want to redouble my efforts to work with him and Senator ENZI and all of our colleagues. We may be able to see that there is a technological fix here that is going to make it possible to collect taxes owed.

There is a lot of good will on both sides. This is by no means the end of the issue. I am very pleased the Senator from Massachusetts is ending this discussion in a conciliatory way because we are going to have to stay at it. He has my pledge as the original sponsor of this effort to do it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, as an original author and cosponsor of the moratorium, which I believe in, I appreciate the comments. I had hoped, and in many ways thought this was not ripe for this vote, but I think it was important for us to have gone through the process. I look forward to seeing if we can come up with a sensible resolution.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I thank my colleagues, who have just spoken, for their comments, for the effort they put forth. I thank all the people for allowing the debate that happened. That had to be done by unanimous consent.

Now we know our work is cut out for us. Two years ago we passed a moratorium. Tonight we passed a moratorium. Hopefully before 2 years is up we will have done something that will solve the problem. I appreciate the commitment of the chairman of the Commerce Committee to make that happen. I am sure all the people who are involved in this issue will be extremely happy that some work will be done on it. The hearings will be held. The consensus will be arrived at because it is necessary for our cities, towns, counties, and States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I have been involved in a number of issues in

my time here. I know of no two people who have worked harder on an issue than the Senator from Wyoming and the Senator from North Dakota.

That renews my commitment to try as hard as I can to come to an agreement because they deserve an all-out effort on an issue on which we are fundamentally in agreement.

I thank the Chair. I thank my colleagues.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Mr. President, I thank all of those Senators who were involved in the array of legislative items that we have taken up today. This has been quite a busy day, with a lot of coordination and a tremendous amount of work. I think we have accomplished a good deal today.

I also report that the Commerce Committee has completed its work. I compliment the chair and ranking member of the Commerce Committee for their work on the aviation security bill. We will be addressing that bill a little later.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar Nos. 547 through 566, and 568, and the nominations on the Secretary's desk; that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements thereon be printed in the RECORD, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nominations considered and confirmed are as follows:

THE JUDICIARY

Odessa F. Vincent, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

DEPARTMENT OF STATE

Raymond F. Burghardt, of Florida, 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 Socialist Republic of Vietnam.

Ronald Weiser, of Michigan, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Slovak Republic.

J. Richard Blankenship, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of The Bahamas.

George L. Argyros, Sr., of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Andorra.

Larry Miles Dinger, of Iowa, a Career Member of the Foreign Service, to be Ambassador to the Federated States of Micronesia.

Darryl Norman Johnson, of Washington, 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 Kingdom of Thailand.

Lyons Brown, Jr., of Kentucky, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Austria.

William D. Montgomery, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United State of America to the Federal Republic of Yugoslavia.

Melvin F. Sembler, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Italy.

Charles Lawrence Greenwood, Jr., of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Coordinator for Asia Pacific Economic Cooperation (APEC).

Stephan Michael Minikes, of the District of Columbia, to be U.S. Representative to the Organization for Security and Cooperation in Europe, with the rank of Ambassador.

Ernest L. Johnson, of Louisiana, to be an Alternate Representative of the United States of America to the Fifty-sixth Session of the General Assembly of the United Nations.

William J. Hybl, of Colorado, to be Representative of the United States of America to the Fifty-sixth Session of the General Assembly of the United Nations.

Nancy Cain Marcus, of Texas, to be an Alternate Representative of the United States of America to the Fifty-sixth Session of the General Assembly of the United Nations

Robert M. Beecroft, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Head of Mission, Organization for Security and Cooperation in Europe (OSCE), Bosnia and Herzegovina.

Charles Lester Pritchard, of Virginia, for the rank of Ambassador during his tenure of service as Special Envoy for Negotiations with the Democratic People's Republic of Korea (DPRK) and United States Representative to the Korean Peninsula Energy Development Organization (KEDO).

AFRICAN DEVELOPMENT BANK

Cynthia Shepard Perry, of Texas, to be United States Director of the African Development Bank for a term of five years.

INTER-AMERICAN DEVELOPMENT BANK

Jose A. Fourquet, of New Jersey, to be United States Executive Director of the Inter-American Development Bank for a term of three years.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Constance Berry Newman, of Illinois, to be an Assistant Administrator of the United States Agency for International Development.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

John Marshall, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

FOREIGN SERVICE

PN1139 Foreign Service nomination of Terence J. Donovan, which was received by the Senate and appeared in the Congressional Record of October 16, 2001.

PN1140 Foreign Service nominations (23) beginning Keith E. Brown, and ending Olivier C. Carduner, which nominations were received by the Senate and appeared in the Congressional Record of October 16, 2001.

LEGISLATIVE SESSION

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

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT ACCOMPANYING S. 1447

Mr. DASCHLE. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed to the conference report to accompany S. 1447, the Aviation Security Act; that it be considered under the following limitations: 90 minutes for debate, with the time equally divided and controlled between the chairman and ranking member of the Commerce Committee or their designees; that upon the use or yielding back of time, the conference report be adopted, and the motion to reconsider be laid upon the table, with no further intervening action or debate.

Mr. BURNS. Reserving the right to object, and I will not object, is that S. 1447?

Mr. DASCHLE. That is correct.

Mr. BURNS. Reserving the right to object, and I will not object, there are some of us who did not and will not sign the conference report. I will make my statement this evening, but we have not seen the bill and will not see it until the morning. I think it is asking a little bit of those of us who have a responsibility to the aviation industry and the security of this country to not see that legislation before it passes. We understand there are some dogs and cats in there and some things to which we cannot agree.

So I want to put myself on record that I will oppose this piece of legislation, but I will not hold it up.

I thank the leader.

Mr. DASCHLE. I thank the Senator from Montana.

Mr. MCCAIN. If the majority leader will yield to me for a second, I can inform the Senator from Montana that I understand his concerns. A copy of the bill is available at this time in room SD–512.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, with that understanding, I inform all Senators there will be no more rollcall votes tonight, nor do we anticipate now that there will be any rollcall votes tomorrow.

We have a number of other matters we will take into account during wrap-

up. I will begin with one, and there will be others that will be addressed. All the matters, of course, in wrap-up will be offered in consultation with the Republican leader and have his consent.

HOMESTAKE MINE CONVEYANCE ACT OF 2001

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of S. 1389, and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1389) to provide for the conveyance of certain real property in South Dakota to the State of South Dakota with indemnification by the United States Government, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2161

(Purpose: To provide a complete substitute)

Mr. DASCHLE. Mr. President, I have an amendment at the desk, and I ask unanimous consent that the amendment be considered and agreed to, and the motion to reconsider be laid upon the table.

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

The amendment (No. 2161) was agreed to.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. DASCHLE. Mr. President, I am delighted that the Senate has approved a modified version of S. 1389, the Homestake Mine Conveyance Act of 2001.

This important legislation will enable the construction of a new, world-class scientific research facility deep in the Homestake Mine in Lead, SD. Not only will this facility create an opportunity for critical breakthroughs in physics and other fields, it will provide unprecedented new economic and educational opportunities for South Dakota.

Just over a year ago, the Homestake Mining Company announced that it intended to close its 125-year-old gold mine in Lead, SD, at the end of 2001. This historic mine has been a central part of the economy of the Black Hills for over a century, and the closure of the mine was expected to present a significant economic blow to the community.

In the wake of this announcement, you can imagine the surprise of South Dakotans to discover that a committee of prominent scientists viewed the closure of the mine as an unprecedented new opportunity to establish a National Underground Science Laboratory in the United States. Because of the extraordinary depth of the mine and its extensive existing infrastructure, they found that the mine would be an ideal location for research into neutrinos, tiny particles that can only be detected deep underground where thousands of feet of rock block out other cosmic radiation.

Recently, I received a letter from Dr. John Bahcall. Dr. Bahcall is a scientist at the Institute for Advanced Study in Princeton, NJ. He was awarded the National Medal of Science in 1998, and is a widely recognized expert in neutrino science and an authority on the potential of an underground laboratory. In a recent letter to me, he explained, ''There are pioneering experiments in the fields of physics, astronomy, biology, and geology that can only be carried out in an environment that is shielded from the many competing phenomena that occur on the surface of the earth. These experiments concern such fundamental and applied subjects as: How stable is ordinary matter? What is the dark matter of which most of our universe is composed? What new types of living organisms exist in deep underground environments from which sunlight is excluded? How are heat and water transported underground over long distances and long times?''

This research, as well as other research that could be conducted in the mine, has the potential to answer fundamental questions about our universe. The National Science Foundation is already considering a $281 million proposal for the construction of this laboratory.

I want to thank all of those who have been involved in the development of this legislation. I particularly appreciate the hard work and support of Governor Bill Janklow of South Dakota and officials with the Homestake and Barrick mining companies, who helped us to reach agreement on this legislation. I also want to thank my colleague, Senator JOHNSON, a cosponsor of this bill, for all of his work. In particular, Senator JOHNSON's ability to secure the $10 million in transition funds that will bridge the gap between Homestake's closure and the establishment of the laboratory has been critical to this effort.

I ask unanimous consent that the letter from Dr. John Bahcall be printed in the RECORD.

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

PROFESSOR JOHN N. BACHALL,
INSTITUTE FOR ADVANCED STUDY,
Princeton, NJ, November 8, 2001.

The Hon. TOM DASCHLE,
U.S. Senate, Washington, DC.

DEAR SENATOR TOM DASCHLE: I would like to summarize for you the scientific importance of the National Underground Science Laboratory to be located in the Homestake Gold Mine near Lead, South Dakota.

There are pioneering experiments in the fields of physics, astronomy, biology, and geology that can only be carried out in an environment that is shielded from the many competing phenomena that occur on the surface of the earth. These experiments concern such fundamental and applied subjects as: How stable is ordinary matter? What is the dark matter of which most of our universe is composed? What new types of living organisms exist in deep environments from which sunlight is excluded? How are heat and water transported underground over long distances and long times?

American scientists have been among the world leaders in research in these underground studies. But we have had to travel to Japan, to Italy, to Russia, to South Africa, to Finland, to India and to other countries in order to carry out our experiments. During the past year, I had the privilege of chairing a national committee of distinguished research scientists that was charged with the task of recommending whether or not the United States should develop its own national laboratory to support the underground scientific work of physicists, astronomers, biologists, and geologists. We were also asked to make a recommendation as to whether the expenditure of funds for this purpose would, in a highly constrained budgetary situation, be beneficial to the scientific enterprise.

The committee had many meetings in this country and in other countries where major underground scientific facilities are currently active. The committee reached two conclusions. First, it is in the best interest of the United States to develop a national underground science laboratory only if this facility would be the best in the world. Secondly, the Homestake Gold Mine could be converted into the premier underground laboratory in the world. The recommendations of the committee have been endorsed by panels of scientists representing different disciplines.

I hope that these remarks are useful to you and to your colleagues.

Sincerely yours,

JOHN BAHCALL,
National Medal of Science, 1998.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements thereon be printed in the RECORD.

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

The bill (S. 1389), as amended, was read the third time and passed.

Mr. DASCHLE. Mr. President, we have a number of other items to be taken up.

MEASURE READ THE FIRST TIME—H.R. 2873

Mr. DASCHLE. Mr. President, I understand that H.R. 2873, which was just received from the House, is at the desk, and I now ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 2873) to extend and amend the program entitled Promoting Safe and Stable Families under title IV-B, subpart 2 of the Social Security Act, and to provide new authority to support programs for mentoring children of incarcerated parents; to amend the Foster Care Independent Living Program under title IV-E of that Act to provide for educational and training vouchers for youths aging out of foster care, and for other purposes.

Mr. DASCHLE. Mr. President, I now ask for its second reading and object to my own request on behalf of my colleagues.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk.

HEATHER FRENCH HENRY HOMELESS VETERANS ASSISTANCE ACT

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 191, S. 739.

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

The legislative clerk read as follows:

A bill (S. 739) to amend title 38, United States Code, to improve programs for homeless veterans, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Heather French Henry Homeless Veterans Assistance Act''.

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

SEC. 2. FINDINGS; DEFINITION.

(a) FINDINGS.—Congress makes the following findings:

(1) On the field of battle, the members of the Armed Forces who defend the Nation are honor-bound to leave no one behind and, likewise, the Nation is honor-bound to leave no veteran behind.

(2) The Department of Veterans Affairs report known as the Community Homeless Assessment, Local Education, and Networking Groups for Veterans (CHALENG) assessment, issued in May 2000, reports that during 1999 there were an estimated 344,983 homeless veterans, an increase of 34 percent above the 1998 estimate of 256,872 homeless veterans.

(3) The 1996 National Survey of Homeless Assistance Providers and Clients found that, although veterans constitute only 13 percent of the adult population, veterans comprise 23 percent of homeless clients.

(4) Homelessness among veterans is persistent despite unprecedented economic growth and job creation and general prosperity.

(5) While there are many effective programs that assist homeless veterans to again become productive and self-sufficient members of society, current resources provided to such programs and other activities that assist homeless veterans are inadequate to provide all needed essential services, assistance, and support to homeless veterans.

(6) The CHALENG assessment referred to in paragraph (2) reports—

(A) that Department of Veterans Affairs and community providers were responsible for establishing almost 500 beds for homeless veterans during 2000, including emergency, transitional, and permanent beds; and

(B) that there is a need for about 45,724 additional beds to meet current needs of homeless veterans.

(7) Nearly four decades ago, the Nation established a goal of sending a man to the moon and returning him safely to earth within a decade and accomplished that goal, and the Nation can do no less to end homelessness among the Nation's veterans.

(b) HOMELESS VETERAN DEFINED.—In this Act, the term ''homeless veteran'' means a veteran who is homeless (as that term is defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)).

SEC. 3. NATIONAL GOAL TO END HOMELESSNESS AMONG VETERANS.

(a) NATIONAL GOAL.—Congress hereby declares it to be a national goal to end homelessness among veterans within a decade.

(b) COOPERATIVE EFFORTS ENCOURAGED.—Congress hereby encourages all departments and agencies of Federal, State, and local governments, quasi-governmental organizations, private and public sector entities, including community-based organizations, and individuals to work cooperatively to end homelessness among veterans within a decade.

SEC. 4. ADVISORY COMMITTEE ON HOMELESS VETERANS.

(a) IN GENERAL.—Chapter 5 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 546. Advisory Committee on Homeless Veterans

''(a)(1) There is established in the Department the Advisory Committee on Homeless Veterans (hereinafter in this section referred to as the 'Committee').

''(2) The Committee shall consist of not more than 15 members appointed by the Secretary from among the following:

''(A) Veterans service organizations.

''(B) Advocates of homeless veterans and other homeless individuals.

''(C) Community-based providers of services to homeless individuals.

''(D) Previously homeless veterans.

''(E) State veterans affairs officials.

''(F) Experts in the treatment of individuals with mental illness.

''(G) Experts in the treatment of substance use disorders.

''(H) Experts in the development of permanent housing alternatives for lower income populations.

''(I) Experts in vocational rehabilitation.

''(J) Such other organizations or groups as the Secretary considers appropriate.

''(3) The Committee shall include, as ex officio members—

''(A) the Secretary of Labor (or a representative of the Secretary selected after consultation with the Assistant Secretary of Labor for Veterans' Employment and Training);

''(B) the Secretary of Defense (or a representative of the Secretary);

''(C) the Secretary of Health and Human Services (or a representative of the Secretary); and

''(D) the Secretary of Housing and Urban Development (or a representative of the Secretary).

''(4) The Secretary shall determine the terms of service and pay and allowances of the members of the Committee, except that a term of service may not exceed three years. The Secretary may reappoint any member for additional terms of service.

''(b)(1) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the provision by the Department of benefits and services to homeless veterans.

''(2)(A) In providing advice to the Secretary under this subsection, the Committee shall—

''(i) assemble and review information relating to the needs of homeless veterans;

''(ii) provide an on-going assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting homeless veterans; and

''(iii) provide on-going advice on the most appropriate means of providing assistance to homeless veterans.

''(3) The Committee shall—

''(A) review the continuum of services provided by the Department, whether directly or by contract, in order to define cross-cutting issues and to improve coordination of all services in the Department that address the special needs of homeless veterans;

''(B) identify (through annual assessments under section 1774 of this title and other available resources) gaps in programs of the Department in serving homeless veterans, including identification of geographic areas with unmet needs, and provide recommendations to address those gaps;

''(C) identify gaps in existing information systems on homeless veterans, both within and outside the Department, and provide recommendations about redressing problems in data collection;

''(D) identify barriers under existing laws and policies to effective coordination by the Department with other Federal agencies and with State and local agencies addressing homeless populations;

''(E) identify opportunities for enhanced liaison by the Department with nongovernmental organizations and individual groups addressing homeless populations;

''(F) with appropriate officials of the Department designated by the Secretary, participate with the Interagency Council on the Homeless under title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.);

''(G) recommend appropriate funding levels for specialized programs for homeless veterans provided or funded by the Department;

''(H) recommend appropriate placement options for veterans who, because of advanced age, frailty, or severe mental illness, may not be appropriate candidates for vocational rehabilitation or independent living; and

''(I) perform such other functions as the Secretary may direct.

''(c)(1) Not later than March 31 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that relate to homeless veterans during the preceding year. Each such report shall include—

''(A) an assessment of the needs of homeless veterans;

''(B) a review of the programs and activities of the Department designed to meet such needs, including the evaluation of outreach activities required under paragraph (2);

''(C) a review of the activities of the Committee; and

''(D) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

''(2)(A) The Committee shall include in each report under paragraph (1) an evaluation of the outreach activities of the Department with respect to homeless veterans, including outreach regarding clinical issues and outreach regarding other benefits.

''(B) The Committee shall conduct each evaluation under this paragraph in consultation with the Under Secretary for Benefits, the Under Secretary for Health, the Readjustment Counseling Service, the Director of Homeless Veterans Programs, and the Mental Health Strategic Health Care Group.

''(C) In including an evaluation under this paragraph in a report under paragraph (1), the

Committee shall set forth in the report the following:

''(i) The results of the evaluation.

''(ii) Any recommendations that the Committee considers appropriate to improve the outreach activities of the Department with respect to homeless veterans, including recommendations for enhanced interagency cooperation and enhanced cooperation between the Department and appropriate community organizations and recommendations for additional activities to complement, supplement, or otherwise eliminate deficiencies in the outreach activities.

''(3) Not later than 90 days after the receipt of a report under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

''(4) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

''(5) The Secretary shall include with each annual report submitted to Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to that section.

''(d)(1) Except as provided in paragraph (2), the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the activities of the Committee under this section.

''(2) Section 14 of such Act shall not apply to the Committee.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''546. Advisory Committee on Homeless Veterans.''.

SEC. 5. MEETINGS OF INTERAGENCY COUNCIL ON THE HOMELESS.

Section 202(c) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11312(c)) is amended to read as follows:

''(c) MEETINGS.—The Council shall meet at the call of its Chairperson or a majority of its members, but not less often than annually.''.

SEC. 6. EVALUATION OF PROGRAMS AND ACTIVITIES REGARDING HOMELESS VETERANS.

(a) EVALUATION CENTERS.—The Secretary of Veterans Affairs shall support the continuation within the Department of Veterans Affairs of at least one center for evaluation to monitor the structure, process, and outcome of programs of the Department that address homeless veterans.

(b) ANNUAL REPORT ON PROCESSING OF BENEFITS CLAIMS.—The Secretary shall submit to Congress on an annual basis a report on the programs and activities of the Veterans Benefits Administration in processing of claims for benefits of homeless veterans during the preceding year. Each report shall include, for the year covered by such report, the following:

(1) Information on costs, expenditures, and workload of Veterans Benefits Administration claims evaluators in processing claims for benefits of homeless veterans.

(2) Information on the filing of claims for benefits by homeless veterans.

(3) Information on efforts undertaken to expedite the processing of claims for benefits of homeless veterans.

(4) Any other information that the Secretary considers appropriate.

(c) ANNUAL REPORT ON HEALTH CARE.—The Secretary shall submit to Congress on an annual basis a report on programs of the Department addressing health care needs of homeless veterans. The Secretary shall include in each such report the following:

(1) Information about expenditures, costs, and workload under the Department of Veterans Affairs program known as the Health Care for Homeless Veterans program (HCHV).

(2) Information about the veterans contacted through the program.

(3) Information about processes under the program.

(4) Information about program treatment outcomes under the program.

(5) Other information the Secretary considers relevant in assessing the program.

(6) Information about supported housing programs.

(7) Information about the grant and per diem provider program of the Department.

(d) ANNUAL PROGRAM ASSESSMENT.—Section 1774(b) of title 38, United States Code, is amended—

(1) in paragraph (1), by inserting ''annual'' after ''to make an''; and

(2) by adding at the end the following new paragraph:

''(6) The Secretary shall review each annual assessment under this subsection, and shall consolidate the findings and conclusions of such assessments into an annual report which the Secretary shall submit to Congress.''.

SEC. 7. PER DIEM PAYMENTS FOR FURNISHING SERVICES TO HOMELESS VETERANS.

(a) INCREASE IN RATE OF PER DIEM PAYMENTS.—Section 4(a) of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by striking ''at such rates'' and all that follows through ''homeless veteran—'' and inserting the following: ''at the same rates as the rates authorized for State homes for domiciliary care provided under section 1741 of title 38, United States Code, for services furnished to homeless veterans—''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

SEC. 8. DENTAL CARE FOR HOMELESS VETERANS.

Section 1712(a)(1)(H)(ii) of title 38, United States Code, is amended by inserting ''(including a homeless veteran)'' after ''for a veteran''.

SEC. 9. PROGRAMMATIC EXPANSIONS.

(a) TRANSITIONAL HOUSING.—Effective October 1, 2001, section 12 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended to read as follows:

''SEC. 12. FUNDING.

''(a) AMOUNTS FOR GRANT AND PER DIEM PROGRAMS.—From amounts appropriated for 'Medical Care' for any fiscal year, the Secretary may expend not more than $55,000,000 (as adjusted from time to time under subsection (b)) to carry out the transitional housing grant and per diem provider programs under sections 3 and 4 of this Act.

''(b) PERIODIC INCREASES.—The amount in effect under subsection (a) shall be increased for any fiscal year by the overall percentage increase in the Medical Care account for that fiscal year over the preceding fiscal year.''.

(b) COMPREHENSIVE HOMELESS SERVICES PROGRAM.—(1)(A) The Secretary of Veterans Affairs shall provide for the establishment of not less than five additional centers for the provision of comprehensive services to homeless veterans under section 1773(b) of title 38, United States Code.

(B) In establishing additional centers under this paragraph, the Secretary shall take into account the particular needs of homeless veterans in each metropolitan area in which the Secretary proposes to establish a center.

(C) The Secretary shall ensure that the services provided to homeless veterans at each center established under this paragraph are tailored to the needs of homeless veterans in the metropolitan area in which such center is established.

(2) Section 1773(b) of title 38, United States Code, is amended by striking ''not fewer than eight''.

(c) PROGRAM EXPIRATION EXTENSION.—Sections 1771(b) and 1773(d) of title 38, United States Code, are amended by striking ''December 31, 2001'' and inserting ''December 31, 2006''.

SEC. 10. VARIOUS AUTHORITIES.

(a) EMPLOYMENT PROGRAMS.—The Secretary of Veterans Affairs may authorize homeless veterans receiving care through vocational rehabilitation programs to participate in the compensated work therapy program.

(b) SUPPORTED HOUSING FOR VETERANS PARTICIPATING IN COMPENSATED WORK THERAPIES.—(1) The Secretary may authorize homeless veterans in the compensated work therapy program to be provided housing through the therapeutic residence program under section 1772 of title 38, United States Code, or through grant and per diem providers.

(2) As used in this subsection, the term ''grant and per diem provider'' means an entity in receipt of a grant under section 3 or 4 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note).

(c) REPORT ON ASSIGNMENT OF HOMELESS COORDINATORS AT VBA REGIONAL OFFICES.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the assignment of Homeless Coordinators at the Regional Offices of the Veterans Benefits Administration.

(2) The report shall include the following:

(A) A list of the Regional Offices of the Veterans Benefits Administration for which Homeless Coordinators have been assigned.

(B) A description of the manner in which each Regional Office listed under subparagraph (A) staffs the assignment, whether as a collateral hire, by rotation of staff, or by a full-time employee, including the caseload of the position and the amount of time spent on the caseload by each employee assigned to fulfill the duties of the position.

(C) In the case of any Regional Offices for which no Homeless Coordinator has been assigned, a description of the manner in which such Regional Office addresses matters relating to homeless veterans.

(D) An evaluation of the demand for services of Homeless Coordinators in the various Regional Offices, including a statement of the Regional Offices which have the greatest demand for such services.

(d) COORDINATION OF EMPLOYMENT SERVICES.—(1) Section 4103A(c) of title 38, United States Code, is amended by adding at the end the following new paragraph:

''(11) Coordination of services provided to veterans with training assistance provided to veterans by entities receiving financial assistance under section 738 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11448).''.

(2) Section 4104(b) of such title is amended—

(A) by striking ''and'' at the end of paragraph (11);

(B) by striking the period at the end of paragraph (12) and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(13) coordinate services provided to veterans with training assistance for veterans provided by entities receiving financial assistance under section 738 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11448).''.

SEC. 11. LIFE SAFETY CODE FOR GRANT AND PER DIEM PROVIDERS.

(a) NEW GRANTS.—Section 3(b)(5) of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by striking '', but fire and safety'' and all that follows through ''in carrying out the grant'' and inserting ''and the fire and safety requirements applicable under the Life Safety Code of the National Fire Protection Association''.

(b) PREVIOUS GRANTEES.—Section 4 of such Act is amended by adding at the end the following new subsection:

''(e) LIFE SAFETY CODE.—(1) Except as provided in paragraph (2), a per diem payment (or

in-kind assistance in lieu of per diem payments) may not be provided under this section to a grant recipient unless the facilities of the grant recipient meet the fire and safety requirements applicable under the Life Safety Code of the National Fire Protection Association.

''(2) During the five-year period beginning on the date of the enactment of the Heather French Henry Homeless Veterans Assistance Act, paragraph (1) shall not apply to an entity that received a grant under section 3 before that date if the entity meets fire and safety requirements established by the Secretary.

''(3) From amounts available for purposes of this section pursuant to section 12, not less than $5,000,000 shall be used only for grants to assist entities covered by paragraph (2) in meeting the Life Safety Code of the National Fire Protection Association.''.

SEC. 12. ASSISTANCE FOR GRANT APPLICATIONS.

(a) GRANT PROGRAM.—The Secretary of Veterans Affairs shall carry out a program to make technical assistance grants to nonprofit community-based groups with experience in providing assistance to homeless veterans in order to assist such groups in applying for grants relating to addressing problems of homeless veterans.

(b) FUNDING.—There is authorized to be appropriated to the Secretary of Veterans Affairs for each of fiscal years 2002 through 2006, $750,000 to carry out the program under this section.

SEC. 13. EXTENSION OF HOMELESS VETERANS REINTEGRATION PROGRAM.

Section 4111(d)(1) of title 38, United States Code, is amended by striking subparagraphs (C) and (D) and inserting the following:

''(C) $50,000,000 for fiscal year 2002.
''(D) $50,000,000 for fiscal year 2003.
''(E) $50,000,000 for fiscal year 2004.
''(F) $50,000,000 for fiscal year 2005.
''(G) $50,000,000 for fiscal year 2006.''.

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge the Senate to pass S. 739, the proposed ''Heather French Henry Homeless Veterans Assistance Act of 2001,'' a bill that enhances VA's efforts to combat homelessness among our Nation's veterans.

On July 19, 2001, the Committee on Veterans' Affairs held a hearing on S. 739 as originally introduced by my good friend and colleague on the Committee, Senate PAUL WELLSTONE. The Department of Veterans Affairs and homeless advocate shared their views on what could be done to help VA treat the unique problems faced by homeless veterans. Witnesses testified that homelessness remains a prevalent problem among veterans, with roughly one-third of the total homeless population consisting of veterans. Members of the Committee were told that more needs to be done to help these men and women get back on their feet.

I will highlight a couple of the provisions included in the bill and refer my colleagues to the report accompanying this legislation for more detail.

The pending measure contains many provisions seek to enhance programs that VA currently administers to homeless veterans, most notably the Grant and Per Diem Program. This program offers grants to nonprofit community-based organizations that serve homeless veterans. Specifically, the bill authorizes up to $55 million a year in funding for the program.

In addition, the bill would link the daily per diem rates provided to these community-based organizations for the care of homeless veterans to the rate already provided to state veterans homes for domiciliary care. This would increase the daily rate from $19 to $24, giving those who are truly combating homelessness the appropriate resources with which to work.

Another important aspect of this legislation is the establishment of an Advisory Committee on Homeless Veterans within VA. This 12–15 member committee would evaluate and report directly to the Secretary of Veterans Affairs on all matters related to homeless veterans. This ensures that there is always a voice for this segment of the veteran population at the highest level within VA.

With regard to the overall evaluation of homeless programs—often cited as one of the biggest impediments to properly serving the homeless—the pending legislation would encourage the continued support of at least one evaluation center within VA. Currently, VA's Northeast Program Evaluation Center in Connecticut conducts such research, and it's important to ensure that all research efforts receive needed resources to pursue valuable work.

Evaluation needs to be conducted so that VA policy makers and Members of Congress know what works and what does not. Therefore, the pending measure would require two annual reports to Congress from VA on the activities of both the health care and benefits-related aspects of their treatment of homeless veterans.

Yet another key aspect of the pending measure is the required establishment of at least five new Comprehensive Service Centers. These centers would be located in the metropolitan areas found by VA to have the greatest demand for homeless services. Existing centers, such as ones located in Brooklyn, NY, and Dallas, TX, provide the full spectrum of care for homeless veterans, including transitional housing and substance abuse treatment.

In closing, I would like to acknowledge the hard work and dedication of the namesake of this bill, Miss America 2000, Heather French Henry. Her focus on homeless veterans during her reign and subsequent to the end of her tenure as miss America brought significant attention to this important issue. Ms. Henry's advocacy for homeless veterans is truly admirable.

It is my sincere hope this bill will give VA greater ability to treat homeless veterans, and thereby contribute toward eradicating this national share. I urge my colleagues on the House Veterans's Affairs Committee, who have also been active on this issue, to work with Senator WELLSTONE, the other members of our Committee, and me, to help those who have sacrificed for our country and now need our help.

I ask unanimous consent that a summary of S. 739 be printed in the RECORD.

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

SUMMARY OF S. 739: THE HEATHER FRENCH HENRY HOMELESS VETERANS ASSISTANCE ACT OF 2001

The Committee bill incorporates provisions from S. 739, as originally introduced. It seeks to enhance and provide additional support for VA programs that combat homelessness among veterans.

The following is a summary of key provisions in the Committee bill, S. 739:

Programmatic Expansions: Authorizes VA to spend up to $55 million per year on the transitional housing Grant and Per Diem program. Requires VA to establish at least five new comprehensive service centers for homeless veterans in those metropolitan areas found to have the greatest need. Extends the Homeless Chronically Mentally Ill and Comprehensive Homeless Programs until December 31, 2006.

Advisory Committee on Homeless Veterans: Establishes a Committee that will examine and report to the Secretary no various services provided to homeless veterans.

Interagency Council on the Homeless: Requires annual meetings of the Interagency Council on the Homeless, as the Council has yet to get underway.

Evaluation on Homeless Programs: Encourages the continued support of at least one evaluation center to monitor the effectiveness of VA's various homeless programs. Requires VA to report on both the benefits and health care aspects of combating homelessness.

Life Safety Code: Requires that real property of grantees under VA's homeless Grant and Per Diem program meet fire and safety requirements applicable under the Life Safety Code of the National Fire Protection Association.

Technical Assistance Grants: Authorizes the Secretary to conduct a technical assistance grants program to assist nonprofit groups in applying for grants relating to addressing problems of homeless veterans. Provides $750,000 for each of fiscal years 2002 through 2006 for these purposes.

Homeless Veterans Reintegration Program: Extends the Homeless Veterans Reintegration Program and authorizes $50 million a year for each of fiscal years 2002 through 2006.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the committee amendment be agreed to.

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

The committee amendment was agreed to.

Mr. DASCHLE. Mr. President, I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 739), as amended, was read the third time and passed.

TO PREVENT ELIMINATION OF CERTAIN REPORTS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 212, H.R. 1042.

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

The legislative clerk read as follows:

A bill (H.R. 1042) to prevent the elimination of certain reports.

There being no objection, the Senate proceeded to consider the bill.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, that any statements relating thereto be printed in the RECORD.

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

The bill (H.R. 1042) was read the third time and passed.

OFFICE OF GOVERNMENT ETHICS AUTHORIZATION ACT OF 2001

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 207, S. 1202.

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

The legislative clerk read as follows:

A bill (S. 1202) to amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to extend the authorization of appropriations for the Office of Government Ethics through fiscal year 2006.

There being no objection, the Senate proceeded to consider the bill.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the bill be read the third time, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating thereto be printed in the RECORD.

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

The bill (S. 1202) was read the third time and passed, as follows:

S. 1202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Office of Government Ethics Authorization Act of 2001''.

SEC. 2. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

Section 405 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking ''1997 through 1999'' and inserting ''2002 through 2006''.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2002

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 74, the continuing resolution just received from the House and at the desk.

The PRESIDING OFFICER. The clerk will report.

A joint resolution (H.J. Res. 74) making further continuing appropriations for the fiscal year 2002, and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the joint resolution be read the third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The joint resolution (H.J. Res. 74) was read the third time and passed.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mrs. CARNAHAN. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for a period not to exceed 10 minutes.

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

THE ECONOMIC STIMULUS PACKAGE

Mrs. CARNAHAN. Mr. President, yesterday's action by the Senate to block the consideration of an economic stimulus package was unfortunate, untimely, and unnecessary. For the third time in 2 months, we missed an opportunity to bring desperately needed assistance to unemployed workers. We were also blocked from providing tax relief to businesses to encourage new investment, and we were not even permitted to consider a homeland security initiative to meet the safety needs of our homes and communities.

But the resumption of negotiations on an economic stimulus package between congressional leaders and the administration is a positive sign. I say ''resumption of negotiations'' because there were productive talks last month between administration officials and congressional leaders. These talks resulted in an agreement on the size of the stimulus package and consensus was beginning to build.

The Democratic and Republican leaders of the Budget Committee also agreed upon a set of guidelines to develop this legislation. They said it should be immediate, that it should provide a temporary stimulus. They also said it should focus on those who would be most likely to spend the money, and all that was left was to fill in the details.

Unfortunately, the sensible process was abandoned. The House of Representatives pushed through a tax bill that was not temporary, did not provide immediate stimulus, and did not put money into the hands of those most likely to spend it. The House bill was bloated well beyond the size of the package that had been agreed upon, and the permanent changes it would make to the Tax Code would return us to the days of deficit spending and high interest rates.

The bill passed by a slim margin on a partisan vote. The fact that the administration has endorsed this effort is a grave disappointment. Now that we are back at the negotiating table, it is time to return to the bipartisan Budget Committee principles. It should be stimulative, immediate, and temporary.

Nobody can doubt that our economy is in trouble. The employment rate jumped 5.4 percent in October; nearly 8 million workers are unemployed. We must rise above our differences and focus on the priorities that unite us.

Three things are of paramount importance. It is important that we get business growing again. There are a variety of good tax cut proposals for businesses on the table. They would cause immediate investment and growth without busting the budget. Identifying the best set of incentives should not be a difficult task. But it is also important that we invigorate consumer demand. Both sides of the aisle have proposed tax rebate checks to those Americans who did not receive a rebate earlier this year. We know that a $300 rebate to low-income persons would create economic activity because this money will be spent to make ends meet. But it is also important to provide temporary assistance to those who have lost their jobs. As we have in previous recessions, Congress should extend unemployment benefits.

The claim that these benefits would be a disincentive to work is an insult to our workers. I have never met anyone who would rather receive a meager unemployment check than hold a job. But we need to provide unemployment benefits for a longer time than usual because the economy simply is not producing new jobs.

Republicans and Democrats agree that those who have lost their jobs should not also lose their health insurance. But there are many different ideas on the best way to provide health insurance to unemployed workers. Whether it is a tax credit or a subsidy, I am open to these ideas. The important thing is that we not add millions of workers to the ranks of the unemployed and uninsured.

We should also take care that our actions do not compound the fiscal woes of our State and local governments. Many States were already experiencing large budget deficits even before September 11. Since the attacks, there has been a sharp reduction in revenues. There has been an increased burden on essential Government services. If the Federal tax cuts we enact result in a reduction in State revenue, we must find a way to fill the gap for our States.

If we stay focused on our core priorities, we can come to an agreement. We can also be sure that we don't bust the budget in the long run.

Economists have warned us that if we abandon fiscal discipline, we will force long-term interest rates to rise. If we push up home mortgage rates, then any other stimulus we provide will be futile.

Keeping interest rates low is especially important in my State. Missouri has one of the highest rates of home ownership in the country. Seventy-four percent of Missourians own their own homes, and they are counting on us to act responsibly. They are counting on our national leaders to step forward.

The President has shown bold leadership in the war against terrorism, and now they are counting on him to show bold leadership on the economic front as well.

A bipartisan agreement in the Senate is within reach. It is up to the President to bring all parties together for a sensible, balanced economic package that is good for America. That is the challenge. Americans are watching and waiting.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

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

NATIONAL DAY OF RECONCILIATION

Mr. BROWNBACK. Mr. President, I will not take the full period of time. I want to make an announcement and inform the Senate family of something. Last night, we cleared through the Senate a national day of reconciliation to take place in the Senate and the House on December 4.

When we come back, hopefully we will not be in session too much past that, but at least on December 4, there will be a gathering between the House and Senate, and hopefully members of the Cabinet, as a time to support one another and to reconcile.

Historically, this was done 100 years ago, in particular at this time of the year, between Thanksgiving and Christmas. We will try to see the minor differences that have separated us and see if we really cannot make amends with each other, and seek amends with our Creator, if there are things that separate us from Him as well. This is going to take place on December 4. It has passed the House and the Senate as a concurrent resolution. There is a group that is planning on working together to do this, along with the Chaplains of the two bodies.

I wanted to announce that to the Senate. Hopefully, there are people who will want to participate in this gathering. It is voluntary. It will be a private session. Nobody from outside the House, the Senate, or the administration, other than the two Chaplains, will participate. There will be no media present. It is a private, closed session. It will take place in the Rotunda.

It will take place between 5 p.m. and 7 p.m. on December 4. I hope people will mark it on their calendars. This can be a special time given the nature of what has happened in our country, this year in particular, with the events of September 11, with the anthrax scares, and with the plane that went down this week out of New York. We have had a lot of trial and trauma in this Nation. It has called upon us to unify and pull together. We need to continually do that.

This will be an effort for us to do just that—to reconcile with one another, to reconcile with our Creator. I think it is an important model for us to show to the Nation. I hope people can participate in that as well.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

JAMES A. McCLURE FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. CRAPO. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 220, S. 1459.

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

The legislative clerk read as follows:

A bill (S. 1459) to designate the Federal building and United States courthouse located at 550 West Fort Street in Boise, Idaho, as the ''James A. McClure Federal Building and United States Courthouse''.

There being no objection, the Senate proceeded to consider the bill.

Mr. CRAPO. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1459) was read the third time and passed, as follows:

S. 1459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF JAMES A. MCCLURE FEDERAL BUILDING AND UNITED STATES COURTHOUSE.

The Federal building and United States courthouse located at 550 West Fort Street in Boise, Idaho, shall be known and designated as the ''James A. McClure Federal Building and United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the James A. McClure Federal Building and United States Courthouse.

Mr. CRAPO. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

WAYNE LYMAN MORSE UNITED STATES COURTHOUSE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 167, S. 1270.

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

The legislative clerk read as follows:

A bill (S. 1270) to designate the United States courthouse to be constructed at 8th Avenue and Mill Street, in Eugene, Oregon, as the ''Wayne Lyman Morse United States Courthouse''.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD, with no intervening action or debate.

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

The bill (S. 1270) was read the third time and passed, as follows:

S. 1270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF WAYNE LYMAN MORSE UNITED STATES COURTHOUSE.

The United States courthouse to be constructed at 8th Avenue and Mill Street in Eugene, Oregon, shall be known and designated as the ''Wayne Lyman Morse United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the Wayne Lyman Morse United States Courthouse.

AFGHAN WOMEN AND CHILDREN RELIEF ACT OF 2001

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 203, S. 1573.

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

The legislative clerk read as follows:

A bill (S. 1573) to authorize the provision of educational and health care assistance to the women and children of Afghanistan.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2158

Mr. REID. Mr. President, there is an amendment proposed by Senator HUTCHISON of Texas, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. HUTCHISON, proposes an amendment numbered 2158.

The amendment is as follows:

(Purpose: To amend the reporting and funding provisions)

Beginning on page 4, strike line 19 and all that follows through page 5, line 16, and insert the following:

(2) Beginning 6 months after the date of enactment of this Act, and at least annually for the 2 years thereafter, the Secretary of State shall submit a report to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives describing the activities carried out under this Act and otherwise describing the condition and status of

women and children in Afghanistan and the persons in refugee camps while United States aid is given to displaced Afghans.

(c) AVAILABILITY OF FUNDS.—Funds made available under the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38), shall be available to carry out this Act.

Mr. REID. Mr. President, I ask unanimous consent that the amendment be agreed to.

The amendment (No. 2158) was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1573), as amended, was read the third time and passed, as follows:

S. 1573

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Afghan Women and Children Relief Act of 2001''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) In Afghanistan, Taliban restrictions on women's participation in society make it nearly impossible for women to exercise their basic human rights. The Taliban restrictions on Afghan women's freedom of expression, association, and movement deny women full participation in society and, consequently, from effectively securing basic access to work, education, and health care.

(2) Afghanistan has one of the highest infant (165 of 1000) and child (257 of 1000) mortality rates in the world.

(3) Only 5 percent of rural and 39 percent of urban Afghans have access to safe drinking water.

(4) It is estimated that 42 percent of all deaths in Afghanistan are due to diarrheal diseases caused by contaminated food and water.

(5) Over one-third of Afghan children under 5 years of age suffer from malnutrition, 85,000 of whom die annually.

(6) Seventy percent of the health care system in Afghanistan is dependent on foreign assistance.

(7) As of May 1998, only 20 percent of hospital medical and surgical beds dedicated to adults were available for women, and thousands of Afghan women and girls are routinely denied health care.

(8) Women are forbidden to leave their homes without being escorted by a male relative. This prevents many women from seeking basic necessities like health care and food for their children. Doctors, virtually all of whom are male, are also not permitted to provide certain types of care not deemed appropriate by the Taliban.

(9) Before the Taliban took control of Kabul, schools were coeducational, with women accounting for 70 percent of the teaching force. Women represented about 50 percent of the civil service corps, and 40 percent of the city's physicians were women. Today, the Taliban prohibits women from working as teachers, doctors, and in any other occupation.

(10) The Taliban prohibit girls and women from attending school. In 1998, the Taliban ordered the closing of more than 100 privately funded schools where thousands of young women and girls were receiving education and training in skills that would have helped them support themselves and their families.

(11) Of the many tens of thousands of war widows in Afghanistan, many are forced to beg for food and to sell their possessions because they are not allowed to work.

(12) Resistance movements courageously continue to educate Afghan girls in secrecy and in foreign countries against Taliban law.

SEC. 3. AUTHORIZATION OF ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b), the President is authorized, on such terms and conditions as the President may determine, to provide educational and health care assistance for the women and children living in Afghanistan and as refugees in neighboring countries.

(b) IMPLEMENTATION.—(1) In providing assistance under subsection (a), the President shall ensure that such assistance is provided in a manner that protects and promotes the human rights of all people in Afghanistan, utilizing indigenous institutions and nongovernmental organizations, especially women's organizations, to the extent possible.

(2) Beginning 6 months after the date of enactment of this Act, and at least annually for the 2 years thereafter, the Secretary of State shall submit a report to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives describing the activities carried out under this Act and otherwise describing the condition and status of women and children in Afghanistan and the persons in refugee camps while United States aid is given to displaced Afghans.

(c) AVAILABILITY OF FUNDS.—Funds made available under the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38), shall be available to carry out this Act.

AUTHORIZING TESTIMONY, DOCUMENT PRODUCTION AND LEGAL REPRESENTATION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 181, introduced earlier today by the majority and minority leaders.

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

The legislative clerk read as follows:

A resolution (S. Res. 181) to authorize testimony, document production, and legal representation in State of Idaho v. Joseph Daniel Hooper.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, this resolution concerns a request for testimony in a criminal action in Idaho District Court for the County of Kootenai. In the case of Senate of Idaho v. Joseph Daniel Hooper, the Coeur d'Alene city attorney's office has charged the defendant with two counts of misdemeanor telephone harassment, the first of which arises out of calls to Senator CRAIG's office. Pursuant to subpoena issued on behalf of the city prosecutor, this resolution authorizes a former employee in Senator CRAIG's Coeur d'Alene office who witnessed the events giving rise to this first harassment charge, and any other employee in the Senator's office from whom testimony may be required, to testify and produce documents at trial, with representation by the Senate Legal Counsel.

Mr. REID. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, with no intervening action.

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

The resolution (S. Res. 181) was agreed to.

The preamble was agreed to.

(The text of the resolution, with its preamble, is printed in today's RECORD under ''Statements on Submitted Resolutions.'')

EXPRESSING APPRECIATION TO THE UNITED KINGDOM

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 225, S. Res. 174.

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

The legislative clerk read as follows:

A resolution (S. Res. 174) expressing appreciation to the United Kingdom for its solidarity and leadership as an ally of the United States and reaffirming the special relationship between the two countries.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I extend my congratulations to the Presiding Officer for this resolution. It was sponsored by the Presiding Officer. It is certainly timely. America does not have a better friend anywhere in the world than the people of Great Britain.

I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements related thereto be printed in the RECORD.

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

The resolution (S. Res. 174) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 174

Whereas the United Kingdom has been a stalwart and loyal ally to the United States;

Whereas in response to the September 11, 2001 terrorist attacks on the United States the Prime Minister of the United Kingdom, Tony Blair, declared that ''America is our closest ally and friend. The links between our two peoples are many and close and have been further strengthened over the last few days. We believe in Britain that you stand by your friends in times of trial just as America stood by us'';

Whereas the United Kingdom has worked with the United States to build and consolidate an international coalition of countries determined to defeat the scourge of terrorism;

Whereas Prime Minister Tony Blair and other senior officials of the Government of

the United Kingdom have personally traveled to foreign capitals, including Moscow, Islamabad, and New Delhi, as part of the effort to build this international coalition; and

Whereas British military forces participated in the initial strikes against the Taliban and the Al Qaeda terrorist network and continue to fight side by side with United States forces in this war against terrorism: Now, therefore, be it

Resolved, That the Senate—

(1) extends its most heartfelt appreciation to the United Kingdom for its unwavering solidarity and leadership as an ally of the United States; and

(2) reaffirms the special relationship of history, shared values, and common strategic interests that the United States enjoys with the United Kingdom.

EXPRESSING SENSE OF CONGRESS REGARDING NATIONAL PEARL HARBOR REMEMBRANCE DAY

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res 44, and the Senate proceed to its immediate consideration.

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

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 44) expressing the sense of the Congress regarding National Pearl Harbor Remembrance Day.

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 2159

Mr. REID. Mr. President, it is my understanding Senators FITZGERALD and DURBIN have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. FITZGERALD, for himself, and Mr. DURBIN, proposes an amendment numbered 2159.

The amendment is as follows:

(Purpose: To express the sense of the Congress regarding National Pearl Harbor Remembrance Day)

Strike all after the resolving clause and insert the following:

''That the Congress, on the occasion of the 60th anniversary of December 7, 1941, pays tribute to—

''(1) the United States citizens who died as a result of the attack by Japanese imperial forces on Pearl Harbor, Hawaii; and

''(2) the service of the American sailors and soldiers who survived the attack.''.

Mr. REID. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 2159) was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution, as amended, be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 44), as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 44

Whereas on December 7, 1941, the Imperial Japanese Navy and Air Force attacked units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii;

Whereas 2,403 members of the Armed Forces of the United States were killed in the attack on Pearl Harbor;

Whereas there are more than 12,000 members of the Pearl Harbor Survivors Association;

Whereas the 60th anniversary of the attack on Pearl Harbor will be December 7, 2001;

Whereas on August 23, 1994, Public Law 103–308 was enacted, designating December 7 of each year as National Pearl Harbor Remembrance Day; and

Whereas Public Law 103–308, reenacted as section 129 of title 36, United States Code, requests the President to issue each year a proclamation calling on the people of the United States to observe National Pearl Harbor Remembrance Day with appropriate ceremonies and activities, and all departments, agencies, and instrumentalities of the Federal Government, and interested organizations, groups, and individuals, to fly the flag of the United States at half-staff each December 7 in honor of the individuals who died as a result of their service at Pearl Harbor: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress, on the occasion of the 60th anniversary of December 7, 1941, pays tribute to—

(1) the United States citizens who died as a result of the attack by Japanese Imperial Forces on Pearl Harbor, Hawaii; and

(2) the service of the American sailors and soldiers who survived the attack.

SMALL BUSINESS INVESTMENT COMPANY AMENDMENTS ACT OF 2001

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Calendar No. 143, S. 1196.

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

The legislative clerk read as follows:

A bill (S. 1196) to amend the Small Business Investment Act of 1958 and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the Bond and Kerry amendment which is at the desk be agreed to, the bill, as amended, be read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2160) was agreed to, as follows:

(Purpose: To amend the bill with respect to subsidy fees)

On page 2, lines 8 and 16, strike ''1.28'' each place it appears and insert ''1.38''.

Mr. KERRY. Mr. President, it is very important that we pass S. 1196, the Small Business Investment Company Amendments Act of 2001, today. Until this legislation is enacted, the SBA cannot provide any leverage to the SBICs to make investments. We need to vote, send it to the House and on to the President's desk for signature.

I joined Senator BOND in introducing this bill in July and all 19 members of our committee have agreed unanimously in favor of its passage. Why does it enjoy so much support? For anyone who missed the article in the Washington Post on November 1, let me talk about the track record of SBA's venture capital program and the role it plays in our economy.

Last year, the Agency financed 4,600 venture capital deals, investing $5.6 billion in our fastest-growing small businesses. Over the last 5 years, investing by SBIC-licensed firms has accounted for half of all venture-financing deals. Since its inception, the program has also returned $700 million directly to Federal coffers. Despite this impressive track record, the President's budget eliminated funding for the SBIC participating securities program and reduced the program level for the debenture program, which requires no appropriations. With venture capital having all but dried up, this is no time to eliminate funding and restrict activity for the SBIC programs. As I have said so many times, the programs at the SBA are a bargain. For very little, taxpayers leverage their money to help thousands of small businesses every year and fuel the economy.

In the SBIC participating securities program last year, taxpayers spent $1.31 for every $100 leveraged for investment in our fastest-growing companies—companies like Staples, Callaway Golf, Federal Express, and Apple Computer.

The main purpose of this act is to adjust the fees charged to Participating Security SBICs from 1 percent to 1.38 percent. The change is necessary because, at the President's request, all funding for this program was eliminated. I disagree with that. I preferred to show fiscal responsibility by level funding the program and then increasing the fees only as much as necessary to raise the program level from $2 billion to $3.5 billion. Consistent with that opinion, as my colleagues may remember, Senator BOND and I offered an amendment to the Budget Resolution, Amendment No. 183, that did just that. It was agreed to in the Senate by voice vote in April and retained in the final budget resolution. Unfortunately, the appropriators had very tough decisions to make and the funding agreed to in our budget amendment was not included in the appropriations process. Despite my disagreement, I am supporting S. 1196 and joining Senator BOND in offering this amendment because if we want to continue this program, it must be funded entirely through fees, which forces us to authorize the fee change.

For the record, let me state that the National Association of Small Business

Investment Companies testified before both the Senate and House Committees on Small Business in favor of increasing the program level from $2 billion to $3.5 billion. As I just explained, this legislation makes that possible.

The other modifications strengthen the oversight and authority of the SBA to take action against bad actors, protect the integrity of the program, and streamline operations.

Mr. BOND. Mr. President, I rise today to urge my colleagues in the Senate to pass the ''Small Business Investment Company Amendments Act of 2001,'' S. 1196. This bill is important for one simple reason: once enacted it paves the way for more investment capital to be available for more small businesses that are seeking to grow and hire new employees.

There has been a significant growth in the small business sector of the U.S. economy over the past two decades. Today, small businesses make up over ½ of the entire U.S. economy. Over 99 percent of all employers in the United States are small businesses. They employ over 50 percent of workers and provide 75 percent of the net new jobs each year. Small businesses generate 51 percent of the Nation's private sector output. In light of the ongoing dip in the U.S. economy with the accompanying retrenchment by many businesses, both large and small, S. 1196 will serve as part of the solution to move us toward a recovery.

Before voting on S. 1196, I will offer an amendment that will permit the Small Business Administration to increase fees paid by Small Business Investment Companies up to 1.38 percent. When the Committee on Small Business unanimously approved the bill on July 19, 2001, the Committee adopted a fee increase from 1.0 percent to 1.28 percent. At that time, some members of the committee believed they could obtain an appropriation for the SBIC Participating Securities Program that would offset part of the fee increase. At this time, it appears unlikely that the Conferees on the Commerce Justice State Appropriations bill will approve any funds for the SBIC program. Consequently, it is critical that the Senate approve a fee increase to 1.38 percent, as required by the Federal Credit Reform Act of 1990; otherwise, the SBIC Participating Securities Program will be shut down.

In 1958, Congress created the SBIC program to assist small business owners in obtaining investment capital. Forty years later, small businesses continue to experience difficulty in obtaining investment capital from banks and traditional investment sources. Although investment capital is readily available to large businesses from traditional Wall Street investment firms, small businesses seeking investments in the range of $500,000–$3 million have to look elsewhere. SBICs are frequently the only sources of investment capital for growing small businesses.

Often we are reminded that the SBIC program has helped some of our Nations best known companies. It has provided a financial boost at critical points in the early growth period for many companies that are familiar to all of us. For example, Federal Express received a needed infusion of capital from two SBA-licensed SBICs at a critical juncture in its development stage. The SBIC program also helped other well-known companies, when they were not so well-known, such as Intel, Outback Steakhouse, America Online, and Callaway Golf.

What is not well known is the extraordinary help the SBIC program provides to Main Street America small businesses. These are companies we know from home towns all over the United States. Main Street companies provide both stability and growth in our local business communities. A good example of a Main Street company is Steelweld Equipment Company, founded in 1932, which designs and manufacturers utility truck bodies in St. Clair, Missouri. The truck bodies are mounted on chassis made by Chrysler, Ford, and General Motors. Steelweld provides truck bodies for Southwestern Bell Telephone Co., Texas Utilities, Paragon Cable, GTE, and GE Capital Fleet.

Steelweld is a privately held, woman-owned corporation. The owner, Elaine Hunter, went to work for Steelweld in 1966 as a billing clerk right out of high school. She rose through the ranks of the company and was selected to serve on the board of directors. In December 1995, following the death of Steelweld's founder and owner, Ms. Hunter received financing from a Missouri-based SBIC, Capital for Business, CFB, Venture Fund II, to help her complete the acquisition of Steelweld. CFB provided $500,000 in subordinated debt. Senior bank debt and seller debt were also used in the acquisition.

Since Ms. Hunter acquired Steelweld, its manufacturing process was redesigned to make the company run more efficiently. By 1997, Steelweld's profitability had doubled, with annual sales of $10 million and 115 employees. SBIC program success stories like Ms. Hunter's experience at Steelweld occur regularly throughout the United States.

In 1991, the SBIC program was experiencing major losses, and the future of the program was in doubt. Consequently, in 1992 and 1996, the Committee on Small Business worked closely with the Small Business Administration to correct deficiencies in the law in order to ensure the future of the program.

Today, the SBIC Program is expanding rapidly in an effort to meet the growing demands of small business owners for debt and equity investment capital. And it is important to focus on the significant role that is played by the SBIC program in support of growing small businesses. When Fortune Small Business compiled its list of 100 fastest growing small companies in 2000, 6 of the top 12 businesses on the list received SBIC financing during their critical growth years.

The ''Small Business Investment Company Amendments Act of 2001,'' as amended, would permit the annual interest fee paid by Participating Securities SBICs to increase from 1.0 percent to no more than 1.38 percent. In addition, the bill would make three technical changes to the Small Business Investment Act of 1958 ('58 Act) that are intended to make improvements in the day-to-day operation of the SBIC program.

Projected demand for the Participating Securities SBIC program for FY 2002 is $3.5 billion, a significant increase over the FY 2001 program level of $2.5 billion. It is imperative that Congress approve this relatively small increase in the annual interest charge paid by the Participating Securities SBICs before the end of the fiscal year. The fee increase included in the bill, 1.38 percent, will allow the program to operate at its authorized level—$3.5 billion—an amount needed to help support small businesses as they help lead out country to an economic recovery.

The ''Small Business Investment Company Amendments Act of 2001'' would also make some relatively technical changes the '58 Act that are drafted to improve the operations of the SBIC program. Section 3 would remove the requirement that the SBA take out local advertisements when it seeks to determine if a conflict of interest exists involving an SBIC. This section has been recommended by the SBA, that has informed me that it has never received a response to a local advertisement and believes the requirement is unnecessary.

The bill would amend Title 12 and Title 18 of the United States Code to insure that false statements made to the SBA under the SBIC program would have the same penalty as making false statements to an SBIC. This section would make it clear that a false statement to SBA or to an SBIC for the purpose of influencing their respective actions taken under the '58 Act would be a criminal violation. The courts could then assess civil and criminal penalties for such violations.

Section 5 of the bill would amend Section 313 of the '58 Act to permit the SBA to remove or suspend key management officials of an SBIC when they have willfully and knowingly committed a substantial violation of the '58 Act, any regulation issued by the SBA under the Act, a cease-and-desist order that has become final, or committed or engaged in any act, omission or practice that constitutes a substantial breach of a fiduciary duty of that person as a management official.

The amendment expands the definition of persons covered by Section 313 to be ''management officials,'' which includes officers, directors, general partners, managers, employees, agents or other participants in the management or conduct of the SBIC. At the time Section 313 if the '58 Act was enacted in November 1966, an SBIC was organized as a corporation. Since that

time, SBIC has been organized as partnerships and Limited Liability Companies (LLCs), and this amendment would take into account those organizations.

Time is of the essence. We need to act promptly and pass the Small Business Investment Company Act of 2001 today, so that the House of Representatives has time to act before the Congress adjourns in the coming weeks.

The bill was read the third time and passed, as follows:

S. 1196

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Investment Company Amendments Act of 2001''.

SEC. 2. SUBSIDY FEES.

(a) IN GENERAL.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) in subsection (b)—

(A) by striking ''of not more than 1 percent per year'';

(B) by inserting ''which amount may not exceed 1.38 percent per year, and'' before ''which shall be paid''; and

(C) by striking ''September 30, 2000'' and inserting ''September 30, 2001''; and

(2) in subsection (g)(2)—

(A) by striking ''of not more than 1 percent per year'';

(B) by inserting ''which amount may not exceed 1.38 percent per year, and'' before ''which shall be paid''; and

(C) by striking ''September 30, 2000'' and inserting ''September 30, 2001''.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 2001.

SEC. 3. CONFLICTS OF INTEREST.

Section 312 of the Small Business Investment Act of 1958 (15 U.S.C. 687d) is amended by striking ''(including disclosure in the locality most directly affected by the transaction)''.

SEC. 4. PENALTIES FOR FALSE STATEMENTS.

(a) CRIMINAL PENALTIES.—Section 1014 of title 18, United States Code, is amended by inserting '', as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or the Small Business Administration in connection with any provision of that Act'' after ''small business investment company''.

(b) CIVIL PENALTIES.—Section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833a) is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) in subsection (c)—

(A) in paragraph (1), by striking ''or'' at the end;

(B) in paragraph (2)—

(i) by striking ''1341;'' and inserting ''1341''; and

(ii) by striking ''institution.'' and inserting ''institution; or'';

(C) by inserting immediately after paragraph (2) the following:

''(3) section 16(a) of the Small Business Act (15 U.S.C. 645(a)).''; and

(D) by striking ''This section shall'' and inserting the following:

''(d) EFFECTIVE DATE.—This section shall''.

SEC. 5. REMOVAL OR SUSPENSION OF MANAGEMENT OFFICIALS.

Section 313 of the Small Business Investment Act of 1958 (15 U.S.C. 687e) is amended to read as follows:

''SEC. 313. REMOVAL OR SUSPENSION OF MANAGEMENT OFFICIALS.

''(a) DEFINITION OF 'MANAGEMENT OFFICIAL'.—In this section, the term 'management official' means an officer, director, general partner, manager, employee, agent, or other participant in the management or conduct of the affairs of a licensee.

''(b) REMOVAL OF MANAGEMENT OFFICIALS.—

''(1) NOTICE OF REMOVAL.—The Administrator may serve upon any management official a written notice of its intention to remove that management official whenever, in the opinion of the Administrator—

''(A) such management official—

''(i) has willfully and knowingly committed any substantial violation of—

''(I) this Act;

''(II) any regulation issued under this Act; or

''(III) a cease-and-desist order which has become final; or

''(ii) has willfully and knowingly committed or engaged in any act, omission, or practice which constitutes a substantial breach of a fiduciary duty of that person as a management official; and

''(B) the violation or breach of fiduciary duty is one involving personal dishonesty on the part of such management official.

''(2) CONTENTS OF NOTICE.—A notice of intention to remove a management official, as provided in paragraph (1), shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon.

''(3) HEARINGS.—

''(A) TIMING.—A hearing described in paragraph (2) shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of notice of the hearing, unless an earlier or a later date is set by the Administrator at the request of—

''(i) the management official, and for good cause shown; or

''(ii) the Attorney General of the United States.

''(B) CONSENT.—Unless the management official shall appear at a hearing described in this paragraph in person or by a duly authorized representative, that management official shall be deemed to have consented to the issuance of an order of removal under paragraph (1).

''(4) ISSUANCE OF ORDER OF REMOVAL.—

''(A) IN GENERAL.—In the event of consent under paragraph (3)(B), or if upon the record made at a hearing described in this subsection, the Administrator finds that any of the grounds specified in the notice of removal has been established, the Administrator may issue such orders of removal from office as the Administrator deems appropriate.

''(B) EFFECTIVENESS.—An order under subparagraph (A) shall—

''(i) become effective at the expiration of 30 days after the date of service upon the subject licensee and the management official concerned (except in the case of an order issued upon consent as described in paragraph (3)(B), which shall become effective at the time specified in such order); and

''(ii) remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court in accordance with this section.

''(c) AUTHORITY TO SUSPEND OR PROHIBIT PARTICIPATION.—

''(1) IN GENERAL.—The Administrator may, if the Administrator deems it necessary for the protection of the licensee or the interests of the Administration, suspend from office or prohibit from further participation in any manner in the management or conduct of the affairs of the licensee, or both, any management official referred to in subsection (b)(1), by written notice to such effect served upon the management official.

''(2) EFFECTIVENESS.—A suspension or prohibition under paragraph (1)—

''(A) shall become effective upon service of notice under paragraph (1); and

''(B) unless stayed by a court in proceedings authorized by paragraph (3), shall remain in effect—

''(i) pending the completion of the administrative proceedings pursuant to a notice of intention to remove served under subsection (b); and

''(ii) until such time as the Administrator shall dismiss the charges specified in the notice, or, if an order of removal or prohibition is issued against the management official, until the effective date of any such order.

''(3) JUDICIAL REVIEW.—Not later than 10 days after any management official has been suspended from office or prohibited from participation in the management or conduct of the affairs of a licensee, or both, under paragraph (1), that management official may apply to the United States district court for the judicial district in which the home office of the licensee is located, or the United States District Court for the District of Columbia, for a stay of the suspension or prohibition pending the completion of the administrative proceedings pursuant to a notice of intent to remove served upon the management official under subsection (b), and such court shall have jurisdiction to stay such action.

''(d) AUTHORITY TO SUSPEND ON CRIMINAL CHARGES.—

''(1) IN GENERAL.—Whenever a management official is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the Administrator may, by written notice served upon that management official, suspend that management official from office or prohibit that management official from further participation in any manner in the management or conduct of the affairs of the licensee, or both.

''(2) EFFECTIVENESS.—A suspension or prohibition under paragraph (1) shall remain in effect until the subject information, indictment, or complaint is finally disposed of, or until terminated by the Administrator.

''(3) AUTHORITY UPON CONVICTION.—If a judgment of conviction with respect to an offense described in paragraph (1) is entered against a management official, then at such time as the judgment is not subject to further appellate review, the Administrator may issue and serve upon the management official an order removing that management official, which removal shall become effective upon service of a copy of the order upon the licensee.

''(4) AUTHORITY UPON DISMISSAL OR OTHER DISPOSITION.—A finding of not guilty or other disposition of charges described in paragraph (1) shall not preclude the Administrator from thereafter instituting proceedings to suspend or remove the management official from office, or to prohibit the management official from participation in the management or conduct of the affairs of the licensee, or both, pursuant to subsection (b) or (c).

''(e) NOTIFICATION TO LICENSEES.—Copies of each notice required to be served on a management official under this section shall also be served upon the interested licensee.

''(f) PROCEDURAL PROVISIONS; JUDICIAL REVIEW.—

''(1) HEARING VENUE.—Any hearing provided for in this section shall be—

''(A) held in the Federal judicial district or in the territory in which the principal office

of the licensee is located, unless the party afforded the hearing consents to another place; and

''(B) conducted in accordance with the provisions of chapter 5 of title 5, United States Code.

''(2) ISSUANCE OF ORDERS.—After a hearing provided for in this section, and not later than 90 days after the Administrator has notified the parties that the case has been submitted for final decision, the Administrator shall render a decision in the matter (which shall include findings of fact upon which its decision is predicated), and shall issue and cause to be served upon each party to the proceeding an order or orders consistent with the provisions of this section.

''(3) AUTHORITY TO MODIFY ORDERS.—The Administrator may modify, terminate, or set aside any order issued under this section—

''(A) at any time, upon such notice, and in such manner as the Administrator deems proper, unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (4)(B), and thereafter until the record in the proceeding has been filed in accordance with paragraph (4)(C); and

''(B) upon such filing of the record, with permission of the court.

''(4) JUDICIAL REVIEW.—

''(A) IN GENERAL.—Judicial review of an order issued under this section shall be exclusively as provided in this subsection.

''(B) PETITION FOR REVIEW.—Any party to a hearing provided for in this section may obtain a review of any order issued pursuant to paragraph (2) (other than an order issued with the consent of the management official concerned, or an order issued under subsection (d)), by filing in the court of appeals of the United States for the circuit in which the principal office of the licensee is located, or in the United States Court of Appeals for the District of Columbia Circuit, not later than 30 days after the date of service of such order, a written petition praying that the order of the Administrator be modified, terminated, or set aside.

''(C) NOTIFICATION TO ADMINISTRATION.—A copy of a petition filed under subparagraph (B) shall be forthwith transmitted by the clerk of the court to the Administrator, and thereupon the Administrator shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

''(D) COURT JURISDICTION.—Upon the filing of a petition under subparagraph (A)—

''(i) the court shall have jurisdiction, which, upon the filing of the record under subparagraph (C), shall be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Administrator, except as provided in the last sentence of paragraph (3)(B);

''(ii) review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code; and

''(iii) the judgment and decree of the court shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, United States Code.

''(E) JUDICIAL REVIEW NOT A STAY.—The commencement of proceedings for judicial review under this paragraph shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Administrator under this section.''.

PATENT, COPYRIGHT AND TRADEMARK LAW TECHNICAL CORRECTIONS

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House to accompany S. 320.

The PRESIDING OFFICER laid before the Senate the following message:

Resolved, That the bill from the Senate (S. 320) entitled ''An Act to make technical corrections in patent, copyright, and trademark laws'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Intellectual Property and High Technology Technical Amendments Act of 2001''.

SEC. 2. OFFICERS AND EMPLOYEES.

(a) RENAMING OF OFFICERS.—(1)(A) Except as provided in subparagraph (B), title 35, United States Code, other than section 210(d), is amended—

(i) by striking ''Director'' each place it appears and inserting ''Commissioner''; and

(ii) by striking ''Director's'' each place it appears and inserting ''Commissioner's''.

(B) Section 3(b)(5) of title 35, United States Code, is amended by striking ''Director'' the first place it appears and inserting ''Commissioner''.

Mr. REID. Mr. President, I ask unanimous consent the Senate concur with the House amendment with a further amendment which is at the desk.

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

The amendment (No. 2162) is agreed to.

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

MUSCULAR DYSTROPHY COMMUNITY ASSISTANCE, RESEARCH AND EDUCATION AMENDMENTS OF 2001

Mr. REID. I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 208, H.R. 717.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 717) to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and Emery-Dreifuss muscular dystrophies.

There being no objection, the Senate proceeded to consider the bill (H.R. 717) which had been reported from the Committee on Health, Education, Labor, and Pensions with an amendment, as follows:

On page 16, after line 21, insert the following:

SEC. 7. STUDY ON THE USE OF CENTERS OF EXCELLENCE AT THE NATIONAL INSTITUTES OF HEALTH.

(a) REVIEW.—Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the purpose of conducting a study and making recommendations on the impact of, need for, and other issues associated with Centers of Excellence at the National Institutes of Health.

(b) AREAS OF REVIEW.—In conducting the study under subsection (a), the Institute of Medicine shall at a minimum consider the following:

(1) The current areas of research incorporating Centers of Excellence (which shall include a description of such areas) and the relationship of this form of funding mechanism to other forms of funding for research grants, including investigator initiated research, contracts and other types of research support awards.

(2) The distinctive aspects of Centers of Excellence, including the additional knowledge that may be expected to be gained through Centers of Excellence as compared to other forms of grant or contract mechanisms.

(3) The costs associated with establishing and maintaining Centers of Excellence, and the record of scholarship and training resulting from such Centers. The research and training contributions of Centers should be assessed on their own merits and in comparison with other forms of research support.

(4) Specific areas of research in which Centers of Excellence may be useful, needed, or underused, as well as areas of research in which Centers of Excellence may not be helpful.

(5) Criteria that may be applied in determining when Centers of Excellence are an appropriate and cost-effective research investment and conditions that should be present in order to consider the establishment of Centers of Excellence.

(6) Alternative research models that may accomplish results similar to or greater than Centers of Excellence.

(c) REPORT.—Not later than 1 year after the date on which the contract is entered into under subsection (a), the Institute of Medicine shall complete the study under such subsection and submit a report to the Secretary of Health and Human Services and the appropriate committees of Congress that contains the results of such study.

Mr. REID. I ask unanimous consent the committee amendment be agreed to, the bill, as amended, be read three times, passed, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD, with no intervening action or debate.

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

The committee amendment was agreed to.

The bill (H.R. 717), as amended, was read the third time and passed.

PROVIDING AUTHORITY TO THE FEDERAL POWER MARKETING ADMINISTRATIONS TO REDUCE VANDALISM AND DESTRUCTION OF PROPERTY

Mr. REID. Mr. President, finally, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2924 that was recently received from the House and which is now at the desk.

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

The legislative clerk read as follows:

A bill (H.R. 2924) to provide authority to the Federal Power Marketing Administrations to reduce vandalism and destruction of property, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read three times, passed, the

motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD, with the above occurring with no intervening action or debate.

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

The bill (H.R. 2924) was read the third time and passed.

ECONOMIC STIMULUS

Mr. KENNEDY. Mr. President, on Tuesday, we began debate about the economic stimulus package. We know the economy is in trouble, and we know we have to act. Clearly, by any standard, we face an economic emergency that demands responsible action by Congress.

The American people want action by Congress too. They strongly support our Democratic proposals to provide unemployment insurance and health insurance to laid-off workers, and Federal assistance to States. They know it's an emergency in the economy and they know it is an emergency for the hundreds of thousands of men and women without unemployment insurance or health insurance.

Yet, some of our colleagues in Congress oppose this action. Instead, they support a bill that would retroactively repeal the corporate minimum tax and give the largest corporations $25 billion in direct payments from the U.S. Treasury. They don't think laid-off workers who can't afford, or don't have, health insurance are an emergency. Instead, they support spending $120 billion to accelerate the reduction of upper income tax rates, 80 percent of which won't go into the economy until after next year.

Our economy is in trouble. There is no denying it. Just ask the men and women who have lost their jobs and have to tell their families every week that they cannot find new employment. They will tell you how hard it is to put food on their families' tables each week. They will tell you how hard it is to watch their bills piling up with no end in sight.

If that's not enough, look at the numbers.

Only 38 percent of unemployed workers receive unemployment insurance. This figure is down from 75 percent in 1975. And, the figure is much worse for low-wage workers. According to a new study by the National Campaign for Jobs and Income Support, only 20 percent of unemployed low-wage workers will qualify for benefits during a recession.

These workers are least likely to qualify for unemployment benefits, and they are most likely to be laid off. They are struggling to keep a roof over their families' heads and to afford food for their children. We know that the number of hungry children has grown in recent years. Unless we do more to help, the number will continue to grow.

Yesterday, America's Second Harvest released the largest, most comprehensive report on the plight of hungry Americans. Last year, 23 million Americans, including 9 million children, sought emergency food relief through America's Second Harvest. The current downturn in the economy means that even more families are facing the difficult choice between feeding their children and paying the rent, a choice no person should have to make.

These findings demonstrate the dramatic rise in hunger and related health problems among children. They demonstrate that current unemployment benefits are not adequate to help working families during the current economic downturn. We need to do more to see that families can afford to put food on their tables. Our Democratic plan provides unemployment benefits to 600,000 more low-wage and part-time workers and increase these benefits by at least $25 a week.

The economy needs stimulus now. Workers need assistance now.

The best way to accomplish both of these goals is to get relief to the families who need it the most. Economists across the country agree that providing relief to low- and moderate-income families is one of the most effective ways to stimulate the economy.

The Democratic plan would stimulate the economy right away, by putting money in the hands of the people most likely to spend it—dislocated workers and their families. We do that by strengthening the unemployment insurance system, improving workers' ability to afford health care, and providing a tax rebate for those who did not receive a full rebate earlier this year.

Unemployment insurance is the Nation's first line of defense in an economic recession. By putting UI trust fund dollars into the declining economy, we automatically boost consumer spending in communities affected by rising unemployment, while meeting essential needs of households hurt by layoffs.

A recent study by the Department of Labor shows that every $1 invested in unemployment insurance generates $2.15 for the Nation's economy. That same study estimated that unemployment insurance ''mitigated the real loss in GDP by 15 percent'' in the last five recessions.

According to Joseph Stiglitz, ''we should extend the duration and magnitude of the benefits we provide to our unemployed. This is not only the fairest proposal, but also the most effective. People who become unemployed cut back on their expenditures. Giving them more money will directly increase expenditures.''

The Congressional Research Service agrees: ''Extending unemployment compensation is, in fact, likely to be a more successful policy for stimulating aggregate demand than many other . . . changes.''

The Republican plan will put very little money into the hands of unemployed workers. It offers no guarantees of extended benefits in most states. In fact, the States with the highest unemployment rates are the least likely to receive help under that plan. Even for those few workers who will be helped, the plan won't provide any benefits until next spring. America's working families must not be left behind when Congress acts on an economic recovery package.

We must also help families afford health insurance. It is also the right thing to do for them, and it is the right thing to do for economy. Providing health insurance for laid-off workers improves the health of our economy. When a parent is forced to choose between health insurance and food on their table, it is unfair for their family, and it undermines the economy.

On average, health insurance premiums for these families cost nearly two-thirds of their unemployment insurance. That is why only 18 percent of workers eligible for COBRA use this coverage. And millions of workers are not eligible for COBRA at all.

This is no time to accept an increase in the uninsured. It is wrong for families and wrong for hospitals, nursing homes, health care workers and many others in the health care sector, which makes up one-seventh of our economy.

The Democratic economic recover plan provides temporary health insurance for workers who have been laid off in the slowing economy. Currently, workers must pay 65 percent of their unemployment check to purchase COBRA health insurance coverage. Our plan to subsidize COBRA coverage would make health care affordable for all displaced workers. States also could receive Federal Medicaid matching payments to cover other laid-off workers who do not qualify for COBRA.

By protecting both workers eligible for COBRA coverage and increasing the Medicaid matching payments, the Senate Democratic plan provides meaningful health coverage for unemployed Americans while the Republican plan will leave families behind. For unemployed workers who are eligible for COBRA, the Senate Democratic plan provides health coverage for 12 months during the economic downturn. The Senate Republican plan provides enough for only 2 weeks of coverage. For unemployed Americans who are not eligible for COBRA, the Democratic plan again provides coverage for 1 year, while the Republican plan offers no assistance.

The plan to provide unemployed workers with health insurance coverage will also be good for the economy by helping to stop a decline in the health care sector. If unemployed individuals who lack health insurance forgo health care, the health care sector will be hurt during the downturn. The health care system has been one of the most vibrant sectors of the economy in recent years. It has been responsible for 30 percent of the real growth in gross domestic product and 45 percent of the net increase in jobs in

the past year. A reduction in the purchase of health care services has an effect on the economy similar to that of other reductions in consumer spending, it dampens economic activity.

Finally, a federal stimulus package will do no good if States have to make spending cuts or raise taxes. The current recession is already having an impact on state budgets. In fact, 35 States have reported budget shortfalls—a shortfall that already totals more than $15 billion and will grow to $30 billion if unemployment continues to increase.

This means that states across the country will have to make drastic cuts. In particular, they are cutting back on Medicaid. In fact, 20 States are already planning to cut Medicaid. At the same time, the number of people on Medicaid is expected to grow by as much as 3 million during this recession, about 2 million of them could be children.

If States cut Medicaid just as more people need it, we are going to see an increase in the uninsured. Also, leading economists believe substantial cuts in state Medicaid budgets would have dramatic ripple effects on the national economy.

Our plan provides financial assistance to States to help avoid devastating cuts in Medicaid, cuts that will hurt State economies and reduce health coverage. States would receive $5.5 billion through an increased Federal Medicaid matching rate, providing an immediate influx of cash into States suffering from the recession-driven budget crisis.

The Senate Republican alternative is unacceptable. It fails to address aid to the States, health care or unemployment insurance in any meaningful way.

The Democratic plan is a fair balance between tax incentives and spending incentives for the economy. The tax incentives in the plan meet the three essential criteria for a stimulus: They will put money into the economy now; they do not impose substantial new long-term costs on the federal budget; and they treat fairly those who are most in need.

Seventy percent of Americans today pay more in payroll taxes than in income taxes. Yet many of them received no tax rebate earlier this year. The rebate unfairly ignored these low and moderate income families. A one-time rebate of payroll taxes to them now will immediately inject $15 billion into the economy, placing the dollars in the hands of people who are likely to spend them immediately. Economists tell us that families with modest incomes are likely to spend the extra money they receive right away on needed consumer goods. Those with higher incomes are more likely to save it.

The Democratic bill also includes temporary, targeted tax cuts to stimulate immediate business activity. These changes provide more favorable treatment for new investments now, and they deserve to be supported.

Because the tax cuts in the Democratic plan are truly designed to be an immediate economic stimulus, they do not incur any substantial cost beyond 2003. This point is vital to our economic recovery. Enacting new permanent tax cuts which can trigger large long-term Federal deficits would be counter-productive. Permanent new tax cuts, on top of the nearly $2 trillion in tax cuts enacted earlier this year, would actually hurt the economy now, by raising the cost of long-term borrowing and discouraging the kinds of investment we need most today.

The House of Representatives passed, by the narrowest of margins, a so-called stimulus package that will not stimulate economic growth in the short term, and will not be affordable in the long term. It merely repackages old, unfair, permanent tax breaks, which were rejected by Congress last spring, under the new label of ''economic stimulus.'' The American people deserve better.

The long-term cost of the House plan is too high, and less than half of the dollars would reach the economy next year. The House plan offers $46 billion in tax breaks to big businesses by permanently repealing the corporate alternative minimum tax and by giving permanent new tax cuts for multinational corporations. These provisions are an unacceptable giveaway of public resources.

The alternative suggested by our Republican colleagues in the Senate is also flawed. Their proposal to accelerate the reduction of upper income tax rates would cost $120 billion over the next decade. Only a small percentage of these dollars, less than one dollar in four, would go into the economy in 2002. And these dollars would go to those least likely to spend them. The result would be little immediate stimulus, large long-term costs, and a grossly unfair distribution to the wealthiest individuals in our society.

In fact, the House Republican proposal gives $115 billion in permanent new tax breaks to wealthy individuals and corporations, while the Senate plan would give them $142 billion in new tax breaks. Yet each of the Republican tax plans provide only $14 billion for low and moderate income families. Under the GOP plan, the tax cuts for corporations and wealthy individuals are permanent, while the cuts for working families are limited to just one year. The result is unfair, and it won't provide the economic stimulus that the nation urgently needs now.

Perhaps never before in history has our nation faced such grave challenges. The tragedy of September 11 has touched us all. Together, we witnessed a horror we could not have imagined, and bravery which inspires us all. The tragedy may have shaken our basic assumptions about the world in which we live. But, Americans have not retreated in fear. Instead, they have risen to meet these new challenges. The spirit of September 11 has compelled vast numbers of our fellow citizens to ask what they can do for their communities and our country.

It is time for Congress to do its part to respond to the emergency we face. We must respond to the economic crisis the Nation faces. As we do so, we must show our dedication to America's best ideals. As we fight for a safer society, we can also create a more just society at the same time. September 11 has taught all Americans that we need to help each other as never before.

We will not ignore the plight of millions of Americans hurt by this tragedy and by economic forces beyond their control. As we work together to get our economy moving again, we can also work together to see that none are left behind.

We have a unique opportunity to give help and hope to every American as we enact a stimulus plan that puts America back to work.

The American people are meeting this challenge, and we must demonstrate to them that Congress is capable of meeting it too. The test we face now is to pass a stimulus package that truly lifts the economy, and lifts it fairly and responsibly. We do have an emergency, and we must address it. The American people are watching this debate closely, and they are waiting for our answer.

Mr. KYL. Mr. President, President Bush has asked us to send him an effective, anti-recession stimulus package. In the spirit of bipartisanship and good faith, he proposed a series of provisions that enjoyed both Republican and Democratic support. After much foot-dragging, the Democratic majority has finally produced a bill. Unfortunately, it appears to be nothing more than a collage of special interest wish lists, from livestock assistance to new entitlements—with very little if anything that will actually stimulate the economy.

It is fat on claims but thin on data. It struts around in the light of day as a bipartisan package, but makes deals in the dark of night to secure votes. The bill before us is an embarrassment to the Senate; it is no good for our country, and it is certainly no good for our economy. There may be many good political reasons for Congress to pass an economic stimulus package, but when pet projects trump fiscal prudence, we miss a historic opportunity to help the American people during a time of great need. We must improve the incentives to work, save, and invest—the real catalysts of economic growth—and the Democratic bill fails on all three counts.

Instead, Democrats insist that increased Government spending serves as the primary tool for boosting economic activity. But look what they are spending money on—sugar beet disaster programs, rural telecommunications infrastructure, and water-treatment and waste disposal facilities. It is no mystery to leading economists, although my colleagues across the aisle will tell you otherwise, that the better approach is to lower tax rates and the tax burden on labor and capital to improve

incentives for workers and business owners. This produces more jobs and generates higher incomes, which in turn translate into higher investment and consumer spending.

Democrats prefer to add new healthcare entitlements and massive pork-barrel spending items rather than accelerate tax cuts for businesses and individuals. Given the amount of money that would be spent under this bill, we would be better off passing no bill at all. The Republican minority strongly supports the President's proposal, and has crafted a bill that reaffirms his principles for economic recovery. As such, criticism of the Republican bill is direct criticism of the President, because it is his bare-bones proposal we introduced. To my Democratic friends, I say, don't take refuge in calling Republicans partisan; if you object to our bill, criticize the President—it's his proposal. The truth is: he's right, and you're wrong.

The American economy is starved for business investment. The President's proposals are designed to stimulate business investment. My Democratic friends say rich people don't spend, only poor people do. Now that is real voodoo economics. Alternative Minimum Tax relief for a business provides money for reinvestment. Neither rich people nor corporations hide their money in a mattress. They invest it, which does . . . what? It creates jobs. What do we need to do today? Create jobs. And what happens when we do that? People have more money to spend. I would rather people have a job than an unemployment check. I would rather they spend their paycheck than an unemployment check.

I recently read an article in which a key Democratic political operative said, in effect, we will stand with the President in the war, but on the domestic front, we'll use issues to our political advantage. Righting our economy is critical to our war effort. We shouldn't be playing politics with it.

So let's stop the political games. Time is short. The President has asked us to produce a bill for him by the end of the month, and the minority intends to do so. We have already come a good distance toward the other side. It is time for Democrats to do the same, and converge upon what the President and the American people think is best.

Ms. MIKULSKI. Mr. President, I rise in support of the Economic Recovery and Assistance to American Workers Act. This legislation is about security, economic security and physical security. This bill will help us achieve two national priorities: homeland defense and economic recovery.

I have four principles for economic stimulus. First, any measure should have a strong, immediate impact. Next, economic recovery provisions should be temporary—sunsetting within one or two years. The overall package should be fiscally responsible to ensure long-term interest rates are not negatively affected. And, lastly, the proposal should be focused on those who need the help the most.

I also have four principles for homeland defense legislation. First, it must give law enforcement the tools they need to prevent attacks. Next, it must give first responders the tools they need to respond to an act of terrorism. Also, it must improve security of our infrastructure. Lastly, it must provide for greater public information, since information is the antidote for panic.

The legislation we're considering today meets my principles.

Our Nation is fighting a war against terrorism. This war is on two fronts: in Afghanistan, and in every community in America. Our military has the right stuff to defeat our enemies. They have honor, courage and patriotism. They also have the best training, best intelligence, best equipment.

Yet on the home front, our communities are foraging. They are forced to choose between keeping communities safe from drug dealers and other thugs, and keeping key infrastructure safe—like bridges, power plants and stadiums.

I recently held a hearing in the VA–HUD Subcommittee to hear the mayors perspective on homeland defense. What did we learn at the hearing? We learned that our local governments are on the front lines of homeland defense. We learned that they are responsible for the protection of our infrastructure, including our bridges, tunnels, and mass transit as well as our first responders, our police and fire fighters.

Yet their resources don't match their responsibilities.

What will happen if we don't pass this homeland security bill?

Costs are shifted to local governments who must forage for funds from local programs. That means higher local taxes and lower security across our Nation.

What does this legislation do? It provides the resources we need to secure our homeland. Local law enforcement is essential to our fight against terrorism. They are our front line of defense. There are 650,000 local police officers and only 11,000 FBI agents. This legislation will provide $2 billion that will go to states to be used for counter-terrorism training for police to train them to prevent and respond to terrorist attacks and for new equipment.

Our firefighters are our protectors. We must protect the protectors. Simply put, that means making sure they have the equipment they need to save lives. Yet fire equipment is very expensive. A new fire engine costs $300,000. A new rescue vehicle costs $500,000. A suit of protective gear for our firefighters costs $1,000 and wears out quickly.

Each year we provide funds for grants to local fire companies, but the funding has been spartan and skimpy. Over 30,000 fire companies requested almost $3 billion dollars worth of equipment this year, including $400 million just for personal protection equipment. In Maryland, 198 fire companies applied for funds so far this year, and yet only 5 received funding.

Clearly, we need to do better.

Even before the tragedy of September 11th, I was fighting for our firefighters. We were able to increase funding for the fire grant program by 50 percent to $150 million in the VA–HUD bill. The Homeland Security bill does even better by providing $600 million for our firefighters.

The Homeland Security bill provides $4 billion for our nation's bioterrorism preparedness and response needs. Our country's ability to recognize and respond to a bioterrorist attack depends on a strong, coordinated public health system. This bill gives state and local public health departments additional resources to prepare for this new germ warfare. State and local public health departments have already been stretched thin. This bill gives them the resources to detect, respond, and contain a possible bioterrorist attack.

This bill recognizes the important role the CDC plays in a public health emergency. It expands CDC's laboratory capacity so public health officials can quickly and accurately identify a suspected biological agent.

To prepare our Nation for a bioterrorist attack, this bill upgrades State and local public health departments; expands laboratory capacity and surveillance at the State, local, and Federal level; and trains first responders to recognize the signs and symptoms of a bioterrorist attack. The bill also improves State and local communications systems; ensures that hospitals and emergency rooms have the expertise and equipment to handle a surge in patients from a bioterrorist attack; increases our nation's supply of antidotes and vaccines against possible biological agents; and, provides significant new resources so that the Food and Drug Administration (FDA) can protect the safety of our nation's food supply with more inspectors and additional tools.

Investments in the fight against bioterrorism will help in our battles against infectious disease and antimicrobial resistance. Our nation's public health system is on the front lines of this new biological war. This bill will make sure they are combat ready and fit-for-duty.

Our Coast Guard used to focus on drug and migrant interdiction, and search and rescue. Today, it's primary role is national security by keeping our ports safe, patrolling around power plants and under bridges, and searching suspicious vessels.

This bill provides $177 million in operating funds. These funds will be used to improve training, and allow for increased patrols without forcing the Coast Guard to cut back on it's other missions.

Terrorists look for weaknesses. We can not let them find these weaknesses on our nation's railroads. We must ensure the safety of all the components of our rail system. This means providing

tunnel security which means preventing people from entering tunnels. It includes terminal safety—the fact that most terminals are intermodal, bringing together different forms of transportation which means that it's hard to screen passengers. It means providing bridge security and the protection of track switchboards.

Why is railroad security so important? Because each day, 350,000 people ride on our railroads. That's over 20 million people a year. Forty percent of all freight is transported on our rails which is more than any other mode of transportation.

A terrorist attack on our rails could result in a catastrophic loss of life and paralyze our economy. Amtrak is ready and willing to improve rail safety, but it must also address its critical infrastructure needs.

For example, the tunnels that run through Washington, Baltimore, and New York accommodate trains that carry roughly 350,000 people a day. These tunnels don't meet minimum safety standards. They do not have proper ventilation, and there is not adequate lighting.

Rail safety requires Federal help. Yet Federal support for Amtrak has been cut by eighty percent in the last three years eighty percent. Annual appropriations for Amtrak is frozen at $521 million. That's only about half of what Congress authorized in the TEA–21 bill.

What does this legislation do? It enables Amtrak to enhance security of their overall network by providing $300 million and enabling Amtrak to upgrade it's most dangerous tunnels by providing $760 million for tunnel safety.

As stated before, I have four principles for economy recovery. These principles have been widely adopted. When I compare the different proposals for economic recovery to these principles, the answer is clear.

The Economic Recovery package proposed by Senator BAUCUS meets my principles and provides real and effective measures for economic recovery.

This package provides real economic recovery that benefits working Americans who have lost their jobs, helps businesses recover from the recent attacks and the economic downturn, and provides real the boost that this economy needs.

The Economic Recovery bill will provide tax relief to nearly 44 million working Americans who were left out of the last round of rebates. This bill will provide the same $300 checks to individuals or $600 checks to married couples who tend to pay only payroll taxes. These are the people who live paycheck to paycheck. These are the working Americans who will benefit most from a rebate check.

Often times, these hard working Americans have trouble making end meet. This Democratic proposal will help them make ends meet thus ensuring that the vast majority of these rebates will actually be spent which will help provide the real boost this economy needs.

The Democratic proposal also contains provisions that would help businesses invest in the new equipment and infrastructure needed to rebuild, would help small businesses acquire new equipment, and would provide rebates to companies quickly.

The Economic Recovery bill will also help unemployed working Americans by providing a 13 week extension of the period during which they can collect unemployment insurance, by increasing the amount that unemployed workers can collect, and by including more displaced workers in the unemployment insurance program.

I am sure that many will ask how does this help the economy recover? These Americans do not even have a paycheck to live on anymore. But they still have to meet their basic needs of food and shelter. For example, the average unemployment benefits in Maryland are about $950 per month, the average rent in Baltimore is about $500/month, and the average grocery bill for a family is about $475. Thus, under the current benefit levels families are falling behind and could not continue their health care which costs at an estimated average cost of $ 650/month in my State.

Unemployment Insurance is an essential part of the valuable social safety net. In every recession over the past thirty years, unemployment insurance has been extended. It is absolutely crucial to continue this good practice. The Democratic proposal would also expand the eligibility of those qualifying for benefits. For example, this would allow working mothers to look for part-time work.

The Economic Recovery proposal would also increase benefits by 15 percent or at least $25 a week. This is enough for a couple of bags of groceries or two tanks of gas.

President Bush has a proposal that would address unemployment benefits. But the devil is in the details. The Democratic plan helps the 3.2 million already unemployed workers left out by the Bush plan. Under the Bush proposal, about 25,000 to 30,000 more Marylanders would have to lose their jobs and wait until March 2002 before Maryland's workers would qualify for any extensions under the Bush proposal.

The Economic Recovery bill provides guaranteed benefits to workers laid off prior to September 11 who may be having difficulty finding their next job. It would extend benefits to part-time workers, low-wage workers, and would help most hospitality and airline workers that have been especially hard hit.

The Economic Recovery bill would also help provide health care to displaced workers who have lost their jobs since September 11th through the coming year. So that just because they temporarily lose their job they do not also lose their health care.

The economic recovery bill provides a 75 percent COBRA subsidy for up to 12 months for workers to continue health insurance through their former employer's plan. It allows States to cover the remaining 25 percent of the premium for low-income workers.

For unemployed workers who are not eligible for COBRA, it gives States the option to provide Medicaid coverage for these workers for up to 12 months. These proposals are temporary; they end on Dec. 31, 2002.

Under the Democratic Economic Recovery plan, unemployed workers will get the health care they need, temporarily, and this will help stimulate the economy. Unemployed workers with health insurance will have more money to spend on other items because they won't have to pay high out-of-pocket health care costs.

For example, a mom or dad in Prince George's County can afford to buy a refrigerator to replace the broken one or buy school clothes for their growing child because they did not have to pay lots of money to take their child to the emergency room for a severe earache.

Unemployed workers will spend money on health care because if you have health insurance, you are more likely to go to the doctor to get the treatment you need.

Finally, the Democratic proposal temporarily strengthens the Medicaid safety net when unemployed workers will need it the most. States across the country are facing budget shortfalls and are considering Medicaid cuts at the same time more unemployed workers will need health care through Medicaid. This provision provides additional resources to states so that states don't have to resort to serious cutbacks in their Medicaid program in order to balance their budgets this year. This provision is important to Maryland and has the strong support of the National Governors' Association.

During times of crisis, our Nation comes together. We have seen that since the terrible events of September 11th. The terrorists thought they would cripple us, but they have only made us stronger. We want to help those in need.

Yet volunteers and philanthropy cannot take the place of public policy. The Economic Recovery and Homeland Security bill puts our values into action to help our fellow citizens to get back on their feet and to protect our citizens from the evil acts of our enemies.

I urge my colleagues to join me in supporting this legislation.

Mr. BROWNBACK. Mr. President, I rise today to speak on a matter that should be intertwined with any economic stimulus package that passes this Chamber—providing airline depreciation on the sale of new and refurbished aircraft.

The aviation industry and the industry's employees have been hit especially hard in the aftermath of the September 11 attacks. The economic woes reach far beyond slumping ticket sales and the layoff of airport personnel. These difficult times are stretching to

the heart of the aviation industry, to the companies that manufacture, reconstruct, and refurbish aircraft.

By providing a depreciation allowance for the aviation industry, we will avert the loss of more jobs in this major industry.

Kansas is a state that has a tremendous interest in the aviation industry. Boeing, Cessna, Raytheon, and Bombardier, which all have major plants based in Wichita, employ tens of thousands of Kansans. While the airline bailout package will go a long way toward preventing immediate mass layoffs, it is not doing enough to ensure that the sale of aircraft will rebound from their current lulls.

If we provide a depreciation allowance equal to 40 percent of the adjusted basis for the qualified property acquired by those purchasing aircraft, we will provide a strong incentive for individuals and corporations to increase their purchases from the aviation industry. In so doing, we would provide an immediate boost to the economy, while at the same time providing security for aviation-industry employees beyond the 1-year period of the airline bailout.

Moreover, it is important that we extend this depreciation allowance to include not only new orders, but also aircraft that have been purchased or taken in a trade and refurbished or reconstructed, and sold to a third party.

By taking such steps, production orders will increase, and we will be able to ensure that hard-working Americans have jobs beyond the time-table of the airline bailout package.

This is good for America. It is good for Kansas, and it is something that I will be working to see implemented as part of an economic stimulus package.

Mr. HARKIN. Mr. President, I was hoping to make a statement yesterday on this important subject, but I was tied up chairing the Agriculture Committee in consideration of our new farm bill. I would like to speak briefly on the subject of bioterrorism and the economic stimulus/homeland security proposal considered by the Senate. The defeat of this legislation on a budget point of order was especially disappointing to me because it included a crucial $4 billion initiative to combat bioterrorism. Senator SPECTER and I worked closely with Senator BYRD to develop this funding proposal, which is a comprehensive plan to better protect Americans from anthrax, smallpox, and other bioterrorism threats.

I have the privilege to chair the appropriations subcommittee which funds our health programs. Our subcommittee has for the past several years provided increased funding to combat bioterrorism. We have made real progress as a result. However, much more remains to be done. To determine what additional steps are necessary, our subcommittee has held three hearings during the past 2 months.

We heard from our top Federal officials, including the Secretary of Health and Human Services, the head of the Centers for Disease Control and Prevention, and head of FBI bioterrorism efforts. We also heard from distinguished State and local officials and top scientists from the public and private sectors. Their testimony made clear that we are not adequately prepared for this threat. We do not have enough vaccines to respond to an attack. Our public health system has been allowed to decay, and needs more help to detect an outbreak quickly, to treat a large number of infectious patients, and to vaccinate large parts of the country.

As I said before, to put the state of our public health system into military terms, our troops are ill-trained, our radar is out of date, and we are short on ammunition.

The plan we developed and which was included in the stimulus package is a thoughtful, bipartisan approach. It closely follows the 7 point plan I outlined last month. It provides more than twice the resources of the President's to bolster our Nation's defenses against a bioterrorist attack.

In contrast to the President's plan, our proposal prioritizes funding to ''first responders'' at the State and local level. We have put the bulk of the funding, $1.3 billion, into improving our public health departments, beefing up local lab capacity and expanding the Health Alert Network. We desperately need to make these investments if we want to quickly identify, track and contain a bioterrorist attack should we ever be confronted with one. The President's plan neglects this vital piece of our response system.

Our proposal also includes funding for the production of enough smallpox vaccine for every American should that ever be necessary. As we have seen in recent press reports, the administration's request is too low to produce enough smallpox vaccine for all Americans.

We also allocate $116 million for research on new vaccines. Earlier this month my subcommittee heard testimony from Dr. Fauci at NIH about the promising future of antivirals against smallpox. The administration's plan devotes no money to developing these new drugs.

Our plan also provides more money than the President to bolster the work of the Centers for Disease Control and Prevention. We need to upgrade their overburdened lab capacity and their disease surveillance systems.

It also includes $650 million to improve safety and to safeguard our animal disease labs.

I would like to thank Chairman BYRD for the opportunity to work with him on this important funding package. Our Nation's public health system is now the front lines in our war against terrorism; it should be prepared accordingly.

I believe that we cannot leave this year without addressing the bioterrorism threat. Whether our package is included in the stimulus plan or another appropriations bill, we must get it done.

Mr. FEINGOLD. Mr. President, I rise today to talk about the stimulus package we recently considered in the Senate, and the disturbing new definition of patriotism that was associated with it. As I think most of my colleagues are aware, the bill we considered was laden with rewards for wealthy donors. Now, I think these days we would hardly be able to recognize a stimulus package, or any kind of emergency spending, if it weren't loaded down with provisions designed to benefit special interests. This practice certainly isn't new. But what is new, is the attempt to cloak these giveaways in a kind of patriotism.

A recent Washington Post editorial quoted a lobbyist for PricewaterhouseCoopers, who has been pushing tax breaks in the bill that would profit clients such as GE and IBM, saying that it would have been ''irresponsible'' and even unpatriotic for him to behave otherwise.

Patriotic to push for a taxbreak for major corporations? I never thought I'd see the day. But here we are, in the midst of the war on terrorism, trying to stop a deepening recession, and we were faced with a stimulus package that was designed to reward wealthy interests, but did very little to boost the economy. And now, to add insult to injury, we've been told that this isn't merely pork barrel politics, but that it is downright patriotic. I find that appalling, and I'm sure many of my colleagues did as well.

Because today this country is brimming with real patriotism, and I think many of us draw strength from that shared sense of pride in our country. But some versions of the stimulus bill were nothing to be proud of.

At this moment I believe that we may well need a stimulus package. But that's not what we were considering; instead we were faced with the same kind of pork-barrel spending we have seen year in and year out, except that now these provisions were dressed up in red, white and blue. That kind of opportunism, at a time like this, is an affront to the American people, and it should be unwelcome in this Chamber.

The stimulus bill, and in particular, the House-passed version of the bill, represents a lost opportunity for the Nation, and I think the American people have the right to ask what went wrong. How, at a time when the Nation needs a strong stimulus package, did we end up with this pile of pork? And when I say pile of pork, I'm being kind. The St. Louis Post Dispatch called it chicken manure. From time to time I like to Call the Bankroll on legislation, and talk about the potent mix of money and influence that results in the kind of legislation that's before us today. I think it's appropriate to review the donations given by the interests that could reap such tremendous benefits from this bill.

According to information from Common Cause and Citizens for Tax Justice, just 14 corporations alone would reap a $6.3 billion windfall from the retroactive repeal of the alternative minimum tax in the House-passed package. Enron, which has given more than $3.7 million in soft money from 1991 through 2000, will get an estimated $254 million refund under this bill. Chevron Texaco, which gave more that $3.6 million in soft money over the last 10 years, will get an estimated refund of $572 million. General Electric gave $1.3 million, and they'll get $671 million. And this list goes on. Billions upon billions of dollars being funneled back to big donors at a time when more and more Americans are out of work, lacking health care coverage and struggling to pay their bills.

The House package also gave a temporary tax break to multinational corporations on some profits from their foreign operations. As the Washington Post pointed out, ''it's hard to see how this measure, which would encourage firms to keep money outside the country, would do anything to stimulate the American economy.'' This measure rewards some of the biggest donors in the banking, investment and life insurance industries. Some of the biggest donors in these industries include Merrill Lynch, which has given more than $2.2 million in soft money over the last 10 years, and Citigroup, which has given more than $2.1 million during the last 10 years, according to Common Cause.

The House-passed package even included Medical Savings Accounts, which soft money donor Golden Rule Financial Corporation and other insurance interests have lobbied for for many years. Golden Rule gave just shy of $1.3 million in soft money in the last ten years.

The stimulus bill should have been an opportunity to stimulate the economy; instead it turned out to be a chance for special interests to add the provisions they've been pushing for all these years. Wealthy interests haven't hesitated to take this difficult period for the country and exploit it for their own gain. And if this version of the bill ever passes, they will reap an enormous financial windfall.

In the last few months, the Nation has endured a great deal, and we will continue to face enormous challenges. As a Congress, we must address the issues before us with the kind of integrity that these challenges will demand. But we can't meet those challenges when the legislative process is hobbled by the clout of special interests. The stimulus bill was a sobering example of a bill that went through that process, and fell far short of its goal.

The stimulus bill was a missed opportunity that the Nation may pay dearly for down the road. We've missed an opportunity, but we don't have to miss another one. I hope when Congress returns next year, we will rise to meet the next challenge before us: getting campaign finance reform to the President's desk. The Nation is closely watching our work here, more now than ever in the wake of September 11. And bills like the stimulus package would make any American wonder whether we are truly conducting the people's business on this floor. We must restore integrity to legislative process, and restore the people's faith in us and what we do.

I think we can start by voting against this bill, if it comes to us in a form like the House-passed bill. But we must do much more, we must abolish soft money and shut down the issue ad loophole, and it can't wait another year. Campaign finance reform should be one of the first orders of business when we return next year. The American people are looking to us for leadership, and I believe that this Senate can provide that leadership. We can show the American people that we have the courage and leadership they seek, and we can start by making campaign finance reform the law of the land.

TRIBUTE TO KEVIN P. POWER, NASA FELLOW

Mr. LOTT. Mr. President, I take this opportunity to recognize and say farewell to an outstanding NASA Manager, Kevin P. Power, upon his departure from my staff. Mr. Power was selected as a Congressional Fellow to work in my office because of his knowledge of the aerospace industry, NASA programs, and the John C. Stennis Space Center in my home State of Mississippi. It is a privilege for me to recognize the many outstanding achievements he has provided for the U.S. Senate, NASA, and our great Nation.

During his NASA fellowship, Mr. Power worked on legislation affecting NASA and the aerospace industry. He worked hard to ensure that the NASA appropriations bill for fiscal year 2002 included legislative provisions that will support specific programs aimed at fostering the development of a robust U.S. space propulsion industry, which includes rocket engine testing at Stennis Space Center. Specifically, he helped ensure that NASA's rocket engine test facilities are ready to provide continued support for testing under NASA's Space Launch Initiative.

Mr. Power also worked to ensure that adherence to past legislative provisions affecting land remote sensing data buys are being met to continue the stimulation of a private sector remote sensing industry without competition from the U.S. Government.

Mr. Power graduated from the University of New Orleans, where he received a Bachelor of Science degree in Mechanical Engineering, prior to beginning his engineering career with the U.S. Navy in Annapolis, MD, as a civilian engineer working on submarine acoustics. He transitioned to an aerospace career as a contract engineer supporting Space Shuttle launches at NASA's Kennedy Space Center in Florida and then joined NASA shortly after the Shuttle's return to flight following the Challenger disaster.

As a project engineer with NASA, he supported various propulsion development programs at Stennis Space Center, including the Air Force's New Launch System, NASA's Advanced Solid Rocket Motor, the NASA/Air Force National Aerospace Plane, and the NASA X–33 Aerospike Engine. During this time he attended Florida Tech, where he received a Master of Science in Management degree and eventually transitioned to a job with more responsibilities as a NASA project manager for Boeing's Evolved Expendable Launch Vehicle and NASA's Rocket Based Combined Cycle test facility.

Mr. President, Mr. Power is married to the former Susan Foreman of Crowley, LA. They have two children, a 7-year-old-son Brandon and a 5-year-old daughter Madison, and are expecting their third child next year in March. Mr. Power will return to NASA Stennis Space Center to continue his endeavors in the area of rocket propulsion testing. I will truly miss his experience and assistance he has provided to me, and I wish him all the very best as he helps NASA advance its efforts in the areas of space propulsion and remote sensing in the 21st century.

RECLASSIFICATION OF SCRANTON-WILKES BARRE-HAZLETON, WILLIAMSPORT, AND SHARON METROPOLITAN STATISTICAL AREAS

Mr. SANTORUM. Mr. President, I wish to thank the senior Senator from Pennsylvania for working with me on this very important issue of Medicare provider payment policy, particularly in light of the unique financial pressures being faced by the hospitals in Scranton-Wilkes Barre, Williamsport, and Sharon metropolitan statistical areas, MSAs, which emanate in part from some glaring disparities in Medicare's payment formulas.

As I travel around the Commonwealth, many health care leaders have conveyed to me their continued concerns about the impact of the Balanced Budget Act of 1997, BBA, on their health care delivery operations. Our Pennsylvania constituents, who represent rural, urban and community hospitals and systems, have shared with us detailed information about the financially strained health care delivery environment under the BBA.

We are all aware of the administrative and financial challenges that health care providers all across the country face, particularly in their service to our Nation's elderly population. But the environment in which the hospitals in these three areas of Pennsylvania are seeking to deliver quality health care to their respective communities is even more challenging given that their MSAs contain areas or border on areas from which higher compensated providers, with similar health care delivery costs, draw their patients, and more importantly, their

workforce. Facilities located in these areas must compete for workers and patients against hospitals in neighboring MSAs with drastically higher wage indices, even when labor and health care delivery costs are virtually identical. This situation is simply not sustainable.

And these problems are only exacerbated by our Nation's ongoing nursing shortage, and the scarcity of other skilled care givers. Health care workforce shortages are particularly acute in these areas of the Commonwealth, and they have the effect of driving up the cost of health care and precipitating the need to increase wages. And although these hospitals have taken the step of increasing wages, further reductions in the wage index will make it impossible for the hospitals to retain or recruit all the caregivers that the communities require.

Other regions near the Scranton-Wilkes Barre-Hazleton MSA, including Newburgh, Allentown and Harrisburg, continue to recruit workers from its skilled workforce.

Likewise in the Sharon MSA: All of the hospitals in the Sharon MSA compete with the Youngstown, OH, MSA for nurses, pharmacists, radiology technicians, and other allied health professionals. As Senator SPECTER had mentioned, Youngstown pays nurses $2 to $3 more per hour than hospitals in Sharon, yet those hospitals receive the lowest area wage index in Pennsylvania.

I have been working on this unique Medicare payment problem for more than 2 years now, seeking to enact at least a temporary reclassification of several Northeastern Pennsylvania counties into the Newburgh, NY—Pennsylvania MSA; Northumberland County into the Harrisburg-Lebanon-Carlisle MSA; and Mercer County into the Youngstown-Warren, OH, MSA. As Senator SPECTER had mentioned, there are other areas around the country where glitches such as these can be found. And what we seek to do with the submission of this legislative language is to put our colleagues on notice that we are determined to work on a bipartisan basis to bring much needed relief to our negatively affected hospitals, and to do the same for other areas around the country where these circumstances have caused similar problems and merit similar response.

I have recently spoken directly with Senate Finance Committee Ranking Member GRASSLEY about this very issue, and my strong desire to achieve a legislative fix as soon as possible. I am also a strong supporter of legislation to set the rural wage index nationally at a uniform and higher rate. However, whether or not Congress considers a national solution to this area of Medicare law is unclear, and our hospitals cannot afford to wait for a national solution that may be a year or two away.

In closing, I wish to relay to our colleagues that achieving this financial relief for these hospitals in Pennsylvania is of utmost importance to myself and Senator SPECTER. We are willing to work with our colleagues in any way in order to bring about stability in the funding of these community health care providers and to ensure that the many Medicare beneficiaries living in the Commonwealth have access to needed care.

HONORING MONTANANS FACING THE SEPTEMBER 11TH TRAGEDY

Mr. BURNS. Mr. President, some time has passed since the tragic events that took place in New York, Washington, DC, and Pennsylvania. Nevertheless, I want to reflect upon the events of that day and draw attention to the tremendous good that has evolved in the face of evil. Since that time, it has become evident that the American public is the most patriotic and resilient group the world will ever see. Those who may have been strangers are now confidants, those who were acquaintances are now considered family.

During this trying time, I want both to express my heartfelt condolences to all those directly involved in this tragedy, and to commend and honor those who have devoted their soul to working to restore tranquility and normalcy to the Nation. From firehouses to schoolhouses, from New York City to San Francisco and everywhere in between, Americans have repeatedly demonstrated their capacity for compassion.

I want to begin by addressing the families of those who lost their lives on United flight 93. I cannot begin to comfort them in their grief, but I must say that they have every reason to be extremely proud of the bravery shown by those on Flight 93. Their efforts are commended by all who stand here in Congress. As Americans, we all recognize, that we owe your family a debt that cannot be repaid.

Montanans have been deeply affected by this tragedy; they have contacted me with their grief, their hope for victory, and their desire to aid in the relief effort. Tragically, Adam Larson of Choteau, MT, was an employee of Aon Corp., located on what was the 103rd floor of the World Trade Center. In the midst of the attacks, he phoned his wife Patti and told her the building was being evacuated and he was on his way to safety. He was last seen by his co-workers following them down the stairs to exit the building, a building he never escaped. Adam Larson was 37 years old, and senior vice president for Aon. Many think that because of his outwardly giving personality, he may have stopped to help someone in need. I, along with Montanans everywhere grieve with the Larson family, pray for hope, and express our sincere support in enduring a set of circumstances that is difficult to comprehend.

In addition to grief, Montanans have also displayed the characteristic resolve that has defined us since our statehood. From Libby to Great Falls to Alzada, Montana has joined together to show patriotism and support for the American effort. Blood drives are going on at Malmstrom Air Force base in Great Falls, MT, as I speak today. Percentages of all sales in the town of Conrad, MT, are being designated for the relief effort.

I also want to point out the efforts of Burlington Elementary School in Billings. The motivation of one 3rd grade cub scout named Jim Rubich to raise pennies for the recovery of the WTC and the Pentagon has spun into a full scale effort on the part of many Montana elementary schools. Jim, in true Montana spirit, marched up to his teacher's desk with a bag full of pennies and demanded that an effort be enacted to raise pennies for the victims of this terrible attack. His message was heard loud and clear, and now what began as a penny drive, started by the innocent and unwavering patriotism of one little boy, is on pace to raise $18,000. This is the next generation of American workers, soldiers, carriers of freedom, and already in their young life they are strong contributors. I think the promise that is displayed here speaks for itself. We must protect these young people so that they may pick up the torch when it is their time. We cannot and will not fail them. I pledge to Jimmy Rubich that 20 years from now, his great Nation, the United States of America, will still be the beacon of freedom that it is today.

THE WTO MEETING IN QATAR, TAIWAN'S ACCESSION TO THE WTO, AND TRADE PROMOTION AUTHORITY

Mr. MURKOWSKI. Mr. President, I rise to note that yesterday the WTO concluded its fourth ministerial meeting in Doha, Qatar.

Circumstances leading to this meeting were not auspicious. There is a war on, after all, and the Middle East is not the most comfortable place for the champions of globalization and progress.

With the global economic slowdown, protectionism is on the rise. Not exactly the best time to undertake talks to expand global trade.

Many of us remember that in 1999, the WTO met in Seattle in very difficult circumstances. The city was rocked by rioting, the participants failed to reach consensus, and the basic assumptions underlying international trade were left in tatters. In sharp contrast and against some tough odds, the WTO ministerial meeting was a great success.

The WTO initiated a new Round of international trade negotiations, setting forth an ambitious agenda by overcoming difficult objections from the EU, the developing world, and even those in this country who are less-than-appreciative of the importance of international trade.

I believe United States Trade Negotiator Robert Zoellick and his team deserves much of the credit for the success of Doha.

By skillfully engineering compromise where compromise did not appear possible, Ambassador Zoellick has helped to set the table for important gains to come in international trade.

Thanks to Ambassador Zoellick and President Bush's leadership on trade, the future for US agricultural exporters is brighter, prospects for improvement in the transparency of the WTO are better, and the commitment of all nations to help end the scourge of HIV/AIDS and other is more secure. The liberalization of international trade is back on track.

He and his staff were also instrumental in achieving the accessions of China and Taiwan at the Doha Ministerial Meeting.

I also want to highlight two important other achievements of the Doha Ministerial.

First, China acceded to the WTO. This culminates the more than 20 years of economic reform in that country, and, I think, places China squarely on the path toward greater political reforms. We should congratulate Ambassador Zoellick for his leadership on that score.

Finally, I want to say a special word of congratulation to the people of Taiwan for achieving WTO accession at Doha. Taiwan's membership in international organizations such as the WTO is an important recognition of her current and future contributions.

Taiwan is a critical member of the international community. The WTO, and other global institutions, are better off for Taiwan's membership.

Ambassador Zoellick and Assistant USTR Jeff Bader deserve special recognition for ensuring Taiwan's entry into the WTO over the potential objections of the other newest member of that organization.

This was a good week for international trade. I hope that the United States Congress will follow up on the successes of this week and provide the President with the authority he needs to negotiate new trade agreements.

We need to capitalize on the gains made at Doha, and Trade Promotion Authority for the President is the critical tool he needs to do just that.

I am hopeful that the House will act on a bill to provide the President TPA this session, and that the Finance Committee will have the opportunity to mark-up that bill for a vote on the floor before we leave for the holidays.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred Aug. 24, 1997 in Leesburg, FL. A man allegedly punched a woman in the face because of her sexual orientation. The assailant, Kevin Earl Bilbrey, 25, was charged with aggravated battery and a hate crime.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

DIGNA OCHOA

Mr. LEAHY. Mr. President, I rise today to express the deep sadness and anger that I and many of my Vermont constituents feel about the senseless, cold-blooded murder of one of Mexico's most respected and courageous human rights lawyers, Digna Ochoa y Placido.

On October 20, 2001, Ms. Ochoa was shot at near point blank range in her office. At her side was a note that threatened other human rights activists who have defended environmentalists, labor leaders, or other unjustly imprisoned or tortured by the Mexican army and police. A former nun, Ms. Ochoa was a role model for all human rights defenders, because of her extraordinary courage, dedication, and commitment to some of the most disadvantaged members of Mexican society.

Ms. Ochoa frequently put the people she represented ahead of her own personal safety, and was an easy target for those who represent the worst of society, who would threaten or kill the downtrodden to protect their own crimes. She had received many death threats, and in 1999 she was kidnapped twice. During one of those abductions, her kidnappers tied her to a chair, opened a gas canister, and left her to die as the fumes slowly filled the room—from which she narrowly escaped.

Digna Ochoa's death is a tragedy for all Mexicans. But it is particularly outrageous because it could have been avoided. Although it was widely known that threats and acts of violence were being carried out against her and other members of Prodh—the human rights organization where she worked—Mexican officials failed to investigate or prosecute those crimes.

It would be hard to overstate the optimism I felt when Vicente Fox was elected Mexico's President after 70 years of misrule by the PRI. This election meant that Mexico could begin to overcome years of official corruption, police brutality, injustice and poverty suffered by the fast majority of Mexico's population.

When President Fox took office, he promised to end the long history of abuses by the Mexican army and police. No one expected miracles. No one expected him to transform those secretive, corrupt and brutal institutions overnight. But it is the Government's first duty to protect its citizens, and people did expect him to make justice a priority, get rid of the old guard, and demand accountability.

That has not happened, at least not yet, and Digna Ochoa's death has, tragically, focused attention again on this festering problem. There are undoubtedly many others who have suffered similar fates—faceless Mexican who are not widely known, who have been threatened or murdered, or who languish in prison without access to justice.

To his credit, on November 9 President Fox ordered the release from prison of two ecologists, represented by Ms. Ochoa in the past, who never should have been imprisoned in the first place. For possessing the courage to try to stop the destruction of forests where they lived, they were arrested and allegedly tortured.

The destruction of tropical forests is an urgent problem from Indonesia to Latin America, as logging companies compete for profits until the forests are completely destroyed. Often, the militaries in these countries are directly involved in these destructive, yet lucrative, schemes, and do not hesitate to kill or frame those who get in their way because they have known only impunity.

However, besides releasing these two men, the Mexican Government has done little to respond to Ms. Ochoa's death. A truth commission to examine past human rights abuses has not been established. That is presumably because it requires challenging some of the most entrenched, powerful, and dangerous forces within Mexican society. Nevertheless, President Fox made this promise, and that is what is urgently needed.

Another troubling case is the imprisonment of Brigadier General Jose Francisco Gallardo, who was convicted of corruption based on evidence that is, at best, inconclusive. Many observers feel that the main reason he is in prison and the Mexican Government continues to oppose his release is because he spoke out about abuses in the military. President Fox must deal with this case immediately.

I am convinced that President Fox is the right leader for Mexico at this critical time, and I have confidence in him and his advisors. I do not minimize the herculean tasks they face—political, economic and social reform on a national scale. But there is no way democracy can succeed in Mexico without the rule of law. And there is no better place to start than by tracking down Digna Ochoa's killers, and bringing them to justice for all to see.

Mr. President, I ask unanimous consent that a piece written by Digna Ochoa, about her life, which was included in Kerry Kennedy Cuomo's extraordinary book ''Speak Truth To Power,'' be printed in the RECORD.

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

DIGNA OCHOA

I am a nun, who started life as a lawyer, I sought a religious community with a social commitment, and the protection of human rights is one of the things that my particular community focuses on. They have permitted me to work with an organization that fights for human rights, called Centro Pro, supporting me economically, morally, and spiritually. This has been a process of building a life project, from a social commitment to a spiritual one with a mystical aspect.

My father was a union leader in Veracruz, Mexico. In the sugar factory where he worked, he was involved in the struggles for potable water, roads, and securing land certificates. I studied law because I was always hearing that my father and his friends needed more lawyers. And all the lawyers charged so much. My father was unjustly jailed for one year and fifteen days. He was then disappeared and tortured—the charges against him were fabricated. This led to my determination to do something for those suffering injustice, because I saw it in the flesh with my father.

When I first studied law, I intended to begin practicing in the attorney general's office, then become a judge, then a magistrate. I thought someone from those positions could help people. After I got my degree, I became a prosecutor. I remember a very clear issue of injustice. My boss, who was responsible for all of the prosecutions within the attorney general's office, wanted me to charge someone whom I knew to be innocent. There was no evidence, but my boss tried to make me prosecute him. I refused, and he prosecuted the case himself.

Up until that time, I was doing well. The job was considered a good one, because it was in a coffee-producing area and the people there had lots of money. But I realized that I was doing the same thing that everyone did, serving a system that I myself criticized and against which I had wanted to fight. I decided to quit and with several other lawyers opened an office. I had no litigation experience whatsoever. But I was energized by leaving the attorney general's office and being on the other side, the side of the defense.

The first case I worked on was against judicial police officers who had been involved in the illegal detention and torture of several peasants. We wanted to feel like lawyers, so we threw ourselves into it. Our mistake was to take on the case without any institutional support. I had managed to obtain substantial evidence against the police, so they started to harass me increasingly, until I was detained. First, they sent telephone messages telling me to drop the case. Then by mail came threats that if I didn't drop it I would die, or members of my family would be killed. I kept working and we even publicly reported what has happening. The intimidation made me so angry that I was motivated to work even harder. I was frightened, too, but felt I couldn't show it. I always had to appear—at least publicly—like I was sure of myself, fearless. If I showed fear they would know how to dominate me. It was a defense mechanism.

Then, I was disappeared and held incommunicado for eight days by the police. They wanted me to give them all the evidence against them. I had hidden the case file well, not in my office, not in my house, and not where the victims lived, because I was afraid that the police would steal it. Now, I felt in the flesh what my father had felt, what other people had suffered. The police told me that they were holding members of my family, and named them. The worst was when they said they were holding my father. I knew what my father had suffered, and I didn't want him to relive that. The strongest torture is psychological. Though they also gave me electric shocks and put mineral water up my nose, nothing compared to the psychological torture.

There was a month of torture. I managed to escape from where they were holding me. I hid for a month after that, unable to communicate with my family. It was a month of anguish and torture, of not knowing what to do. I was afraid of everything.

I eventually got in touch with my family. Students at the University, with whom I had always gotten along very well, had mobilized on my behalf. After I ''appeared'' with the help of my family and human rights groups in Jalapa, Veracruz, I was supported by lawyers, most of whom were women. The fact that I was in Veracruz caused my family anguish. At first I wanted to stay, because I knew we could find the police who detained me. We filed a criminal complaint. We asked for the police registries. I could clearly identify some of the officers. But there was a lot of pressure about what I should do: continue or not with the case? My life was at risk, and so were the lives of members of my family. After a month of anguish, my family, principally my sisters, asked me to leave Jalapa for a while. For me, but also for my parents.

I came to Mexico City. The idea was to take a three-month human rights course for which I had received a scholarship. I met someone at the human rights course who worked at Centro Pro, one of the human rights groups involved on my behalf. One day he said, ''Look, we're just setting up the center and we need a lawyer. Work with us.'' I had never dreamed of living in Mexico City, and I didn't want to. But I accepted, because the conditions in Jalapa were such that I couldn't go back. Two really good women lawyers in Jalapa with a lot of organizational support took up the defense case I had been working on. This comforted me, because I knew the case would not be dropped—I had learned the importance of having organizational backup. So I started to work with Centro Pro in December 1988. Since I began working with the organization, I've handled a lot of cases of people like my father and people like me. That generates anger, and that anger becomes the strength to try to do something about the problem. At work, even though I give the appearance of seriousness and resolve, I'm trembling inside. Sometimes I want to cry, but I know that I can't, because that makes me vulnerable, disarms me.

At this time, because of what happened to me, I needed the help of a psychoanalyst, but I wasn't ready to accept it. The director of Centro Pro prepared me to accept that support. He was a Jesuit and psychologist. For six months, I didn't know he was a therapist. When I found out, I asked him why he hadn't told me. ''You never asked,'' he said. We became very close. He was my friend, my confessor, my boss, and my psychologist, too, although I also had my psychoanalyst.

The idea of a confessor came slowly to me. In Jalapa, I had been supported by some priests. When I first ''appeared,'' the first place I was taken was a church. I felt secure there, though as a kid, I had never had much to do with priests, besides attending church. To me they were people who accepted donations, delivered sacraments, and were power brokers. It made an impression on me to see priests committed to social organizations, supporting people.

Since I've been at Centro Pro, we've gone through some tough times, like the two years of threats we received beginning in 1995. Once again it was me who was being threatened. My first reaction was to feel cold shivers. I went to the kitchen with a faxed copy of the threat and said to one of the sisters in the congregation, ''Luz, we've received a threat, and they're directed at me.'' And Luz responded, ''Digna, this is not a death threat. This is a threat of resurrection.'' That gave me great sustenance. Later that day another of my lawyer colleagues, Pilar, called me to ask what security measures I was taking. She was—rightfully—worried. I told her what Luz had said and Pilar responded, ''Digna, the difference is that you're a religious person.'' And I realized that being a person of faith and having a community, that having a base in faith, is a source of support that others don't have.

Now, some people said to me that my reaction was courageous. But I've always felt anger at the suffering of others. For me, anger is energy, it's a force. You channel energy positively or negatively. Being sensitive to situations of injustice and the necessity of confronting difficult situations like those we see every day, we have to get angry to provoke energy and react. If an act of injustice doesn't provoke anger in me, it could be seen as indifference, passivity. It's injustice that motivates us to do something, to take risks, knowing that if we don't, things will remain the same. Anger has made us confront police and soldiers. Something that I discovered is that the police and soldiers are used to their superiors shouting at them, and they're used to being mistreated. So when they run into a woman, otherwise insignificant to them, who demands things of them and shouts at them in an authoritarian way, they are paralyzed. And we get results. I consider myself an aggressive person, and it has been difficult for me to manage that within the context of my religious education. But it does disarm authorities. I normally dress this way, in a way that my friends call monklike. That's fine. It keeps people off guard. I give a certain mild image, but then I can, more efficiently, demand things, shout.

For example, one time there was a guy who had been disappeared for twenty days. We knew he was in the military hospital, and we filed habeas corpus petitions on his behalf. But the authorities simply denied having him in custody. One night we were informed that he was being held at a particular state hospital. We went the next day. They denied us access. I spent the whole morning studying the comings and goings at the hospital to see how I could get in. During a change in shifts, I slipped by the guards. When I got to the room where this person was, the nurse at the door told me I could not go in. ''We are not even allowed in,'' she said. I told her that I would take care of myself; all I asked of her was that she take note of what I was going to do and that if they did something to me, she should call a certain number. I gave her my card. I took a deep breath, opened the door violently and yelled at the federal judicial police officers inside. I told them they had to leave, immediately, because I was the person's lawyer and needed to speak with him. They didn't know how to react, so they left. I had two minutes, but it was enough to explain who I was, that I had been in touch with his wife, and to get him to sign a paper proving he was in the hospital. He signed. By then the police came back, with the fierceness that usually characterizes their behavior. Their first reaction was to try to grab me. They didn't expect me to assume an attack position—the only karate position I know, from movies, I suppose. Of course, I don't really know karate, but they definitely thought I was going to attack. Trembling inside, I said sternly that if they laid a hand on me they'd see what would happen. And they drew back, saying, ''You're threatening us.'' And I replied, ''Take it any way you want.''

After some discussion, I left, surrounded by fifteen police officers. Meanwhile I had managed to record some interesting conversations. They referred to ''the guy who was incommunicado,'' a term that was very important. I took the tape out and hid the cassette where I could. The police called for hospital security to come, using the argument that it wasn't permitted to have tape recorders inside the hospital. I handed over the recorder. Then they let me go. I was afraid that they would kidnap me outside the hospital, I was alone. I took several taxis, getting out, changing, taking another, because I didn't know if they were following me. When I arrived at Centro Pro, I could finally breathe. I could share all of my fear. If the police knew that I was terrified when they were surrounding me, they would have been able to do anything to me.

Sometimes, without planning and without being conscious of it, there is a kind of group therapy among the colleagues at Centro Pro. We show what we really feel, our fear. We cry. There's a group of us who have suffered physically. On the other hand, my religious community has helped me manage my fear. At times of great danger, group prayer and study of the Bible and religious texts helps me. Praying is very important. Faith in God. That has been a great source of strength. And I'm not alone anymore. As a Christian, as a religious person, I call myself a follower of Christ who died on the cross for denouncing the injustices of his time. And if He had to suffer what he suffered, what then can we expect?

For years after my father was tortured, I wanted revenge. Then, when I was the torture victim, the truth is that the last thing I wanted was revenge, because I feared that it would be an unending revenge. I saw it as a chain. Three years after coming to Mexico City I remember that a person came to tell me that they had found two of the judicial police officers who tortured me.

The person asked if I wanted him to get them and give them their due. At first, I did have a moment when I thought yes. But I thought about it and realized that I would simply be doing what they did. I would have no right to speak about them as I am talking about them now. I would have been one of them.

I rarely share my own experience of torture. But I remember talking to a torture victim who was very, very angry, for whom the desire for revenge was becoming destructive. I shared my own experience, and that made an impression on him. But if we don't forgive and get over the desire for revenge, we become one of them. You can't forget torture, but you have to learn to assimilate it. To assimilate it you need to find forgiveness. It's a long-term, difficult, and very necessary undertaking.

If you don't step up to those challenges, what are you doing? What meaning does your life have? It is survival. When I began to work, when I took that case in which they made me leave Jalapa, I was committed to doing something against injustice. But there was something else that motivated me, and I have to recognize it, even though it causes me shame. What motivated me as well as the commitment was the desire to win prestige as a lawyer. Thanks to the very difficult situation that I lived through, I realized what was wrong. What a shame that I had to go through that in order to discover my real commitment, the meaning of my life, the reason I'm here. In this sense, I've found something positive in what was a very painful experience. If I hadn't suffered, I wouldn't have been able to discover injustice in such depth. Maybe I wouldn't be working in Centro Pro. Maybe I wouldn't have entered the congregation. Maybe I wouldn't have learned that the world is a lot bigger than the very small world that I had constructed. Thanks to a very difficult, painful experience for me and my family and my friends, my horizons were broadened. Sometimes I say to myself, ''What a way for God to make you see things.'' But sometimes without that we aren't capable of seeing.

THE REAL NEW WORLD ORDER

Mr. KYL. Mr. President, I rise today to commend Charles Krauthammer for his fine article in the November 12 issue of The Weekly Standard, titled ''The Real New World Order.'' Not only does Mr. Krauthammer's article present the flawed assumptions and philosophical underpinnings of the foreign policies of the Clinton administration—particularly his denunciation of that administration's fealty to the notion of an overriding international order defined by treaties and designed to insulate the world from the burden of American hegemony—but also the demands placed upon the administration of George W. Bush in the wake of the events of September 11. It is a compelling piece, and deserves notice.

Krauthammer's article was written prior to the dramatic events of the past week in Afghanistan. That some of his analysis is out of date in light of the battlefield successes of the so-called Northern Alliance does not, however, detract from the validity of the main thesis he presents in his typically articulate and knowledgeable style. Krauthammer argues that the United States, as a result of the terrorist attacks that killed thousands of Americans, is confronted with an epochal opportunity that, if seized, will facilitate one of the most far-reaching transformations in the history of international relations. Rather than facing the rising tide of anti-Americanism postulated to be the natural result of the United States' unique status as the world's sole superpower, much of the world has actually aligned itself with U.S. interests in the face of an elusive enemy brandishing an apocalyptic view of the current global structure, radical Islamic fundamentalism.

The developments of the past several days have caught many of us off-guard. Little that was known about the Taliban indicated that it would countenance its own defeat as swiftly as has occurred. I do not believe that could have happened had the President not made clear, in word and deed, his commitment to prevail over that brutal regime and the terrorist organization it protects and that was responsible for the terrible events of September 11. The imperative of victory not yet achieved, however, remains. The momentous reaction of the world's major regional powers, as well as of governments throughout the Middle East, to the attacks on the World Trade Center and the Pentagon will prove ephemeral should we fail to continue to wage this war, and to define its parameters, with the determination and clarity evident in the President's splendid address to the nation before the joint session of Congress.

I commend Charles Krauthammer for this thoughtful and compelling article, and highly recommend it to my colleagues in the Senate.

Mr. President, I ask unanimous consent that the text of the Krauthammer article be printed in the RECORD.

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

[From the Weekly Standard, Nov. 12, 2001]

THE REAL NEW WORLD ORDER

THE AMERICAN EMPIRE AND THE ISLAMIC CHALLENGE

(By Charles Krauthammer)

I. The Anti-Hegemonic Alliance

On September 11, our holiday from history came to an abrupt end. Not just in the trivial sense that the United States finally learned the meaning of physical vulnerability. And not just in the sense that our illusions about the permanence of the post-Cold War peace were shattered.

We were living an even greater anomaly. With the collapse of the Soviet Union in the early 1990s, and the emergency of the United States as the undisputed world hegemon, the inevitable did not happen. Throughout the three and a half centuries of the modern state system, whenever a hegemonic power has emerged, a coalition of weaker powers has inevitably arisen to counter it. When Napoleonic France reached for European hegemony, an opposing coalition of Britain, Prussia, Russia, and Austria emerged to stop it. Similarly during Germany's two great reaches for empire in the 20th century. It is an iron law: History abhors hegemony. Yet for a decade, the decade of the unipolar moment, there was no challenge to the United States anywhere.

The expected anti-American Great Power coalition never materialized. Russia and China flirted with the idea repeatedly, but never consummated the deal. Their summits would issue communiqués denouncing hegemony, unipolarity, and other euphemisms for American dominance. But they were unlikely allies from the start. Each had more to gain from its relations with America than from the other. It was particularly hard to see why Russia would risk building up a more populous and prosperous next-door neighbor with regional ambitions that would ultimately threaten Russia itself.

The other candidate for anti-hegemonic opposition was a truncated Russia picking up pieces of the far-flug former Soviet empire. There were occasional feints in that direction, with trips by Russian leaders to former allies like Cuba, Iraq, even North Korea. But for the Russians this was even more a losing proposition than during their first go-round in the Cold war when both the Soviet Union and the satellites had more to offer each other than they do today.

With no countervailing coalition emerging, American hegemony had no serious challenge. That moment lasted precisely ten years, beginning with the dissolution of the Soviet Union in December 1991. It is now over. The challenge, long-awaited, finally declared itself on September 11 when the radical Islamic movement opened its world-wide war with a, literally, spectacular attack on the American homeland. Amazingly, however, this anti-hegemonic alliance includes not a single Great Power. It includes hardly any states at all, other than hostage-accomplice Afghanistan.

That is the good news. The bad news is that because it is a sub-state infiltrative entity, the al Qaeda network and its related

terrorists around the world lack an address. And a fixed address—the locus of any retaliation—is necessary for effective deterrence. Moreover, with the covert support of some rogue regimes, this terrorist network commands unconventional weapons and unconventional tactics, and is fueled by a radicalism and a suicidal fanaticism that one does not normally associate with adversary states.

This radicalism and fanaticism anchored in religious ideology only increased our shocked surprise. We had given ourselves to believe that after the success of our classic encounters with fascism and Nazism, then communism, the great ideological struggles were finished. This was the meaning of Francis Fukuyama's End of History. There would, of course, be the usual depredations, invasions, aggressions, and simple land grabs of time immemorial. But the truly world-historical struggles were over. The West had won. Modernization was the way. No great idea would arise to challenge it.

Radical Islam is not yet a great idea, but it is a dangerous one. And on September 11, it arose.

II. The American Mind

It took only a few hours for elite thinking about U.S. foreign policy to totally reorient itself, waking with a jolt from a decade-long slumber. During the 1990s, American foreign policy became more utopian and divorced from reality than at any time since our last postwar holiday from history in the 1920s. The liberal internationalists of the Clinton era could not quite match the 1928 Kellogg-Briand Pact abolishing war forever for sheer cosmic stupidity. But they tried hard. And they came close.

Guided by the vision of an autonomous, active, and norm-driven ''international community'' that would relieve a unilateralist America from keeping order in the world, the Clinton administration spent eight years signing one treaty, convention, and international protocol after another. From this web of mutual obligations, a new and vital ''international community'' would ultimately regulate international relations and keep the peace. This would, of course, come at the expense of American power. But for those brought up to distrust, and at times detest, American power, this diminution of dominance was a bonus.

To understand the utter bankruptcy of this approach, one needs but a single word: anthrax. The 1972 Biological Weapons Convention sits, with the ABM treaty and the Chemical Weapons Convention, in the pantheon of arms control. We now know that its signing marks the acceleration of the Soviet bioweapons program, of which the 1979 anthrax accident at a secret laboratory at Sverdlovsk was massive evidence, largely ignored. It was not until the fall of the Soviet Union that the vast extent of that bioweapons program was acknowledged. But that—and the post-Gulf War evidence that Iraq, another treaty signatory in good standing, had been building huge stores of bioweapons—made little impression on the liberal-internationalist faithful. Just before September 11, a serious debate was actually about to break out in Congress about the Bush administration's decision to reject the biological weapons treaty's new, and particularly useless, ''enforcement'' protocol that the Clinton administration had embraced.

After the apocalypse, there are no believers. The Democrats who yesterday were touting international law as the tool to fight bioterrorism are today dodging anthrax spores in their own offices. They very idea of safety-in-parchment is risible. When war breaks out, even treaty advocates take to the foxholes. (The Bush administration is trying to get like-minded countries to sign onto an agreement to prevent individuals from getting easy access to the substrates of bioweapons. That is perfectly reasonable. And it is totally different from having some kind of universal enforcement bureaucracy going around the world checking biolabs, which would have zero effect on the bad guys. They hide everything.)

This decade-long folly—a foreign policy of norms rather than of national interest—is over. The exclamation mark came with our urgent post-September 11 scurrying to Pakistan and India to shore up relations for the fight with Afghanistan. Those relations needed shoring up because of U.S. treatment of India and Pakistan after their 1998 nuclear tests. Because they had violated the universal nonproliferation ''norm,'' the United States automatically imposed sanctions, blocking international lending and aid, and banning military sales. The potential warming of relations with India after the death of its Cold War Soviet alliance was put on hold. And traditionally strong U.S.-Pakistani relations were cooled as a show of displeasure. After September 11, reality once again set in, and such refined nonsense was instantly put aside.

This foreign policy of norms turned out to be not just useless but profoundly damaging. During those eight Clinton years, while the United States was engaged in (literally) paperwork, the enemy was planning and arming, burrowing deep into America, preparing for war.

When war broke out, eyes opened. You no longer hear that the real issue for American foreign policy is global warming, the internal combustion engine, drug traffic, AIDs, or any of the other transnational trendies of the '90s. On September 11, American foreign policy acquired seriousness. It also acquired a new organizing principle: We have an enemy, radical Islam; it is a global opponent of worldwide reach, armed with an idea, and with the tactics, weapons, and ruthlessness necessary to take on the world's hegemon; and its defeat is our supreme national objective, as overriding a necessity as were the defeats of fascism and Soviet communism.

That organizing principle was enunciated by President Bush in his historic address to Congress. From that day forth, American foreign policy would define itself—and define friend and foe—according to who was with us or against us in the war on terrorism. This is the self-proclaimed Bush doctrine—the Truman doctrine with radical Islam replacing Soviet communism. The Bush doctrine marks the restoration of the intellectual and conceptual simplicity that many, including our last president, wistfully (and hypocritically) said they missed about the Cold War. Henry Kissinger's latest book, brilliant though it is, published shortly before September 11, is unfortunately titled Does America Need a Foreign Policy? Not only do we know that it does. We know what it is.

III. The New World Order

The post-September 11 realignments in the international system have been swift and tectonic. Within days, two Great Powers that had confusedly fumbled their way through the period of unchallenged American hegemony in the 1990s began to move dramatically. A third, while not altering its commitments, mollified its militancy. The movement was all in one direction: toward alignment with the United States. The three powers in question—India, Russia, and China—have one thing in common: They all border Islam, and all face their own radical Islamic challenges.

First to embrace the United States was India, a rising superpower, nuclear-armed, economically vibrant, democratic, and soon to be the world's most populous state. For half a century since Nehru's declaration of nonalignment, India had defined itself internationally in opposition to the United States. As one of the founders in 1955 of the nonaligned movement at Bandung, India helped define nonalignment as anti-American. Indeed, for reasons of regional politics (Pakistan's relations with China and with the United States) as well as ideology, India aligned itself firmly with the Soviet Union.

That began to fade with the end of the Cold War, and over time relations with the United States might have come to full flower. Nonetheless, September 11 made the transition instantaneous. India, facing its own Taliban-related terrorism in Kashmir, immediately invited the United States to use not just its airspace but its military bases for the campaign in Afghanistan. The Nehru era had ended in a flash. Nonalignment was dead. India had openly declared itself ready to join Pax Americana.

The transformation of Russian foreign policy has been more subtle but, in the long run, perhaps even more far-reaching. It was symbolized by the announcement on October 17 that after 37 years Russia was closing its massive listening post at Lourdes, Cuba. Lourdes was one of the last remaining symbols both of Soviet global ambitions and of reflexive anti-Americanism.

Now, leaving Lourdes is no miracle. It would likely have happened anyway. It is a $200 million a year luxury at a time when the Russian military is starving. But taken together with the simultaneously reported Russian decision to leave Cam Ranh Bay (the former U.S. Naval base in South Vietnam, leased rent-free in 1979 for 25 years), it signaled a new orientation of Russian policy. On his trip to European Union headquarters in early October, President Vladimir Putin made clear that he sees Russia's future with the West—and that he wants the West to see its future including Russia.

This shift is tactical for now. America needs help in the Afghan war. Russia can provide it. It retains great influence over the ''-stans,'' the former Soviet Central Asian republics. From their side, the Russians need hands off their own Islamic problem in Chechnya. Putin came in deal. In Brussels, he not only relaxed his opposition to NATO's expansion to the borders of Russia, not only signaled his willingness to compromise with the United States on missile defense, but broadly hinted that Russia should in essence become part of NATO.

Were this movement to develop and deepen, to become strategic and permanent, it could become one of the great revolutions in world affairs. For 300 years since Peter the Great, Russia has been unable to decide whether it belongs east or west. But in a world realigned to face the challenge of radical Islam, it is hard to see why Russia could not, in principle, be part of the West. With the Soviet ideology abandoned, Russia's grievances against the West are reduced to the standard clash of geopolitical ambitions. But just as France and Germany and Britain have learned to harmonize their old geopolitical rivalries within a Western structure, there is no reason Russia could not.

Cam Ranh Bay and Lourdes signal Russia's renunciation of global ambitions. What remain are Russia's regional ambitions—to protect the integrity of the Russian state itself, and to command a sphere of influence including its heavily Islamic ''near abroad.'' For the first decade of the post-Cold War era, we showed little sympathy for the first of these goals and none for the second. We looked with suspicion on Russia's reassertion of hegemony over once-Soviet space. The great fight over Caspian oil, for example, was intended to ensure that no pipeline

went through Russia (or Iran), lest Russia end up wielding too much regional power.

That day may be over. Today we welcome Russia as a regional power, particularly in Islamic Central Asia. With the United States and Russia facing a similar enemy—the radical Islamic threat is more virulent towards America but more proximate to Russia—Russia finds us far more accommodating to its aspirations in the region. The United States would not mind if Moscow once again gained hegemony in Central Asia. Indeed, we would be delighted to give it back Afghanistan—except that Rusia (and Afghanistan) would decline the honor. But American recognition of the legitimacy of Russian Great Power status in Central Asia is clearly part of the tacit bargain in the U.S.-Russian realignment. Russian accommodation to NATO expansion is the other part. The Afghan campaign marks the first stage of a new, and quite possibly historic, rapprochement between Russia and the West.

The third and most reluctant player in the realignment game is China. China is the least directly threatened by radical Islam. It has no Chechnya or Kashmir. But it does have simmering Islamic discontent in its western provinces. It is sympathetic to any attempt to tame radical Islam because of the long-term threat it poses to Chinese unity. At the just completed Shanghai Summit, China was noticeably more accommodating than usual to the United States. It is still no ally, and still sees us, correctly, as standing in the way of its aspirations to hegemony in the western Pacific. Nonetheless, the notion of China's becoming the nidus for a new anti-American coalition is dead. At least for now. There is no Russian junior partner to play. Pakistan, which has thrown in with the United States, will not play either. And there is no real point. For the foreseeable future, the energies of the West will be directed against a common enemy. China's posture of sympathetic neutrality is thus a passive plus: It means that not a single Great Power on the planet lies on the wrong side of the new divide. This is historically unprecedented. Call it hyper-unipolarity. And for the United States, it is potentially a great gain.

With Latin America and sub-Saharan Africa on the sidelines, the one region still in play—indeed the prize in the new Great Game—is the Islamic world. It is obviously divided on the question of jihad against the infidel. Bin Laden still speaks for a minority. The religious parties in Pakistan, for example, in the past decade never got more than 5 percent of the vote *combined*. But bin Ladenism clearly has support in the Islamic ''street.'' True, the street has long been overrated. During the Gulf War, it was utterly silent and utterly passive. Nonetheless, after five years of ceaseless agitation through Al Jazeera, and after yet another decade of failed repressive governance, the street is more radicalized and more potentially mobilizable. For now, the corrupt ruling Arab elites have largely lined up with the United States, at least on paper. But their holding power against the radical Islamic challenge is not absolute. The war on terrorism, and in particular the Afghan war, will be decisive in determining in whose camp the Islamic world will end up: ours—that of the United States, the West, Russia, India—or Osama bin Laden's.

IV. The War

The asymmetry is almost comical. The whole world against one man. If in the end the United States, backed by every Great Power, cannot succeed in defeating some cave dwellers in the most backward country on earth, then the entire structure or world stability, which rests ultimately on the pacifying deterrent effect of American power, will be fatally threatened.

Which is why so much hinges on the success of the war on terrorism. Initially, success need not be defined globally. No one expects a quick victory over an entrenched and shadowy worldwide network. Success does, however, mean demonstrating that the United States has the will and power to enforce the Bush doctrine that governments will be held accountable for the terrorists they harbor. Success therefore requires making an example of the Taliban. Getting Osama is not the immediate goal. Everyone understands that it is hard, even for a superpower, to go on a cave-to-cave manhunt. Toppling regimes is another matter. For the Taliban to hold off the United States is an astounding triumph. Every day that they remain in place is a rebuke to American power. Indeed, as the war drags on, their renown, particularly in the Islamic world, will only grow.

After September 11, the world awaited the show of American might. If that show fails, then the list of countries lining up on the other side of the new divide will grow. This particularly true of the Arab world with its small, fragile states. Weaker states invariably seek to join coalitions of the strong. For obvious reasons of safety, they go with those who appear to be the winners. (Great Powers, on the other hand, tend to support coalitions of the weak as a way to create equilibrium. Thus Britain was forever balancing power on the Continent by supporting coalitions of the weak against a succession of would-be hegemons.) Jordan is the classic example. Whenever there is a conflict, it tries to decide who is going to win, and joins that side. In the Gulf War, it first decided wrong, then switched to rejoin the American side. That was not out of affection for Washington. It was cold realpolitik. The improbable pro-American Gulf War coalition managed to include such traditional American adversaries as Syria because of an accurate Syrian calculation of who could overawe the region.

The Arab states played both sides against the middle during the Cold War, often abruptly changing sides (e.g., Egypt during the '60s and '70s). They lined up with the United States against Iraq at the peak of American unipolarity at the beginning of the 1990s. But with subsequent American weakness and irresolution, in the face both of post-Gulf War Iraqi defiance and of repeated terrorist attacks that garnered the most feckless American military responses, respect for American power declined. Inevitably, the pro-American coalition fell apart.

The current pro-American coalition will fall apart even more quickly if the Taliban prove a match for the United States. Contrary to the current delusion that the Islamic states will respond to American demonstrations of solicitousness and sensitivity (such as a halt in the fighting during Ramadan), they are waiting to see the success of American power before irrevocably committing themselves. The future of Islamic and Arab allegiance will depend on whether the Taliban are brought to grief.

The assumption after September 11 was that an aroused America will win. If we demonstrate that we cannot win, no coalition with moderate Arabs will long survive. But much more depends on our success than just the allegiance of that last piece of the geopolitical puzzle, the Islamic world. The entire new world alignment is at stake.

States line up with more powerful states not out of love but out of fear. And respect. The fear of radical Islam has created a new, almost unprecedented coalition of interests among the Great Powers. But that coalition of fear is held together also by respect for American power and its ability to provide safety under the American umbrella. Should we succeed in the war on terrorism, first in Afghanistan, we will be cementing the New World Order—the expansion of the American sphere of peace to include Russia and India (with a more neutral China)—just now beginning to take shape. Should we fail, it will be sauve qui peut. Other countries—and not just our new allies but even our old allies in Europe—will seek their separate peace. If the guarantor of world peace for the last half century cannot succeed in a war of self-defense against Afghanistan(!), then the whole post-World War II structure—open borders, open trade, open seas, open societies—will begin to unravel.

The first President Bush sought to establish a New World Order. He failed, in part because he allowed himself to lose a war he had just won. The second President Bush never sought a New World Order. It was handed to him on Sept. 11. To maintain it, however, he has a war to win.

ADDITIONAL STATEMENTS

GIVE IT UP FOR BUCK O'NEIL

• Mrs. CARNAHAN. Mr. President, today I rise to honor a true hero on the occasion of his 90th birthday.

John Jordan O'Neil, Jr. was born on November 13, 1911 in Carrabelle, FL. Over the years he has been given many nicknames including Jay, Foots, Country, Cap, even Nancy and Old Relic, but the one that endures is Buck.

As a teenager, he worked in the Sarasota celery fields. The job was miserable, toiling in the oven-hot dirt and muck. He knew there had to be something better, and fortunately for us, he was right. Buck O'Neil loves baseball. It's that simple. In his own words he describes what a wonderful thing baseball is. ''There is nothing greater for a human being than to get his body to react to all the things one does on a ballfield . . . It's as good as music. It fills you up.''

You see, by studying the history of baseball one discovers a great deal about the sport's hidden history. Biographer Ken Burns said, ''By lifting the rug of our past, we find not only the sins we hoped we had concealed beneath it, but also new and powerful heroes who thrived in the darkness and can teach us much about how to live in the light.''

Living through the bitter experiences that our country reserved to men of his color, Buck reflects only gold and light out of despair and suffering. He knows he can go farther with generosity and kindness than with anger and hate. He knows what human progress is all about.

When asked to tell of his journey from the Negro Leagues to the Majors, Buck's eyes light up. Though he has been telling the story for the past fifty years, he never tires of recounting the playing days and the men who lived it—men like Satchel Paige, Josh Gibson and Cool Papa Bell. Like many a good story and storyteller, it's interesting to see how much they've improved over the years.

When others would have preferred to live in a more enlightened time, Buck has no regrets. ''Waste no tears on me,'' he says. ''I didn't come along too early. I was right on time.'' What a lesson we can learn from this great hero. ''Give it up''—that's Buck's way. Don't be so formal. Don't hide behind polite conversations. Don't be afraid to show someone some love. Show what's in your heart, always; don't keep it inside. On this special occasion I urge us all to ''Give it up.''●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

REPORT ON THE SEVENTH BIENNIAL REVISION (2002–2006) TO THE UNITED STATES ARCTIC RESEARCH PLAN—MESSAGE FROM THE PRESIDENT—PM 59

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

Pursuant to the provisions of the Arctic Research and Policy Act of 1984, as amended (15 U.S.C. 4108(a)), I transmit herewith the seventh biennial revision (2002–2006) to the United States Arctic Research Plan.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 15, 2001.*

MESSAGE FROM THE HOUSE

At 5:32 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 74. A joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 211. Concurrent resolution commending Daw Aung San Suu Kyi on the 10th anniversary of her receiving the Nobel Peace Prize and expressing the sense of the Congress with respect to the Government of Burma.

H. Con. Res. 257. Concurrent resolution expressing the sense of the Congress that the men and women of the United States Postal Service have done an outstanding job of collecting, processing, sorting, and delivering the mail during this time of national emergency.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 2330. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes.

H.R. 2500. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 211. Concurrent resolution commending Daw Aung San Suu Kyi on the 10th anniversary of her receiving the Nobel Peace Prize and expressing the sense of the Congress with respect to the Government of Burma; to the Committee on Foreign Relations.

H. Con. Res. 257. Concurrent resolution expressing the sense of the Congress that the men and women of the United States Postal Service have done an outstanding job of delivering the mail during this time of national emergency; to the Committee on Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–4576. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period April 1, 2001 through September 30, 2001; ordered to lie on the table.

EC–4577. A communication from the General Counsel, National Science Foundation, transmitting, pursuant to law, the report of a rule entitled ''Amendments to Antarctic Conservation Act Regulations (45 CFR Part 670) to designate two additional Antarctic Specially Protected Areas and Correct Typographical Errors'' received on November 8, 2001; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, with amendments:

S. 1008: A bill to amend the Energy Policy Act of 1992 to develop the United States Climate Change Response Strategy with the goal of stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, while minimizing adverse short-term and long-term economic and social impacts, aligning the Strategy with United States energy policy, and promoting a sound national environmental policy, to establish a research and development program that focuses on bold technological breakthroughs that make significant progress toward the goal of stabilization of greenhouse gas concentrations, to establish the National Office of Climate Change Response within the Executive Office of the President, and for other purposes. (Rept. No. 107–99).

EXECUTIVE REPORT OF A COMMITTEE

The following executive report of a committee was reported on November 15, 2001:

By Mr. BIDEN, from the Committee on Foreign Relations:

TREATY DOC. 106–41 PROTOCOL RELATING TO THE MADRID AGREEMENT (EXEC. REPT. 107–1)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. ADVICE AND CONSENT TO ACCESSION TO THE MADRID PROTOCOL, SUBJECT TO AN UNDERSTANDING, DECLARATIONS, AND CONDITIONS.

The Senate advises and consents to the accession by the United States to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid on June 27, 1989, entered into force on December 1, 1995 (Treaty Doc. 106–41; in this resolution referred to as the ''Protocol''), subject to the understanding in section 2, the declarations in section 3, and the conditions in section 4.

SEC. 2. UNDERSTANDING.

The advice and consent of the Senate under section 1 is subject to the understanding, which shall be included in the United States instrument of accession to the Protocol, that no secretariat is established by the Protocol and that nothing in the Protocol obligates the United States to appropriate funds for the purpose of establishing a permanent secretariat at any time.

SEC. 3. DECLARATIONS.

The advice and consent of the Senate under section 1 is subject to the following declarations:

(1) NOT SELF-EXECUTING.—The United States declares that the Protocol is not self-executing.

(2) TIME LIMIT FOR REFUSAL NOTIFICATION.—Pursuant to Article 5(2)(b) of the Protocol, the United States declares that, for international registrations made under the Protocol, the time limit referred to in subparagraph (a) of Article 5(2) is replaced by 18 months. The declaration in this paragraph shall be included in the United States instrument of accession.

(3) NOTIFYING REFUSAL OF PROTECTION.—Pursuant to Article 5(2)(c) of the Protocol, the United States declares that, when a refusal of protection may result from an opposition to the granting of protection, such refusal may be notified to the International Bureau after the expiry of the 18-month time limit. The declaration in this paragraph shall be included in the United States instrument of accession.

(4) FEES.—Pursuant to Article 8(7)(a) of the Protocol, the United States declares that, in connection with each international registration in which it is mentioned under Article 3 of the Protocol, and in connection with each renewal of any such international registration, the United States chooses to receive, instead of a share in revenue produced by the supplementary and complementary fees, an

individual fee the amount of which shall be the current application or renewal fee charged by the United States Patent and Trademark Office to a domestic applicant or registrant of such a mark. The declaration in this paragraph shall be included in the United States instrument of accession.

SEC. 4. CONDITIONS.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) TREATY INTERPRETATION.—The Senate reaffirms condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (adopted at Vienna on May 31, 1996), approved by the Senate on May 14, 1997 (relating to condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988).

(2) NOTIFICATION OF THE SENATE OF CERTAIN EUROPEAN COMMUNITY VOTES.—The President shall notify the Senate not later than 15 days after any nonconsensus vote of the European Community, its member states, and the United States within the Assembly of the Madrid Union in which the total number of votes cast by the European Community and its member states exceeded the number of member states of the European Community.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BOND:

S. 1705. A bill to amend the Public Health Service Act to provide for the establishment of a homeland security academic centers for public health preparedness network; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN:

S. 1706. A bill to provide for the enhanced control of biological agents and toxins; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JEFFORDS (for himself, Mr. BREAUX, Mr. KYL, Mr. KERRY, Mr. BINGAMAN, Mr. SMITH of Oregon, Mr. FRIST, Mr. WARNER, Mr. HELMS, Mr. HARKIN, Ms. COLLINS, Mr. SHELBY, Ms. SNOWE, and Mrs. MURRAY):

S. 1707. A bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years; to the Committee on Finance.

By Mr. MCCONNELL (for himself and Ms. LANDRIEU):

S. 1708. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure the continuity of medical care following a major disaster by making private for-profit medical facilities eligible for Federal disaster assistance; to the Committee on Environment and Public Works.

By Mr. SMITH of New Hampshire (for himself and Mrs. FEINSTEIN):

S. 1709. A bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings; to the Committee on Finance.

By Mr. SMITH of New Hampshire:

S. 1710. A bill to amend the Internal Revenue Code of 1986 to provide that tips received for certain services shall not be subject to income or employment taxes; to the Committee on Finance.

By Mr. CAMPBELL:

S. 1711. A bill to designate the James Peak Wilderness and the James Peak Protection Area in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY (for himself, Mr. KOHL, Mr. HATCH, Mr. CARPER, Mr. THURMOND, Mr. CHAFEE, and Mr. SPECTER):

S. 1712. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 1713. A bill to amend title 39, United States Code, to direct the Postal Service to adhere to an equitable tender policy in selecting air carriers of non-priority bypass mail to certain points in the State of Alaska, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MCCONNELL:

S. 1714. A bill to provide for the installation of a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building; to the Committee on Governmental Affairs.

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. ALLEN, Mr. DASCHLE, Mr. BOND, Mr. AKAKA, Mr. CHAFEE, Mr. BAYH, Ms. COLLINS, Mr. BIDEN, Mr. DOMENICI, Mr. BREAUX, Mr. DEWINE, Mrs. CARNAHAN, Mr. HAGEL, Mr. CLELAND, Mr. HUTCHINSON, Mrs. CLINTON, Mrs. HUTCHISON, Mr. CORZINE, Mr. ROBERTS, Mr. DODD, Ms. SNOWE, Mr. DURBIN, Mr. VOINOVICH, Mr. EDWARDS, Mr. WARNER, Mrs. FEINSTEIN, Mr. HARKIN, Mr. JEFFORDS, Mr. JOHNSON, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REED, Mr. ROCKEFELLER, Mr. SARBANES, and Mr. TORRICELLI):

S. 1715. A bill to improve the ability of the United States to prepare for and respond to a biological threat or attack; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY (for himself, Mr. STEVENS, Mr. HOLLINGS, Mr. INOUYE, and Mr. AKAKA):

S. 1716. A bill to speed national action to address global climate change, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 181. A resolution to authorize testimony, document production, and legal representation in State of Idaho v. Joseph Daniel Hooper; considered and agreed to.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. Con. Res. 84. A concurrent resolution providing for a joint session of Congress to be held in New York City, New York; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 906

At the request of Mr. ENZI, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 906, a bill to provide for protection of gun owner privacy and ownership rights, and for other purposes.

S. 990

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 990, a bill to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes.

S. 1022

At the request of Mr. WARNER, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1140

At the request of Mr. HATCH, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1163

At the request of Mr. CORZINE, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1163, a bill to increase the mortgage loan limits under the National Housing Act for multifamily housing mortgage insurance.

S. 1248

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 1248, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable, housing for low-income families, and for other purposes.

S. 1324

At the request of Mr. LIEBERMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1324, a bill to provide relief from the alternative minimum tax with respect to incentive stock options exercised during 2000.

S. 1434

At the request of Mr. SPECTER, the names of the Senator from Delaware (Mr. CARPER), the Senator from Wyoming (Mr. ENZI), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Kansas (Mr. ROBERTS), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Tennessee (Mr. THOMPSON) were added as cosponsors of S. 1434, a bill to authorize the President to award posthumously the Congressional Gold Medal to the passengers and crew of United Airlines flight 93 in the aftermath of the terrorist attack on the United States on September 11, 2001.

S. 1503

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1503 , a bill to extend and amend the Promoting Safe and Stable Families Program under subpart 2 of part B of title IV of the Social Security Act, to provide the Secretary of Health and Human Services with new authority to support programs mentoring children of incarcerated parents, to amend the Foster Care Independent Living Program under part E of title IV of the Social Security Act to provide for educational and training vouchers for youths aging out of foster care, and for other purposes.

S. 1562

At the request of Mr. SANTORUM, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1562, a bill to amend title 39, United States Code, with respect to cooperative mailings.

S. 1571

At the request of Mr. LUGAR, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 1571, a bill to provide for the continuation of agricultural programs through fiscal year 2006.

S. 1593

At the request of Mr. JEFFORDS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1593, a bill to authorize the Administrator of the Environmental Protection Agency to establish a grant program to support research projects on critical infrastructure protection for water supply systems, and for other purposes.

S. 1643

At the request of Mrs. MURRAY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1643, a bill to provide Federal reimbursement to State and local governments for a limited sales, use and retailers' occupation tax holiday.

S. 1646

At the request of Mr. BINGAMAN, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1646, a bill to identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System.

S. CON. RES. 44

At the request of Mr. STEVENS, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. Con. Res. 44, a concurrent resolution expressing the sense of the Congress regarding National Pearl Harbor Remembrance Day.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND:

S. 1705. A bill to amend the Public Health Service Act to provide for the establishment of a homeland security academic centers for public health preparedness network; to the Committee on Health, Education, Labor, and Pensions.

Mr. BOND. Mr. President, I rise today to introduce a bill I call the ''The Homefront Medical Preparedness Act.''

In the past century we have witnessed unprecedented advances in science, technology and medicine and have seen limitless potential to improve the human condition, cure disease, and advance human health in ways that were once unimaginable. Yet, at the same time we have seen some of these very advances have spawned new threats, threats that were simply inconceivable 100 years ago. The recent outbreaks of anthrax in Florida, New York City, and Washington, DC, coupled with the terrorist attack of September 11 have brought to light the compelling need to properly prepare our communities for the threat of bioterrorists attacks.

A strong public-health infrastructure is the best defense against any bioterrorism attack. As a Nation we remain highly vulnerable, not because we are unprepared, but because we are underprepared. The Department of Health and Human Services has made tremendous advances over the past few years. However, while significant progress has been made, there are still large gaps in our current approach. Our goal must be to eliminate these gaps and reduce the risk to our Nation and our communities. As a nation, we must prepare our communities, and improve our capacity to respond. Central to an effective response to a bioterrorist attack are detection, treatment and containment of a disease epidemic and our Nation's public-health system is on the front line in this effort.

The Nation's public health system is a complex network of people, systems, and organizations working at the local, State and national levels. The Nation is served by more then 3,000 county and city health departments, more than 3,000 local boards of health, 59 State and territorial-health departments, tribal-health departments more than 160,000 public and private laboratories. Current estimates suggest that the public-health workforce includes 500,000 professionals employed at the local, State and national levels. According to the Health Resource and Services Administration in 1989 only 44 percent of these 500,000 workers had formal, academic training in public health and those with graduate public health degrees were an even smaller fraction. As of 1997, 78 percent of local health departments executives did not have graduate degrees in public health. Changes on the public health system have brought new demands on the workforce and identified a need for additional training and education. Many public-health workers do not have the necessary skills and knowledge base to meet the needs of the emerging public-health system and public-health threats. These statistics highlight the critical need to provide these professionals with the most up-to-date training, technology, and tools necessary to meet the increasing demands and emerging needs.

An important first step has already been taken. The Centers for Disease Control has created Centers for Public Health Preparedness across the country. There are currently 14 centers total: 7 Academic Centers, 4 Speciality Centers, and 3 Local Exemplar Centers. The Academic Centers link schools of public health, State and local-health agencies and other academic and community health partners to foster individual preparedness on the front line. The Speciality Centers focus on a topic, professional discipline, core public-health competency, practice setting or application of learning technology. And finally, the Local Exemplar Centers develop advanced applications at the community level in three areas of key importance to preparedness for bioterrorism and other urgent health threats: integrated communications and information systems across multiple sectors; advanced operational readiness assessment; and comprehensive training and evaluation.

In Missouri we are fortunate to have not one, but two centers in St. Louis at St. Louis University School of Public Health: an Academic Center the Heartland Center for Public Health Preparedness as well as a Speciality Center The Center for the Study of Bioterrorism and Emerging Threats. The School of Public Health at St. Louis University has clearly been on the forefront of this issue. I was honored to have secured Federal appropriations dollars necessary for startup costs for the Center for the Study of Bioterrorism, the only specialty center with a primary focus on bioterrorism in the country. The center provides public-healthcare providers and healthcare facilities with the tools needed for preparedness, response, recovery, and mitigation of intentional or naturally occurring outbreaks. Under the leadership of Dr. Evans, the center has developed training curriculum that is being used nationwide to train healthcare providers and public-health departments. In fact, the center's training materials were used by the CDC to train emergency health personal, healthcare providers and other public-health workers in New York to respond to the September 11 attack.

But more can and must be done. Today I introduced legislation which will expand the national network of Centers of Public Health Preparedness by adding new centers across the country as well as funneling more valuable resources to existing centers to meet urgent, public-health training needs. This bill will authorize $50 million and would instruct the Director of the Centers for Disease Control to establish a

national network of Centers for Public Health Preparedness utilizing the existing Centers for Public Health Preparedness Program to train and to prepare the national public-health workforce, healthcare providers and the general public to respond to bioterrorist threats.

Each center, housed at an accredited school of public health will 1. provide training and education to local and state health department staff, emergency first responders, and primary and acute care providers on the best practices necessary to protect against, and respond to the array of potential threats facing the American public, including bioterrorism, infectious disease and weapons of mass destruction; 2. provide information to healthcare [providers and other components of the healthcare industry to protect against and respond to the threat of bioterrorism, infectious disease and weapons of mass destruction; and 3. provide information and education on relevant bioterrorist threats to the public.

Under my legislation each center, both new and existing, will receive at least $1 million per year, but may receive additional sums per year if the CDC deems additional resources are necessary to carry out regional or national training activities at a particular center.

I believe that our schools of pubic health across the country, working in conjunction with the CDC can provide training and education to local and State health department staff, emergency first responders, and primary and acute-care providers on the best practices necessary to protect against, identify and respond to the wide array of potential threats facing the American public, including bioterrorism, infectious disease and weapons of mass destruction. The capacity and competency of our healthcare workforce is a critical component of the basic public-health infrastructure necessary to protect our communities. As with our military, our public-health system must be prepared at all times to ward off threats and respond to crises. Our national public-health infrastructure is the first and in some cases the only line of defense. Like our military, our public-health system must be at a constant state of readiness nationwide and this legislation will enable our public health system to better achieve this goal. If the public-health system is fully prepared then communities across the country will be better protected.

By Mr. HARKIN:

S. 1706. A bill to provide for the enhanced control of biological agents and toxins; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, in May 1995, Larry Wayne Harris of Ohio ordered three vials of the bacterium that causes bubonic plague to be FedEx'ed from a company in Rockville, MD. At the time, all he needed was a credit card and letterhead. He invented both the letterhead and the lab he claimed to be from. In fact he was a member of a white supremacist group who would later tell of plans to kill hundreds of thousands of Americans with the plague. But when he was arrested with the vials, he was only charged with mail fraud for misrepresenting himself. No Federal license, registration, or even notification was required to obtain, own, or work with the plague.

Partly as a result of this incident, Congress in 1996 passed provisions in the Antiterrorism and Effective Death Penalty Act to close the specific loophole. This bill required the Secretary of Health and Human Services to regulate transfer of a select list of biological agents. But it did not regulate possession or use of the agents. The subsequent regulations incorporated safety standards for labs receiving these agents, but set virtually no security standards to make sure these agents don't end in the wrong hands. They carved out broad exemptions, including all certified clinical laboratories. And they included little means of enforcement.

I think most Americans would be shocked to learn that we still have no idea who has anthrax, plague, or other biological agents in their freezer. Labs have had to register only if they have sent or received one of the agents since 1996. We know the recent attacks with anthrax used the so-called ''Ames'' strain of anthrax, which was identified at Iowa State University some decades ago, but we don't know how many labs in the United States have samples of this strain today. If we had that information before the next attack, especially if a less common agent or strain were used, it could be the starting point for the next investigation.

We can and we must do better. We have long had relatively tight controls on materials that can be used in nuclear weapons. You must have a license from the NRC or an agreement state to possess these nuclear materials. There are strict safety and security requirements on the licensees, and a small army of inspectors to make sure they comply. Licensees must report all shipments and receipts, and report any losses from their inventory of a gram or more of the most dangerous materials. Bioweapons have been called ''the poor man's nuclear bomb'' because they could cause similar devastation, but are easier and cheaper to obtain. It's time we place reasonable controls on biological agents too.

That is why I am introducing the Bioweapons Control and Tracking Act of 2001. This bill would for the first time impose five important controls on dangerous biological agents and toxins to reduce the risk of an accident or terrorist attack. First, the bill would direct the Secretary of Health and Human Services to regulate the possession and use of select biological agents as well as their transfer.

Second, the regulations would require registration with the Department for possession, use, and transfer of select agents and toxins. The registration would include known characterization of the agents, such as the strains, in order to facilitate their traceability. The Department would be required to maintain a database of locations and characterizations of the agents using the registration information.

Third, the regulations would also have to include safeguards and security standards, as well as safety standards. Labs would be required to restrict access to the agents to people who need to handle them. And a process would be set up to screen people who do have access to the agents.

Fourth, the bill requires that any exemptions from these regulations be consistent with public health and safety. Any exemptions from registration requirements would have to still allow a complete database of agents of concern, but exemptions could be allowed either for a lab that only temporarily possesses the agent or for samples that could not be useful for making a weapon. These exemptions are intended to avoid an unnecessary burden on thousands of clinical labs that receive diagnostic samples for testing and, if the test is positive for a select agent, quickly pass the sample on to a government lab or destroy it.

Fifth, the bill includes strong enforcement measures. The bill specifically authorizes inspections to ensure compliance. To give teeth to the enforcement, it enacts a civil penalty for violating the regulations of up to $250,000 for an individual of $500,000 for a group. And it enacts a criminal penalty up to 5 years in prison for possession or transfer of select agents by someone who is not registered, and also for transfer to a person who is not registered.

In addition, the bill exempts information about specific labs from disclosure under the Freedom of Information Act to prevent one-stop-shopping for information by would-be bioterrorists. It requires biennial review of the list of biological agents and toxins of concern. And it codifies the law in Public Health Service Act, maintains current regulations until the Secretary issues new ones, and sets a deadline for the registration and associated penalties.

I have been working with several of my colleagues on a $4 billion package to strengthen our response to a possible bioterrorism attack, so that we can stop a terrible attack from becoming a national or world calamity. We need these funds to strengthen the public health infrastructure, monitor food safety, and build our capacity for vaccinations. But for just a few millions dollars we may be able to prevent an attack, to stop bioterrorists before they even get hold of the necessary agents. We must no delay.

By Mr. MCCONNELL (for himself and Ms. LANDRIEU):

S. 1708. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure the

continuity of medical care following a major disaster by making private for-profit medical facilities eligible for Federal disaster assistance; to the Committee on Environment and Public Works.

Mr. MCCONNELL. Mr. President, I rise today to introduce the Parity in Emergency Preparedness and Response Act of 2001. The horrific attacks of September 11 and subsequent anthrax exposures have focused our attention on the need to prepare and respond to emergencies, whether they result from acts of nature or the misdeeds of man. The legislation I introduce today will correct a provision in current law that prevents many hospitals from working with the Federal Government to prevent and respond to disasters. When tragedy strikes, the most important consideration shouldn't be a hospital's tax status, but rather its ability to care for the injured.

In 1974, Congress enacted the Robert T. Stafford Disaster Relief and Emergency Assistance Act, commonly referred to as the Stafford Act. This important legislation helps States and communities plan for emergencies and take steps to minimize the damage inflicted by a potential disaster. Once a disaster strikes, the Stafford Act authorizes the President to provide communities the resources they need to respond quickly and recover completely.

While the Stafford Act has helped countless communities respond to disasters, it has one glaring shortcoming, it prohibits the President and Federal Emergency Management Agency, FEMA, from offering assistance to hospitals that are owned or managed by private companies. As a result, there are 36 hospitals in my home State of Kentucky which are ineligible to receive Federal disaster mitigation and recovery funds.

I find it incomprehensible that the Federal Government would deny needed disaster assistance to a county hospital, simply because of its ownership, management structure, or tax status. Is a tornado any less devastating in one community than another, simply because of a local hospital's tax status? Are they any less deserving of the Federal Government's support? I think not.

What I find most troubling about this disparity is that it disproportionately affects rural communities, whose hospitals are frequently owned by the community but operated by private companies. Many small towns and rural counties prefer this sort of relationship because it allows them to ensure their citizens have access to needed health care services, while relieving themselves of the burdens of operating a modern hospital. In the rural Kentucky communities of Caldwell, Cumberland, Crittenden, Fleming, Marshall, Monroe, Ohio and Bell Counties, the community owns the hospital but contracts with a private management firm to direct the hospital's day to day operations. As a result of this relationship, these publicly owned hospitals are not eligible for Federal disaster mitigation or recovery assistance.

Hospitals are critical community resources which must be able to provide services in an emergency, regardless of their ownership or management structure. That is why I am proud to introduce the Parity in Emergency Preparedness and Response Act with my colleague from Louisiana, Ms. LANDRIEU. This legislation would eliminate the disparity which exists between nonprofit and investor-owned hospitals and allow all eligible hospitals to apply for disaster mitigation and recovery funds. Our bill does not create an entitlement for hospitals that are owned or operated by private companies. The Stafford Act is clear in stating the President ''may make contributions'' to help damaged hospitals respond to and recover from an emergency, and this legislation does nothing to diminish the President's discretion in this regard.

Since September 11, 2001, the need to ensure that our Nation's public health infrastructure is capable of responding to unanticipated emergencies has received renewed attention in Congress. In fact, the Senate will soon consider comprehensive legislation to address the growing threat of bioterrorism and protect the safety of our food supply. While I strongly support the intent of this legislation, it will be woefully incomplete if it does not allow all hospitals, including investor-owned hospitals, to apply for disaster assistance.

Hospitals play a vital role in responding to emergencies, regardless of their management structure. I look forward to working with Ms. LANDRIEU and our colleagues in the Senate to pass this legislation and ensure that all of America's hospitals are prepared to respond to disasters.

I ask unanimous consent that a list of hospitals which would become eligible for disaster assistance under my legislation be printed in the RECORD, and I ask unanimous consent the text of the bill be printed in the RECORD.

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

S. 1708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Parity in Emergency Preparedness and Response Act of 2001''.

SEC. 2. ELIGIBILITY OF PRIVATE FOR-PROFIT MEDICAL FACILITIES FOR FEDERAL DISASTER ASSISTANCE.

(a) ELIGIBILITY OF PRIVATE FOR-PROFIT MEDICAL FACILITIES FOR ASSISTANCE AVAILABLE TO PRIVATE NONPROFIT FACILITIES.—Section 102(9) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(9)) is amended—

(1) by striking ''and facilities'' and inserting ''facilities''; and

(2) by inserting before the period at the end the following: '', and private for-profit medical facilities (including hospitals and long-term care facilities)''.

(b) CLARIFICATION OF ELIGIBILITY OF MEDICAL FACILITIES FOR EMERGENCY PREPAREDNESS ASSISTANCE.—

(1) DEFINITION OF EMERGENCY PREPAREDNESS.—Section 602(a)(3)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a(a)(3)(A)) is amended by inserting ''the preparation of private nonprofit and for-profit medical facilities (including hospitals and long-term care facilities) to withstand major disasters,'' after ''control centers,''.

(2) FUNCTIONS OF FEMA.—Section 611(j)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(j)(1)) is amended in the first sentence by inserting before the period at the end the following: ''(including the preparation of private nonprofit and for-profit medical facilities (including hospitals and long-term care facilities) to withstand major disasters)''.

(c) DEFINITION OF LONG-TERM CARE FACILITY.—Section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) is amended by adding at the end the following:

''(10) LONG-TERM CARE FACILITY.—'Long-term care facility' means—

''(A) any skilled nursing facility (as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a));

''(B) any nursing facility (as defined in section 1919(a) of that Act (42 U.S.C. 1396r(a)); and

''(C) any other long-term care facility, such as an intermediate care facility for the mentally retarded.''.

ELIGIBLE HOSPITALS Bluegrass Community Hospital, Versailles, KY; Bourbon Community Hospital, Paris, KY; FHC Cumberland Hall, Hopkinsville, KY; Frankfort Regional Medical Center, Frankfort, KY; Gateway Rehabilitation Hospital, Florence, KY; Gateway Rehabilitation Hospital at Norton Healthcare Pavilion, Louisville, KY; Georgetown Community Hospital, Georgetown, KY; Greenview Regional Hospital, Bowling Green, KY; HEALTHSOUTH Rehabilitation Hospital of Central Kentucky, Elizabethtown, KY; HEALTHSOUTH Rehabilitation Hospital of Northern Kentucky, Edgewood, KY; Jackson Purchase Medical Center, Mayfield, KY; Jenkins Community Hospital, Jenkins, KY; Kentucky River Medical Center, Jackson, KY; Kindred Hospital-Louisville, Louisville, KY; Lake Cumberland Regional Hospital, Somerset, KY; Lincoln Trail Behavioral Health System, Radcliff, KY; Logan Memorial Hospital, Russellville, KY; Meadowview Regional Medical Center, Maysville, KY; Mediplex Rehab-Bowling Green, Bowling Green, KY; Paul B. Hall Regional Medical Center, Paintsville, KY; Ridge Behavioral Health System, Lexington, KY; Rivendell Behavioral Health Services, Bowling Green, KY; Samaritan Hospital, Lexington, KY; Ten Broeck Hospital, Louisville, KY; Ten Broeck Hospital DuPont, Louisville, KY; Three Rivers Medical Center, Louisa, KY; Caldwell County Hospitals, Princeton, KY; Crittenden Health System, West Marion, KY; Cumberland County Hospital, Burkesville, KY; Fleming County Hospital, Flemingsburg, KY; Jennie Stuart Medical Center, Hopkinsville, KY; Marshall County Hospital, Benton, KY; Monroe County Medical Center, Tompkinsville, KY; Muhlenberg Community Hospital, Greenville, KY; Ohio County Hospital, Hartford, KY; and Pineville Community Hospital, Pineville, KY.

By Mr. CAMPBELL:

S. 1711. A bill to designate the James Peak Wilderness and the James Peak Protection Area in the State of Colorado, and for other purposes; to the

Committee on Energy and Natural Resources.

Mr. CAMPBELL. Mr. President, today I introduce the ''James Peak Wilderness and Protection Area Act.'' This language is the product of years of detailed negotiations regarding an area of great majesty in my home State of Colorado.

When discussing public lands issues, the potential uses for land are as varied and numerous as the diverse groups of users. Oftentimes, one camp is pitted against another, each convinced that its view is right to the point that it necessarily excludes the other interested party. And the result is that nothing viable happens. No land is protected and no uses of land are preserved. Instead, we read of angry exchanges, that if it were not for one side being so stubborn in its view, then we would have had a bill, while ignoring their own immobile position.

This bill, I am very proud to say, is different from the all-too-common discourse that I described.

This bill stands as a testament to what can be achieved when interested parties stop for a moment and listen to each other. I would like to take this moment to commend the work of my friends in the House, Representatives UDALL and MCINNIS for their efforts on this issue.

The ''James Peak Wilderness and Protection Area Act'' respects the diverse uses of Colorado's lands and recognizes those differences accordingly. This bill designates about 14,000 acres in Boulder, Clear Creek, and Gilpin Counties as Wilderness, and enlarges the existing Indian Peaks Wilderness by an additional 3,195 acres. Further, this carefully balanced approach designates 16,000 acres of national forest land as the ''James Peak Protection Area.'' The Protection Area in Grand County would disallow development of the land, but would permit recreational use for the public's continued enjoyment.

I am pleased with the careful compromises that were necessary in crafting this bill and proudly introduce it today. I only wish this kind of cooperation was more evident in the other discussions about public lands in America.

I hope for quick passage of this important bill.

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

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

S. 1711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''James Peak Wilderness, Wilderness Study, and James Peak Protection Area Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) BOARD.—The term ''Board'' means the Colorado State Land Board.

(2) FOREST SUPERVISOR.—The term ''Forest Supervisor'' means the Forest Supervisor of the Arapaho National Forest and Roosevelt National Forest.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the 1997 Revision of the Land and Resource Management Plan for the Arapaho and Roosevelt National Forests and the Pawnee National Grasslands.

(4) PROTECTION AREA.—The term ''Protection Area'' means the James Peak Protection Area designated by section 4(b).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(6) SPECIAL INTEREST AREA.—The term ''special interest area'' means the land in the Protection Area that is bounded—

(A) on the north by Rollins Pass Road;

(B) on the east by the Continental Divide; and

(C) on the west by the 11,300-foot elevation contour, as depicted on the map entitled ''Proposed James Peak Protection Area'', dated September 2001.

(7) STATE.—The term ''State'' means the State of Colorado.

SEC. 3. WILDERNESS DESIGNATION.

(a) JAMES PEAK WILDERNESS.—Section 2(a) of the Colorado Wilderness Act of 1993 (Public Law 103–77; 107 Stat. 756) is amended by adding at the end the following:

''(20) JAMES PEAK WILDERNESS.—Certain land in the Arapaho National Forest and Roosevelt National Forest comprising approximately 14,000 acres, as generally depicted on the map entitled 'Proposed James Peak Wilderness', dated September 2001, and which shall be known as the 'James Peak Wilderness'.''.

(b) ADDITION TO THE INDIAN PEAKS WILDERNESS AREA.—Section 3 of the Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act (Public Law 95–450; 92 Stat. 1095) is amended by adding at the end the following:

''(c) ADDITIONAL LAND.—In addition to the land described in subsection (a), the Indian Peaks Wilderness Area shall include—

''(1) the approximately 2,232 acres of Federal land in the Arapaho National Forest and Roosevelt National Forest, as generally depicted on the map entitled 'Ranch Creek Addition to Indian Peaks Wilderness', dated September 2001; and

''(2) the approximately 963 acres of Federal land in the Arapaho National Forest and Roosevelt National Forest, as generally depicted on the map entitled 'Fourth of July Addition to Indian Peaks Wilderness', dated September 2001.''.

(c) MAPS AND LEGAL DESCRIPTIONS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate—

(A) a map and legal description of the area designated as wilderness by the amendments made by subsection (a); and

(B) a map and legal description of the area added to the Indian Peaks Wilderness Area by the amendments made by subsection (b).

(2) EFFECT.—The maps and legal descriptions shall have the same force and effect as if included in—

(A) the Colorado Wilderness Act of 1993 (Public Law 103–77; 107 Stat. 756); and

(B) the Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act (Public Law 95–450; 92 Stat. 1095).

(3) CORRECTIONS.—The Secretary may correct technical errors in the maps and legal descriptions.

(4) AVAILABILITY.—Copies of the maps and legal descriptions shall be on file and available for public inspection in—

(A) the office of the Chief of the Forest Service; and

(B) the office of the Forest Supervisor.

SEC. 4. DESIGNATION OF JAMES PEAK PROTECTION AREA.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) the Protection Area includes important resources and values, including wildlife habitat, clean water, open space, and opportunities for solitude;

(B) the Protection Area includes areas that are suitable for recreational uses, including the use of snowmobiles and other motorized and nonmotorized vehicles; and

(C) the Protection Area should be managed in a way that protects the resources and values of the Protection Area while permitting continued recreational uses, subject to appropriate regulations.

(2) PURPOSE.—The purpose of this section is to provide for management of certain land in the Arapaho National Forest and Roosevelt National Forest in a manner that—

(A) is consistent with the management plan; and

(B) protects the natural qualities of the land.

(b) DESIGNATION.—The approximately 16,000 acres of land in the Arapaho National Forest and Roosevelt National Forest generally depicted on the map entitled ''Proposed James Peak Protection Area'', dated September 2001, is designated as the ''James Peak Protection Area''.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a map and legal description of the Protection Area.

(2) EFFECT.—The map and legal description shall have the same force and effect as if included in this Act.

(3) CORRECTIONS.—The Secretary may correct clerical and typographical errors in the map and legal description.

(4) AVAILABILITY.—The map and legal description shall be on file and available for public inspection in—

(A) the office of the Chief of the Forest Service; and

(B) the office of the Forest Supervisor.

(d) MANAGEMENT.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary shall manage and administer the Protection Area in accordance with the management plan.

(2) GRAZING.—Nothing in this Act, including the establishment of the Protection Area, affects grazing on land in or outside of the Protection Area.

(3) WITHDRAWALS.—

(A) IN GENERAL.—Subject to valid existing rights, all Federal land in the Protection Area (including land and interests in land acquired for the Protection Area by the United States after the date of enactment of this Act) is withdrawn from—

(i) all forms of entry, appropriation, or disposal under the public land laws;

(ii) location, entry, and patent under the mining laws; and

(iii) the operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(B) EFFECT.—Nothing in subparagraph (A) affects the discretionary authority of the Secretary under other Federal law to grant, issue, or renew any right-of-way or other land use authorization consistent with this Act.

(4) MOTORIZED AND MECHANIZED TRAVEL.—

(A) REVIEW AND INVENTORY.—

(i) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with any interested parties, shall complete a review and inventory of all roads and trails in the Protection Area (excluding the special interest area) on which use was allowed on September 10, 2001.

(ii) CONNECTION.—In conducting the review and inventory under clause (i), the Secretary may connect any existing road or trail in the inventory area to another existing road or trail in the inventory area for the purpose of mechanized and nonmotorized use, if the connection results in no net gain in the total mileage of roads or trails open for public use in the Protection Area.

(iii) CLOSURE.—In conducting the review and inventory under clause (i), the Secretary may close or remove any road or trail in the Protection Area that the Secretary determines to be undesirable, except those roads or trails managed under paragraph (7).

(iv) DESIGNATED AREAS.—As soon as practicable after completion of the review and inventory under clause (i), the Secretary shall prohibit motorized and mechanized travel in the Protection Area, except on roads and trails—

(I) identified as being open to use in the inventory; or

(II) established under paragraph (5).

(B) ROGERS PASS TRAIL.—Notwithstanding any other provision of this Act, a motorized vehicle shall not be permitted on any part of the Rogers Pass Trail.

(5) NEW ROADS AND TRAILS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no road or trail shall be established in the Protection Area after the date of enactment of this Act.

(B) ESTABLISHMENT.—The Secretary may establish—

(i) a new road or trail to replace a road or trail of the same character and scope that has become nonserviceable because of a reason other than neglect;

(ii) as necessary, nonpermanent roads for—

(I) hazardous fuel reduction;

(II) fire, insect, or disease control projects; or

(III) other management purposes;

(iii) any road determined to be appropriate for reasonable access under section 5(b)(3);

(iv) a loop trail established under section 7; or

(v) a trail for nonmotorized use along the corridor designated as the Continental Divide Trail.

(6) TIMBER HARVESTING.—No timber harvesting shall be allowed within the Protection Area, except to the extent necessary for—

(A) hazardous fuel reduction;

(B) a fire, insect, or disease control project; or

(C) protection of public health or safety.

(7) SPECIAL INTEREST AREA.—The management prescription applicable to the land referred to in the management plan as the James Peak Special Interest Area shall apply to the special interest area.

(e) NATURAL GAS PIPELINE.—

(1) MAINTENANCE.—The Secretary shall allow for maintenance of rights-of-way and access roads located in the Protection Area—

(A) to the extent necessary to operate the natural gas pipeline permitted under the Arapaho/Roosevelt National Forest master permit numbered 4138.01; and

(B) in a manner that—

(i) does not have a negative effect on public safety; and

(ii) allows for compliance with Federal pipeline safety requirements.

(2) INCLUSIONS.—Maintenance under paragraph (1) may include—

(A) vegetation management;

(B) road maintenance;

(C) ground stabilization; and

(D) motorized vehicle access.

(f) PERMANENT FEDERAL OWNERSHIP.—All right, title, and interest of the United States, held on or acquired after the date of enactment of this Act, in and to land within the boundaries of the Protection Area shall be retained by the United States.

(g) WATER RIGHTS.—

(1) EFFECT OF THIS ACT.—Nothing in this Act—

(A) constitutes an express or implied reservation of any water or water right with respect to land within the Protection Area;

(B) affects any conditional or absolute water right in the State in existence on the date of enactment of this Act;

(C) establishes a precedent with regard to any future Protection Area designation; or

(D) limits, alters, modifies, or amends any interstate compact or equitable apportionment decree that apportions water among and between the State and other States.

(2) COLORADO WATER LAW.—The Secretary shall be subject to all procedural and substantive laws of the State in order to obtain and hold any new water rights with respect to the Protection Area.

(3) WATER INFRASTRUCTURE.—Nothing in this Act affects, impedes, interferes with, or diminishes the operation, existence, access, maintenance, improvement, or construction of a water facility or infrastructure, right-of-way, or other water-related property, interest, or use (including the use of motorized vehicles and equipment on land within the Protection Area) on any land except the land in the special interest area.

SEC. 5. ACQUISITION OF LAND.

(a) BOARD LAND.—The Secretary may acquire by purchase or exchange land in the Protection Area owned by the Board.

(b) JIM CREEK DRAINAGE.—

(1) IN GENERAL.—The Secretary may acquire by purchase or exchange land in the Jim Creek drainage in the Protection Area.

(2) CONSENT OF LANDOWNER.—The Secretary may acquire land under this subsection only with the consent of the landowner.

(3) EFFECT.—Nothing in this Act affects the rights of any owner of land located within the Jim Creek drainage in the Protection Area, including any right to reasonable access to the land by motorized or other means, as determined by the Chief of the Forest Service and the landowner, in accordance with applicable law (including regulations).

(c) REPORT.—

(1) IN GENERAL.—The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report concerning any agreement or the status of negotiations for the acquisition of land under—

(A) subsection (a), on the earlier of—

(i) the date on which an agreement for acquisition by the United States of land referred to in subsection (a) is entered into; or

(ii) 1 year after the date of enactment of this Act; and

(B) subsection (b), on the earlier of—

(i) the date on which an agreement for acquisition by the United States of land referred to in subsection (b) is entered into; or

(ii) 1 year after the date of enactment of this Act.

(2) REQUIREMENTS.—A report under paragraph (1) shall include information on funding, including—

(A) to what extent funds are available to the Secretary for the acquisition of the land, as of the date of the report; and

(B) whether additional funds need to be appropriated or otherwise made available to the Secretary for the acquisition of the land.

(d) MANAGEMENT OF ACQUISITIONS.—Any land within the James Peak Wilderness or the Protection Area acquired by the United States after the date of enactment of this Act shall be added to the James Peak Wilderness or the Protection Area, respectively.

SEC. 6. JAMES PEAK FALL RIVER TRAILHEAD.

(a) SERVICES AND FACILITIES.—

(1) IN GENERAL.—Following the consultation required by subsection (c), the Forest Supervisor shall establish a trailhead, facilities, and services for National Forest System land that is located—

(A) in the vicinity of the Fall River basin; and

(B) south of the communities of Alice Township and St. Mary's Glacier in the State.

(2) INCLUSIONS.—The facilities and services under paragraph (1) shall include—

(A) parking for the trailhead;

(B) public restroom accommodations; and

(C) maintenance of the trailhead and trail.

(b) PERSONNEL.—The Forest Supervisor shall assign Forest Service personnel to provide appropriate management and oversight of the area specified in subsection (a)(1).

(c) CONSULTATION.—The Forest Supervisor shall consult with the commissioners of Clear Creek County and with residents of Alice Township and St. Mary's Glacier in the State regarding—

(1) the appropriate location of facilities and services in the area specified in subsection (a)(1); and

(2) appropriate measures that may be needed in this area—

(A) to provide access by emergency or law enforcement vehicles;

(B) for public health; and

(C) to address concerns regarding impeded access by local residents.

(d) REPORT.—As soon as practicable after the consultation required by subsection (c), the Forest Supervisor shall submit to the Committee on Resources and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate a report regarding the amount of any additional funding required to implement this section.

SEC. 7. LOOP TRAIL STUDY.

(a) STUDY.—Not later than 3 years after the date on which funds are first made available to carry out this section, the Secretary, in consultation with interested parties, shall complete a study of the suitability and feasibility of establishing, consistent with the purpose described in section 4(a)(2), a loop trail for mechanized and other nonmotorized recreation that connects the trail designated as ''Rogers Pass'' and the trail designated as ''Rollins Pass Road''.

(b) ESTABLISHMENT.—If the results of the study required by subsection (a) indicate that establishment of a loop trail would be suitable and feasible, the Secretary shall establish the loop trail.

SEC. 8. ADMINISTRATIVE PROVISIONS.

(a) NO BUFFER ZONES.—

(1) IN GENERAL.—The designation by this Act or by amendments made by this Act of wilderness areas under section 3 and the Protection Area in the State shall not establish any express or implied protective perimeter or buffer zone around a wilderness area or the Protection Area.

(2) SURROUNDING LAND.—The fact that the use of, or conduct of an activity on, land that shares a boundary with a wilderness area or the Protection Area may be seen or heard from a wilderness area or the Protection Area shall not, in and of itself, preclude the conduct of the use or activity.

(b) ROLLINS PASS ROAD.—

(1) IN GENERAL.—If requested by 1 or more of Grand, Gilpin, or Boulder Counties in the State, the Secretary, with respect to the repair of the Rollins Pass road in those counties, shall provide technical assistance and otherwise cooperate with the counties to permit 2-wheel-drive vehicles to travel between Colorado State Highway 119 and U.S. Highway 40.

(2) CLOSURE OF MOTORIZED ROADS AND TRAILS.—If Rollins Pass road is repaired in accordance with paragraph (1), the Secretary shall close the motorized roads and trails on Forest Service land indicated on the map entitled ''Rollins Pass Road Reopening: Attendant Road and Trail Closures,'' dated September 2001.

SEC. 9. WILDERNESS POTENTIAL.

(a) IN GENERAL.—Nothing in this Act precludes or restricts the authority of the Secretary—

(1) to evaluate the suitability of land in the Protection Area for inclusion in the National Wilderness Preservation System; or

(2) to make recommendations to Congress on the inclusion of land evaluated under paragraph (1) in the National Wilderness Preservation System .

(b) EVALUATION OF CERTAIN LANDS.—As part of the first revision of the management plan carried out after the date of the enactment of this Act, the Secretary shall—

(1) evaluate the suitability of the special interest area for inclusion in the National Wilderness Preservation System; and

(2) make recommendations to Congress on the inclusion of land evaluated under paragraph (1) for inclusion in the National Wilderness Preservation System.

By Mr. GRASSLEY (for himself, Mr. KOHL, Mr. HATCH, Mr. CARPER, Mr. THURMOND, Mr. CHAFEE, and Mr. SPECTER):

S. 1712. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I rise today to introduce the ''Class Action Fairness Act of 2001.'' I am pleased to be joined by Senators KOHL, HATCH, CARPER, THURMOND, CHAFEE and SPECTER. The Class Action Fairness Act of 2001 will help curb class action lawsuit abuses and protect consumers who find themselves as potential members of class action lawsuits. At the same time, the bill will preserve class action lawsuits as an important tool that brings representation to the unrepresented.

In the last Congress, Senator KOHL and I introduced S. 353, the ''Class Action Fairness Act of 1999.'' We worked diligently and in good faith to address concerns expressed by members of the Judiciary Committee, as well as others interested in this issue. The Judiciary Committee marked up and favorably voted out a Hatch/Grassley/Kohl amendment in the nature of a substitute. Unfortunately, S. 353 was not considered by the full Senate in the 106th Congress because of the press of other legislative business.

Today, we are introducing the bill that the Senate Judiciary Committee agreed to in the last Congress, with minor modifications. We have also included a few more provisions that will better protect class members. I am hopeful that in this Congress, the Senate will consider this bill promptly and enact the much needed changes to the current system.

Presently, the class action system is awash with problems. More and more class action lawsuits are being filed to the benefit of attorneys, where attorneys agree to settlements that give them huge fees while their clients get little of value or nothing. A 1999 Rand Report on class actions found that state courts often give most of the money in a settlement to the lawyers, not the class members they supposedly represent. The Judiciary Committee held hearings where we heard about settlement after settlement where class members got coupons or nothing, but the lawyers got millions of dollars in attorneys' fees. We heard about class members being awarded restrictive coupons for airline tickets, as well as class members who received a lawyers' bill that was higher than the compensation for their injury. But the lawyers got all the money in fees.

Is this fair? I thought the lawyers were supposed to represent their clients, not themselves. I am not saying that attorneys should not be paid for their work, but it seems to me that lawyers have found class actions to be an easy way for them to make money.

The Judiciary Committee also heard that lawyers game the class action rules to keep class actions in certain State courts, particularly courts that are quick to certify a class without adequately considering the interests of all class members or courts that aren't careful in evaluating whether the proposed class meets the required class criteria. Those State courts are also more likely to rubber-stamp settlement proposals without scrutinizing them for fairness. For example, we learned that in some cases members of a class that lived closer to the courthouse in which the settlement was filed got a larger recovery than others. We also learned about settlements where a bounty was paid to class representatives which was disproportionately larger than that provided to absent class members.

It's easy for lawyers to forum-shop and keep these cases in State court, for example, attorneys name irrelevant parties to their class action suits in an effort to destroy diversity. Attorneys make inaccurate statements about the jurisdictional amount to keep the defendant from transferring the case to Federal court, but then retract them one year later when removal is barred. In addition, similar class actions are filed in many State courts and cannot be consolidated, increasing the chances for collusive settlements or situations where there is a ''race to settlement'' by the attorneys. This also creates significant inefficiencies and waste of court resources.

A much more troublesome effect of this problem is the fact that State courts are making decisions for the entire country. The 1999 Rand Study and a more recent study by the Manhattan Institute found that most of the increase in class action lawsuits is occurring in State courts. With this happening, basically State courts are dictating national policy. Class actions are usually the cases that involve the most people, the most money, and the most interstate commerce issues. But it is clear that these cases really belong in Federal court. And there is a constitutional basis for this. Article 3, section 2 of the Constitution states that controversies between citizens of different States should be subject to the jurisdiction of the Federal courts. However, the present Federal jurisdiction statutes were originally enacted over a century ago, so they do not take the modern day class action into account and basically exclude them from the Federal court system.

Consequently, the current system produces aberrant results as to what can or cannot proceed in Federal court. For example, right now, a slip and fall case worth $75,001 involving two residents from different States can be heard in Federal court. But a nationwide class action that involves millions of citizens residing in all 50 States, that seeks billions of dollars in damages, implicates the laws of every State, and involves interstate commerce issues, is mainly confined to the State courts. Why should a State county court with an elected judge decide these cases, but not a Federal judge?

By only allowing State courts to hear nationwide class actions, State courts can dictate national policy or improperly impose their State's laws on the citizens of other States. Let me illustrate this serious problem with the State Farm case. In a large class action case brought against State Farm on the issue of auto insurers' use of ''aftermarket'' auto parts in automobile repairs, an Illinois court applied Illinois auto insurance law to the other 49 States. Several State attorneys general intervened in the case and expressed their opposition to the court's application of Illinois law to their citizens. The National Association of State Insurance Commissioners and Public Citizen also expressed concern over the outcome of this case. The reason for this opposition was because State laws and policy on the use of aftermarket parts varies widely State by State, yet the Illinois State court imposed its auto insurance laws on the other States. The ability of a State court to have such a monumental impact on the laws of other States, by basically overturning national policy and the laws or regulations of the other 50 States is more than troubling.

So, there are compelling reasons for us to take remedial steps regarding the class action system. The Class Action Fairness Act of 2001 takes a good first step at addressing some of the problems we have identified. To address the problem of class members not knowing

what is going on in a class action or settlement, or not being clear as to what their rights are, the Class Action Fairness Act of 2001 has a provision that notice to class members needs to contain an explanation of their rights and other matters concerning settlement terms, including attorneys' fees, in a plain and easy to understand language.

To address the problem where class members get nothing and attorneys get millions, the Class Action Fairness Act of 2001 provides that notification of any proposed settlements must be given to the State attorneys general or the primary regulatory or licensing agency of any State whose citizens are involved. This is so that the State attorney general or responsible agency can intervene in the case to ensure that settlements are fair. To address the problem of special bounties that unfairly impact the absent members of a class, the bill contains a new provision that would prohibit the payment of bounties to class representatives that are disproportionately larger than that provided to absent class members. To address the problem of discrimination between class members based on geographic location, the bill contains a new provision that prohibits courts from approving settlements that award some class members a larger recovery than others based on geography.

To start responding to the issue of outrageous attorneys fees, the Class Action Fairness Act of 2001 asks the Judicial Conference to report back to Congress in a year after studying attorneys' fees in class actions and how judges can do a better job in making sure that class action settlements are fair. The bill also includes new provisions that protect class members against net losses and require the courts to make specific findings as to the fairness of coupon and other noncash class action settlements.

To respond to the problem where plaintiff lawyers game the system to improperly keep class action cases in State court, or where similar class action suits are being filed in different State courts, or where State courts are imposing their laws on citizens of other States and formulating national policy, the Class Action Fairness Act of 2001 loosens diversity and removal requirements so that class action cases with national ramifications can be heard in Federal courts and similar class actions can be consolidated. The bill is crafted so that it will not harm federalism or deprive State courts of their ability to adjudicate cases for their own citizens. That is because there is a constitutional basis for class actions to proceed in Federal court. Clearly, the Federal courts are a better forum for these kinds of cases that are of nationwide importance.

In conclusion, there is substantial evidence that class action abuse is going on and we should do something about it. I think that the Class Action Fairness Act of 2001 is a good, balanced bill that addresses some of the problems that we've identified. Moreover, there has been a lot of compromise to address concerns about the bill. We have also improved the bill by adding additional consumer protections. So, the Class Action Fairness Act of 2001 will preserve the class action process, but put a stop to the more egregious abuses in the system.

In addition, I'd like to thank my friend Senator KOHL, who has worked so closely with me over the years in bringing the issue of class action abuse to the forefront. We both share a deep concern over protecting the rights of consumers, while making sure that the due process rights of all litigants are preserved. I'd also like to thank Senator HATCH, who worked with us to move this bill forward in the Judiciary Committee last year, and worked on improvements to the bill.

I urge all my colleagues to join Senators KOHL, HATCH, CARPER, THURMOND, CHAFEE and SPECTER in supporting this important piece of legislation.

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

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

S. 1712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Class Action Fairness Act of 2001''.

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly; and

(B) undermined public respect for our judicial system.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where—

(A) counsel are awarded large fees, while leaving class members with coupons or other awards of little or no value;

(B) unjustified awards are made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published that prevent class members from being able to fully understand and effectively exercise their rights.

(4) Abuses in class actions undermine the national judicial system and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

(b) PURPOSES.—The purposes of this Act are to—

(1) assure fair and prompt recoveries for class members with legitimate claims;

(2) restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate cases of national importance under diversity jurisdiction; and

(3) benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

''CHAPTER 114—CLASS ACTIONS

''§ 1711. Definitions

''In this chapter:

''(1) CLASS.—The term 'class' means all of the class members in a class action.

''(2) CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under a State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representatives as a class action.

''(3) CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.

''(4) CLASS MEMBERS.—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

''(5) PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.

''(6) PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement regarding a class action that is subject to court approval and that, if approved, would be binding on some or all class members.

"§ 1712. Judicial scrutiny of coupon and other noncash settlements

''The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§ 1713. Protection against loss by class members

''The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

"§ 1714. Protection against discrimination based on geographic location

''The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§ 1715. Prohibition on the payment of bounties

''(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

''(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit a payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling the obligations of that person as a class representative.

"§ 1716. Clearer and simpler settlement information

''(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

''(1) at the beginning of such notice, a statement in 18-point or greater bold type, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.';

''(2) a short summary written in plain, easily understood language, describing—

''(A) the subject matter of the class action;

''(B) the members of the class;

''(C) the legal consequences of being a member of the class action;

''(D) if the notice is informing class members of a proposed settlement agreement—

''(i) the benefits that will accrue to the class due to the settlement;

''(ii) the rights that class members will lose or waive through the settlement;

''(iii) obligations that will be imposed on the defendants by the settlement;

''(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and

''(v) an explanation of how any attorney's fee will be calculated and funded; and

''(E) any other material matter.

''(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

''(1) be placed in a conspicuous and prominent location on the notice;

''(2) contain clear and concise headings for each item of information; and

''(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

''(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from a class action or a proposed settlement, if such right exists, shall, in plain, easily understood language—

''(1) describe the persons who may potentially become class members in the class action; and

''(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action.

"§ 1717. Notifications to appropriate Federal and State officials

''(a) DEFINITIONS.—

''(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term 'appropriate Federal official' means—

''(A) the Attorney General of the United States; or

''(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

''(2) APPROPRIATE STATE OFFICIAL.—In this section, the term 'appropriate State official' means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

''(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

''(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

''(2) notice of any scheduled judicial hearing in the class action;

''(3) any proposed or final notification to class members of—

''(A)(i) the members' rights to request exclusion from the class action; or

''(ii) if no right to request exclusion exists, a statement that no such right exists; and

''(B) a proposed settlement of a class action;

''(4) any proposed or final class action settlement;

''(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

''(6) any final judgment or notice of dismissal;

''(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or

''(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

''(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

''(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

''(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

''(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

''(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

''(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

''(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

''(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

''(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member's behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the

authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:

''114. Class Actions ..... 1711''.

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION FOR INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

''(d)(1) In this subsection—

''(A) the term 'class' means all of the class members in a class action;

''(B) the term 'class action' means any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action;

''(C) the term 'class certification order' means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and

''(D) the term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

''(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—

''(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

''(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

''(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

''(3) Paragraph (2) shall not apply to any civil action in which—

''(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

''(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

''(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

''(C) the number of members of all proposed plaintiff classes in the aggregate is less than 100.

''(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

''(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

''(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the prerequisites of rule 23 of the Federal Rules of Civil Procedure.

''(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

''(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

''(7) Paragraph (2) shall not apply to any class action that solely involves a claim—

''(A) concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

''(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

''(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

''(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

''(9)(A) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) shall nevertheless be deemed a class action if—

''(i) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

''(ii) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

''(B)(i) In any civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members.

''(ii) Paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action described under subparagraph (A)(i).

''(iii) Paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action described under subparagraph (A)(ii).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1335 (a)(1) is amended by inserting ''(a) or (d)'' after ''1332''.

(2) Section 1603 (b)(3) is amended by striking ''(d)'' and inserting ''(e)''.

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

''§ 1453. Removal of class actions

''(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' shall have the meanings given such terms under section 1332(d)(1).

''(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

''(1) by any defendant without the consent of all defendants; or

''(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

''(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action.

''(d) PROCEDURE FOR REMOVAL.—Section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

''(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.—Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

''(f) EXCEPTION.—This section shall not apply to any class action that solely involves—

''(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

''(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

''(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).''.

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting ''(a)'' after ''section 1332''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

''1453. Removal of class actions.''.

SEC. 6. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to

which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorneys' fees.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of enactment of this Act.

Mr. KOHL. Mr. President, I rise today to join Senators GRASSLEY, HATCH, CARPER, and THURMOND in introducing the Class Action Fairness Act of 2001. This legislation addresses the growing problems in class action litigation, particularly unfair and abusive settlements that shortchange plaintiff class members.

We have worked together on this legislation in past Congresses. In fact, last year a similar version of class action reform passed the House of Representatives and was approved by the Senate Judiciary Committee. Unfortunately, the session ended before we could bring it to a vote of the full Senate.

The problem that this bill addresses is simple. Too often, the class action procedure is being hijacked by unscrupulous parties who are more interested in making a dollar for themselves than helping the plaintiff class members remedy a legitimate harm. Let me give you just one well known example of the unfairness this bill attempts to correct.

A few years ago, a class action lawsuit was begun against the Bank of Boston. Martha Preston from Baraboo, WI was an unnamed class member of that suit against her mortgage company. The case involved allegations that the bank had overcharged its mortgage customers and had kept excess money in their escrow accounts. It was ultimately settled. Ms. Preston was represented by a group of plaintiffs' lawyers who she had never met. The settlement they negotiated for her was a bad joke. She received four dollars and change in the lawsuit, while her attorneys pocketed $8 million in fees.

Soon after receiving her four dollars, Ms. Preston discovered that her lawyers helped pay for their fees by taking $80 from her escrow account. Naturally shocked, she and the other plaintiffs sued the lawyers who in turn sued her in Alabama, a State she had never visited, for $25 million. Not only was she $75 poorer for her class action experience, but she also had to defend herself against a $25 million suit by the very people who took advantage of her in the first place.

In response to this case and many more like it, we developed a measured, reasoned response to protect class action plaintiffs against a system which is subject to abuse. As in past years, the bill can be divided into three main sections, all of which provide enhanced protections for individual plaintiffs.

First, the bill provides that every class action notice be written in plain, easily understandable English. Too many of the class action notices are written in legalese, designed to make it impossible for the average American to comprehend his rights and responsibilities as a member of the plaintiff class. The bill requires that a statement be included at the beginning of the notice written in large, bold type alerting the plaintiff that he is involved in a class action lawsuit and that his legal rights are affected by the contents of the notice. This means that every class member will understand the subject matter of the case and his rights and responsibilities as a participant in the lawsuit.

Further, if the case were settled, the notice to the class members would clearly describe the terms of the settlement, the benefits to each plaintiff and a summary of the attorneys fees in the case and how they were calculated. Currently, none of this information is clearly communicated to the class members.

Second, the bill requires that notice be given to State Attorneys General or the appropriate State regulatory authorities about proposed class settlements in Federal court which affect their constituents. This encourages a neutral third party to weigh in on whether a settlement is fair and to alert the court if they do not believe that it is. The Attorney General review is an extra layer of security for the plaintiffs and is designed to ensure that abusive settlements are not approved without a critical review by one or more experts.

Third, the bill makes it easier to move State class action cases to Federal court by changing the diversity rules governing these actions. Class action cases often have national implications and are joined by plaintiffs from many, if not most, States. Currently, class actions are frequently heard by a State court judge in a venue chosen by the plaintiffs' attorneys to maximize the chance that the class action will be certified.

For class actions, the certification process is usually more than half the battle. Once a set of plaintiffs succeeds in getting a judge to certify them as a class, the defendants are often faced with extraordinary costs associated with preparing for trial and dealing with a multitude of plaintiffs. So, the defendants settle the case at terms beneficial to the plaintiffs' attorneys, often at the expense of the plaintiffs themselves.

A recent study on the class action problem by the Manhattan Institute demonstrates that class action cases are being brought disproportionately in a few counties where plaintiffs expect to be able to take advantage of lax certification rules.

The study focused on three county courts, Madison County, IL; Jefferson County, TX; and Palm Beach County, FL, that have seen a steep rise in class action filings over the last several years that seems disproportional to their populations. They found that rural Madison County, IL ranked third nationwide, after Los Angeles County, California and Cook County, Illinois, in the estimated number of class actions filed each year, whereas rural Jefferson County and Palm Beach County ranked eighth and ninth, respectively. As plaintiff attorneys found that Madison County was a welcoming host, the number of class action suits filed there rose 1850 percent between 1998 and 2000.

Another trend evident in the research was the use of ''cut-and-paste'' complaints in which plaintiffs' attorneys file a number of suits against different defendants in the same industry challenging standard industry practices. For example, within a one-week period early this year, six law firms filed nine nearly identical class actions in Madison County alleging that the automobile insurance industry is defrauding Americans in the way that they calculate claims rates for totaled vehicles.

The system is not working as intended and needs to be fixed. The way to fix it is to move more of these cases currently being brought in small state courts like Madison County, IL to Federal court.

The Federal courts are better venues for class actions for a variety of reasons articulated clearly in a RAND study. RAND proposed three primary explanations why these cases should be in federal court. ''First, Federal judges scrutinize class action allegations more strictly than State judges, and deny certification in situations where a State judge might grant it improperly. Second, State judges may not have adequate resources to oversee and manage class actions with a national scope. Finally, if a single judge is to be charged with deciding what law will apply in a multistate class action, it is more appropriate that this take place in federal court than in State court.''

We all know that class actions can result in significant and important benefits for class members and society, and that most class lawyers and most state courts are acting responsibly. Class actions have been used to desegregate racially divided schools, to obtain redress for victims of employment discrimination, and to compensate individuals exposed to toxic chemicals or defective products. Class actions increase access to our civil justice system because they enable people to pursue claims that collectively would otherwise be too expensive to litigate.

The difficulty in any effort to improve a basically good system is weeding out the abuses without causing undue damage. The legislation we propose attempts to do this.

Let me emphasize the limited scope of this legislation. We do not close the

courthouse door to any class action. We do not require that State attorneys general do anything with the notice they receive. We do not deny reasonable fees for class lawyers. And we do not mandate that every class action be brought in Federal court. Instead, we simply promote closer and fairer scrutiny of class actions and class settlements.

Right now, people across the country can be dragged into lawsuits unaware of their rights and unarmed on the legal battlefield. What our bill does is give back to regular people their rights and representation. This measure may not stop all abuses, but it moves us forward. It will help ensure that unsuspecting people like Martha Preston don't get ripped off.

We believe this is a moderate approach to correct the worst abuses, while preserving the benefits of class actions. It is both pro-consumer and pro-defendant. We believe it will make a difference.

Mr. HATCH. Mr. President, there is little doubt that serious problems exist within our Nation's judicial system, especially in the way that interstate class action lawsuits are handled and administered in local courtrooms across this country. Increasingly, parties to class actions have taken to forum shopping to pick sympathetic local courts where, more and more often, plaintiffs are offered coupon settlements and lawyers are awarded enormous fees.

According to recent studies, while Federal class action filings over the past 10 years have increased over 300 percent, class action filings in State courts have increased over 1,000 percent. However, interstate class actions involve more citizens in more States, more money, and more interstate commerce ramifications than any other type of civil litigation. They are the paradigm of what our Framers envisioned when they invented Federal diversity jurisdiction, as reflected in Article III of the Constitution. These State court statistics are even more troubling in light of the fact that many State courts have crushing caseloads and far fewer resources available to them than their Federal counterparts to manage these important and complex cases.

The primary reason that interstate class actions have remained in State court despite their complex nature is because it is relatively easy for plaintiffs' class attorneys to defeat both the statutory ''complete diversity'' requirement by adding non-diverse parties and the $75,000 ''amount in controversy'' requirement by aggregating individual claims to be less than this amount. Interestingly, the ''complete diversity'' requirement was adopted by Congress in the late 1700s, well before the development of modern class action lawsuits.

Simply put, the Class Action Fairness Act would allow Federal courts to adjudicate class actions where the collective amount in controversy is more than $2 million, and where any member of the class of plaintiffs is from a different State than any defendant. This means that many State class actions may be removed to Federal court. Nonetheless, the bill does not extend Federal jurisdiction to encompass intrastate class actions, where the claims are governed primarily by the laws of the State in which the case is filed and the majority of the plaintiffs and the primary defendants are citizens of that State. So there is no federalism issue here. All the bill does is to protect constitutionally mandated diversity jurisdiction—''suits between Citizens of different States.''

I am aware that there are those that say that the bill would ''flood'' Federal courts. But, again, according to Article III of the Constitution and our Founding fathers, these cases belong in Federal court. Critics making the judicial overload argument also ignore the fact that this bill does not require that interstate class actions be heard in Federal courts. It simply provides the option for either side. In jurisdictions where the State courts provide a relatively level playing field, there is no reason to believe that all class actions will be removed to Federal court.

I should also point out that this bill would not prohibit any class action from being filed. It is merely a process or procedural bill. It simply determines the court in which interstate class actions with significant national implications should be adjudicated—that is, in Federal court.

I urge my colleagues to adopt this common-sense legislation.

By Mr. MCCONNELL:

S. 1714. A bill to provide for the installation of a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building: to the Committee on Governmental Affairs.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INSTALLATION OF PLAQUE TO HONOR DR. JAMES HARVEY EARLY.

(a) IN GENERAL.—The United States Postmaster General shall install a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building located at 1000 North Highway 23 West, Williamsburg, Kentucky 40769.

(b) CONTENTS OF PLAQUE.—The plaque installed under subsection (a) shall contain the following text:

''Dr. James Harvey Early was born on June 14, 1808 in Knox County, Kentucky. He was appointed postmaster of the first United States Post Office that was opened in the town of Whitley Courthouse, now Williamsburg, Kentucky in 1829. In 1844 he served in the Kentucky Legislature. Dr. Early married twice, first to Frances Ann Hammond, died 1860; and then to Rebecca Cummins Sammons, died 1914. Dr. Early died at home in Rockhold, Kentucky on May 24, 1885 at the age of 77.''.

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. ALLEN, Mr. DASCHLE, Mr. BOND, Mr. AKAKA, Mr. CHAFEE, Mr. BAYH, Ms. COLLINS, Mr. BIDEN, Mr. DOMENICI, Mr. BREAUX, Mr. DEWINE, Mrs. CARNAHAN, Mr. HAGEL, Mr. CLELAND, Mr. HUTCHINSON, Mrs. CLINTON, Mrs. HUTCHISON, Mr. CORZINE, Mr. ROBERTS, Mr. DODD, Ms. SNOWE, Mr. DURBIN, Mr. VOINOVICH, Mr. EDWARDS, Mr. WARNER, Mrs. FEINSTEIN, Mr. HARKIN, Mr. JEFFORDS, Mr. JOHNSON, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REED, Mr. ROCKEFELLER, Mr. SARBANES, and Mr. TORRICELLI):

S. 1715. A bill to improve the ability of the United States to prepare for and respond to a biological threat or attack; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, I am pleased to rise today on behalf of myself, Senator KENNEDY, and a number of our colleagues to introduce vitally important legislation, the ''Bioterrorism Preparedness Act of 2001.'' This bipartisan bill, which represents the very best effort of a number of our colleagues in the Senate, responds to the threat of bioterrorism by focusing our Nation's efforts to prevent, prepare for and respond to any future bioterrorist attacks.

Events of recent weeks have made clear the danger we currently face. In the aftermath of the September 11 attacks on the World Trade Center and Pentagon, terrorists have used the mail to deliver anthrax to communities across America. In doing so, they have also spread fear across our great nation and have underscored the threats that bioterrorism poses. If they had employed a more sophisticated delivery mechanism, or weaponized smallpox or another communicable virus, our health care system may have been overwhelmed.

Last year, Congress enacted bipartisan legislation to revitalize our public health defenses at the local, State and national levels. The Frist-Kennedy ''Public Health Threats and Emergencies Act of 2000'' authorized a series of important initiatives to strengthen the Nation's public health system, improve hospital response capabilities, upgrade the rapid identification and early warning systems at the Centers for Disease Control and Prevention, CDC, improve the training of health professionals to diagnose and care for victims of bioterrorism, enhance our research and development capabilities, and take additional steps necessary to prevent, prepare for and respond to biological attacks.

Today's legislation, the ''Bioterrorism Preparedness Act of 2001,''

builds on the foundation laid by the Public Health Threats Act, a foundation built on prevention, preparedness, and response.

The ''Bioterrorism Preparedness Act'' takes a number of steps to prepare our Nation for these threats. It includes important measures to improve our health system's capacity to respond to bioterrorism, protect the Nation's food supply, speed the development and production of vaccines and other countermeasures, enhance coordination of government agencies responsible for preparing for and responding to bioterrorism and increase our investment in fighting bioterrorism at the local, State, and national levels.

The bill authorizes roughly $3.2 billion in fiscal year 2002 emergency funding toward these critical activities. I believe it is important that this funding be considered in the context of the existing agreement limiting overall appropriations this year to $686 billion in addition to the $40 billion emergency supplemental appropriations bill. I will work very hard to ensure that the priorities outlined in this authorization legislation are included within this framework.

The ''Bioterrorism Preparedness Act of 2001'' is a comprehensive bill that takes a major step toward better preparing our nation to respond to the special challenges posed by biological weapons. We have worked diligently with many of our colleagues and the administration over the several weeks, and I believe that the product of those efforts represents a strong bill that includes some of the best ideas of both Republicans and Democrats.

I know the bill is stronger due to the input of so many of our colleagues and the leadership and guidance of the administration, and I would like to thank several of my colleagues for their efforts. Specifically, I would like to thank Senator COLLINS for her contributions regarding food safety and the appropriate emphasis on children, Senator HUTCHINSON for his assistance with the provisions related to vaccine development and production, Senator ROBERTS and Majority Leader DASCHLE for their contributions to this bill in the area of agricultural safety, and many of our other colleagues who contributed in a bipartisan way—Senators GREGG, HAGEL, DEWINE, HATCH, MIKULSKI, DODD, and CLINTON.

I look forward to working with my colleagues to see that this important legislation becomes law this year.

I ask unanimous consent that a summary of the bill be printed in the RECORDS.

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

SUMMARY—THE BIOTERRORISM PREPAREDNESS ACT OF 2001

The ''Bioterrorism Preparedness Act of 2001'' is designed to address gaps in our nation's biodefense and surveillance system and our public health infrastructure. This new legislation builds on the foundation laid by the ''Public Health Threats and Emergencies Act of 2000'' by authorizing additional measures to improve our health system's capacity to respond to bioterrorism, protect the nation's food supply, speed the development and production of vaccines and other countermeasures, enhance coordination of federal activities on bioterrorism, and increase our investment in fighting bioterrorism at the local, state, and national levels. The legislation would authorize approximately $3.2 billion in funding for Fiscal Year 2002 (and such sums in years thereafter) toward these activities.

TITLE I—NATIONAL GOALS FOR BIOTERRORISM PREPAREDNESS

Title I of the ''Bioterrorism Preparedness Act'' states that ''the United States should further develop and implement a coordinated strategy to prevent and, if necessary, to respond to biological threats or attacks.'' It further states that it is the goal of Congress that this strategy should: (1) provide federal assistance to state and local governments in the event of a biological attack; (2) improve public health, hospital, laboratory, communications, and emergency response preparedness and responsiveness at the state and local levels; (3) rapidly develop and manufacture needed therapies, vaccines, and medical supplies; and (4) enhance the safety of the nation's food supply and protect its agriculture from biological threats and attacks.

TITLE II—IMPROVING THE FEDERAL RESPONSE TO BIOTERRORISM

Title II requires the Secretary of Health and Human Services (HHS) to report to Congress within one year of enactment, and biennially thereafter, on progress made toward meeting the objectives of the Act. It provides statutory authorization for the strategic national pharmaceutical stockpile, provides additional resources to the Centers for Disease Control and Prevention (CDC) to carry out education and training initiatives and to improve the nation's federal laboratory capacity, and establishes a National Disaster Medical Response System of volunteers to respond, at the Secretary's direction, respond to national public health emergencies (with full liability protection, re-employment rights, and other worker protections for such volunteers similar to those currently provided to those who join the National Guard).

The bill further amends and clarifies the procedures for declaring a national public health emergency and expands the authority of the Secretary during the emergency period. In declaring such an emergency, the Secretary must notify Congress within 48 hours. Such emergency period may not be longer than 180 days, unless the Secretary determines otherwise and notifies Congress of such determination. During that emergency period, the Secretary may waive certain data submittal and reporting deadlines.

A recent report by the General Accounting Office raised concerns about the lack of coordination of federal anti-bioterrorism efforts. Therefore, the bill contains a number of measures to enhance coordination and cooperation among various federal agencies. Title II establishes an Assistant Secretary for Emergency Preparedness at HHS to coordinate all functions within the Department relating to emergency preparedness, including preparing for and responding to biological threats and attacks.

Title II also creates an interdepartmental Working Group on Bioterrorism that includes the Secretaries of HHS, Defense, Veteran's Affairs, Labor, and Agriculture, the Director of the Federal Emergency Management Agency, the Attorney General of the United States, and other appropriate federal officials. The Working Group consolidates and streamlines the functions of two existing working groups first established under the ''Public Health Threats and Emergencies Act of 2000.'' It is responsible for coordinating the development of bioterrorism countermeasures, research on pathogens likely to be used in a biological attack, shared standards for equipment to detect and protect against from biological pathogens, national preparedness and response for biological threats or attacks, and other matters.

Title II also establishes two advisory committees to the Secretary. The National Task Force on Children and Terrorism will report on measures necessary to ensure that the health needs of children are met in preparing for and responding to any potential biological attack or event. The Emergency Public Information and Communications Task Force will report on appropriate ways to communicate to the public information regarding bioterrorism. Both of these committees sunset after one year.

The title also contains a Congressional recommendation that there be established an official federal internet website on bioterrorism to provide information to the public, health professionals, and others on matters relevant to bioterrorism. The title further requires that states have a coordinated plan for providing information relevant to bioterrorism to the public.

Additionally, Title II helps the federal government better track and control biological agents and toxins. The Secretary of HHS is required to review and update a list of biological agents and toxins that could pose a severe threat to public health and safety and to enhance regulations regarding the possession, use, and transfer of such agents or toxins. Violations of these regulations could trigger civil penalties of up to $500,000, and criminal sanctions may be imposed. Existing law already regulates the transfer of these pathogens.

TITLE III—IMPROVING STATE AND LOCAL PREPAREDNESS CAPABILITIES

Numerous reports in recent years have found the nation's public health infrastructure lacking in its ability to respond to biological threats or other emergencies. For example, nearly 20 percent of local public health departments have no e-mail capability, and fewer than half have high-speed Internet or broadcast facsimile transmission capabilities. Before September 11, only one in five U.S. hospitals had bioterrorism preparedness plans in place.

Title III addresses this situation by including several enhanced grant programs to improve state and local public health preparedness. In addition to converting the current public health core capacity grants established under the ''Public Health Threats and Emergencies Act of 2000'' to non-competitive grants, the bill replaces the current 319F competitive bioterrorism grant with a new state bioterrorism emergency program that provides resources to states based on population and that would guarantee each state a minimum level of funding for preparedness activities. States must develop bioterrorism preparedness plans to be eligible for such funding. Activities funded under this grant include conducting an assessment of core public health capacities, achieving the core public health capacities, and fulfilling the bioterrorism preparedness plan. This program would only be authorized for two years.

The bill also establishes a new grant program for hospitals that are part of consortia with public health agencies, and counties or cities. To be eligible for the grant, the hospital's grant proposal must be consistent with their state's bioterrorism preparedness plan. Using these grants, hospitals with acquire the capacity to serve as regional resources during a bioterrorist attack. This program is authorized for five years.

TITLE IV—DEVELOPING NEW COUNTERMEASURE AGAINST BIOTERRORISM

To better respond to bioterrorism, Title IV expands our nation's stockpile of smallpox vaccine and critical pharmaceuticals and devices. The bill also expands research on biological agents and toxins, as well as new treatments and vaccines for such agents and toxins.

Since the effectiveness of vaccines, drugs, and therapeutics for many biological agents and toxins often may not ethically be tested in humans, Title IV ensures that the Food and Drug Administration (FDA) will finalize by a date certain its rule regarding the approval of new countermeasures on the basis of animal data. Priority countermeasures will also be given enhanced consideration for expedited review by the FDA.

Because of the lack of or limitations on a market for vaccines for these agents and toxins, Title IV gives the Secretary of HHS authority to enter into long-term contracts with sponsors to ''guarantee'' that the government will purchase a certain quantity of a vaccine at a certain price. The government has the authority, through an existing Executive Order, to ensure that sponsors through these contracts will be indemnified by the government for the development, manufacture and use of the product as prescribed in the contract.

Title IV also provides a limited antitrust exemption to allow potential sponsors to discuss and agree upon how to develop, manufacture, and produce new countermeasures, including vaccines, and drugs. Federal Trade Commission and the Department of Justice approval of such agreements is required to ensure such agreements are not anti-competitive.

TITLE V—PROTECTING OUR NATION'S FOOD SUPPLY

With 57,000 establishments under its jurisdiction and only 700–800 food inspectors, including 175 import inspectors for more than 300 ports of entry, FDA needs increased resources for inspections of imported food. The President's emergency relief budget included a request for $61 million to enable FDA to hire 410 new inspectors, lab specialists and other experts, as well as invest in new technology and equipment to monitor food imports.

Title V grants FDA needed authorities to ensure the safety of domestic and imported food. It allows FDA to use qualified employees from other agencies and departments to help conduct food inspections. Any domestic or foreign facility that manufacturers or processes food for use in the U.S. must register with FDA. Importers must provide at least four hours notice of the food, the country of origin, and the amount of food to be imported. FDA also receives authority to prevent ''port-shopping'' by making food shipments denied entry at one U.S. port to ensure such shipments to do reappear at another U.S. port.

The bill gives additional tools to FDA to ensure proper records are maintained by those who manufacture, process, pack, transport, distribute, receive, hold or import food. The FDA's ability to inspect such records will strengthen their ability to trace the source and chain of distribution of food and to determine the scope and cause of the adulteration or misbranding that presents a threat of serious adverse health consequences or death to humans or animals. Importantly, the bill also enables FDA to detain food after an inspection for a limited period of time if such food is believed to present a threat of serious adverse health consequences or death to humans or animals. The FDA may also debar imports from a person who engages in a pattern of seeking to import such food.

Title V also includes several measures to help safeguard the nation's agriculture industry from the threats of bioterrorism. Toward this end, it contains a series of grants and incentives to help encourage the development of vaccines and antidotes to protect the nation's food supply, livestock, or crops, as well as preventing crop and livestock diseases from finding their way to our fields and feedlots.

It also authorizes emergency funding to update and modernize USDA research facilities at the Plum Island Animal Disease Laboratory in New York, the National Animal Disease Center in Iowa, the Southwest Poultry Research Laboratory in Georgia, and the Animal Disease Research Laboratory in Wyoming. Also, it funds training and implements a rapid response strategy through a consortium of universities, the USDA, and agricultural industry groups.

Mr. KENNEDY. Mr. President, it is a privilege to join my distinguished colleague, Senator FRIST, to introduce this bipartisan legislation to respond to one of the most severe dangers of terrorism, the grave threat of bioterrorist attacks. I commend Senator FRIST for his impressive continuing leadership on this vital issue.

We are all well aware of the emergency we face. In recent weeks, 15 anthrax cases stretched our health care system to the breaking point. A larger attack could be a disaster for whole communities of Americans. The anthrax attack of the past weeks has sounded the alarm. The clock is ticking on America's preparedness for a future attack. We've had the clearest possible warning, and we can't afford to ignore it. We know that hundreds, even millions, of lives may be at stake—and we're not ready yet.

The needs are great. A summit meeting of experts in bioterrorism and public health concluded that $835 million was needed just to address the most pressing needs for public health at the State and local levels.

The National Governor's Association has said that states need $2 billion to improve readiness for bioterrorism. John Hopkins is spending $7.5 million to improve its ability to serve as a regional bioterrorism resource for Baltimore. Equipping just one hospital to this level in each of 100 cities across America would cost $750 million.

Clearly, our legislation is an important downpayment on preparedness. But we must make sure that our commitment to achieving full readiness is sustained in the weeks and months to come.

Since September 11, the American people have supported our commitment of billions of dollars and thousands of troops to battle terrorism abroad. But Americans also want to be safe at home. We have an obligation to every American that we will do no less to protect them against terrorism at home than we do to fight terrorism abroad.

The need for help at the State and local level is especially urgent. In the first 3 weeks of October alone, State health departments spent a quarter billion dollars responding to the anthrax attack. Many departments were forced to put aside other major public health responsibilities.

Hospitals across the country have immediate needs. According to the American Public Health Association, hospitals are hard-pressed even during a heavy flu season, and could not cope with a lethal contagious disease like smallpox.

The Bioterrorism Preparedness Act we are proposing will address these deficiencies. It provides new resources for bioterrorism preparedness to the States under a formula that guarantees help to each State. These resources will be available to improve hospital readiness, equip emergency personnel, enhance State planning, and strengthen the ability of public health agencies to detect and contain dangerous disease outbreaks.

Federal stockpiles of antibiotics, vaccines, and other medical supplies are an essential part of the national response. We have a strategic petroleum reserve to safeguard our energy supply in times of crisis. We need a strategic pharmaceutical reserve as well, to ensure that we have the medicines and vaccines stockpiled to respond to bioterrorist attacks. Our legislation establishes this reserve, and authorizes the development of sufficient smallpox and other vaccines to meet the needs of the entire U.S. population.

The legislation will also help protect the safety of the food supply, through increased research and surveillance of dangerous agricultural pathogens.

Every day we delay means that States can't buy the equipment to improve their labs and hire the personnel they need. It means another day in which hospitals can't purchase stocks of antibiotics or add emergency room capacity. It means further delay in building up pharmaceutical stockpiles and producing essential vaccines. We face an extraordinary threat, and we must take immediate action to combat it.

Our legislation draws on the work and suggestions of numerous colleagues on both sides of the aisle. One of the important areas addressed in the legislation is the threat of agricultural bioterrorism. Deliberate introduction of animal diseases could pose grave dangers to the safety of the food supply. Such acts of agricultural bioterrorism would also be economically devastating. The outbreaks of ''mad cow'' disease in Europe cost over $10 billion, and the foot and mouth outbreak cost billions more. We must guard against this danger.

Protecting the safety of the food supply is a central concern in addressing the problem of bioterrorism. Senator CLINTON, Senator MIKULSKI, Senator HARKIN, Senator COLLINS and Senator DURBIN have all contributed thoughtful proposals about food safety. Our bill will enable FDA and USDA to protect the Nation's food supply more effectively.

We're grateful for the leadership of other Senators who have made significant contributions to this legislation. Senator BAYH and Senator EDWARDS contributed important proposals on providing block grants to states, so that each State will be able to increase its preparedness. Their proposal ensures that each state will receive at least a minimum level of funding.

We're also grateful for the contributions that many of our distinguished colleagues have made to address the special needs of children. Senator DODD, Senator COLLINS, Senator CLINTON, Senator DEWINE and Senator MURRAY have emphasized the crucial needs of children relating to bioterrorism. The legislation includes important initiatives to provide for the special needs of children and other vulnerable populations.

The events of recent weeks have shown the importance of effective communication with the public. Our legislation incorporates proposals on improving communication offered by several of our colleagues. Senator CARNAHAN has recognized the importance of the internet in providing information to the public. The legislation includes the provisions of her legislation to establish the official Federal internet site on bioterrorism, to help inform the public.

Senator MIKULSKI also contributed provisions on improving communication with the public. The high level, blue ribbon task force can provide vitally needed insights on how best to provide information to the public. Senator MIKULSKI also recommended ways to ensure that states have coordinated plans for communicating information about bioterrorism and other emergencies to the public.

The Centers for Disease Control and Prevention have a leading role in responding to bioterrorism. Senator CLELAND has been an effective and skillful advocate for the needs of the CDC. Our legislation today incorporates many of the proposals introduced by Senator CLELAND in his legislation on public health authorities.

Hospitals are also one of the keys to an effective response to bioterrorism. We must do more to strengthen the ability of the nation's hospitals to cope with bioterrorism. Senator CORZINE has proposed to strengthen designated hospitals to serve as regional resources for bioterrorism preparedness, I commend him for his thoughtful proposal, which we have incorporated into the legislation.

We must also ensure that we monitor dangerous biological agents that might be used for bioterrorism. There is a serious loophole in current regulations, and we are grateful for the proposals offered by Senator DURBIN and Senator FEINSTEIN to achieve more effective control of these pathogens.

In a biological threat or attack, mental health care will be extremely important. We are indebted to Senator WELLSTONE for his skillful and compassionate advocacy for the needs of those with mental illnesses. In the event of a terrorist attack, thousands of persons would have mental health needs, and our legislation includes key proposals by Senator WELLSTONE to address these needs.

Mobilizing the nation's pharmaceutical and biotech companies so that they can fully contribute to this effort is critical. Senators LEAHY, HATCH, DEWINE, and KOHL made thoughtful contributions to the antitrust provisions of the bill, which will help encourage a helpful public-private partnership to combat bioterrorism.

This legislation is urgent because the need to prepare for a bioterrorist attack is urgent. I look forward to its prompt passage so that the American people can have the protection they need.

Mr. BIDEN. Mr. President, I am proud to be an original cosponsor of the Bioterrorism Preparedness Act, a comprehensive package of measures to improve our Nation's capability to respond to a future biological weapons attack against the United States. This bill, introduced by Senators KENNEDY and FRIST, would authorize $3.25 billion in funding for fiscal year 2002, a substantial boost in resources for the measures outlined in the bill. I applaud Senators KENNEDY and FRIST for coming together in a bipartisan spirit and putting forth a bill that takes the first important step towards truly protecting our Nation against future acts of bioterrorism. When Sam Nunn testified in early September before the Foreign Relations Committee on the threat posed by biological weapons, he was very clear, bioterrorism is a direct threat to the national security of the United States and we need to invest the necessary resources to counter this threat accordingly.

As troubling as the recent spate of anthrax by mail attacks was, we were very fortunate that this was a comparatively small-scale attack. Seventeen Americans contracted inhalation or cutaneous anthrax; unfortunately, four individuals died. The next time a biological weapons attack occurs, we may not be so fortunate in dealing with a small number of victims who emerge over a period of weeks. Instead, we may face thousands of victims flooding local emergency rooms and overwhelming our hospitals in a matter of hours. Let's be real here, the anthrax attacks, as small-scale as they have been, have greatly stressed our national public health infrastructure. One out of every eight Centers for Disease Control employees at their headquarters in Atlanta is working on the current anthrax outbreak, forcing the CDC to sideline other essential core activities for the time being. Folks, what we have just been through is small potatoes compared to what we potentially will face. Plain and simple, we can't afford to be so underprepared in the future.

Among Sam Nunn's recommendations for countering biological terrorism, he declared, ''We need to recognize the central role of public health and medicine in this effort and engage these professionals fully as partners on the national security team.'' There are many good things in this bill, ranging from the expansion of the National Pharmaceutical Stockpile to efforts to enhance food safety, but I am especially please that the Bioterrorism Preparedness Act provides direct grants to improve the public health infrastructure at the State and local level. Our doctors, nurses, emergency medical technicians, and other public health personnel are our eyes and ears on the ground for detecting a biological weapons attack. We can't afford not to do everything we can to make sure they have the necessary tools and resources in containing any BW attack. This bill goes a long way towards fulfilling that core commitment.

So I strongly support the Bioterrorism Preparedness Act and I look forward to its early passage and entry into law before the Congress adjourns for the year. But I am deeply concerned that the bill ignores the international aspects to any effective response to potential bioterrorism. As chairman of the Foreign Relations Committee, I know that we cannot address the threat of bioterrorism within the borders of the United States alone.

Let me be clear, a biological weapons attack need not originate in the United States to pose a threat to our Nation. A dangerous pathogen deliberately released anywhere in the world can quickly spread to the United States in a matter of days, if not hours. The scope and frequency of international trade, travel, and migration patterns offer unlimited opportunities for pathogens to spread across national borders and even to move from one continent to another. Therefore, we need to view all infectious disease epidemics, wherever they occur, as a potential threat to all nations.

It is for this reason that Senator HELMS, the distinguished ranking member on the Foreign Relations Committee, and I worked together in seeking to insert provisions in this bill to enhance global disease monitoring and surveillance. With Senator KENNEDY's strong backing, we wanted to ensure the full availability of information, i.e. disease characteristics, pathogen strains, transmission patterns, on infectious epidemics overseas that may provide clues indicating possible illegal biological weapons use or research. Even if an infectious disease outbreak occurs naturally, improved monitoring and surveillance can help contain the epidemic and tip off scientists and public health professionals to new diseases that may be used as biological weapons in the future.

The World Health Organization, WHO, established a formal worldwide network last year, called the Global Alert and Response Network, to monitor and track infectious disease outbreaks in every region of the world.

The WHO has done an impressive job so far working on a shoestring budget. But this global network is only as good as its components, individual nations. Many developing nations simply do not possess the personnel, laboratory equipment or public health infrastructure to track disease patterns and detect traditional and emerging pathogens. In fact, these nations often just seek to keep up in treating those who have already fallen ill.

Doctors and nurses in many developing countries only treat a small fraction of the patients who may be ill with a specific infectious disease—in effect, they are only witnessing the tip of a potentially much larger iceberg. According to the National Intelligence Council, governments in developing countries in Africa and Asia have established rudimentary or no systems at all for disease surveillance, response or prevention. For example, in 1994, an outbreak of plague occurred in India, resulting in 56 deaths and billions of dollars of economic damage as trade and travel with India ground to a halt. The plague outbreak was so severe because Indian authorities did not catch the epidemic in its early stages. Authorities had ignored or failed to respond to routine complaints of flea infestation, a sure warning signal for plague.

Owing to the lack of resources, developing nations are the weak spots in global disease monitoring and surveillance. Without shoring up these nations' capabilities to detect and contain disease outbreaks, we are leaving the entire world vulnerable to either a deliberate biological weapons attack or an especially virulent naturally occurring epidemic.

Therefore, Senator HELMS and I worked together in proposing language for this bill to authorize $150 million in fiscal year 02 and fiscal year 03 to strengthen the capabilities of individual nations in the developing world to detect, diagnose, and contain infectious disease epidemics. The proposed title would have helped train entry-level public health professionals from developing countries and provide grants for the acquisition of modern laboratory and communications equipment essential to any effective disease surveillance network. Upon first glance, $150 million is chump change in a bill that authorizes more than $3 billion. But I have been assured by public health experts that $150 million alone can go a long ways in making sure that developing countries acquire the basic disease surveillance and monitoring capabilities to effectively contribute to the WHO's global network. The bottom line is that these provisions would have offered an inexpensive, commonsense solution to a problem of global proportions.

I was greatly disappointed, therefore, when the White House weighed in late in the negotiations and expressed its strong insistence that the language Senator HELMS and I worked out should be dropped from this bill. While administration officials assured me that they liked our ideas, they asserted any bioterrorism bill passed this year should only include those provisions that carry a domestic focus and meet the test of urgency.

Let me respond to those arguments. It is extremely short-sighted to draw artificial boundaries between ''domestic'' and ''international'' responses to bioterrorism. I have already pointed out that pathogens deliberately released in an attack anywhere in the world can quickly spread to the United States if we are unable to contain the epidemic at its source. The National Intelligence Council has concluded that infectious diseases are a real threat to U.S. national security. To ignore the international arena in favor of domestic solutions alone is profoundly misguided. As for urgency, I can think of few things more urgent than taking the necessary steps to respond to bioterrorism in a global context. Americans have been repeatedly warned by their government leaders to expect other terrorist attacks in the near future; we cannot limit ourselves to thinking these attacks will occur in a conventional form or location. Just this fall, the WHO has had to respond to natural outbreaks of hemorrhagic fever in Pakistan and yellow fever in the Ivory Coast. An effective global disease surveillance network cannot come into existence soon enough.

I therefore intend to offer an amendment, when this bill comes to the floor later this year, to re-insert the provisions to enhance the capabilities of developing nations to track, diagnose, and contain disease outbreaks resulting from both BW attacks and naturally occurring epidemics. It is not my intention to slow down this overall bill or raise any obstacles; on the contrary, I want to see comprehensive bioterrorism legislation reach the President's desk this year. But we cannot address the full scope of the threat posed by biological weapons without including the international component of the solution.

Let me close with an excerpt of testimony from the Foreign Relations Committee hearing on bioterrorism in September from Dr. D.A. Henderson, the man who spearheaded the international campaign to eradicate smallpox in the 1970s. Today, he is the director of the newly-formed Office of Emergency Preparedness in the Department of Health and Human Services, which has the mandate to help organize the Federal Government's response to future bioterrorist attacks. Dr. Henderson was very clear on the value of global disease surveillance: ''In cooperation with the WHO and other countries, we need to strengthen greatly our intelligence gathering capability. A focus on international surveillance and on scientist-to-scientist communication will be necessary if we are to have an early warning about the possible development and production of biological weapons by rogue nations or groups.'' I am hopeful that a majority of my colleagues will recognize we cannot leave the rest of the world to fend for itself in combating biological weapons and infectious diseases in general if we are to ensure America's security as well.

Mrs. CARNAHAN. Mr. President, I rise in strong support of the Bioterrorism Preparedness Act. I am proud to join Senator KENNEDY, Senator FRIST, and Senator GREGG as an original cosponsor of this timely bipartisan legislation. Senator KENNEDY and Senator FRIST have been leaders on this issue even before the events of September 11. In June of 2000, they introduced the Public Health Threats and Emergencies Act, which was enacted into law last year.

The recent anthrax attacks have shown that Congress must do much more to prepare our country for possible future bioterrorist attacks. We need to e4nsure that all of our communities across the country, both rural and urban, are equipped to respond to a bioterrorism attack in the event that such an unfortunate act should occur.

The Bioterrorism Preparedness Act would put in place a comprehensive national strategy to combat bioterrorism. This legislation would improve preparedness at the Federal, State, and local levels. It would increase investments in public health surveillance systems and public health laboratories to improve our ability to detect an attack. Moreover, the Act would strengthen our ability to contain the spread of a bioterrorism attack by increasing the Nation's stockpile of vaccines and treatments.

One critical component of a national strategy on bioterrorism is communication between the government and the public. Americans have many questions about what bioterrorism is and how they can protect their families. They need a reliable source of information where they can go to get accurate answers to their questions, thereby alleviating some of their anxiety and fears. Several weeks ago, I introduced the Bioterrorism Awareness Act, S. 1548, to address this need. S. 1548 calls for the creation of a single website containing information on bioterrorism that would serve as the official federal government source of information for the public. This website will provide ''one-stop shopping'' for people who need to find answers to questions about bioterrorism. For so many of us, the fear of bioterrorism is a fear of the unknown. Knowledge is power, and the more knowledge we have about terrorism, the more power we have to overcome our fears.

I am pleased that my proposal has been included as a key part of the national communications strategy in the Bioterrorism Preparedness Act. This legislation calls for the creation of a new official Federal website to serve as the definitive source of bioterrorism for the public and other targeted populations. For example, farmers and others individuals involved in the Nation's

food supply need accurate information on bioterrorism. This website would include information geared specifically towards the needs of agricultural workers and the unique challenges they might encounter in the event of a bioterrorism attack on our food supply. I encourage the development of this website as soon as possible.

The Bioterrorism Preparedness Act also contains other provisions aimed at protecting our food supply. It recognizes that our Nation's food supply cannot be left vulnerable to a terrorist attack. The bill would authorize funds to increase the Food and Drug Administration's authority to perform food inspections. It would also authorize funds to improve security at facilities belonging to the Department of Agriculture, the Department of Health and Human Services, and universities across the country, where potential animal and plant pathogens are housed or researched.

I know that farmers in Missouri, as well as across the country, are concerned about protecting their crops and livestock. A terrorist attack on these targets has the potential to not only disrupt the food supply in the U.S., but throughout the world. The potential economic impact on farmers' livelihood would be devastating to them and their families. The food safety provisions in this bill go far in protecting this essential national resource.

Another key component in dealing with bioterrorism is providing states with the resources to be equipped to respond. The bill would award block grants to states for improving preparedness and coordination in the event of an attack. These grants would allow States to improve their surveillance and detection capabilities. Further, they would allow states to bolster their public health infrastructure to best protect the public from an attack.

These block grants are especially important because when it comes to protecting our nation from terrorism, the Federal Government cannot do it alone. We need the cooperation and support of State and local governments to protect the citizens at all levels. These funds will help ensure that State governments have the resources they need to prevent and respond to a bioterrorism attack.

This bipartisan legislation would allow our Nation to improve its ability to prevent, detect, contain, and respond to a possible bioterrorist attack. In this time of uncertainty, preparation is our best defense. This bill provides the necessary resources to strengthen that defense throughout all levels of government—Federal, State, and local. I urge my colleagues to support the ''Bioterrorism Preparedness Act'' and to act on it expeditiously.

Mrs. HUTCHISON. Mr. President, along with Senators FRIST, ROBERTS, COLLINS, BOND, HAGEL, SNOWE, DEWINE, and other colleagues, I rise today in support of the Bioterrorism Preparedness Act of 2001.

As the fight against terrorism heats up, it is critical that we dedicate sufficient resources to the growing threat of bioterrorism. This legislation will enhance the capabilities of Federal, State, and local governments to coordinate emergency preparedness efforts, stockpile vaccines and medical supplies, link channels of communication, modernize biosecurity facilities, and ensure the safety of America's health and food supply. In other words, it will help the U.S. protect its citizens.

I am proud to have worked with my colleague, Senator ROBERTS, to address the concerns about our food supply and vital agricultural economies. The agricultural bioterrorism provisions in this legislation will authorize the U.S. Department of Agriculture, USDA, to strengthen its capacities to identify, prepare for, and respond to such bioterrorism threats to our farms, ranches, livestock, poultry, crops, and food processing, packaging, and distribution facilities and systems.

We have a clear priority to ensure the safety of our food, and to maintain the public's confidence regarding this. To do so, we must identify and quickly control the threats to our food supply, currently the world's safest and most abundant and affordable.

Bioterrorism has always been a question of when it would strike, not could it occur, especially since the cold war. During the cold war, it was known that the former Soviet Union had a bioweapons program that included bioagents aimed at agriculture, while during the gulf war our own soldiers have shown evidence of possible use of biological weapons. From the terrorist attacks on Japan's subway system to the foot-and-mouth and ''mad-cow'' disease outbreaks in Europe to the recent anthrax attacks here, even the public is now acutely aware of this threat.

For this reason, this bill is critical, both for the results it will achieve and the reassurance it will provide. USDA will be expanded to enhance inspection capability, implement new information technology, and develop methods for rapid detection and identification of plant and animal disease. USDA's Veterinary Services will be authorized to establish cooperative agreements with state animal health commissions and regulatory agencies for livestock and poultry health, and private veterinary practitioners to enhance its ability to respond to outbreaks of animal disease.

We must emphasize and promote collaboration to strengthen America's research and development capacity. Therefore, USDA is instructed to establish a Consortium for Countermeasures Against Agricultural Bioterrorism to form long-term programs of research and development to enhance the biosecurity of U.S. Agriculture. America's institutes of higher education that have a demonstrated expertise in animal and plant disease research, strong linkages with diagnostic laboratories, and strong coordination with state cooperative extension programs will provide the resources and expertise that will prove invaluable in the war on agricultural bioterrorism.

This is the first modern war where the front lines lie on our own shores, farms and fields, but I know we are up to the challenge, especially as Texas will proudly serve as one of the States on the first lines of defense for our entire country. States where agriculture is critical are vulnerable to a bioterrorism attack, but they will also prove invaluable in the war on bioterrorism when they provide the first evidence of an attack.

To protect our citizens, our economy and our food supply, I urge my colleagues to support the Bioterrorism Preparedness Act of 2001.

By Mr. KERRY (for himself, Mr. STEVENS, Mr. HOLLINGS, Mr. INOUYE, and Mr. AKAKA):

S. 1716. A bill to speed national action to address global climate change, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. KERRY. Mr. President, I rise before you today to introduce the Global Climate Change Act of 2001. I am pleased to have Senators STEVENS, HOLLINGS, INOUYE, and AKAKA join me as original cosponsors.

We face a fundamental environmental challenge. Scientists have warned that pollution and deforestation are raising atmospheric concentrations of greenhouse gases, raising global temperatures and altering the world's climate system with adverse and potentially catastrophic implications for the global environment. And, while sea levels rise, species extinction, drought, disease migration and other potential impacts cannot be known with certainty, we know enough to understand that the threat of harm is real and that worst-case scenarios under current ''business-as-usual'' practices are disastrous.

The best indicator that other nations believe action is desperately overdue is the conclusion of an agreement to implement the Kyoto Protocol last week in Marrakesh, Morocco. Incredibly, the Marrakesh Accords, under which rules for compliance and international greenhouse gas emissions trading were reached, were concluded without U.S. support.

Although the Administration abandoned the Kyoto process in March, to our national detriment, it is critical that the United States map out a clear path to reduce greenhouse gas emissions across the economy. In the Commerce Committee we have held several hearings to examine the science and the solutions to global warming. We have heard testimony about the potential for wind and other renewable energy to provide our nation the power it needs emissions free. We have heard from companies leading the push for hydrogen fuel cells to provide distributed generation and transportation energy with low emissions. And we've

heard from automakers designing the technology for more fuel efficient cars. The Commerce Committee has jurisdiction over of the Corporate Average Fuel Economy, CAFE, program and will continue a series of hearings on the issue that was delayed by the attacks of September 11. The United States must assert itself as a leader in research, development and deployment of these and other technologies.

The Global Climate Change Act of 2001 would help us move down a path of scientific understanding, research, policy innovation and technological innovation. The bill will complement other legislation under consideration in other Senate committees for reducing our greenhouse gas emissions, as well as legislation to improve CAFE in the Commerce Committee. The Global Climate Change Act of 2001 will also provide a solid technical basis upon which to build any future greenhouse emissions tracking, reduction, or trading programs.

The bill contains provisions aimed at bringing the world-class science, technology, and planning expertise of the National Oceanic and Atmospheric Administration, NOAA, the National Institute of Standards and Technology, NIST, and other Department of Commerce programs to bear on this problem, whether it is in climate observation, measurement and verification, information management, modeling and monitoring, technology development and transfer, or hazards planning and prevention.

First, the bill would endorse the elevation of climate change issues in the Administration, identifying the Office of Science and Technology Policy, OSTP, as the coordinating entity in the White House. An interagency task force on global climate change action chaired by the Secretary of Commerce would be responsible for developing a multi-faceted climate change action strategy, including development of mitigation approaches.

Second, it would create an emissions reporting system to ensure accurate measurement, reporting, and verification of greenhouse gas emissions, which is essential to any efforts to reduce our emissions. The bill utilizes the technical capabilities of the NIST and NOAA to establish uniform and credible new measurement methods and technologies. It establishes a mandatory reporting system for greenhouse gas emissions for entities operating in the U.S. with significant emissions. The system will maximize completeness, accuracy and transparency and minimize costs for covered entities. It will be designed to ensure interoperability of any U.S., state or international system of reporting and trading greenhouse gas emissions. It would also require Commerce to issue annual reports showing greenhouse gas emissions and trends, including areas where reductions have occurred.

Third, the bill would ensure that we in Congress get the best independent scientific and technical expertise in our climate change oversight role. The bill would create a Science and Technology Assessment Service that would provide ongoing science and technology advice to Congress. Since the Office of Technology Assessment, OTA, was eliminated in 1995, experts agree that Congress has suffered from lack of ongoing, credible advice. While some objected to the OTA structure, all agree that expert technical advice for Congress is essential to ensuring we hold up our end in efforts to make progress on this important issue. Congressional requests for advice are overburdening the National Academy of Sciences and threatening to compromise its independent stature. The bill would economize on resources and personnel by utilizing the administrative services of the Library of Congress and the expertise of the National Research Council, and provide an ongoing separate service to Congress that will not threaten compromise NAS's independent role.

Fourth, the bill revises the Global Change Research Act of 1990 and the National Climate Program Act, so that interagency and Commerce Department programs focus on improving detection, modeling and regional impact assessments and are better managed to provide useful information to government decisionmakers and managers. In addition, the legislative changes would direct improvements in atmospheric monitoring and establish a new integrated coastal and ocean observing system to ensure we understand and predict the role of oceans in climate. Finally, it would create an integrated program office for the USGCRP within the Office of Science and Technology Policy to ensure budget coordination, using models established under the multiagency National Oceanographic Partnership Program and the NPOESS, polar satellite, convergence process.

Fifth, the bill addresses a critical component of reducing greenhouse gas emissions: technology innovation. The bill is aimed at increasing the Department of Commerce's technology innovation role in reducing greenhouse gas emissions. Specifically, it would utilize the Advanced Technology Program, ATP, to promote and commercialize energy efficient technologies and the Manufacturing Extension Program for small manufacturers. This section would also direct NIST to develop methods and technologies, including process improvements, that can be used in a variety of sectors to reduce production of greenhouse gases.

Finally, we must admit that even if we stopped all greenhouse gas emissions tomorrow, the effects of climate change and variability will not end. It is in our interest to undertake assessments and actions now that will help us address safety and infrastructure issues that will likely accompany climate variability and change in the future. There is currently no way for State governments or coastal communities to plan for change on a 20–50 year time horizon. The bill would require NOAA to evaluate vulnerability of regions of the United States, particularly coastal regions, to effects of climate change, including drought and sea level rise, and develop a strategy for helping states deal with the issues. The bill also directs NOAA to work with NASS to develop remote sensing technologies that will help coastal managers identify hazards and make intelligent planning decisions.

This legislation neatly rolls into one package key components of any national plan to address climate change: coordinated research, monitoring, reporting and verification, mitigation technology, impact assessment, and adaptation planning. This package is but one of many I hope to see my colleagues in Congress develop to help the United States reduce the threat of global climate change now. The Climate Change meetings in Marrakesh last week show that other nations are ready to act. We can, and must, do the same, even without leadership from this Administration.

Mr. HOLLINGS. Mr. President, I am pleased to join Senator KERRY as a cosponsor of the Global Climate Change Act of 2001. The Senate Commerce Committee has worked hard to ensure that the Federal Government has the best research and information possible about global warming, as well as other types of climate changes. Our investments are bearing fruit and we are identifying ways to focus our research to help us make decisions now and in the decades ahead.

During the 1980s, a number of us on the Committee became increasingly concerned about the potential threat of global warming and loss of the ozone layer. In 1989, I sponsored the National Global Change Research Act, which attracted support from many members still serving on the Commerce Committee. In 1990, after numerous hearings and roundtable discussions, Congress enacted the legislation, thereby creating the U.S. Global Climate Research Program.

When we passed the Global Change Research Act, we knew it was the first step in investigating a very complex problem. We placed a lot of responsibility in NOAA, the scientific agency best suited to monitor and predict ocean and atmospheric processes. We need to renew this ocean research commitment to ensure we better understand the oceans, the engines of climate. The so-called ''wild card'' of the climate system, the oceans are capable of dramatic climate surprises we should strive to comprehend.

I am glad to report that the research accomplished under the National Global Change Research Act has led to increased understanding of global climate change, as well as regional climate phenomena like El Nino/Southern Oscillation, ENSO. We now have a better understanding of how the Earth's oceans, atmosphere, and land surface

function together as a dynamic system, but we cannot stop there. Only recently, NOAA measured an important increase in temperature in all the world's oceans over a 40 year period. We need to understand the causes and how that will affect us. All this research ensures that federal and state decision-makers get better information and tools to cope with such climate related problems as food supply, energy allocation, and water resources.

While we have learned an astonishing amount about climate and other earth/ocean interactions in only a decade, we have other critical questions that require further research to answer. Many of these questions are relevant not only to improving our scientific understanding, but also to contributing to our future social and economic well-being. For example, climate anomalies during the past two years, most directly related to the 1997–1998 El Nino event, have accounted for over $30 billion in impacts worldwide. When impacts from the recent floods in China are included, these direct losses could rise to $60 billion. This most recent El Nino claimed 21,000 lives, displaced 4.5 million people, and affected 82 million acres of land through severe flood, drought, and fire. When we better understand the global climate system, and its relationship to regional climate events like El Nino, we may be able to find ways, such as improved forecasting and early warning—to avoid some of the severe impacts.

Understanding these and other impacts of climate change at the regional level is a critical step in preparing for these changes. We must maintain our commitment to research and further refine our existing modeling capabilities. The second critical need is planning for sea level rise and other inevitable results of climate change. It is costly in human lives and real dollars to manage our response in a crisis mode. Just as we needed to modernize our National Weather Service, we need to strengthen and modernize our National Climate Service, which can help the U.S. predict and plan for climate events. This includes establishing a national ocean and coastal observing system using the expertise and resources of a variety of federal agencies. In addition, this bill will help our coastal communities at risk from future climate-related hazards create plans that will help us adapt to such changes without catastrophic disruptions experienced in Alaska by my friend Senator STEVENS.

Not only do we need continued support for technological research and development, we must also consider the method in which this information is delivered to Congress. Before it was abolished in 1995, the Office of Technology Assessment, OTA, was responsible for providing Congress with balanced, independent scientific and technological advice. Since 1995, the function of the National Academy complex, particularly the National Research Council, NRC, has been forced to expand its role in providing research and information to Congress. However, the NRC studies have their limitations. The reports, often slow and expensive, provide limited opportunity for formal input and review by affected parties. Furthermore, unlike OTA, they often make specific recommendations rather than laying out a range of alternative policy options.

The problems addressed by Congress are becoming increasingly complex. Science and technology play a crucial role in addressing problems in energy, defense, aviation and the environment. Without a permanent, non-partisan source of independent scientific and technical policy analysis, Congress become lost in the wealth of information provided by scientists, think tanks, and interest groups. The Global Climate Change Act of 2001 addresses this problem by creating a service that would provide ongoing science and technology advice to Congress, but avoid the criticisms leveled at OTA. It would economize on resources and personnel by utilizing the administrative services of the Library of Congress and the expertise of the National Research Ccouncil. Congressional requests for advice are overburdening NRC and threatening to compromise its independent stature as it is increasingly asked to fill the role of OTA. This provision would defer to NRC as the source of outside, unbiased advice and experts, but also provide an ongoing separate service to Congress. This service would also be asked to review the report of the Climate Change Action Task Force.

The Global Climate Change Act of 2001 demonstrates that the Committee on Commerce, Science and Transportation is serious about climate change, and I commend this Act to you.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 181—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION AND LEGAL REPRESENTATION IN STATE OF IDAHO V. JOSEPH DANIEL HOOPER

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 181

Whereas, in the case of State of Idaho v. Joseph Daniel Hooper, C. No. CRM–01–11531, pending in the District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, testimony has been requested from Elizabeth Kay Tucker, a former employee in the Coeur d'Alene office of Senator Larry E. Craig;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it *Resolved* That Elizabeth Kay Tucker, or any other current or former employee of Senator Craig, is authorized to testify and produce documents in the case of State of Idaho v. Joseph Daniel Hooper, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Elizabeth Kay Tucker and any other current or former employee of Senator Craig's in connection with the testimony and document production authorized in section one of this resolution.

SENATE CONCURRENT RESOLUTION 84—PROVIDING FOR A JOINT SESSION OF CONGRESS TO BE HELD IN NEW YORK CITY, NEW YORK

Mr. SCHUMER (for himself and Mrs. CLINTON) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 84

Whereas on September 11, 2001, the United States was victim to the worst terrorist attack on American soil in history, as hijacked aircraft were deliberately crashed into the World Trade Center towers in New York City and the Pentagon outside of Washington, D.C.;

Whereas the terrorist attacks on the World Trade Center towers located in New York City have resulted in the deaths of over 5,000 individuals and the destruction of both towers as well as adjacent buildings;

Whereas these attacks were by far the deadliest terrorist attacks ever launched against the United States, and by targeting symbols of American strength and success, the attacks were an attempt to violate the freedoms and liberties that have been bestowed upon all Americans;

Whereas in 1789 the first meeting of the United States House of Representatives and Senate was held in New York City; and

Whereas in this time of crisis it would be appropriate that a special one-day joint session of Congress be convened in New York City as a symbol of the Nation's solidarity with New Yorkers who epitomize the human spirit of courage, resilience, and strength: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress assemble in New York City, New York, during the One Hundred Seventh Congress at such date, time, and location as the Speaker of the House of Representatives and the President Pro Tempore of the Senate may jointly select, for the purpose of conducting such business as the Speaker and President Pro Tempore may consider appropriate.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2149. Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. SPECTER)) proposed an

amendment to the bill H.R. 2540, An act to amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.

SA 2150. Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. SPECTER)) proposed an amendment to the bill H.R. 2540, supra.

SA 2151. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table.

SA 2152. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2153. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2154. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2155. Mr. ENZI (for himself, Mr. DORGAN, Mrs. HUTCHISON, Mr. GRAHAM, Mr. VOINOVICH, Mr. BREAUX, Mr. HUTCHINSON, and Mr. CARPER) proposed an amendment to the bill H.R. 1552, to extend the moratorium enacted by the Internet Tax Freedom Act through 2006, and for other purposes.

SA 2157. Mr. MCCAIN (for himself, Mr. ALLARD, Mr. LIEBERMAN, Ms. SNOWE, Mr. LEVIN, Mr. MURKOWSKI, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. BURNS, Mr. DURBIN, Mr. SESSIONS, and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table.

SA 2158. Mr. REID (for Mrs. HUTCHISON) proposed an amendment to the bill S. 1573, to authorize the provision of educational and health care assistance to the women and children of Afghanistan.

SA 2159. Mr. REID (for Mr. FITZGERALD (for himself and Mr. DURBIN)) proposed an amendment to the concurrent resolution S. Con. Res. 44, expressing the sense of the Congress regarding National Pearl Harbor Remembrance Day.

SA 2160. Mr. REID (for Mr. BOND (for himself and Mr. KERRY)) proposed an amendment to the bill S. 1196, to amend the Small Business Investment Act of 1958, and for other purposes.

SA 2161. Mr. DASCHLE proposed an amendment to the bill S. 1389, to provide for the conveyance of certain real property in South Dakota to the State of South Dakota with indemnification by the United States government, and for other purposes.

SA 2162. Mr. REID (for Mr. HATCH) proposed an amendment to the bill S. 320, to make technical corrections in patent, copyright, and trademark laws.

TEXT OF AMENDMENTS

SA 2149. Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. SPECTER)) proposed an amendment to the bill H.R. 2540, an act to amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans' Compensation Rate Amendments of 2001''.

(b) REFERENCES TO TITLE 38, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION.

(a) INCREASE IN RATES.—Section 1114 is amended—

(1) by striking ''$98'' in subsection (a) and inserting ''$103'';

(2) by striking ''$188'' in subsection (b) and inserting ''$199'';

(3) by striking ''$288'' in subsection (c) and inserting ''$306'';

(4) by striking ''$413'' in subsection (d) and inserting ''$439'';

(5) by striking ''$589'' in subsection (e) and inserting ''$625'';

(6) by striking ''$743'' in subsection (f) and inserting ''$790'';

(7) by striking ''$937'' in subsection (g) and inserting ''$995'';

(8) by striking ''$1,087'' in subsection (h) and inserting ''$1,155'';

(9) by striking ''$1,224'' in subsection (i) and inserting ''$1,299'';

(10) by striking ''$2,036'' in subsection (j) and inserting ''$2,163'';

(11) in subsection (k)—

(A) by striking ''$76'' both places it appears and inserting ''$80''; and

(B) by striking ''$2,533'' and ''$3,553'' and inserting ''$2,691'' and ''$3,775'', respectively;

(12) by striking ''$2,533'' in subsection (l) and inserting ''$2,691'';

(13) by striking ''$2,794'' in subsection (m) and inserting ''$2,969'';

(14) by striking ''$3,179'' in subsection (n) and inserting ''$3,378'';

(15) by striking ''$3,553'' each place it appears in subsections (o) and (p) and inserting ''$3,775'';

(16) by striking ''$1,525'' and ''$2,271'' in subsection (r) and inserting ''$1,621'' and ''$2,413'', respectively; and

(17) by striking ''$2,280'' in subsection (s) and inserting ''$2,422''.

(b) SPECIAL RULE.—The Secretary of Veterans Affairs may authorize administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) is amended—

(1) by striking ''$117'' in clause (A) and inserting ''$124'';

(2) by striking ''$201'' and ''$61'' in clause (B) and inserting ''$213'' and ''$64'', respectively;

(3) by striking ''$80'' and ''$61'' in clause (C) and inserting ''$84'' and ''$64'', respectively;

(4) by striking ''$95'' in clause (D) and inserting ''$100'';

(5) by striking ''$222'' in clause (E) and inserting ''$234''; and

(6) by striking ''$186'' in clause (F) and inserting ''$196''.

SEC. 4. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 is amended by striking ''$546'' and inserting ''$580''.

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

(a) NEW LAW RATES.—Section 1311(a) is amended—

(1) by striking ''$881'' in paragraph (1) and inserting ''$935''; and

(2) by striking ''$191'' in paragraph (2) and inserting ''$202''.

(b) OLD LAW RATES.—The table in section 1311(a)(3) is amended to read as follows:

Pay grade	Monthly
E–1	$935
E–2	935
E–3	935
E–4	935
E–5	935
E–6	935
E–7	967
E–8	1,021
E–9	[1] 1,066
W–1	988
W–2	1,028
W–3	1,058
W–4	1,119
O–1	988
O–2	1,021
O–3	1,092
O–4	1,155
O–5	1,272
O–6	1,433
O–7	1,549
O–8	1,699
O–9	1,818
O–10	[2] 1,994

''[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,149.

''[2] If the veteran served as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,139.''.

(c) ADDITIONAL DIC FOR CHILDREN.—Section 1311(b) is amended by striking ''$222'' and inserting ''$234''.

(d) AID AND ATTENDANCE ALLOWANCE.—Section 1311(c) is amended by striking ''$222'' and inserting ''$234''.

(e) HOUSEBOUND RATE.—Section 1311(d) is amended by striking ''$107'' and inserting ''$112''.

SEC. 6. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) is amended—

(1) by striking ''$373'' in paragraph (1) and inserting ''$397'';

(2) by striking ''$538'' in paragraph (2) and inserting ''$571'';

(3) by striking ''$699'' in paragraph (3) and inserting ''$742''; and

(4) by striking ''$699'' and ''$136'' in paragraph (4) and inserting ''$742'' and ''$143'', respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 is amended—

(1) by striking ''$222'' in subsection (a) and inserting ''$234'';

(2) by striking ''$373'' in subsection (b) and inserting ''$397''; and

(3) by striking ''$188'' in subsection (c) and inserting ''$199''.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect on December 1, 2001.

SA 2150. Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. SPECTER) proposed an amendment to the bill H.R. 2540, An act to amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans; as follows:

Amend the title so as to read ''An Act to amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates

of dependency and indemnity compensation for survivors of such veterans.''.

SA 2151. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. ___. FAIR AND EQUITABLE RESOLUTION OF LABOR INTEGRATION ISSUES.

(a) PURPOSE.—The purpose of this section is to require procedures that ensure the fair and equitable resolution of labor integration issues, in order to prevent further disruption to transactions for the combination of air carriers, which would potentially aggravate the disruption caused by the attack on the United States on September 11, 2001.

(b) DEFINITIONS.—In this Act:

(1) AIR CARRIER.—The term ''air carrier'' means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

(2) COVERED AIR CARRIER.—The term ''covered air carrier'' means an air carrier that is involved in a covered transaction.

(3) COVERED EMPLOYEE.—The term ''covered employee'' means an employee who—

(A) is not a temporary employee; and

(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

(4) COVERED TRANSACTION.—The term ''covered transaction'' means a transaction that—

(A) is a transaction for the combination of multiple air carriers into a single air carrier;

(B) involves the transfer of ownership or control of—

(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

(ii) 50 percent or more (by value) of the assets of the air carrier;

(C) became a pending transaction, or was completed, not earlier than January 1, 2001; and

(D) did not result in the creation of a single air carrier by September 11, 2001.

(c) SENIORITY INTEGRATION.—In any covered transaction involving a covered air carrier that leads to the combination of crafts or classes that are subject to the Railway Labor Act—

(1) sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 CAB 45) shall apply to the covered employees of the covered air carrier; and

(2) subject to paragraph (1), in a case in which a collective bargaining agreement provides for the application of sections 3 and 13 of the labor protective provisions in the process of seniority integration for the covered employees, the terms of the collective bargaining agreement shall apply to the covered employees and shall not be abrogated.

(d) ENFORCEMENT.—Any aggrieved person (including any labor organization that represents the person) may bring an action to enforce this section, or the terms of any award or agreement resulting from arbitration or a settlement relating to the requirements of this section. The person may bring the action in an appropriate Federal district court, determined in accordance with section 1391 of title 28, United States Code, without regard to the amount in controversy.

SA 2152. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DEDUCTION OF CERTAIN EXPENSES OF MEMBERS OF THE RESERVE COMPONENT.

(a) DEDUCTION ALLOWED.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

''(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business during any period for which such individual is away from home in connection with such service.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

''(D) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001.

SEC. ___. CREDIT FOR EMPLOYMENT OF RESERVE COMPONENT PERSONNEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45G. RESERVE COMPONENT EMPLOYMENT CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the reserve component employment credit determined under this section is an amount equal to the sum of—

''(1) the employment credit with respect to all qualified employees of the taxpayer, plus

''(2) the self-employment credit of a qualified self-employed taxpayer.

''(b) EMPLOYMENT CREDIT.—For purposes of this section—

''(1) IN GENERAL.—The employment credit with respect to a qualified employee of the taxpayer for any taxable year is equal to 50 percent of the amount of qualified compensation that would have been paid to the employee with respect to all periods during which the employee participates in qualified reserve component duty to the exclusion of normal employment duties, including time spent in a travel status had the employee not been participating in qualified reserve component duty. The employment credit, with respect to all qualified employees, is equal to the sum of the employment credits for each qualified employee under this subsection.

''(2) QUALIFIED COMPENSATION.—When used with respect to the compensation paid or that would have been paid to a qualified employee for any period during which the employee participates in qualified reserve component duty, the term 'qualified compensation' means compensation—

''(A) which is normally contingent on the employee's presence for work and which would be deductible from the taxpayer's gross income under section 162(a)(1) if the employee were present and receiving such compensation, and

''(B) which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and with respect to which the number of days the employee participates in qualified reserve component duty does not result in any reduction in the amount of vacation time, sick leave, or other nonspecific leave previously credited to or earned by the employee.

''(3) QUALIFIED EMPLOYEE.—The term 'qualified employee' means a person who—

''(A) has been an employee of the taxpayer for the 21-day period immediately preceding the period during which the employee participates in qualified reserve component duty, and

''(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as defined in sections 10142 and 10101 of title 10, United States Code.

''(c) SELF-EMPLOYMENT CREDIT.—

''(1) IN GENERAL.—The self-employment credit of a qualified self-employed taxpayer for any taxable year is equal to 50 percent of the excess, if any, of—

''(A) the self-employed taxpayer's average daily self-employment income for the taxable year over

''(B) the average daily military pay and allowances received by the taxpayer during the taxable year, while participating in qualified reserve component duty to the exclusion of the taxpayer's normal self-employment duties for the number of days the taxpayer participates in qualified reserve component duty during the taxable year, including time spent in a travel status.

''(2) AVERAGE DAILY SELF-EMPLOYMENT INCOME AND AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—As used with respect to a self-employed taxpayer—

''(A) the term 'average daily self-employment income' means the self-employment income (as defined in section 1402) of the taxpayer for the taxable year divided by the difference between—

''(i) 365, and

''(ii) the number of days the taxpayer participates in qualified reserve component duty during the taxable year, including time spent in a travel status, and

''(B) the term 'average daily military pay and allowances' means—

''(i) the amount paid to the taxpayer during the taxable year as military pay and allowances on account of the taxpayer's participation in qualified reserve component duty, divided by

''(ii) the total number of days the taxpayer participates in qualified reserve component duty, including time spent in travel status.

''(3) QUALIFIED SELF-EMPLOYED TAXPAYER.—The term 'qualified self-employed taxpayer' means a taxpayer who—

''(A) has net earnings from self-employment (as defined in section 1402) for the taxable year, and

''(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States.

''(d) CREDIT IN ADDITION TO DEDUCTION.—The employment credit provided in this section is in addition to any deduction otherwise allowable with respect to compensation actually paid to a qualified employee during any period the employee participates in qualified reserve component duty to the exclusion of normal employment duties.

''(e) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—

''(A) IN GENERAL.—The credit allowed by subsection (a) for the taxable year—

''(i) shall not exceed $7,500 in the aggregate, and

''(ii) shall not exceed $2,000 with respect to each qualified employee.

''(B) CONTROLLED GROUPS.—For purposes of applying the limitations in subparagraph (A)—

''(i) all members of a controlled group shall be treated as one taxpayer, and

''(ii) such limitations shall be allocated among the members of such group in such manner as the Secretary may prescribe.

For purposes of this subparagraph, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as members of a controlled group.

''(2) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—No credit shall be allowed under subsection (a) to a taxpayer for—

''(A) any taxable year in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

''(B) the two succeeding taxable years.

''(3) DISALLOWANCE WITH RESPECT TO PERSONS ORDERED TO ACTIVE DUTY FOR TRAINING.—No credit shall be allowed under subsection (a) to a taxpayer with respect to any period for which the person on whose behalf the credit would otherwise be allowable is called or ordered to active duty for any of the following types of duty:

''(A) active duty for training under any provision of title 10, United States Code,

''(B) training at encampments, maneuvers, outdoor target practice, or other exercises under chapter 5 of title 32, United States Code, or

''(C) full-time National Guard duty, as defined in section 101(d)(5) of title 10, United States Code.

''(f) GENERAL DEFINITIONS AND SPECIAL RULES.—

''(1) MILITARY PAY AND ALLOWANCES.—The term 'military pay' means pay as that term is defined in section 101(21) of title 37, United States Code, and the term 'allowances' means the allowances payable to a member of the Armed Forces of the United States under chapter 7 of that title.

''(2) QUALIFIED RESERVE COMPONENT DUTY.—The term 'qualified reserve component duty' includes only active duty performed, as designated in the reservist's military orders, in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code.

''(3) NORMAL EMPLOYMENT AND SELF-EMPLOYMENT DUTIES.—A person shall be deemed to be participating in qualified reserve component duty to the exclusion of normal employment or self-employment duties if the person does not engage in or undertake any substantial activity related to the person's normal employment or self-employment duties while participating in qualified reserve component duty unless in an authorized leave status or other authorized absence from military duties. If a person engages in or undertakes any substantial activity related to the person's normal employment or self-employment duties at any time while participating in a period of qualified reserve component duty, unless during a period of authorized leave or other authorized absence from military duties, the person shall be deemed to have engaged in or undertaken such activity for the entire period of qualified reserve component duty.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.''.

(b) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit) is amended—

(1) by striking ''plus'' at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting '', plus'', and

(3) by adding at the end the following new paragraph:

''(16) the reserve component employment credit determined under section 45G(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45F the following new item:

''Sec. 45G. Reserve component employment credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SA 2153. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. . DEDUCTION FOR 100 PERCENT OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.''.

(b) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(l)(2)(B) of the Internal Revenue Code of 1986 is amended to read as follows: ''Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SA 2154. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

''SECTION. . TIPS RECEIVED FOR CERTAIN SERVICES NOT SUBJECT TO INCOME OR EMPLOYMENT TAXES.

(a) IN GENERAL.—Section 102 of the Internal Revenue Code of 1986 (relating to gifts and inheritances) is amended by adding at the end the following new subsection:

(d) TIPS RECEIVED FOR CERTAIN SERVICES.—

(1) IN GENERAL.—For purposes of subsection (a), tips received by an individual for qualified services performed by such individual shall be treated as property transferred by gift.

(2) QUALIFIED SERVICES.—For purposes of this subsection, the term ''qualified services'' means cosmetology, hospitality (including lodging and food and beverage services), recreation, baggage handling, transportation, delivery, shoe shine, and other services where tips are customary.

(3) ANNUAL LIMIT.—The amount excluded from gross income for the taxable year by reason of paragraph (1) with respect to each service provider shall not exceed $10,000.

(4) EMPLOYEE TAXABLE ON AT LEAST MINIMUM WAGE.—Paragraph (1) shall not apply to tips received by an employee during any month to the extent that such tips—

(A) are deemed to have been paid by the employer to the employee pursuant to section 3121(q) (without regard to whether such tips are reported under section 6053), and

(B) do not exceed the excess of—

(i) the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act), over

(ii) the amount of the wages (excluding tips) paid by the employer to the employee during such month.

(5) TIPS.—For purposes of this title, the term ''tips'' means a gratuity paid by an individual for services performed for such individual (or for a group which includes such individual) by another individual if such services are not provided pursuant to an employment or similar contractual relationship between such individuals.

(b) EXCLUSION FROM SOCIAL SECURITY TAXES.— (1) Paragraph (12) of section 3121(a) of such Code is amended to read as follows:

''(12)(A) tips paid in any medium other than cash;

''(B) cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is $20 or more and then only to the extent includible in gross income after the application of section 102(d);''

(2) Paragraph (10 of section 209(a) of the Social Security Act is amended to read as follows:

''(10)(A) tips paid in any medium other than cash;

''(B) cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is $20 or more and then only to the extent includible in gross income after the application of section 102(d) of the Internal Revenue Code of 1986 for such month;''.

(3) Paragraph (3) of section 3231(e) of such Code is amended to read as follows:

''(3) Solely for purposes of the taxes imposed by section 3201 and other provisions of this chapter insofar as they relate to such taxes, the term 'compensation' also includes cash tips received by an employee in any calendar month in the course of his employment by an employer if the amount of such cash tips is $20 or more and then only to the extent includible in gross income after the application of section 102(d).''.

(c) EXCLUSION FROM UNEMPLOYMENT COMPENSATION TAXES.—Subsection(s) of section 3306 of such Code is amended to read as follows:

''(s) TIPS NOT TREATED AS WAGES.—For purposes of this chapter, the term 'wages' shall include tips received in any month only to the extent includible in gross income after the application of section 102(d) for such month.''

(d) EXCLUSION FROM WAGE WITHHOLDING.—Paragraph (16) of section 3401(a) of such Code is amended to read as follows:

''(16)(a) as tips in any medium other than cash;

''(B) as cash tips to an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is $20 or more and then only to the extent includible in gross income after the application of section 102(d);''

(e) CONFORMING AMENDMENT.—Sections 32(c)(2)(A)(i) and 220(b)(4)(A) of such Code are each amended by striking ''tips'' and inserting ''tips to the extent includible in gross income after the application of section 102(d)).''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to tips received after the calendar month which includes the date of the enactment of this Act.

SA 2155. Mr. ENZI (for himself, Mr. DORGAN, Mrs. HUTCHISON, Mr. GRAHAM, Mr. VOINOVICH, Mr. BREAUX, Mr. HUTCHINSON, and Mr. CARPER) proposed an amendment to the bill H.R. 1552, to extend the moratorium enacted by the Internet Tax Freedom Act through 2006, and for other purposes; as follows:

Strike all after the first word and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet Tax Moratorium and Equity Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The moratorium of the Internet Tax Freedom Act on new taxes on Internet access and on multiple and discriminatory taxes on electronic commerce should be extended.

(2) States should be encouraged to simplify their sales and use tax systems.

(3) As a matter of economic policy and basic fairness, similar sales transactions should be treated equally, without regard to the manner in which sales are transacted, whether in person, through the mails, over the telephone, on the Internet, or by other means.

(4) Congress may facilitate such equal taxation consistent with the United States Supreme Court's decision in Quill Corp. v. North Dakota.

(5) States that adequately simplify their tax systems should be authorized to correct the present inequities in taxation through requiring sellers to collect taxes on sales of goods or services delivered in-state, without regard to the location of the seller.

(6) The States have experience, expertise, and a vital interest in the collection of sales and use taxes, and thus should take the lead in developing and implementing sales and use tax collection systems that are fair, efficient, and non-discriminatory in their application and that will simplify the process for both sellers and buyers.

(7) Online consumer privacy is of paramount importance to the growth of electronic commerce and must be protected.

SEC. 3. EXTENSION OF INTERNET TAX FREEDOM ACT MORATORIUM.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows:

''(a) MORATORIUM.—No State or political subdivision thereof shall impose—

''(1) any taxes on Internet access during the period beginning after September 30, 1998, unless such a tax was generally imposed and actually enforced prior to October 1, 1998; and

''(2) multiple or discriminatory taxes on electronic commerce during the period beginning on October 1, 1998, and ending on December 31, 2005.''.

SEC. 4. INTERNET TAX FREEDOM ACT DEFINITIONS.

(a) INTERNET ACCESS SERVICES.—Section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by adding at the end the following new paragraph:

''(11) INTERNET ACCESS SERVICES.—The term 'Internet access services' means services that combine computer processing, information storage, protocol conversion, and routing with transmission to enable users to access Internet content and services. Such term does not include receipt of such content or services.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the Internet Tax Freedom Act.

SEC. 5. STREAMLINED SALES AND USE TAX SYSTEM.

(a) DEVELOPMENT OF STREAMLINED SYSTEM.—It is the sense of Congress that States and localities should work together to develop a streamlined sales and use tax system that addresses the following in the context of remote sales:

(1) A centralized, one-stop, multi-state reporting, submission, and payment system for sellers.

(2) Uniform definitions for goods or services, the sale of which may, by State action, be included in the tax base.

(3) Uniform rules for attributing transactions to particular taxing jurisdictions.

(4) Uniform procedures for—

(A) the treatment of purchasers exempt from sales and use taxes; and

(B) relief from liability for sellers that rely on such State procedures.

(5) Uniform procedures for the certification of software that sellers rely on to determine sales and use tax rates and taxability.

(6) A uniform format for tax returns and remittance forms.

(7) Consistent electronic filing and remittance methods.

(8) State administration of all State and local sales and use taxes.

(9) Uniform audit procedures, including a provision giving a seller the option to be subject to no more than a single audit per year using those procedures; except that if the seller does not comply with the procedures to elect a single audit, any State can conduct an audit using those procedures.

(10) Reasonable compensation for tax collection by sellers.

(11) Exemption from use tax collection requirements for remote sellers falling below a de minimis threshold of $5,000,000 in gross annual sales.

(12) Appropriate protections for consumer privacy.

(13) Uniform enforcement criteria and a process for ensuring compliance by those States that adopt the streamlined sales and use tax system.

(14) A process for resolving conflicts of law among States in the interpretation or application of statutory or regulatory provisions implementing the system.

(15) Such other features that the States deem warranted to promote simplicity, uniformity, neutrality, efficiency, and fairness.

(b) STUDY.—It is the sense of Congress that a joint, comprehensive study should be commissioned by State and local governments and the business community to determine the cost to all sellers of collecting and remitting State and local sales and use taxes on sales made by sellers under the law as in effect on the date of enactment of this Act and under the system described in subsection (a) to assist in determining what constitutes reasonable compensation.

SEC. 6. INTERSTATE SALES AND USE TAX COMPACT.

(a) AUTHORIZATION.—In general, the States are authorized to enter into an Interstate Sales and Use Tax Compact. The Compact shall describe a uniform, streamlined sales and use tax system consistent with section 5(a), and shall provide that States joining the Compact must adopt that system.

(b) EXPIRATION.—The authorization in subsection (a) shall expire if the Compact has not been formed before January 1, 2005.

(c) CONGRESSIONAL APPROVAL OF COMPACT.—

(1) ADOPTING STATES TO TRANSMIT.—Upon the 20th State becoming a signatory to the Compact, the adopting States shall transmit a copy of the Compact to Congress.

(2) CONGRESSIONAL ACTION.—

(A) IN GENERAL.—If a joint resolution described in subparagraph (B) is enacted into law within 120 calendar days, excluding congressional recess period days, of Congress receiving the Compact under paragraph (1), then sections 7 and 8 shall apply to the adopting States, and any other State that subsequently adopts the Compact.

(B) JOINT RESOLUTION.—A joint resolution described in this subparagraph is a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: ''That Congress—

''(1) agrees that the uniform, streamlined sales and use tax system described in the Compact transmitted to Congress by the States pursuant to section 6(c)(1) of the Internet Tax Moratorium and Equity Act does not create an undue burden on interstate commerce; and

''(2) authorizes any State that adopts such Compact to require remote sellers to collect and remit sales and use taxes in accordance with such system .''

(C) EXPEDITED PROCEDURE FOR APPROVAL.—

(i) RULES OF HOUSE AND SENATE.—This paragraph is enacted—

(I) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of the joint resolution described in subparagraph (B), and they supersede other rules only to the extent that they are inconsistent therewith, and

(II) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(ii) APPLICABLE PROCEDURAL PROVISIONS.—Except as otherwise provided in this paragraph, the procedures set forth in section 152 (other than subsection (a) thereof) of the Trade Act of 1974 (19 U.S.C. 2192) shall apply to the joint resolution described in subparagraph (B) by substituting the ''Committee on the Judiciary'' for the ''Committee on Ways and Means'' and the ''Committee on Commerce, Science, and Transportation'' for the ''Committee on Finance'' in subsections (b) and (f)(1)(A)(i) thereof.

(iii) INTRODUCTION OF JOINT RESOLUTION AFTER COMPACT RECEIVED.—Until Congress receives the Compact described in paragraph (1), it shall not be in order in either House to introduce the joint resolution described in subparagraph (B).

(iv) CONSIDERATION OF JOINT RESOLUTION.—No amendment to the joint resolution described in subparagraph (B) shall be in order in either the House of Representatives or the Senate, and no motion to suspend the application of this clause shall be in order in either House. Within 120 calendar days, excluding congressional recess period days, after the date on which a joint resolution described in subparagraph (B) is introduced in either House, that House shall proceed to a final vote on the joint resolution without intervening action. If either House approves the resolution, it shall be placed on the calendar in the other House, which shall proceed immediately to a final vote on the joint resolution without intervening action.

SEC. 7. AUTHORIZATION TO SIMPLIFY STATE USE-TAX RATES THROUGH AVERAGING.

(a) IN GENERAL.—Subject to the exceptions in subsections (c) and (d), a State that adopts the Compact authorized and approved under section 6 and that levies a use tax shall impose a single, uniform State-wide use-tax rate on all remote sales on which it assesses a use tax for any calendar year for which the State meets the requirements of subsection (b).

(b) AVERAGING REQUIREMENT.—A State meets the requirements of this subsection for any calendar year in which the single, uniform State-wide use-tax rate is in effect if such rate is no greater than the weighted average of the sales tax rates actually imposed by the State and its local jurisdictions during the 12-month period ending on June 30 prior to such calendar year.

(c) ANNUAL OPTION TO COLLECT ACTUAL TAX.—Notwithstanding subsection (a), a remote seller may elect annually to collect the actual applicable State and local use taxes on each sale made in the State.

(d) ALTERNATIVE SYSTEM.—A State that adopts the uniform, streamlined sales and use tax system described in the Compact authorized and approved under section 6 so that remote sellers can use information provided by the State to identify the single applicable rate for each sale, may require a remote seller to collect the actual applicable State and local sales or use tax due on each sale made in the State if the State provides such seller relief from liability to the State for relying on such information provided by the State.

SEC. 8. AUTHORIZATION TO REQUIRE COLLECTION OF USE TAXES.

(a) GRANT OF AUTHORITY.—

(1) STATES THAT ADOPT THE SYSTEM MAY REQUIRE COLLECTION.—Any State that has adopted the system described in the Compact authorized and approved under section 6 is authorized, notwithstanding any other provision of law, to require all sellers not qualifying for the de minimis exception to collect and remit sales and use taxes on remote sales to purchasers located in such State.

(2) STATES THAT DO NOT ADOPT THE SYSTEM MAY NOT REQUIRE COLLECTION.—Paragraph (1) does not extend to any State that does not adopt the system described in the Compact.

(b) NO EFFECT ON NEXUS, ETC.—No obligation imposed by virtue of authority granted by subsection (a)(1) or denied by subsection (a)(2) shall be considered in determining whether a seller has a nexus with any State for any other tax purpose. Except as provided in subsection (a), nothing in this Act permits or prohibits a State—

(1) to license or regulate any person;

(2) to require any person to qualify to transact intrastate business; or

(3) to subject any person to State taxes not related to the sale of goods or services.

SEC. 9. NEXUS FOR STATE BUSINESS ACTIVITY TAXES.

It is the sense of Congress that before the conclusion of the 107th Congress, legislation should be enacted to determine the appropriate factors to be considered in establishing whether nexus exists for State business activity tax purposes.

SEC. 10. LIMITATION.

In general, nothing in this Act shall be construed as subjecting sellers to franchise taxes, income taxes, or licensing requirements of a State or political subdivision thereof, nor shall anything in this Act be construed as affecting the application of such taxes or requirements or enlarging or reducing the authority of any State or political subdivision to impose such taxes or requirements.

SEC. 11. DEFINITIONS.

In this Act:

(1) STATE.—The term ''State'' means any State of the United States of America and includes the District of Columbia.

(2) GOODS OR SERVICES.—The term ''goods or services'' includes tangible and intangible personal property and services.

(3) REMOTE SALE.—The term ''remote sale'' means a sale in interstate commerce of goods or services attributed, under the rules established pursuant to section 5(a)(3), to a particular taxing jurisdiction that could not, except for the authority granted by this Act, require that the seller of such goods or services collect and remit sales or use taxes on such sale.

(4) LOCUS OF REMOTE SALE.—The term ''particular taxing jurisdiction'', when used with respect to the location of a remote sale, means a remote sale of goods or services attributed, under the rules established pursuant to section 5(a)(3), to a particular taxing jurisdiction.

SA 2157. Mr. MCCAIN (for himself, Mr. ALLARD, Mr. LIEBERMAN, Ms. SNOWE, Mr. LEVIN, Mr. MURKOWSKI, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. BURNS, Mr. DURBIN, Mr. SESSIONS, and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE IN DETERMINING EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121(d) (relating to special rules) is amended by adding at the end the following:

''(9) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

''(A) IN GENERAL.—The running of the 5-year period described in subsection (a) shall be suspended with respect to an individual during any time that such individual or such individual's spouse is serving on qualified official extended duty as a member of a uniformed service or of the Foreign Service.

''(B) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any period of extended duty during which the member of a uniformed service or the Foreign Service is under a call or order compelling such duty at a duty station which is a least 50 miles from the property described in subparagraph (A) or compelling residence in Government furnished quarters while on such duty.

''(ii) EXTENDED DUTY.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

''(C) DEFINITIONS.—For purposes of this paragraph—

''(i) UNIFORMED SERVICE.—The term 'uniformed service' has the meaning given such term by section 101(a)(5) of title 10, United States Code.

''(ii) FOREIGN SERVICE OF THE UNITED STATES.—The term 'member of the Foreign Service' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges on or after the date of the enactment of this Act.

SA 2158. Mr. REID (for Mrs. HUTCHISON) proposed an amendment to the bill S. 1573, to authorize the provision of educational and health care assistance to the women and children of Afghanistan; as follows:

Beginning on page 4, strike line 19 and all that follows through page 5, line 16, and insert the following:

(2) Beginning 6 months after the date of enactment of this Act, and at least annually for the 2 years thereafter, the Secretary of State shall submit a report to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives describing the activities carried out under this Act and otherwise describing the condition and status of women and children in Afghanistan and the persons in refugee camps while United States aid is given to displaced Afghans.

(c) AVAILABILITY OF FUNDS.—Funds made available under the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38), shall be available to carry out this Act.

SA 2159. Mr. REID (for Mr. FITZGERALD (for himself and Mr. DURBIN)) proposed an amendment to the concurrent resolution S. Con. Res. 44, expressing the sense of the Congress regarding National Pearl Harbor Remembrance Day; as follows:

Strike all after the resolving clause and insert the following:

''That the Congress, on the occasion of the 60th anniversary of December 7, 1941, pays tribute to—

''(1) the United States citizens who died as a result of the attack by Japanese imperial forces on Pearl Harbor, Hawaii; and

''(2) the service of the American sailors and soldiers who survived the attack.''.

SA 2160. Mr. REID (for Mr. BOND (for himself and Mr. KERRY)) proposed an amendment to the bill S. 1196, to amend the Small Business Investment Act of 1958, and for other purposes; as follows:

On page 2, lines 8 and 16, strike ''1.28'' each place it appears and insert ''1.38''.

SA 2161. Mr. DASCHLE proposed an amendment to the bill S. 1389, to provide for the conveyance of certain real property in South Dakota to the State of South Dakota with indemnification by the United States government, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Homestake Mine Conveyance Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States is among the leading nations in the world in conducting basic scientific research;

(2) that leadership position strengthens the economy and national defense of the United States and provides other important benefits;

(3) the Homestake Mine in Lead, South Dakota, owned by the Homestake Mining Company of California, is approximately 8,000 feet deep and is situated in a unique physical setting that is ideal for carrying out certain types of particle physics and other research;

(4) the Mine has been selected by the National Underground Science Laboratory Committee, an independent panel of distinguished scientists, as the preferred site for the construction of the National Underground Science Laboratory;

(5) such a laboratory would be used to conduct scientific research that would be funded and recognized as significant by the United States;

(6) the establishment of the laboratory is in the national interest, and would substantially improve the capability of the United States to conduct important scientific research;

(7) for economic reasons, Homestake intends to cease operations at the Mine in 2001;

(8) on cessation of operations of the Mine, Homestake intends to implement reclamation actions that would preclude the establishment of a laboratory at the Mine;

(9) Homestake has advised the State that, after cessation of operations at the Mine, instead of closing the entire Mine, Homestake is willing to donate the underground portion of the Mine and certain other real and personal property of substantial value at the Mine for use as the National Underground Science Laboratory;

(10) use of the Mine as the site for the laboratory, instead of other locations under consideration, would result in a savings of millions of dollars for the Federal Government;

(11) if the Mine is selected as the site for the laboratory, it is essential that closure of the Mine not preclude the location of the laboratory at the Mine;

(12) Homestake is unwilling to donate, and the State is unwilling to accept, the property at the Mine for the laboratory if Homestake and the State would continue to have potential liability with respect to the transferred property; and

(13) to secure the use of the Mine as the location for the laboratory, and to realize the benefits of the proposed laboratory, it is necessary for the United States to—

(A) assume a portion of any potential future liability of Homestake concerning the Mine; and

(B) address potential liability associated with the operation of the laboratory.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AFFILIATE.—

(A) IN GENERAL.—The term ''affiliate'' means any corporation or other person that controls, is controlled by, or is under common control with Homestake.

(B) INCLUSIONS.—The term ''affiliate'' includes a director, officer, or employee of an affiliate.

(3) CONVEYANCE.—The term ''conveyance'' means the conveyance of the Mine to the State under section 4(a).

(4) FUND.—The term ''Fund'' means the Environment and Project Trust Fund established under section 8.

(5) HOMESTAKE.—

(A) IN GENERAL.—The term ''Homestake'' means the Homestake Mining Company of California, a California corporation.

(B) INCLUSION.—The term ''Homestake'' includes—

(i) a director, officer, or employee of Homestake;

(ii) an affiliate of Homestake; and

(iii) any successor of Homestake or successor to the interest of Homestake in the Mine.

(6) INDEPENDENT ENTITY.—The term ''independent entity'' means an independent entity selected jointly by Homestake, the South Dakota Department of Environment and Natural Resources, and the Administrator—

(A) to conduct a due diligence inspection under section 4(b)(2)(A); and

(B) to determine the fair value of the Mine under section 5(a).

(7) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(8) LABORATORY.—

(A) IN GENERAL.—The term ''laboratory'' means the national underground science laboratory proposed to be established at the Mine after the conveyance.

(B) INCLUSION.—The term ''laboratory'' includes operating and support facilities of the laboratory.

(9) MINE.—

(A) IN GENERAL.—The term ''Mine'' means the portion of the Homestake Mine in Lawrence County, South Dakota, proposed to be conveyed to the State for the establishment and operation of the laboratory.

(B) INCLUSIONS.—The term ''Mine'' includes—

(i) real property, mineral and oil and gas rights, shafts, tunnels, structures, backfill, broken rock, fixtures, facilities, and personal property to be conveyed for establishment and operation of the laboratory, as agreed upon by Homestake and the State; and

(ii) any water that flows into the Mine from any source.

(C) EXCLUSIONS.—The term ''Mine'' does not include—

(i) the feature known as the ''Open Cut'';

(ii) any tailings or tailings storage facility (other than backfill in the portion of the Mine described in subparagraph (A)); or

(iii) any waste rock or any site used for the dumping of waste rock (other than broken rock in the portion of the Mine described in subparagraph (A)).

(10) PERSON.—The term ''person'' means—

(A) an individual;

(B) a trust, firm, joint stock company, corporation (including a government corporation), partnership, association, limited liability company, or any other type of business entity;

(C) a State or political subdivision of a State;

(D) a foreign governmental entity;

(E) an Indian tribe; and

(F) any department, agency, or instrumentality of the United States.

(11) PROJECT SPONSOR.—The term ''project sponsor'' means an entity that manages or pays the costs of 1 or more projects that are carried out or proposed to be carried out at the laboratory.

(12) SCIENTIFIC ADVISORY BOARD.—The term ''Scientific Advisory Board'' means the entity designated in the management plan of the laboratory to provide scientific oversight for the operation of the laboratory.

(13) STATE.—

(A) IN GENERAL.—The term ''State'' means the State of South Dakota.

(B) INCLUSIONS.—The term ''State'' includes an institution, agency, officer, or employee of the State.

SEC. 4. CONVEYANCE OF REAL PROPERTY.

(a) IN GENERAL.—

(1) DELIVERY OF DOCUMENTS.—Subject to paragraph (2) and subsection (b) and notwithstanding any other provision of law, on the execution and delivery by Homestake of 1 or more quit-claim deeds or bills of sale conveying to the State all right, title, and interest of Homestake in and to the Mine, title to the Mine shall pass from Homestake to the State.

(2) CONDITION OF MINE ON CONVEYANCE.—The Mine shall be conveyed as is, with no representations as to the condition of the property.

(b) REQUIREMENTS FOR CONVEYANCE.—

(1) IN GENERAL.—As a condition precedent of conveyance and of the assumption of liability by the United States in accordance with this Act, the Administrator shall accept the final report of the independent entity under paragraph (3).

(2) DUE DILIGENCE INSPECTION.—

(A) IN GENERAL.—As a condition precedent of conveyance and of Federal participation described in this Act, Homestake shall permit an independent entity to conduct a due diligence inspection of the Mine to determine whether any condition of the Mine may pose an imminent and substantial threat to human health or the environment.

(B) CONSULTATION.—As a condition precedent of the conduct of a due diligence inspection, Homestake, the South Dakota Department of Environment and Natural Resources, the Administrator, and the independent entity shall consult and agree upon the methodology and standards to be used, and other factors to be considered, by the independent entity in—

(i) the conduct of the due diligence inspection;

(ii) the scope of the due diligence inspection; and

(iii) the time and duration of the due diligence inspection.

(3) REPORT TO THE ADMINISTRATOR.—

(A) IN GENERAL.—The independent entity shall submit to the Administrator a report that—

(i) describes the results of the due diligence inspection under paragraph (2); and

(ii) identifies any condition of or in the Mine that may pose an imminent and substantial threat to human health or the environment.

(B) PROCEDURE.—

(i) DRAFT REPORT.—Before finalizing the report under this paragraph, the independent entity shall—

(I) issue a draft report;

(II) submit to the Administrator, Homestake, and the State a copy of the draft report;

(III) issue a public notice requesting comments on the draft report that requires all such comments to be filed not later than 45 days after issuance of the public notice; and

(IV) during that 45-day public comment period, conduct at least 1 public hearing in Lead, South Dakota, to receive comments on the draft report.

(ii) FINAL REPORT.—In the final report submitted to the Administrator under this paragraph, the independent entity shall respond to, and incorporate necessary changes suggested by, the comments received on the draft report.

(4) REVIEW AND APPROVAL BY ADMINISTRATOR.—

(A) IN GENERAL.—Not later than 60 days after receiving the final report under paragraph (3), the Administrator shall—

(i) review the report; and

(ii) notify the State in writing of acceptance or rejection of the final report.

(B) CONDITIONS FOR REJECTION.—The Administrator may reject the final report only if the Administrator identifies 1 or more conditions of the Mine that—

(i) may pose an imminent and substantial threat to human health or the environment, as determined by the Administrator; and

(ii) require response action to correct each condition that may pose an imminent and substantial threat to human health or the environment identified under clause (i) before conveyance and assumption by the Federal Government of liability concerning the Mine under this Act.

(C) RESPONSE ACTIONS AND CERTIFICATION.—

(i) RESPONSE ACTIONS.—

(I) IN GENERAL.—If the Administrator rejects the final report, Homestake may carry out or bear the cost of, or permit the State or another person to carry out or bear the cost of, such response actions as are necessary to correct any condition identified by the Administrator under subparagraph (B)(i) that may pose an imminent and substantial threat to human health or the environment.

(II) LONG-TERM RESPONSE ACTIONS.—

(aa) IN GENERAL.—In a case in which the Administrator determines that a condition identified by the Administrator under subparagraph (B)(i) requires continuing response action, or response action that can be completed only as part of the final closure of the laboratory, it shall be a condition of conveyance that Homestake, the State, or another person deposit into the Fund such amount as is estimated by the independent entity, on a net present value basis and after taking into account estimated interest on that basis, to be sufficient to pay the costs of the long-term response action or the response action that will be completed as part of the final closure of the laboratory.

(bb) LIMITATION ON USE OF FUNDS.—None of the funds deposited into the Fund under item (aa) shall be expended for any purpose other than to pay the costs of the long-term response action, or the response action that will be completed as part of the final closure of the Mine, identified under that item.

(ii) CONTRIBUTION BY HOMESTAKE.—The total amount that Homestake may expend, pay, or deposit into the Fund under subclauses (I) and (II) of clause (i) shall not exceed—

(I) $75,000,000; less

(II) the fair value of the Mine as determined under section 5(a).

(iii) CERTIFICATION.—

(I) IN GENERAL.—After any response actions described in clause (i)(I) are carried out and any required funds are deposited under clause (i)(II), the independent entity may certify to the Administrator that the conditions for rejection identified by the Administrator under subparagraph (B) have been corrected.

(II) ACCEPTANCE OR REJECTION OF CERTIFICATION.—Not later than 60 days after an independent entity makes a certification under subclause (I), the Administrator shall accept or reject the certification.

(c) REVIEW OF CONVEYANCE.—For the purposes of the conveyance, the requirements of this section shall be considered to be sufficient to meet any requirement of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 5. ASSESSMENT OF PROPERTY.

(a) VALUATION OF PROPERTY.—The independent entity shall assess the fair value of the Mine.

(b) FAIR VALUE.—For the purposes of this section, the fair value of the Mine shall include the estimated cost, as determined by the independent entity under subsection (a), of replacing the shafts, winzes, hoists, tunnels, ventilation system, and other equipment and improvements at the Mine that are expected to be used at, or that will be useful to, the laboratory.

(c) REPORT.—Not later than the date on which each report developed in accordance with section 4(b)(3) is submitted to the Administrator, the independent entity described in subsection (a) shall submit to the State a report that identifies the fair value assessed under subsection (a).

SEC. 6. LIABILITY.

(a) ASSUMPTION OF LIABILITY.—

(1) IN GENERAL.—Subject to paragraph (2), notwithstanding any other provision of law, on completion of the conveyance in accordance with this Act, the United States shall assume any and all liability relating to the Mine and laboratory, including liability for—

(A) damages;

(B) reclamation;

(C) the costs of response to any hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)), contaminant, or other material on, under, or relating to the Mine and laboratory; and

(D) closure of the Mine and laboratory.

(2) CLAIMS AGAINST UNITED STATES.—In the case of any claim brought against the United States, the United States shall be liable for response costs under paragraph (1)(C) only to the extent that an award of response costs is made in a civil action brought under—

(A) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(B) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(C) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

(D) any other applicable Federal environmental law, as determined by the Administrator.

(b) LIABILITY PROTECTION.—On completion of the conveyance, neither Homestake nor the State shall be liable to any person or the United States for injuries, costs, injunctive relief, reclamation, damages (including damages to natural resources or the environment), or expenses, or liable under any other claim (including claims for indemnification or contribution, claims by third parties for death, personal injury, illness, or loss of or damage to property, or claims for economic loss), under any law (including a regulation) for any claim arising out of or in connection with contamination, pollution, or other condition, use, or closure of the Mine and laboratory, regardless of when a condition giving rise to the liability originated or was discovered.

(c) INDEMNIFICATION.—Notwithstanding any other provision of law, on completion of the conveyance in accordance with this Act, the United States shall indemnify, defend, and hold harmless Homestake and the State from and against—

(1) any and all liabilities and claims described in subsection (a), without regard to any limitation under subsection (a)(2); and

(2) any and all liabilities and claims described in subsection (b).

(d) WAIVER OF SOVEREIGN IMMUNITY.—For the purposes of this Act, the United States waives any claim to sovereign immunity.

(e) TIMING FOR ASSUMPTION OF LIABILITY.—If the conveyance is effectuated by more than 1 legal transaction, the assumption of liability, liability protection, indemnification, and waiver of sovereign immunity provided for under this section shall apply to each legal transaction, as of the date on which the transaction is completed and with respect to such portion of the Mine as is conveyed under that transaction.

(f) EXCEPTIONS FOR HOMESTAKE CLAIMS.—Nothing in this section constitutes an assumption of liability by the United States, or relief of liability of Homestake, for—

(1) any unemployment, worker's compensation, or other employment-related claim or cause of action of an employee of Homestake that arose before the date of conveyance;

(2) any claim or cause of action that arose before the date of conveyance, other than an environmental claim or a claim concerning natural resources;

(3) any violation of any provision of criminal law; or

(4) any claim, injury, damage, liability, or reclamation or cleanup obligation with respect to any property or asset that is not conveyed under this Act, except to the extent that any such claim, injury, damage, liability, or reclamation or cleanup obligation arises out of the continued existence or use of the Mine subsequent to the date of conveyance.

SEC. 7. INSURANCE COVERAGE.

(a) PROPERTY AND LIABILITY INSURANCE.—

(1) IN GENERAL.—To the extent property and liability insurance is available and subject to the requirements described in paragraph (2), the State shall purchase property and liability insurance for the Mine and the operation of the laboratory to provide coverage against the liability described in subsections (a) and (b) of section 6.

(2) REQUIREMENTS.—The requirements referred to in paragraph (1) are the following:

(A) TERMS OF INSURANCE.—In determining the type, extent of coverage, and policy limits of insurance purchased under this subsection, the State shall—

(i) periodically consult with the Administrator and the Scientific Advisory Board; and

(ii) consider certain factors, including—

(I) the nature of the projects and experiments being conducted in the laboratory;

(II) the availability and cost of commercial insurance; and

(III) the amount of funding available to purchase commercial insurance.

(B) ADDITIONAL TERMS.—The insurance purchased by the State under this subsection may provide coverage that is—

(i) secondary to the insurance purchased by project sponsors; and

(ii) in excess of amounts available in the Fund to pay any claim.

(3) FINANCING OF INSURANCE PURCHASE.—

(A) IN GENERAL.—Subject to section 8, the State may finance the purchase of insurance required under this subsection by using—

(i) funds made available from the Fund; and

(ii) such other funds as are received by the State for the purchase of insurance for the Mine and laboratory.

(B) NO REQUIREMENT TO USE STATE FUNDS.—Nothing in this Act requires the State to use State funds to purchase insurance required under this subsection.

(4) ADDITIONAL INSURED.—Any insurance purchased by the State under this subsection shall—

(A) name the United States as an additional insured; or

(B) otherwise provide that the United States is a beneficiary of the insurance policy having the primary right to enforce all rights of the United States under the policy.

(5) TERMINATION OF OBLIGATION TO PURCHASE INSURANCE.—The obligation of the State to purchase insurance under this subsection shall terminate on the date on which—

(A) the Mine ceases to be used as a laboratory; or

(B) sufficient funding ceases to be available for the operation and maintenance of the Mine or laboratory.

(b) PROJECT INSURANCE.—

(1) IN GENERAL.—The State, in consultation with the Administrator and the Scientific Advisory Board, may require, as a condition of approval of a project for the laboratory, that a project sponsor provide property and liability insurance or other applicable coverage for potential liability associated with the project described in subsections (a) and (b) of section 6.

(2) ADDITIONAL INSURED.—Any insurance obtained by the project sponsor under this section shall—

(A) name the State and the United States as additional insureds; or

(B) otherwise provide that the State and the United States are beneficiaries of the insurance policy having the primary right to enforce all rights under the policy.

(c) STATE INSURANCE.—

(1) IN GENERAL.—To the extent required by State law, the State shall purchase, with respect to the operation of the Mine and the laboratory—

(A) unemployment compensation insurance; and

(B) worker's compensation insurance.

(2) PROHIBITION ON USE OF FUNDS FROM FUND.—A State shall not use funds from the Fund to carry out paragraph (1).

SEC. 8. ENVIRONMENT AND PROJECT TRUST FUND.

(a) ESTABLISHMENT.—On completion of the conveyance, the State shall establish, in an interest-bearing account at an accredited financial institution located within the State, the Environment and Project Trust Fund.

(b) AMOUNTS.—The Fund shall consist of—

(1) an annual deposit from the operation and maintenance funding provided for the laboratory in an amount to be determined—

(A) by the State, in consultation with the Administrator and the Scientific Advisory Board; and

(B) after taking into consideration—

(i) the nature of the projects and experiments being conducted at the laboratory;

(ii) available amounts in the Fund;

(iii) any pending costs or claims that may be required to be paid out of the Fund; and

(iv) the amount of funding required for future actions associated with the closure of the facility;

(2) an amount determined by the State, in consultation with the Administrator and the Scientific Advisory Board, and to be paid by the appropriate project sponsor, for each project to be conducted, which amount—

(A) shall be used to pay—

(i) costs incurred in removing from the Mine or laboratory equipment or other materials related to the project;

(ii) claims arising out of or in connection with the project; and

(iii) if any portion of the amount remains after paying the expenses described in clauses (i) and (ii), other costs described in subsection (c); and

(B) may, at the discretion of the State, be assessed—

(i) annually; or

(ii) in a lump sum as a prerequisite to the approval of the project;

(3) interest earned on amounts in the Fund, which amount of interest shall be used only for a purpose described in subsection (c); and

(4) all other funds received and designated by the State for deposit in the Fund.

(c) EXPENDITURES FROM FUND.—Amounts in the Fund shall be used only for the purposes of funding—

(1) waste and hazardous substance removal or remediation, or other environmental cleanup at the Mine;

(2) removal of equipment and material no longer used, or necessary for use, in conjunction with a project conducted at the laboratory;

(3) a claim arising out of or in connection with the conducting of such a project;

(4) purchases of insurance by the State as required under section 7;

(5) payments for and other costs relating to liability described in section 6; and

(6) closure of the Mine and laboratory.

(d) FEDERAL PAYMENTS FROM FUND.—The United States—

(1) to the extent the United States assumes liability under section 6—

(A) shall be a beneficiary of the Fund; and

(B) may direct that amounts in the Fund be applied to pay amounts and costs described in this section; and

(2) may take action to enforce the right of the United States to receive 1 or more payments from the Fund.

(e) NO REQUIREMENT OF DEPOSIT OF PUBLIC FUNDS.—Nothing in this section requires the State to deposit State funds as a condition of the assumption by the United States of liability, or the relief of the State or Homestake from liability, under section 6.

SEC. 9. WASTE ROCK MIXING.

After completion of the conveyance, the State shall obtain the approval of the Administrator before disposing of any material quantity of laboratory waste rock if—

(1) the disposal site is on land not conveyed under this Act; and

(2) the State determines that the disposal could result in commingling of laboratory waste rock with waste rock disposed of by Homestake before the date of conveyance.

SEC. 10. REQUIREMENTS FOR OPERATION OF LABORATORY.

After the conveyance, nothing in this Act exempts the laboratory from compliance with any law (including a Federal environmental law).

SEC. 11. CONTINGENCY.

This Act shall be effective contingent on the selection, by the National Science Foundation, of the Mine as the site for the laboratory.

SEC. 12. OBLIGATION IN THE EVENT OF NONCONVEYANCE.

If the conveyance under this Act does not occur, any obligation of Homestake relating to the Mine shall be limited to such reclamation or remediation as is required under any applicable law other than this Act.

SEC. 13. PAYMENT AND REIMBURSEMENT OF COSTS.

The United States may seek payment—

(1) from the Fund, under section 8(d), to pay or reimburse the United States for amounts payable or liabilities incurred under this Act; and

(2) from available insurance, to pay or reimburse the United States and the Fund for amounts payable or liabilities incurred under this Act.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SEC. 15. TANF BONUSES TO REWARD DECREASE IN ILLEGITIMACY RATIO.

(a) RESCISSION.—Effective on the date of enactment of this Act, $100,000,000 of the amount appropriated under subparagraph (D) of section 403(a)(2) of the Social Security Act (42 U.S.C. 603(a)(2)) is rescinded.

(b) BUDGET SCORING.—Notwithstanding section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907(b)(2)), the Director of the Congressional Budget Office and the Director of the Office of Management and Budget shall project the baseline assumption with respect to the amount of bonus grants that shall be made under section 403(a)(2) of the Social Security Act (42 U.S.C. 603(a)(2)) for fiscal year 2003 and each fiscal year thereafter without regard to the amount rescinded under subsection (a).

SA 2162. Mr. REID (for Mr. HATCH) proposed an amendment to the bill S. 320, to make technical corrections in patent, copyright, and trademark laws; as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Intellectual Property and High Technology Technical Amendments Act of 2001''.

SEC. 2. OFFICERS AND EMPLOYEES.

(a) RENAMING OF OFFICERS.—(1)(A) Except as provided in subparagraph (B), title 35, United States Code, other than section 210(d), is amended—

(i) by striking ''Director'' each place it appears and inserting ''Commissioner''; and

(ii) by striking ''Director's'' each place it appears and inserting ''Commissioner's''.

(B) Section 3(b)(5) of title 35, United States Code, is amended by striking ''Director'' the first place it appears and inserting ''Commissioner''.

(C) Section 3(a) of title 35, United States Code, is amended in the subsection heading, by striking ''DIRECTOR'' and inserting ''COMMISSIONER''.

(D) Section 3(b)(1) of title 35, United States Code, is amended in the paragraph heading, by striking ''DIRECTOR'' and inserting ''COMMISSIONER''.

(2) The Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946''; 15 U.S.C. 1051 et seq.) is amended by striking ''Director'' each place it appears and inserting ''Commissioner''.

(3)(A) Title 35, United States Code, other than subsection (f) of section 3, is amended by striking ''Commissioner for Patents'' each place it appears and inserting ''Assistant Commissioner for Patents''.

(B) Title 35, United States Code, other than subsection (f) of section 3, is amended by striking ''Commissioner for Trademarks'' each place it appears and inserting ''Assistant Commissioner for Trademarks''.

(C) Section 3(b)(2) of title 35, United States Code, is amended—

(i) in the paragraph heading, by striking ''COMMISSIONERS'' and inserting ''ASSISTANT COMMISSIONERS'';

(ii) in subparagraph (A), in the last sentence—

(I) by striking ''a Commissioner'' and inserting ''an Assistant Commissioner''; and

(II) by striking ''the Commissioner'' and inserting ''the Assistant Commissioner'';

(iii) in subparagraph (B)—

(I) by striking ''Commissioners'' each place it appears and inserting ''Assistant Commissioners'';

(II) by striking ''Commissioners'' ' each place it appears and inserting ''Assistant Commissioners' ''; and

(iv) in subparagraph (C), by striking ''Commissioners'' and inserting ''Assistant Commissioners''.

(D) Section 3(b) of title 35, United States Code, is amended—

(i) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(ii) by inserting after paragraph (2) the following:

''(3) SPECIAL COUNSEL FOR INTELLECTUAL PROPERTY POLICY AND DEPUTY COMMISSIONER FOR LEGISLATIVE AND INTERNATIONAL AFFAIRS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.—

''(A) APPOINTMENT AND DUTIES.—The Special Counsel for Intellectual Property Policy shall be a citizen of the United States and shall be appointed by the President, after consultation with the Secretary of Commerce. The Deputy Commissioner for Legislative and International Affairs shall be a citizen of the United States and shall be appointed by the President, after consultation with the Secretary of Commerce. The Special Counsel shall serve as the chief intellectual property policy advisor to the Under Secretary of Commerce for Intellectual Property and Commissioner for Patents and Trademarks. The Deputy Commissioner for Legislative and

International Affairs shall serve as the chief advisor on all congressional and international matters relating to intellectual property and administration of the Office.

''(B) OATH.—The Special Counsel and the Deputy Commissioner for Legislative and International Affairs shall, before taking office, take an oath to discharge faithfully responsible duties.

''(C) REMOVAL.—The Special Counsel and the Deputy Commissioner for Legislative and International Affairs may be removed from office by the President. The President shall provide notification of any such removal to both Houses of Congress.

''(D) COMPENSATION.—The Special Counsel and the Deputy Commissioner for Legislative and International Affairs of the United States Patent and Trademark Office shall be paid an annual rate of basic pay—

''(i) not less than the minimum rate of basic pay for a position at ES–4 of the Senior Executive Service established under section 5382 of title 5; and

''(ii) not to exceed the maximum rate of basic pay for the Senior Executive Service established under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of title 5.''.

(E) Section 3(f) of title 35, United States Code, is amended in subparagraphs (A) and (B) of paragraph (2)—

(i) by striking ''the Commissioner'' each place it appears and inserting ''the Assistant Commissioner''; and

(ii) by striking ''a Commissioner'' each place it appears and inserting ''an Assistant Commissioner''.

(F) Section 13 of title 35, United States Code, is amended—

(i) by striking ''Commissioner of'' each place it appears and inserting ''Assistant Commissioner for''; and

(ii) by striking ''Commissioners'' and inserting ''Assistant Commissioners''.

(G) Chapter 17 of title 35, United States Code, is amended by striking ''Commissioner of Patents'' each place it appears and inserting ''Assistant Commissioner for Patents''.

(H) Section 297 of title 35, United States Code, is amended by striking ''Commissioner of Patents'' each place it appears and inserting ''Commissioner''.

(4) Section 5314 of title 5, United States Code, is amended by striking

''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.''

and inserting

''Under Secretary of Commerce for Intellectual Property and Commissioner of the United States Patent and Trademark Office.''.

(5) Section 5315 of title 5, United States Code, is amended by striking the following:

''Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.''.

*(6)(A) Sections 303 and 304 of title 35, United States Code, are each amended in the section headings by striking ''**Director**'' and inserting ''**Commissioner**''.*

(B) The items relating to sections 303 and 304 in the table of sections for chapter 30 of title 35, United States Code, are each amended by striking ''Director'' and inserting ''Commissioner''.

*(7)(A) Sections 312 and 313 of title 35, United States Code, are each amended in the section headings by striking ''**Director**'' and inserting ''**Commissioner**''.*

(B) The items relating to sections 312 and 313 in the table of sections for chapter 31 of title 35, United States Code, are each amended by striking ''Director'' and inserting ''Commissioner''.

(8) Section 17(b) of the Trademark Act of 1946 (15 U.S.C. 1067) is amended by striking ''Commissioner for Patents, the Commissioner for Trademarks'' and inserting ''Assistant Commissioner for Patents, the Assistant Commissioner for Trademarks''.

(b) ADDITIONAL CLERICAL AMENDMENTS.—

(1) The following provisions of law are amended by striking ''Director'' each place it appears and inserting ''Commissioner''.

(A) Section 9(p)(1)(B) of the Small Business Act (15 U.S.C. 638(p)(1)(B).

(B) Section 19 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831r).

(C) Section 182(b)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2242(b)(2)(A)).

(D) Section 302(b)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)(D)).

(E) Section 702(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(d)).

(F) Section 1295(a)(4)(B) of title 28, United States Code.

(G) Section 1744 of title 28, United States Code.

(H) Section 151 of the Atomic Energy Act of 1954 (42 U.S.C. 2181).

(I) Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182).

(J) Section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457).

(K) Section 12(a) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5510(a)), the last place such term appears.

(L) Section 10(i) of the Trading with the enemy Act (50 U.S.C. App. 10(i)).

(M) Sections 4203, 4506, 4606, and 4804(d)(2) of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113.

(2) The item relating to section 1744 in the table of sections for chapter 115 of title 28, United States Code, is amended by striking ''generally'' and inserting '', generally''.

(c) PRESIDENTIAL APPOINTMENT AND COMPENSATION FOR DEPUTY DIRECTOR.—Section 3(b)(1) of title 35, United States Code, is amended by—

(1) striking ''The Secretary of Commerce, upon nomination by the Director,'' and inserting the following:

''(A) IN GENERAL.—The President, after consultation with the Secretary of Commerce,''; and

(2) inserting at the end the following:

''(B) COMPENSATION.—The Deputy Commissioner shall be paid an annual rate of basic pay—

''(i) not less than the minimum rate of basic pay for a position at ES–4 of the Senior Executive Service established under section 5382 of title 5; and

''(ii) not to exceed the maximum rate of basic pay for the Senior Executive Service established under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of title 5.''.

(d) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Patent and Trademark Office—

(1) to the Director of the United States Patent and Trademark Office or to the Commissioner of Patents and Trademarks is deemed to refer to the Under Secretary of Commerce for Intellectual Property and Commissioner of the United States Patent and Trademark Office;

(2) to the Commissioner for Patents is deemed to refer to the Assistant Commissioner for Patents; and

(3) to the Commissioner for Trademarks is deemed to refer to the Assistant Commissioner for Trademarks.

SEC. 3. CLARIFICATION OF REEXAMINATION PROCEDURE ACT OF 1999; TECHNICAL AMENDMENTS.

(a) OPTIONAL INTER PARTES REEXAMINATION PROCEDURES.—Title 35, United States Code, is amended as follows:

(1) Section 311 is amended—

(A) in subsection (a), by striking ''person'' and inserting ''third-party requester''; and

(B) in subsection (c), by striking ''Unless the requesting person is the owner of the patent, the'' and inserting ''The''.

(2) Section 312 is amended—

(A) in subsection (a), by striking the last sentence; and

(B) in subsection (b), by striking '', if any''.

(3) Section 314(b)(1) is amended—

(A) by striking ''(1) This'' and all that follows through ''(2)'' and inserting ''(1)'';

(B) by striking ''the third-party requester shall receive a copy'' and inserting ''the Office shall send to the third-party requester a copy''; and

(C) by redesignating paragraph (3) as paragraph (2).

(4) Section 315(c) is amended by striking ''United States Code,''.

(5) Section 317 is amended—

(A) in subsection (a), by striking ''patent owner nor the third-party requester, if any, nor privies of either'' and inserting ''third-party requester nor its privies''; and

(B) in subsection (b), by striking ''United States Code,''.

(b) CONFORMING AMENDMENTS.—

(1) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES.—Subsections (a), (b), and (c) of section 134 of title 35, United States Code, are each amended by striking ''administrative patent judge'' each place it appears and inserting ''primary examiner''.

(2) PROCEEDING ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: ''In an ex parte case or any reexamination case, the Commissioner shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties in the appeal.''.

(c) CLERICAL AMENDMENTS.—

(1) Section 4604(a) of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended by striking ''Part 3'' and inserting ''Part III''.

(2) Section 4604(b) of that Act is amended by striking ''title 25'' and inserting ''title 35''.

(d) EFFECTIVE DATE.—The amendments made by section 4605 (b), (c), and (e) of the Intellectual Property and Communications Omnibus Reform Act, as enacted by section 1000(a)(9) of Public Law 106–113, shall apply to any reexamination filed in the United States Patent and Trademark Office on or after the date of the enactment of Public Law 106–113.

SEC. 4. PATENT AND TRADEMARK EFFICIENCY ACT AMENDMENTS.

(a) DEPUTY COMMISSIONER.—

(1) Section 17(b) of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1067(b)), is amended by inserting ''the Deputy Commissioner,'' after ''Commissioner,''.

(2) Section 6(a) of title 35, United States Code, is amended by inserting ''the Deputy Commissioner,'' after ''Commissioner,''.

(b) PUBLIC ADVISORY COMMITTEES.—Section 5 of title 35, United States Code, is amended—

(1) in subsection (i), by inserting '', privileged,'' after ''personnel''; and

(2) by adding at the end the following new subsection:

''(j) INAPPLICABILITY OF PATENT PROHIBITION.—Section 4 shall not apply to voting members of the Advisory Committees.''.

(c) MISCELLANEOUS.—Section 153 of title 35, United States Code, is amended by striking ''and attested by an officer of the Patent and Trademark Office designated by the Commissioner,''.

SEC. 5. DOMESTIC PUBLICATION OF FOREIGN FILED PATENT APPLICATIONS ACT OF 1999 AMENDMENTS.

Section 154(d)(4)(A) of title 35, United States Code, as in effect on November 29, 2000, is amended—

(1) by striking ''on which the Patent and Trademark Office receives a copy of the'' and inserting ''of''; and

(2) by striking ''international application'' the last place it appears and inserting ''publication''.

SEC. 6. DOMESTIC PUBLICATION OF PATENT APPLICATIONS PUBLISHED ABROAD.

Subtitle E of title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended as follows:

(1) Section 4505 is amended to read as follows:

''SEC. 4505. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.

''Section 102(e) of title 35, United States Code, is amended to read as follows:

'''(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or'.''.

(2) Section 4507 is amended—

(A) in paragraph (1), by striking ''Section 11'' and inserting ''Section 10'';

(B) in paragraph (2), by striking ''Section 12'' and inserting ''Section 11''.

(C) in paragraph (3), by striking ''Section 13'' and inserting ''Section 12'';

(D) in paragraph (4), by striking ''12 and 13'' and inserting ''11 and 12'';

(E) in section 374 of title 35, United States Code, as amended by paragraph (10), by striking ''confer the same rights and shall have the same effect under this title as an application for patent published'' and inserting ''be deemed a publication''; and

(F) by adding at the end the following:

''(12) The item relating to section 374 in the table of contents for chapter 37 of title 35, United States Code, is amended to read as follows:

'''374. Publication of international application.'''.

(3) Section 4508 is amended to read as follows:

''SEC. 4508. EFFECTIVE DATE.

''Except as otherwise provided in this section, sections 4502 through 4504 and 4506 through 4507, and the amendments made by such sections, shall be effective as of November 29, 2000, and shall apply only to applications (including international applications designating the United States) filed on or after that date. The amendments made by section 4504 shall additionally apply to any pending application filed before November 29, 2000, if such pending application is published pursuant to a request of the applicant under such procedures as may be established by the Commissioner. Except as otherwise provided in this section, the amendments made by section 4505 shall be effective as of November 29, 2000 and shall apply to all patents and all applications for patents pending on or filed after November 29, 2000. Patents resulting from an international application filed before November 29, 2000 and applications published pursuant to section 122(b) or Article 21(2) of the treaty defined in section 351(a) resulting from an international application filed before November 29, 2000 shall not be effective as prior art as of the filing date of the international application; however, such patents shall be effective as prior art in accordance with section 102(e) in effect on November 28, 2000.''.

SEC. 7. MISCELLANEOUS CLERICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—The following provisions of title 35, United States Code, are amended:

(1) Section 2(b) is amended in paragraphs (2)(B) and (4)(B), by striking '', United States Code''.

(2) Section 3 is amended—

(A) in subsection (a)(2)(B), by striking ''United States Code,'';

(B) in subsection (b)(2)—

(i) in the first sentence of subparagraph (A), by striking '', United States Code'';

(ii) in the first sentence of subparagraph (B)—

(I) by striking ''United States Code,''; and

(II) by striking '', United States Code'';

(iii) in the second sentence of subparagraph (B)—

(I) by striking ''United States Code,''; and

(II) by striking '', United States Code.'' and inserting a period;

(iv) in the last sentence of subparagraph (B), by striking '', United States Code''; and

(v) in subparagraph (C), by striking '', United States Code''; and

(C) in subsection (c)—

(i) in the subsection caption, by striking '', UNITED STATES CODE''; and

(ii) by striking ''United States Code,''.

(3) Section 5 is amended in subsections (e) and (g), by striking '', United States Code'' each place it appears.

(4) The table of chapters for part I is amended in the item relating to chapter 3, by striking ''***before***'' and inserting ''***Before***''.

(5) The item relating to section 21 in the table of contents for chapter 2 is amended to read as follows:

''21. Filing date and day for taking action.''.

(6) The item relating to chapter 12 in the table of chapters for part II is amended to read as follows:

''12. Examination of Application ..... 131''.

(7) The item relating to section 116 in the table of contents for chapter 11 is amended to read as follows:

''116. Inventors.''.

(8) Section 154(b)(4) is amended by striking '', United States Code,''.

(9) Section 156 is amended—

(A) in subsection (b)(3)(B), by striking ''paragraphs'' and inserting ''paragraph'';

(B) in subsection (d)(2)(B)(i), by striking ''below the office'' and inserting ''below the Office''; and

(C) in subsection (g)(6)(B)(iii), by striking ''submittted'' and inserting ''submitted''.

(10) The item relating to section 183 in the table of contents for chapter 17 is amended by striking ''of'' and inserting ''to''.

(11) Section 185 is amended by striking the second period at the end of the section.

(12) Section 201(a) is amended—

(A) by striking ''United States Code,''; and

(B) by striking ''5, United States Code.'' and inserting ''5.''.

(13) Section 202 is amended—

(A) in subsection (b)(4), by striking ''last paragraph of section 203(2)'' and inserting ''section 203(b)''; and

(B) in subsection (c)—

(i) in paragraph (4), by striking ''rights;'' and inserting ''rights,''; and

(ii) in paragraph (5), by striking ''of the United States Code''.

(14) Section 203 is amended—

(A) in paragraph (2)—

(i) by striking ''(2)'' and inserting ''(b)'';

(ii) by striking the quotation marks and comma before ''as appropriate''; and

(iii) by striking ''paragraphs (a) and (c)'' and inserting ''paragraphs (1) and (3) of subsection (a)''; and

(B) in the first paragraph—

(i) by striking ''(a)'', ''(b)'', ''(c)'', and ''(d)'' and inserting ''(1)'', ''(2)'', ''(3)'', and ''(4)'', respectively; and

(ii) by striking ''(1.'' and inserting ''(a)''.

(15) Section 209 is amended in subsections (d)(2) and (f), by striking ''of the United States Code''.

(16) Section 210 is amended—

(A) in subsection (a)—

(i) in paragraph (11), by striking ''5901'' and inserting ''5908''; and

(ii) in paragraph (20) by striking ''178(j)'' and inserting ''178j''; and

(B) in subsection (c)—

(i) by striking ''paragraph 202(c)(4)'' and inserting ''section 202(c)(4)''; and

(ii) by striking ''title..'' and inserting ''title.''.

(17) The item relating to chapter 29 in the table of chapters for part III is amended by inserting a comma after ''***Patent***''.

(18) The item relating to section 256 in the table of contents for chapter 25 is amended to read as follows:

''256. Correction of named inventor.''.

(19) Section 294 is amended—

(A) in subsection (b), by striking ''United States Code,''; and

(B) in subsection (c), in the second sentence by striking ''court to'' and inserting ''court of''.

(20) Section 371(d) is amended by adding at the end a period.

(21) Paragraphs (1), (2), and (3) of section 376(a) are each amended by striking the semicolon and inserting a period.

(b) OTHER AMENDMENTS.—

(1) Section 4732(a) of the Intellectual Property and Communications Omnibus Reform Act of 1999 is amended—

(A) in paragraph (9)(A)(ii), by inserting ''in subsection (b),'' after ''(ii)''; and

(B) in paragraph (10)(A), by inserting after ''title 35, United States Code,'' the following: ''other than sections 1 through 6 (as amended by chapter 1 of this subtitle),''.

(2) Section 4802(1) of that Act is amended by inserting ''to'' before ''citizens''.

(3) Section 4804 of that Act is amended—

(A) in subsection (b), by striking ''11(a)'' and inserting ''10(a)''; and

(B) in subsection (c), by striking ''13'' and inserting ''12''.

(4) Section 4402(b)(1) of that Act is amended by striking ''in the fourth paragraph''.

SEC. 8. TECHNICAL CORRECTIONS IN TRADEMARK LAW.

(a) AWARD OF DAMAGES.—Section 35(a) of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1117(a)), is amended by striking ''a violation under section 43(a), (c), or (d),'' and inserting ''a violation under section 43(a) or (d),''.

(b) ADDITIONAL TECHNICAL AMENDMENTS.—The Trademark Act of 1946 is further amended as follows:

(1) Section 1(d)(1) (15 U.S.C. 1051(d)(1)) is amended in the first sentence by striking ''specifying the date of the applicant's first use'' and all that follows through the end of the sentence and inserting ''specifying the date of the applicant's first use of the mark in commerce and those goods or services specified in the notice of allowance on or in connection with which the mark is used in commerce.''.

(2) Section 1(e) (15 U.S.C. 1051(e)) is amended to read as follows:

''(e) If the applicant is not domiciled in the United States the applicant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Commissioner.''.

(3) Section 8(f) (15 U.S.C. 1058(f)) is amended to read as follows:

''(f) If the registrant is not domiciled in the United States, the registrant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Commissioner.''.

(4) Section 9(c) (15 U.S.C. 1059(c)) is amended to read as follows:

''(c) If the registrant is not domiciled in the United States the registrant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Commissioner.''.

(5) Subsections (a) and (b) of section 10 (15 U.S.C. 1060(a) and (b)) are amended to read as follows:

''(a)(1) A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Notwithstanding the preceding sentence, no application to register a mark under section 1(b) shall be assignable prior to the filing of an amendment under section 1(c) to bring the application into conformity with section 1(a) or the filing of the verified statement of use under section 1(d), except for an assignment to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing.

''(2) In any assignment authorized by this section, it shall not be necessary to include the good will of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted.

''(3) Assignments shall be by instruments in writing duly executed. Acknowledgment shall be prima facie evidence of the execution of an assignment, and when the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office, the record shall be prima facie evidence of execution.

''(4) An assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office within 3 months after the date of the assignment or prior to the subsequent purchase.

''(5) The United States Patent and Trademark Office shall maintain a record of information on assignments, in such form as may be prescribed by the Commissioner.

''(b) An assignee not domiciled in the United States may designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the assignee does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served upon the Commissioner.''.

(6) Section 23(c) (15 U.S.C. 1091(c)) is amended by striking the second comma after ''numeral''.

(7) Section 33(b)(8) (15 U.S.C. 1115(b)(8)) is amended by aligning the text with paragraph (7).

(8) Section 34(d)(1)(A) (15 U.S.C. 1116(d)(1)(A)) is amended by striking ''section 110'' and all that follows through ''(36 U.S.C. 380)'' and inserting ''section 220506 of title 36, United States Code,''.

(9) Section 34(d)(1)(B)(ii) (15 U.S.C. 1116(d)(1)(B)(ii)) is amended by striking ''section 110'' and all that follows through ''(36 U.S.C. 380)'' and inserting ''section 220506 of title 36, United States Code''.

(10) Section 34(d)(11) is amended by striking ''6621 of the Internal Revenue Code of 1954'' and inserting ''6621(a)(2) of the Internal Revenue Code of 1986''.

(11) Section 35(b) (15 U.S.C. 1117(b)) is amended—

(A) by striking ''section 110'' and all that follows through ''(36 U.S.C. 380)'' and inserting ''section 220506 of title 36, United States Code,''; and

(B) by striking ''6621 of the Internal Revenue Code of 1954'' and inserting ''6621(a)(2) of the Internal Revenue Code of 1986''.

(12) Section 44(e) (15 U.S.C. 1126(e)) is amended by striking ''a certification'' and inserting ''a true copy, a photocopy, a certification,''.

SEC. 9. PATENT AND TRADEMARK FEE CLERICAL AMENDMENT.

The Patent and Trademark Fee Fairness Act of 1999 (113 Stat. 1537–546 et seq.), as enacted by section 1000(a)(9) of Public Law 106–113, is amended in section 4203, by striking ''111(a)'' and inserting ''1113(a)''.

SEC. 10. COPYRIGHT RELATED CORRECTIONS TO 1999 OMNIBUS REFORM ACT.

Title I of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended as follows:

(1) Section 1007 is amended—

(A) in paragraph (2), by striking ''paragraph (2)'' and inserting ''paragraph (2)(A)''; and

(B) in paragraph (3), by striking ''1005(e)'' and inserting ''1005(d)''.

(2) Section 1006(b) is amended by striking ''119(b)(1)(B)(iii)'' and inserting ''119(b)(1)(B)(ii)''.

(3)(A) Section 1006(a) is amended—

(i) in paragraph (1), by adding ''and'' after the semicolon;

(ii) by striking paragraph (2); and

(iii) by redesignating paragraph (3) as paragraph (2).

(B) Section 1011(b)(2)(A) is amended to read as follows:

''(A) in paragraph (1), by striking 'primary transmission made by a superstation and embodying a performance or display of a work' and inserting 'performance or display of a work embodied in a primary transmission made by a superstation or by the Public Broadcasting Service satellite feed';''.

SEC. 11. AMENDMENTS TO TITLE 17, UNITED STATES CODE.

Title 17, United States Code, is amended as follows:

(1) Section 119(a)(6) is amended by striking ''of performance'' and inserting ''of a performance''.

(2)(A) The section heading for section 122 is amended by striking ''***rights; secondary***'' and inserting ''***rights: Secondary***''.

(B) The item relating to section 122 in the table of contents for chapter 1 is amended to read as follows:

''122. Limitations on exclusive rights: Secondary transmissions by satellite carriers within local markets.''.

(3)(A) The section heading for section 121 is amended by striking ''***reproduction***'' and inserting ''***Reproduction***''.

(B) The item relating to section 121 in the table of contents for chapter 1 is amended by striking ''reproduction'' and inserting ''Reproduction''.

(4)(A) Section 106 is amended by striking ''107 through 121'' and inserting ''107 through 122''.

(B) Section 501(a) is amended by striking ''106 through 121'' and inserting ''106 through 122''.

(C) Section 511(a) is amended by striking ''106 through 121'' and inserting ''106 through 122''.

(5) Section 101 is amended—

(A) by moving the definition of ''computer program'' so that it appears after the definition of ''compilation''; and

(B) by moving the definition of ''registration'' so that it appears after the definition of ''publicly''.

(6) Section 110(4)(B) is amended in the matter preceding clause (i) by striking ''conditions;'' and inserting ''conditions:''.

(7) Section 118(b)(1) is amended in the second sentence by striking ''to it''.

(8) Section 119(b)(1)(A) is amended—

(A) by striking ''transmitted'' and inserting ''retransmitted''; and

(B) by striking ''transmissions'' and inserting ''retransmissions''.

(9) Section 203(a)(2) is amended—

(A) in subparagraph (A)—

(i) by striking ''(A) the'' and inserting ''(A) The''; and

(ii) by striking the semicolon at the end and inserting a period;

(B) in subparagraph (B)—

(i) by striking ''(B) the'' and inserting ''(B) The''; and

(ii) by striking the semicolon at the end and inserting a period; and

(C) in subparagraph (C), by striking ''(C) the'' and inserting ''(C) The''.

(10) Section 304(c)(2) is amended—

(A) in subparagraph (A)—

(i) by striking ''(A) the'' and inserting ''(A) The''; and

(ii) by striking the semicolon at the end and inserting a period;

(B) in subparagraph (B)—

(i) by striking ''(B) the'' and inserting ''(B) The''; and

(ii) by striking the semicolon at the end and inserting a period; and

(C) in subparagraph (C), by striking ''(C) the'' and inserting ''(C) The''.

(11) The item relating to section 903 in the table of contents for chapter 9 is amended by striking ''licensure'' and inserting ''licensing''.

SEC. 12. OTHER COPYRIGHT RELATED TECHNICAL AMENDMENTS.

(a) AMENDMENT TO TITLE 18.—Section 2319(e)(2) of title 18, United States Code, is amended by striking ''107 through 120'' and inserting ''107 through 122''.

(b) STANDARD REFERENCE DATA.—(1) Section 105(f) of Public Law 94–553 is amended by striking ''section 290(e) of title 15'' and inserting ''section 6 of the Standard Reference Data Act (15 U.S.C. 290e)''.

(2) Section 6(a) of the Standard Reference Data Act (15 U.S.C. 290e) is amended by striking ''Notwithstanding'' and all that follows through ''United States Code,'' and inserting ''Notwithstanding the limitations under section 105 of title 17, United States Code,''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet to conduct a business meeting during the session of the Senate on Thursday, November 15, 2001. The purpose of this business meeting will be to discuss the new Federal Farm bill.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 15, 2001, at 10 a.m., to conduct a hearing on the nomination of Mr. Allen I. Mandelowitz, of Connecticut, to be a director of the Federal Housing Finance Board; Mr. Franz Leichter, of New York, to be a Director of the Federal Housing Finance Board; Mr. John Thomas Korsmo, of North Dakota, to be a Director of the Federal Housing Finance Board; Mr. Eduardo Aguirre, Jr., of Texas, to be First Vice President of the Export-Import Bank of the United States; and Mr. Randall Scott Kroszner, of Illinois, to be a member of the Council of Economic Advisors.

The Committee will also vote on the nominations of Mr. Mark W. Olson, of Minnesota, to be a member of the Board of Governors of the Federal Reserve System; Dr. Susan Schmidt Bies, of Tennessee, to be a member of the Board of Governors of the Federal Reserve System; and Mr. James Gilleran, of California, to be Director of the Office of Thrift Supervision.

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

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, November 15, 2001, at 10 a.m., on the nomination of William Schubert to be Administrator of the Maritime Administration of the Department of Transportation.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, November 15, 2001, at 9:30 a.m., to conduct a hearing on how S. 556 would affect the environment, the economy, and any improvements or amendments that should be made to the legislation. The hearing will be held in room SD–406.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, November 15, 2001, at 1 p.m., to consider the nomination of Richard Clarida to be Assistant Secretary of Treasury for Economic Policy; Kenneth Lawson to be Assistant Secretary of Treasury for Enforcement; B. John Williams, Jr., to be Chief Counsel/Assistant General Counsel for the Internal Revenue Service; Janet Hale to be Assistant Secretary of Health and Human Services for Budget, Technology and Finance; Joan E. Ohl, to be Commissioner of Children, Youth and Family Administration, Department of Health and Human Services; James B. Lockhart III, to be Deputy Commissioner of the Social Security Administration; and Harold Daub to be a Member of the Social Security Advisory Board.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 15, 2001, at 3:00 p.m., to hold a hearing titled, ''Humanitarian Crisis: Is Enough Aid Reaching Afghanistan.''

Witnesses

Panel 1: Carol Bellamy, Executive Director, UNICEF, New York City, NY; Catherine Bertini, Executive Director, World Food Program, Washington, DC; and Guenet Guebre-Christos, Representative, United Nations High Commission for Refugees, Washington, DC.

Panel 2: Joel Charny, Vice-President, Refugees International, Washington, DC, and Peter Bell, President, CARE International, Atlanta, GA.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, November 15, 2001, at 9:30 a.m., to hold a hearing entitled ''Oversight of the Centers for Medicare and Medicaid Services: Medicare Payment Policies for Ambulance Services.''

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

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, November 15, 2001, at 2:30 p.m., in open and closed session to receive testimony on terrorist organizations and motivations.

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

PRIVILEGES OF THE FLOOR

Mr. KOHL. Mr. President, I ask unanimous consent that Dan Dager, a detailee on my staff, be granted the privilege of the floor during the Senate's consideration of H.R. 2230, the Agriculture Appropriations Act for fiscal year 2002.

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

Mr. GREGG. Madam President, I ask unanimous consent that a member of my staff, Nancy Perkins, have floor privileges during the pendency of this bill.

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

Mr. GRAHAM. Madam President, I ask unanimous consent that a member of my staff, Shawn Fitzpatrick, be granted the privilege of the floor for the duration of the debate on H.R. 1552.

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

ORDERS FOR FRIDAY, NOVEMBER 16, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. tomorrow, Friday, November 16; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate be in a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, I do not believe there is any further business to come before the Senate this evening. I therefore ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:34 p.m., adjourned until Friday, November 16, 2001, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 15, 2001:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

VICKERS B. MEADOWS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE MARILYN A. DAVIS.

DEPARTMENT OF ENERGY

BEVERLY COOK, OF IDAHO, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENT, SAFETY AND HEALTH), VICE DAVID MICHAELS, RESIGNED.

ENVIRONMENTAL PROTECTION AGENCY

J. PAUL GILMAN, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE NORINE E. NOONAN, RESIGNED.

MORRIS X. WINN, OF TEXAS, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE ROMULO L. DIAZ, JR., RESIGNED.

DEPARTMENT OF THE TREASURY

EDWARD KINGMAN, JR., OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE LISA GAYLE ROSS, RESIGNED.

EDWARD KINGMAN, JR., OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF THE TREASURY, VICE LISA GAYLE ROSS, RESIGNED.

DEPARTMENT OF STATE

ARTHUR E. DEWEY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF STATE (POPULATION, REFUGEES, AND MIGRATION), VICE JULIA TAFT.

DEPARTMENT OF COMMERCE

LOUIS KINCANNON, OF VIRGINIA, TO BE DIRECTOR OF THE CENSUS, VICE KENNETH PREWITT, RESIGNED.

DEPARTMENT OF JUSTICE

MICHAEL A. BATTLE, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF NEW YORK FOR A TERM OF FOUR YEARS, VICE DENISE E. O'DONNELL, RESIGNED.

SMALL BUSINESS ADMINISTRATION

MELANIE SABELHAUS, OF MARYLAND, TO BE DEPUTY ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION, VICE FRED P. HOCHBERG.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

MARION S. CORNWELL, 0000
JAMES J. ELLIOTT, 0000
MARK E. GANTS, 0000
HUGH E. HODGES, 0000
MARC E. MATTIX, 0000
LEE M. PHILO, 0000
GROVER C. RITCHIE III, 0000
GARY L. WHITE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

CHERYL A ADAMS, 0000
SHEILA E DOMINGUEZ, 0000
MARK A GALANTOWICZ, 0000
HELEN L GANT, 0000
GAYE L GEORGE, 0000
PAULA B GETZIE, 0000
MARGARET A GIGSTAD, 0000
STEPHEN A GREENE, 0000
CHRISTINE H INOUYE, 0000
VIRGINIA JANOVSKY, 0000
JANE H KASSWOLFF, 0000
JUDITH A KEMPER, 0000
ROSEMARY KUCA, 0000
SANDRA B MALONE, 0000
RICHARD A MARSHALL, 0000
STEPHEN D MASSEY, 0000
BETTY A MOSHEA, 0000
MARY E MURPHY, 0000
LINDA L NYE, 0000
MICHAEL R OSTROSKI, 0000
JANICE M PICCIOLIFARINELLI, 0000
VIOLETTE A RUFF, 0000
KATHLEEN D SANFORD, 0000
JOHN N SCHANK, 0000
FRANCES J SORGE, 0000
WANDA M VAUGHN, 0000
ROSALIE E VILAR, 0000
AUGUSTENE WESTON, 0000
ARMANTINE K WILLIAMS, 0000
DEBBIE T WINTERS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

WILLIE J ATKINSON, 0000
STEPHEN E BOGLE, 0000
DONALD C BRITTEN, 0000
DONNA M CARMAN, 0000
MEE Y Y CHUNG, 0000
EDWARD W DURANT III, 0000
ROBERT M EDELMAN, 0000
DONALD FAMIANO, 0000
TODD H FURSE, 0000
CAROL A GADDY, 0000
CYNTHIA E GANT, 0000
KEVIN K GARROUTTE, 0000
JAMES R GERICKE, 0000
JAY L GRIFFIN, 0000
JAMES E GRIFFITH, 0000
MICHAEL H HULSEY, 0000
RAMONA M KANE, 0000
GARLAND M KNOTT JR., 0000
MICHAEL A LEE, 0000
MARSHA A LUNT, 0000
ERNEST LYONS JR., 0000
DANIEL L MACINTYRE, 0000
SUZANNE D MARTIN, 0000
WILLIAM F MARTIN II, 0000
AMY L MARVIN, 0000
MARK P MCGUIRE, 0000
DONALD A MENARD, 0000
JOHN W RIDLEY, 0000
SUSAN G ROGERS, 0000
MICHAEL J ROGGI, 0000
JOSEPH J SAADY, 0000
THOMAS O SALMON, 0000
MURTY SAVITALA, 0000
THOMAS E SCHUURMANS, 0000
ROBERT F TABARONI, 0000
CLIFTON K TAKENAKA, 0000
JUDITH A THORNHILL, 0000
ALBIN A TIMM JR., 0000
JOEL D TUCK, 0000
WILLEM P VANDEMERWE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DAVID S ALLEMAN, 0000
JAMES D ANDERSON JR., 0000
JAMES E CADE, 0000
RICHARD T CANADA, 0000
TIMOTHY J COEN, 0000
TIMOTHY W CONWAY III, 0000
LEROY S CRAPANZANO, 0000
CURTIS M DILWORTH, 0000
SCOTT R DRAKE, 0000
VICTOR H ESCOBAR, 0000
JOHN J FERRY, 0000
CHRISTOPHER T FINLAYSON, 0000
ROBERT T FRAME, 0000
ENRIQUE F FRASER, 0000
TIMOTHY M HALE, 0000
HAZEL P HAYNES, 0000
LOUIS H HEITKE, 0000
ROBERT G HENRY, 0000
LEE P JOHNS JR., 0000
CHARLES K JOHNSON, 0000
MICHAEL P JUNG, 0000
ZAVON F KANION, 0000
ARNOLD K KAPLAN, 0000
ALAN P KAWAKAMI, 0000
BRIAN T KENNEDY, 0000
STEPHEN E KOMYATI, 0000
RICHARD A LEE, 0000
ROBERT A MASON, 0000
GEORGE L MAXWELL, 0000
THURMAN C MORGAN, 0000
ROBERT A PRUCKLER, 0000
BRADLEY S RABAL, 0000
LANCE C RAMP, 0000
BRUCE C RAMSAY, 0000
CHRISTOPHER A N RANKINE, 0000
STANLEY A ROBERTS, 0000
EDWARD J ROBINSON, 0000
BERNICE SCALES, 0000
LAWRENCE E SCHEITLER, 0000
PAUL E SCRUGGS, 0000
LAURENCE B SHAROS, 0000
JEFFREY M SHERWOOD, 0000
DOUGLAS J SMITH, 0000
WILLIAM H SWILLEY, 0000
BRUCE A TANCEK, 0000
DAVID G THOMAS, 0000
ERIC J WAGNER, 0000
PETER C WEI, 0000
CURTIS S WILKERSON, 0000
WILLIAM P YEOMANS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

LYNN F ABRAMS, 0000
MICHAEL D ADUDDELL, 0000
WILLIAM J ALBRIGHT, 0000
ERIC B ALLELY, 0000
PABLO I ALMODOVAR, 0000
FRANK ANDERS JR., 0000
JAMES T ARSCOTT, 0000
THOMAS L ASHCOM, 0000
DENIECE M BARNETTSCOTT, 0000
DANIEL C BATES, 0000
MARCEL G BAYOL, 0000
MICHAEL J BEEZLEY, 0000
JEFFREY BERMAN, 0000
MICHAEL C BLAKE, 0000
PETER M BLENDONOHY, 0000
WILLIAM L BOGRAKOS, 0000
AARON C BORNSTEIN, 0000
WILLIAM C BOWENS, 0000
BEDFORD F BOYLSTON, 0000
ARNOLD J BRENDER, 0000
RICHARD S BROADHURST, 0000
JOHN H BROOKS, 0000
DEBORAH S BROWN, 0000
DEBRA M BROWN, 0000
DAVID R BRYSON, 0000
EMIGDIO A BUCOBO, 0000
CRAIG A BUGNO, 0000
ANN J BURGARDT, 0000
JAMES T BURT, 0000
BRADFORD S BURTON, 0000
MARK L BYLER, 0000
DARYL J CALLAHAN, 0000
ALAN H CARR, 0000
GEORGE L CHOLAK, 0000
STEPHEN D CLIFT, 0000
TODD R CLOW, 0000
AVON C COFFMAN II, 0000
LAMAR P COLLIE III, 0000
ROBERT M COSBY, 0000
RODNEY DAVIS, 0000
ANDREW R DOW, 0000
MICHAEL D DRISCOLL, 0000
RICHARD G FOUTCH, 0000
PETER FREDERICKS, 0000
CORNELIUS E FREEMAN, 0000
HOMERO R GARZA, 0000
LENORE E GONZALEZ, 0000
JON R HAGER, 0000
RAE R HANSON, 0000
RONALD P HARGRAVE, 0000
JEFFREY J HARROW, 0000
JERRY W HAYGOOD, 0000
JOSE M HERNANDEZ, 0000
DONALD G HIGGINS, 0000
ROBERT E HOLLAND, 0000
CHARLES A HOLT, 0000
WILLIAM D HUFF, 0000
DENNIS A ICE, 0000
ELODIE S IMONEN, 0000
FRANK H ISE, 0000
OMAR L IZQUIERDOFRAU, 0000
STEPHEN L JAFFE, 0000
ROBERT E KASPER, 0000
STEPHEN P KATZ, 0000
MUHAMMAD I KHAN, 0000
MICHAEL G KIDD, 0000
CHARLES P KILLINGSWORTH, 0000
YOUNGSOOK C KIM, 0000
ROBERT S KNAPP, 0000
MANGARAJU KOLLURU, 0000
DONALD J KOSIAK, 0000
SAMPATH KULASEKAR, 0000
KENNETH W LAIRD, 0000
CRAIG J LAMBRECHT, 0000
HEE S LEE, 0000
DONALD L LEVENE, 0000
WAYNE D LEVY, 0000
CLARENCE E LLOYD, 0000
DAVID E LUDLOW, 0000
JAMIL MALOUF, 0000
MATTHEW C MCCLURE, 0000
JOHN P MCGUINNESS, 0000
CHARLES J F MCHUGH, 0000
MORTON MELTZER, 0000
NARCISO D MENDOZA, 0000
YAO C C ONG, 0000
JOHN C OTTENBACHER, 0000
CARY S POLLACK, 0000
FELICITAS E RAMOS, 0000
RICHARD J RANDOLPH III, 0000
ROBERT F REISS, 0000
JIMMIE W RIGGINS, 0000
EMILE D RISBY, 0000
SUNG C RO, 0000
FRANKLIN D ROBINSON, 0000
SUSAN G SKEA, 0000
DANNY P SMITH, 0000
LYNN H SNODDY, 0000
PETER J SPEICHER, 0000
ARNOLD L SPERLING, 0000
ROBERT P STANTON, 0000
LEON I STEINBERG, 0000
LEE STEVENS, 0000
RICHARD A STONE, 0000
TONY L WALDEN, 0000
LAWRENCE R WALKER, 0000
CHARLES M WARE JR., 0000
JERRY C WIBLE, 0000
DAVID E WILMOT, 0000
JAMES S. K. WU, 0000
RUSSELL H ZELMAN, 0000
BURKHARDT H ZORN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

CHARLES B. COLISON, 0000
STEPHEN P. SHANDERA, 0000
JOANNE C. SLYTER, 0000
ARLENE SPIRER, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate November 15, 2001:

DEPARTMENT OF STATE

RAYMOND F. BURGHARDT, OF FLORIDA, 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 SOCIALIST REPUBLIC OF VIETNAM.

RONALD WEISER, OF MICHIGAN, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SLOVAK REPUBLIC.

J. RICHARD BLANKENSHIP, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE COMMONWEALTH OF THE BAHAMAS.

GEORGE L. ARGYROS, SR., OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SPAIN, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ANDORRA.

LARRY MILES DINGER, OF IOWA, A CAREER MEMBER OF THE FOREIGN SERVICE, TO BE AMBASSADOR TO THE FEDERATED STATES OF MICRONESIA.

DARRYL NORMAN JOHNSON, OF WASHINGTON, 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 KINGDOM OF THAILAND.

LYONS BROWN, JR., OF KENTUCKY, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF AUSTRIA.

WILLIAM D. MONTGOMERY, OF PENNSYLVANIA, 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 YUGOSLAVIA.

MELVIN F. SEMBLER, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ITALY.

CHARLES LAWRENCE GREENWOOD, JR., OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS COORDINATOR FOR ASIA PACIFIC ECONOMIC COOPERATION (APEC).

STEPHAN MICHAEL MINIKES, OF THE DISTRICT OF COLUMBIA, TO BE U. S. REPRESENTATIVE TO THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE, WITH THE RANK OF AMBASSADOR.

ERNEST L. JOHNSON, OF LOUISIANA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-SIXTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

WILLIAM J. HYBL, OF COLORADO, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-SIXTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

NANCY CAIN MARCUS, OF TEXAS, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-SIXTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

ROBERT M. BEECROFT, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS HEAD OF MISSION, ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE), BOSNIA AND HERZEGOVINA.

CHARLES LESTER PRITCHARD, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL ENVOY FOR NEGOTIATIONS WITH THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (DPRK) AND UNITED STATES REPRESENTATIVE TO THE KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION (KEDO).

AFRICAN DEVELOPMENT BANK

CYNTHIA SHEPARD PERRY, OF TEXAS, TO BE UNITED STATES DIRECTOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS.

INTER-AMERICAN DEVELOPMENT BANK

JOSE A. FOURQUET, OF NEW JERSEY, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF THREE YEARS.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CONSTANCE BERRY NEWMAN, OF ILLINOIS, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

JOHN MARSHALL, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

ODESSA F. VINCENT, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

FOREIGN SERVICE NOMINATION OF TERENCE J. DONOVAN.

FOREIGN SERVICE NOMINATIONS BEGINNING KEITH E. BROWN AND ENDING OLIVIER C. CARDUNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 16, 2001.

WITHDRAWAL

Executive message transmitted by the President to the Senate on November 15, 2001, withdrawing from further Senate consideration the following nomination:

SHIRLEE BOWNE, OF FLORIDA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2004, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 14, 2001.