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## Senate

### SUPPLEMENTAL APPROPRIATIONS ACT FOR FISCAL YEAR 2002

(Continued)

AMENDMENT NO. 3729

Mr. LIEBERMAN. Mr. President, I rise to urge my colleagues to support the amendment introduced by Senators DURBIN and SPECTER with cosponsorship by several colleagues and myself. The amendment would increase the amount of money in this emergency appropriations bill for several purposes related to combating the most pernicious infectious diseases confronting humankind today.

The amendment would raise the U.S. contribution to the Global Fund to Combat AIDS, Tuberculosis and Malaria, increase the resources of our Centers for Disease Control for prevention, treatment, control of, and research on HIV/AIDS, and provide funds for child survival, maternal health, and other programs to combat tuberculosis and to address the consequences of the HIV/AIDS pandemic.

The United States of America contributed last year to the Global Fund and correctly urges other developed countries to participate actively and generously in that global initiative. Nevertheless, I feel we can and must do more to overcome the debilitating effects of these diseases on societies that are struggling.

The dimensions of the global HIV/AIDS crisis are overwhelming. At current rates of infection, it is estimated that 100 million people will have had HIV/AIDS by 2005. More than 36 million people are currently infected with the virus and 22 million people have already died from it, more than the number of soldiers killed in all major wars of the twentieth century. Thirteen million children worldwide have lost one or both parents to AIDS, and that number is expected to triple to 42 million by 2010. In 10 African countries life expectancy has dropped by more than 20 years, which is almost entirely as a result of AIDS deaths. In China, the

number of people with HIV increased by 69 percent in 1999 and another 37 percent in 2000, according to official statistics, and nearly 80 percent of those testing positive for infection are between 20 and 40 years of age. In Russia, Ukraine and throughout the Commonwealth of Independent States, HIV increased five times between 1997 and 1998; in 1999, the region recorded the highest increase in HIV infection in the world.

The AIDS pandemic is having a disastrous impact on economic growth rates, public services and private companies, impoverishing millions of families and orphaning children and rolling back hard-won social gains in human development, including life expectancy, income and education. It is unprecedented in its destructive impact on regional development, because it kills so many adults in the prime of their working and parenting lives, it decimates the workforce, fractures and impoverishes families, orphans millions, and shreds the fabric of communities. In its wake it leaves desperation—one of the greatest threats to peace within and between peoples and nations.

In the face of this challenge, the United States should not treat the major global initiative against infectious disease as a bargaining table at which to challenge other governments' commitment and generosity. We should lead by example. It is in our national interest and consistent with the humanitarian values of America that we contribute substantially to the global fight against infectious disease. I hope all my colleagues will vote to do so by adopting this amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, have other Senators spoken on this amendment?

The PRESIDING OFFICER. All other Senators have spoken on the amendment.

Mr. BYRD. I thank the Chair.

Mr. President, the distinguished Senator from Illinois, Mr. DURBIN, has offered this amendment, and I think he has spoken for a good cause. He is a very highly respected member of the Appropriations Committee, the committee that I chair.

I salute him for speaking out on this matter. I have listened to the poignant cases that he has referred to of persons who have been infected with AIDS. There is no question but that the cause for which he speaks is one which the world should be greatly concerned about.

But there is a limit, in the first place, to our ability as a nation to fund even the good causes. We can only do so much. And regardless of how much we might appropriate today for this purpose, we can never appropriate enough. There will never be enough money in the U.S. Treasury that we can utilize for this purpose. There will never be enough to fully deal with this pandemic.

So, Mr. President, I salute the distinguished Senator from Illinois for his determination, for his humanitarianism, and for the appeal that he has made in this matter. But I have to oppose the amendment. We have a bill here that has been carefully worked out on a bipartisan basis. The ranking member and I, and all the members on his side of the aisle and the members on my side of the aisle—including the distinguished Senator from Illinois—have worked laboriously to produce a bill that will bring the necessary appropriations for the protection of the homeland.

The President made a request, and based on the very thorough hearings that were conducted by my full Committee on Appropriations, we have enlarged over and above the President's request. But we think we are acting judiciously and based on the hearings of the people at the local level: the firemen, the policemen, the health service, the medical personnel. And we have listened to the Governors and the mayors

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



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and seven of the Cabinet officers of this executive branch, and the Director of FEMA.

It has been a long and tenuous ordeal as far as I am concerned. I have been working on this bill for months. I think it is important we get it to conference, and that we get it on the President's desk.

Now, the President sent word to this committee last year that he did not need the additional moneys this committee was proposing for homeland defense. And Mr. Tom Ridge wrote me a letter saying they did not need the money, did not need more money. But we appropriated \$4 billion more for homeland security last year, and the President signed that bill. And that money has been well spent. It is producing results. And it is making a difference.

We think we have acted judiciously and very carefully in this instance. So we are adding moneys this year over and above the President's request. But we have a responsibility, as elected Members of this body, elected by the American people, elected by the people of our States, to use our judgment; that is what we are doing. No President sends any Senator here—no President, whether he be Democrat or Republican. I would say this if we had a Democratic President. We have only our own judgment. And we do the best we can to represent the people.

How much time do I have?

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

Mr. BYRD. I thank the Chair.

I have to oppose the amendment. And so I will make a point of order. I hope Senators will support the point of order and will oppose any motion to waive.

Section 205 of H. Con. Res. 290, the fiscal year 2001 concurrent resolution on the budget, created a point of order against an emergency designation on nondefense spending.

Now, I was against the kind of vote that is required to support that. But that is what we have. And I am going to use it. I am going to use that point of order. It is the same point of order I used against an equally good cause when Senator KENNEDY had his amendment before the Senate with respect to summer schools.

The amendment contains nondefense spending with an emergency designation.

Pursuant to section 205 of H. Con. Res. 290, the fiscal year 2001 concurrent resolution on the budget, I make a point of order against the emergency designation contained in the amendment.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. REID. Will the Senator withhold for a unanimous consent request?

Mr. DURBIN. Yes, I will.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that immediately fol-

lowing the next vote, if Senator DURBIN's amendment is not agreed to, Senator FRIST be recognized to offer his amendment No. 3725; that he be permitted to modify it with the changes that I now send to the desk—they are at the desk—that there be 5 minutes for debate, equally divided, between Senator FRIST and Senator BYRD, and 5 minutes under the control of Senator DEWINE; and that at the conclusion of that time the Senate vote, without any intervening action or debate, in relation to the Frist amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, and I will not object, I would like to add to the unanimous consent request that I be given 2 minutes in response.

Mr. REID. That is appropriate.

The PRESIDING OFFICER. Will the Senator modify his request?

Mr. BYRD. Reserving the right to object, if the emergency designation falls on this point of order, there still has to be another point of order which should be immediate. And I hope the distinguished whip will take that into consideration in his request.

Mr. REID. I would accept the suggestion of the Senator from West Virginia that that be part of the unanimous consent agreement.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Without objection, it is so ordered.

The Senator from Illinois.

Mr. DURBIN. Mr. President, pursuant to the point of order raised by the Senator from West Virginia, I move to waive section 205 of H. Con. Res. 290, the concurrent resolution on the budget for fiscal year 2001, for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Dakota (Mr. DASCHLE), and the Senator from Minnesota (Mr. DAYTON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Colorado (Mr. CAMPBELL) are necessarily absent.

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

The yeas and nays resulted—yeas 46, nays 49, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—46

Akaka	Cleland	Dorgan
Baucus	Clinton	Durbin
Bayh	Collins	Edwards
Biden	Conrad	Feingold
Boxer	Corzine	Feinstein
Cantwell	DeWine	Graham
Carnahan	Dodd	Harkin

Hatch	Lieberman	Schumer
Inouye	Lincoln	Smith (OR)
Jeffords	Mikulski	Specter
Kennedy	Murray	Stabenow
Kerry	Nelson (FL)	Torricelli
Kohl	Reed	Wellstone
Landrieu	Reid	Wyden
Leahy	Rockefeller	
Levin	Sarbanes	

NAYS—49

Allard	Fitzgerald	Murkowski
Allen	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hollings	Shelby
Burns	Hutchinson	Smith (NH)
Byrd	Hutchison	Snowe
Carper	Inhofe	Stevens
Chafee	Johnson	Thomas
Cochran	Kyl	Thompson
Craig	Lott	Thurmond
Crapo	Lugar	Voinovich
Domenici	McCain	Warner
Ensign	McConnell	
Enzi	Miller	

NOT VOTING—5

Bingaman	Daschle	Helms
Campbell	Dayton	

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The emergency designation is removed.

The Senator from West Virginia.

Mr. BYRD. Mr. President, it remains necessary to make a point of order against the amendment under section 302(f) of the Congressional Budget Act. Section 302(f) is the point of order against spending in excess of the relevant 302(b) allocation, and there is no general purpose discretionary headroom in the allocation of any subcommittee.

Therefore, I make the point of order under section 302(f) of the Budget Act, as amended, that the amendment provides spending in excess of the relevant subcommittees' 302(b) allocation.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

The Senator from Tennessee.

AMENDMENT NO. 3725, AS MODIFIED

Mr. FRIST. Mr. President, under the order, I now call up amendment No. 3725, with a modification now at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. HELMS, for himself and Mr. FRIST, proposes an amendment numbered 3725, as modified.

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

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

The amendment is as follows:

(Purpose: To increase the amount provided for the Child Survival and Health Programs Fund, and to impose conditions)

On page 55, strike lines 10 through 19, and insert the following:

For an additional amount for the "Child Survival and Health Programs Fund", \$200,000,000, to remain available until expended: *Provided*, That such funds shall be

made available only for programs for the prevention, treatment, and control of, and research on, HIV/AIDS: *Provided further*, That special emphasis shall be given to assistance directed at the prevention of transmission of HIV/AIDS from mother to child, including medications to prevent such transmission: *Provided further*, That of the funds appropriated by this paragraph, the President, in consultation with the Secretary of State, may make such contribution as the President considers appropriate to the Global Fund to Fight AIDS, Tuberculosis, and Malaria to be used for any of the purposes of the Global Fund: *Provided further*, That funds appropriated by this paragraph, other than those made available as a contribution to the Global Fund, shall not exceed the total resources provided, including on an in-kind basis, from other donors: *Provided further*, That not more than seven percent of the amount of the funds appropriated by this paragraph, in addition to funds otherwise available for such purpose, may be made available for the administrative costs of United States Government agencies in carrying out programs funded under this paragraph: *Provided further*, That funds appropriated by this paragraph shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress.

Mr. FRIST. I ask for a clarification. In terms of the time agreement, just so our colleagues will know what has been agreed to, I understand I have 2½ minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. FRIST. And then the opponents have 2½ minutes and then 5 minutes for Senator DEWINE.

The PRESIDING OFFICER. The Senator is correct.

Mr. FRIST. Then Senator DURBIN has 2 minutes after that.

The PRESIDING OFFICER. The Senator is correct.

Mr. FRIST. Mr. President, Senator JESSE HELMS wrote me a letter yesterday regarding the Helms-Frist amendment. In that letter he said:

You and I know the stunning facts: Nearly one million children are infected by HIV each year from their mothers during labor, delivery, or breast feeding. Our amendment will prevent hundreds of thousands of innocent young people from being infected in this manner.

I wish you and the rest of our colleagues all the best as you deliberate on this important matter.

Again, that was Senator HELMS in a letter to me yesterday that was entered into the RECORD earlier tonight.

For my colleagues, our amendment very simply strikes, on page 55, lines 10 through 19, and replaces that section with \$200 million, \$100 million more than in the underlying bill, to add to the U.S. effort to combat the ravages of global HIV/AIDS.

The amendment does three things:

No. 1, it requires that the new funds be focused on reducing mother-to-child transmission of HIV/AIDS, a problem we know how to respond to, thereby greatly reducing the ravages of HIV/AIDS in innocent newborns.

No. 2, it grants flexible authority to the President in spending the money so as to optimize the impact of the AIDS-fighting efforts of our Government.

No. 3, it requires that this money be leveraged through funds matched by sources other than the U.S. Government in order to maximize their impact.

Mr. President, this is a straightforward amendment that recognizes the travesty, the tragedy, and indeed the challenge we have before us in combating HIV/AIDS globally. Every 10 seconds, one person dies. Every 10 seconds, there are two new infections. Globally we are losing this battle.

Finally, in the next several days, the President will introduce a major initiative addressing global HIV/AIDS that will be devoting increased resources with a strategic plan to combat HIV/AIDS.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding I have 2 minutes under the unanimous consent agreement.

The PRESIDING OFFICER. The Senator is correct.

Mr. DURBIN. Mr. President, I will not use the full 2 minutes.

Clearly, I believed very strongly that \$500 million was the right number. It was the number Senator FRIST and Senator HELMS proposed. It was a number I compromised to offer to the Senate, but it was not accepted. I am disappointed, but I urge all of my colleagues, Democrats and Republicans, to join in supporting the Frist amendment. It will add another \$100 million. We need every penny we can get.

Senator FRIST believes, and he has told me, the administration is going to come through with even more money on their own. I sincerely hope he is right, and I hope we can all stand and applaud the administration for doing that.

I urge all of my colleagues now to join in supporting the Frist amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise today in support of increasing funds to respond to the HIV/AIDS pandemic. I cannot think of a more pressing humanitarian and health emergency than this global crisis. That is why Senator FRIST, I, and others have worked with Senator HELMS to propose this amendment to significantly increase the U.S. contribution to the global AIDS fight.

At the end of the day, all of us are working for the same objective: To substantially increase our overall funding

level and to work towards alleviating the continued suffering caused by this epidemic. Quite simply, we have a moral obligation to do so.

Many of my colleagues have already come to the Chamber and painted the very disturbing and realistic picture of the impact this disease is having worldwide, particularly on children. In the year 2000, the U.S. Agency for International Development released a study which concluded that over 34 million children worldwide have lost one or both parents to AIDS or related causes.

USAID further estimated this number will increase to 44 million children—44 million—by the year 2010. Yet as alarming as these numbers are, they hardly begin to tell the whole story. Today, nearly 3 million children are infected with the virus. Last year, over 800,000 children contracted HIV/AIDS, primarily from mother-to-child transmission.

While the problem is especially profound in sub-Saharan Africa, many children who are contracting the disease are living right in our own backyard in the Caribbean, in nations such as Haiti and Guyana. I have seen firsthand, as have many of my colleagues, the devastation this disease causes. I have seen it in Haiti, a nation with the second highest prevalence of HIV/AIDS in the world, second only to sub-Saharan Africa.

In the year 2000, an estimated 250,000 Haitians, out of a population of only 8 million, are estimated to be currently living with AIDS. According to the Centers for Disease Control projections, Haiti will experience up to 44,000 new HIV/AIDS cases this year. That is at least 4,000 more than the number expected in the United States, a nation with a population nearly 35 times larger.

In Haiti, HIV/AIDS already has orphaned 163,000 children, a number expected to skyrocket to between 323,000 to 393,000 over the next 10 years. Haiti also continues to suffer from an unbelievably high HIV transmission rate from mother to child, and, of course, 65 percent of the infants born with the disease, we know, will die within the first year.

This truly is a tragedy because we know that the transmission of HIV from mother to child can be substantially reduced with proper counseling and proper medication. The reality is that millions of children are dying, and we can do something about it. We must do something about this.

Now is the time to work to end the human tragedy caused by preventable, treatable diseases around the world. We have a moral obligation to fight HIV/AIDS, and I believe we must show the leadership today by tackling the problem in our backyard and around the world.

I thank all of my colleagues who have come to this Chamber to talk about this issue and show support for dealing with this problem. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). Who yields time?

Mr. BYRD. Mr. President, who has the time?

The PRESIDING OFFICER. The Senator from West Virginia has 2½ minutes.

Mr. BYRD. How much time is remaining?

The PRESIDING OFFICER. The Senators from Illinois and Ohio have 1 minute each. The Senator from West Virginia has 2½ minutes remaining.

Mr. DEWINE. Mr. President, I yield back my time, unless someone wants the time.

Mr. BYRD. Does any other Senator have time? I have 2½ minutes. Does any other Senator have time?

The PRESIDING OFFICER. The Senator from Illinois still retains 1 minute.

Mr. DEWINE. I yield to my colleague my minute.

Mr. BYRD. Where does that leave us, Mr. President?

The PRESIDING OFFICER. The Senator has 3½ minutes.

Mr. BYRD. Has the Senator yielded me the time?

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I yield back my time.

The PRESIDING OFFICER. The Senator from Illinois yields back his time. The Senator from West Virginia has 4½ minutes.

Mr. BYRD. Mr. President, I do not need 4½ minutes.

The distinguished Senator from Illinois has made a very generous suggestion in asking all of his colleagues to support the amendment. He has made an excellent case for his amendment. He was not successful in this instance, but he has been very generous, very gracious, and I want to, in particular, thank him for the fine example he sets in this regard.

I am willing to accept the amendment on this side of the aisle, and I hope my counterpart will do the same on the other side. I think Senator STEVENS will do that.

Mr. FRIST. Mr. President, we will request a rollcall vote.

Mr. BYRD. The Senator wants a rollcall?

Mr. FRIST. Yes.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I ask unanimous consent that I might be recognized for the purpose of making a point of order.

Mr. BYRD. Mr. President, what is the request?

The PRESIDING OFFICER. Is there an objection?

Mr. BYRD. Mr. President, is the Senator going to make a point of order?

Mr. GRAMM. I have asked unanimous consent to make a point of order.

Mr. BYRD. On this amendment?

Mr. GRAMM. Yes.

Mr. BYRD. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. BYRD. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not yet been ordered.

Mr. BYRD. I understand the Senator from Tennessee wants the yeas and nays.

Mr. FRIST. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. BYRD. I yield back the time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to amendment No. 3725, as modified. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Dakota (Mr. DASCHLE), the Senator from Minnesota (Mr. DAYTON), the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. LIEBERMAN) would vote "aye."

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Colorado (Mr. CAMPBELL), and the Senator from Mississippi (Mr. LOTT) are necessarily absent.

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

The result was announced—yeas 79, nays 14, as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—79

Akaka	Durbin	Murkowski
Baucus	Edwards	Murray
Bayh	Ensign	Nelson (FL)
Bennett	Feingold	Nelson (NE)
Biden	Feinstein	Nickles
Bond	Fitzgerald	Reed
Boxer	Frist	Reid
Breaux	Graham	Roberts
Brownback	Grassley	Rockefeller
Bunning	Harkin	Santorum
Burns	Hatch	Sarbanes
Byrd	Hollings	Schumer
Cantwell	Hutchinson	Sessions
Carmahan	Inouye	Shelby
Carper	Jeffords	Smith (OR)
Chafee	Johnson	Snowe
Cleland	Kennedy	Specter
Clinton	Kerry	Stabenow
Cochran	Kohl	Stevens
Collins	Landrieu	Thompson
Conrad	Leahy	Thurmond
Corzine	Levin	Torricelli
Crapo	Lincoln	Warner
DeWine	Lugar	Wellstone
Dodd	McConnell	Wyden
Domenici	Mikulski	
Dorgan	Miller	

NAYS—14

Allard	Gregg	McCain
Allen	Hagel	Smith (NH)
Craig	Hutchison	Thomas
Enzi	Inhofe	Voinovich
Gramm	Kyl	

NOT VOTING—7

Bingaman	Dayton	Lott
Campbell	Helms	
Daschle	Lieberman	

The amendment (No. 3725), as modified, was agreed to.

AMENDMENT NO. 3569

Mr. GRAHAM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself and Mr. DEWINE, Mr. MCCAIN, Mr. MILLER, Mr. THOMPSON, Mr. SESSIONS, Mr. ROCKEFELLER, Mr. BAYH, Mr. NELSON of Florida, Mr. NELSON of Nebraska, and Mr. ALLARD, proposes an amendment numbered 3569.

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

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

The amendment is as follows:

(Purpose: To provide authority regarding the availability of funds for the Department of Defense for counterterrorism activities in Colombia)

At the end of chapter 3 of title I, add the following:

SEC. 307. (a) AVAILABILITY OF FUNDS FOR ASSISTANCE FOR COLOMBIA.—In fiscal year 2002, funds described in subsection (b) shall be available for the following purposes:

(1) To support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations, including the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC).

(2) To take actions to protect human health and welfare in emergency circumstances, including rescue operations.

(b) FUNDS.—The funds described in this subsection are as follows:

(1) Funds available to the Department of Defense in this Act for assistance to the Government of Colombia.

(2) Funds available to the Department of Defense in appropriations Acts enacted before the date of the enactment of this Act for assistance to the Government of Colombia that remain available for obligation.

(c) CONSTRUCTION.—The authority in subsection (a) is in addition to any other authority under law regarding the availability of assistance to the Government of Colombia.

Mr. GRAHAM. Mr. President, on behalf of my colleagues, Senators DEWINE, MCCAIN, MILLER, THOMPSON, SESSIONS, ROCKEFELLER, BAYH, NELSON of Florida, NELSON of Nebraska, and ALLARD, I rise today to offer an amendment to provide the Department of Defense the authority necessary to support Colombia's war against narcotics trafficking and terrorist activities.

September 11 served as a horrible moment in history—a moment that revealed the evils, the hatred, and the degree to which those who wish to do us harm are prepared to go. Unfortunately, this reality is not limited to North America. It is not limited to the Middle East or to central Asia. It is a global phenomenon.

The United States, at home and around the world, must do better with our intelligence, law enforcement, and foreign policy efforts. We must do more as well to work with our allies.

In Latin America, the evil hand of terror has been an everyday reality for too long, a fact which I believe most Americans of the United States will find stunning, but not to Americans

who live in other parts of the Western Hemisphere.

In the year 2000, over 44 percent of all of the worldwide incidents of terrorism against U.S. citizens and U.S. interests were committed in one country. That country was Colombia. Three groups that were responsible for these atrocities are all on the U.S. Department of State's list of foreign terrorist organizations. These attacks pose a threat to the democratic institutions of Colombia, to the stability of Latin America, and to the security of the Western Hemisphere.

The Taliban and al-Qaida networks derived much of their funds from the illegal narcotics trade—heroin, primarily. But the linkage is no more pervasive anywhere in the world between illegal narcotics and terrorism than it is in Colombia where former guerrillas have evolved into drug trafficking terrorists.

That is why a large number of our colleagues and I are offering this amendment that would allow the Department of Defense to use its appropriated funds to provide additional equipment, training, and intelligence to Colombia to combat both narcotics trafficking and terrorism.

Current law allows the U.S. equipment and funds from the Department of Defense to be used solely for counterdrug operations.

In Colombia, the reality is that the line between narcotics and terrorism is extremely thin. It is virtually mythical.

The House of Representatives has already passed an authorization bill as part of the legislation that we consider this evening, and these authorities to expand the use of defense funds to combat the twin evils of narcotics and terrorism are provided in the House bill; these authorities are being aggressively sought by the President of the United States.

The administration seeks more explicit legal authority to support "Colombia's unified campaign against narcotics trafficking and terrorist activities."

This provides greater flexibility to counter the threat from groups using narcotics trafficking to fund both terrorist and criminal activities.

I assure our colleagues that I am not proposing any changes to previous requirements in human rights, certifications, and limits on personnel—civilian and military. And in no way am I suggesting the Department of Defense deploy U.S. troops to a combat role.

The Government of Colombia, both under its current President, President Pastrana, and under its newly elected President, Alvaro Uribe, has stated its intention to carry the war to the terrorist drug traffickers.

What we are being asked to do is to allow equipment that has been procured in part with funds from the U.S. Department of Defense to be used in both wars, terrorism and narcotics.

These counterterrorism efforts will not hurt our counternarcotics pro-

gram. In fact, they will be of great assistance to our counternarcotics program.

The Department of Defense has assured me that it remains committed to a robust counternarcotics program in Colombia, and it will bear that in mind as the details are developed regarding the use of defense-funded equipment, training, and intelligence for counterterrorist missions.

I am also pleased, despite the rampant violence in Colombia on May 26 of this year, that the citizens and Government of Colombia carried out democratic elections which were deemed by international standards and observers to be free, fair, and the expression of the will of the Colombian people.

When the United States first authorized Plan Colombia in 2000, we made a commitment. The commitment was to help our Colombian neighbors in their long struggle against the drug trade and the violence it causes. Anything less than that would not only be a violation of our promise to be good neighbors but a neglected front on the war against terrorism.

I ask my colleagues to support Colombia, an important democratic and hemispheric ally by supporting this amendment.

Thank you, Mr. President.

Mr. MCCAIN. Mr. President, at a time of bipartisan agreement that the Colombian government must pursue a unified campaign against the narco-trafficking and terrorist threat to Colombia's democracy, the Senate Appropriations Committee has chosen to deny the Administration's request for the authority to support our Colombian ally.

As my colleagues know, our assistance to Colombia is channeled through both the State and Defense Departments. To the President's credit, American policy has dispensed with the illusion that the Colombian government is fighting two separate wars, one against drug trafficking and another against domestic terrorists. The democratic government of Colombia has long insisted that it is the nexus of terrorists involved in the drug trade that threatens Colombian society. American policy now recognizes that reality, and abandons any fictional distinctions between counter-narcotic and counter-insurgency operations.

Our government properly allies itself with the Colombian people against the narco-terrorists who threaten the government they elected, and the system of government that rejects the violent and absolutist aims of those who would overthrow it by force of arms. We in the United States have a considerable stake in the Colombian government's success, for the narcoterrorist state the enemies of the Colombian government would establish would present a compelling national security threat to the United States in our own hemisphere.

Congress has shown an admirable commitment to supporting the Colum-

bian government's campaign to bring basic security to its people. But America's commitment has been limited to providing training and assistance to combat drug production and trafficking. The Administration has requested not new money but new authority to use appropriated funds to combat narco-terrorism. Yet this Supplemental Appropriations bill grants that authority only to the Department of State, and places overly restrictive and burdensome constraints on that authority.

Our amendment would provide the Administration the authority it has requested, in consultation with the Congress, to use appropriated funds to support a unified campaign by the Colombian government against drug trafficking and terrorist insurgency. The House-passed version of this bill provides both the departments of State and Defense with this authority for the current fiscal year. The Senate bill would leave in place existing restrictions prohibiting use of Department of Defense assistance in the war against the FARC and the ELN. Our amendment mirrors the President's request to provide the Department of Defense the authority to use funds already appropriated for this purpose to support our Colombian ally. I hope the conference committee to this bill will provide the Administration with this authority.

In a presidential election last month, the Colombian people gave their leadership a clear mandate to defeat narco-terrorism by electing Alvaro Uribe as President. President-elect Uribe campaigned on a platform of decisively defeating the FARC terrorists, who have shown little interest in a negotiated, peaceful solution to the war they have been waging against Colombia's government for four decades.

This is not an authoritarian regime located in a far-off corner of Central Asia. This is a democratic government, one of the longest-standing in our hemisphere, that has allied itself with the United States in order to defeat the threat to our common values posed by the FARC and the ELN terrorists, as well as by AUC paramilitary forces whose abysmal human rights record rivals that of their opponents.

Under existing law, human rights conditionality and restrictions on the American military presence in Colombia remain in effect on all U.S. assistance to that country. Our amendment would ensure that existing American funds appropriated to support American policy in Colombia reflect the reality that the Colombian government is not simply fighting a drug war.

It is estimated that one million would-be voters in Colombia could not express their preference at the ballot box last month due to FARC violence and intimidation. The number of political candidates who have been intimidated, abducted, or murdered for their ambition to serve their people is staggering. One presidential candidate, Ingrid Betancourt, remains a hostage to

the FARC, who abducted her on the way to a campaign rally in February.

On May 2, 2002, a rocket fired by FARC guerrillas killed 117 civilians taking refuge in a small church. Forty of the dead were children. Colombian officials call it the worst single loss of civilian life in the nation's 38-year civil war.

President-elect Uribe has been given a clear mandate by his people to give them back their country. Our values and our interests require us to support our ally. There is an important role for the United States, not only to provide assistance and technical support to the Colombian police and armed forces, but also to exercise our influence to ensure that our values triumph over both terrorist violence and paramilitary brutality.

These values are worth fighting for. We should stand proudly with the people of Colombia in their struggle.

To reiterate Mr. President, the situation in our own hemisphere in regard to Colombia is a very serious one. We are understandably worried about events between Pakistan and India, Afghanistan, et cetera. The situation in our own hemisphere as regards Colombia is of the utmost seriousness because that is where the drugs come from that destroy the minds and bodies of our children.

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I understand the reluctance of Members of this body to relax certain restrictions that are associated with our assistance to Colombia. I hope all of my colleagues will review the situation as it exists today—a direct threat to the security of the United States of America—if Colombia collapsed in a civil war between different parties.

There is the ELN, the paramilitary, the FARC, and there is the Government. They are all fighting amongst one another, and the FARC recently being rejected from the sanctuary they were granted, I believe, is a mistaken policy on the part of the Colombian Government.

We now have a new President, Alvaro Uribe, who is committed to using whatever sources and means necessary to bring peace and stability back to its country.

Again, I don't want to take the time of the Senate at this late hour. It is in

our national security interests to see some kind of Government peace and stability restored to Colombia because that is where the drugs are coming from that are killing our kids.

I hope in the days ahead we will devote some of our attention to the country of Colombia and see what the United States can do not only to help these people who are literally afraid to leave their own homes, but to try to combat the great threat of narcoterrorism and the flow of narcotics, which is another aspect of our war on terrorism that we need to do whatever is necessary to combat.

I thank Senator GRAHAM not only for his amendment but for his continued involvement in the affairs of our hemisphere.

Mr. President, I yield the floor.

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

Mr. DOMENICI. Mr. President, I will speak for a couple minutes.

I say to Senator GRAHAM, I rise to congratulate him, and not only for the amendment. And whatever happens to it tonight, its destiny is already determined. We have already waited too long. It is time that some of us, especially those of us who come from States that are not too far from the other hemisphere, where mostly Hispanic Americans live and work—to have that hemisphere as if it were not really our friend and we should not be concerned about it is truly one of the giant mistakes we make. And every year that passes we say something about doing better.

But I believe the situations are going to get even worse, and sooner or later—let's hope sooner—the United States will do something while we are still acceptable down there and while we can still be of some significant positive impact.

I say to Senator MCCAIN, I heard his remarks. And I have heard them before. I think it is time, with real vigor and enthusiasm, with resources and leadership, we consider this hemisphere to be a big part of America's foreign involvement. Why so far away when we have problems in abundance so close? Why neighbors thousands of miles away and no acts of friendliness to those who are really our neighbors?

With that, I ask unanimous consent for 1 minute to introduce a bill.

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

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2599 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, first, I note to my friend from Ohio, I am going to call up an amendment shortly.

Does the Senator wish to make a comment on the last amendment?

Mr. DEWINE. Just a couple comments on the amendment.

Mr. NICKLES. Mr. President, I defer to my colleague from Ohio so he can make comments on that amendment.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. I thank my colleague.

Mr. President, I congratulate my colleague from the State of Florida for his leadership on this amendment. Once again, he is correct. Once again, he is a leader on issues having to do with this hemisphere, having to do with the drug problem.

We have a lot at stake in Colombia. Colombia is our neighbor. We do a lot of trade with Colombia. This is, I believe, the second oldest democracy in this hemisphere. It is a country that obviously borders the Panama Canal. It is a democracy, though, that is in peril. It is a democracy that has at least three very tough groups gnawing at it, trying to overthrow the Government, trying to grab pieces of the land of Colombia. These are three very tough, tough groups: the FARC, the ELN, and the paramilitary.

So a lot is at stake in Colombia. Colombia is important to us because this is one of the countries that is a major supplier of drugs into the United States. So what happens down there is important.

We have seen something develop in Colombia in the last few years that I do not know we have seen anywhere in the world; that is this very close relationship, over now an extended period of time, between the drug dealers and the terrorists. They are working literally hand in glove in a synergistic relationship.

Unfortunately, as we try to help our friends in Colombia, we have created an artificial barrier in our law. That barrier creates a distinction between the use of our money to help to deal with terrorist problems or our use of the money to deal with narcotics problems. It says, in effect, we can use it for one but we cannot use it for the other. That makes absolutely no sense.

It is time we take that artificial barrier down because really the problem is one and the same. And they are the same people. It is time we recognize that and that we stop handcuffing the use of our aid, handcuffing the Government of Colombia as it literally fights for its survival.

So I congratulate my colleague on this amendment. It is time, frankly, that we face up to the reality of what is really going on in Colombia and help this ally of the United States to try to preserve democracy.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I would like to make some remarks on the Colombia amendment.

Mr. NICKLES. That is fine. I inform my colleagues, we only have a couple more amendments that will require votes. Mine is one of them. We will try to do that in the very near future. Certainly, if my colleague from Alabama wants to make remarks, go ahead.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I will be very brief. This is a very important

matter. Colombia is a longtime ally of the United States. It is the second oldest democracy in the Western Hemisphere. Its former President, President Pastrana—a wonderful person—worked exceedingly hard to try to build a peace process that would work. After everything he tried, he could not make that occur.

The new President has been elected. President Pastrana—before he left office—admitted that they had to fight to preserve their democracy. Democracies frequently have to do that.

We have a \$9.5 billion trading relationship with Colombia. It is an important ally, an important democracy. It is key to South America. We must do what we can to assist them as they now wage a life-and-death struggle to preserve their democracy and their economy.

Mr. President, just 10 days ago the people of Colombia overwhelmingly expressed their desire to fight the scourges of terrorism and narcotics trafficking, that have killed tens of thousands of their countrymen over the past forty years, by electing Alvaro Uribe as their new President. President-elect Uribe has stated that he intends to double the size of the Colombian Army and the Colombian National Police and to call up thousands of reservists to fight the terrorists. This is exactly what the United States has been asking the Colombians to do for many years now.

Included as part of this Supplemental request is proposed legislation that would remove the “counter-narcotics only” restriction on the use of helicopters and other military equipment and assistance that the United States provides to Colombia.

The pending Amendment provides authority to the Department of Defense, as well as the Department of State, to provide assistance to the government of Colombia as they fight their war against terrorism.

The Department of State has designated the Revolutionary Armed Forces of Colombia—FARC—the National Liberation Army of Colombia—ELN—and the United Self-Defense Forces of Colombia—AUC—as foreign terrorist organizations and has specifically identified the FARC as “the most dangerous international terrorist group based in the Western Hemisphere.” On March 18, 2002, Attorney General John Ashcroft announced the indictment of three leaders of FARC with conspiracy to import cocaine into the United States and to manufacture and distribute cocaine in Colombia with the intent of exporting it to the United States. To all of these actions I say “Amen”.

Transnational terrorism is a threat to freedom throughout the world. Many of these groups have been working together for years to share the lessons of terror and mayhem. They have searched for new sources of income and have become inextricably involved with transnational criminal syndicates

who traffic in weapons and drugs and provide resources for extortion and money laundering.

This is a global phenomenon and must be fought on a global scale. One country that has been fighting this war against terrorism for the past few decades is Colombia. Colombia is one of our closest Allies and we must come to her aid. They need our help in terms of intelligence sharing, equipment and training.

Why should the United States help Colombia? The answer to this lies not only in the fact that it is the source for prodigious quantities of cocaine, heroin, and marijuana, but Colombia is the second oldest democracy in the Western Hemisphere, next to our great country. Colombia is a friend and ally of the United States who has been fighting for its very survival against a variety of threats, ranging from drug cartels, terrorist organizations and Marxist insurgents for over forty years. It is a nation of 40 million people and is a source of significant trade with the US. The United States is Colombia’s principal trading partner with over \$9.5 billion in annual trade between our two nations. When we help Colombia secure its own territory from the threat of overthrow from the Marxist narco-terrorists, we will also help stabilize the neighboring countries in the Andean region from spillover effects of the drug trade and insurgency.

There are more acts of terrorism committed in Colombia every day than in all the other countries of the world combined. And make no mistake about it, the forces that are acting to overthrow the democratically elected government of Colombia are terrorists. While their organizations did have their genesis as a “people’s revolution” with Marxist ties they are now no more than terrorists. General Fernando Tapias, Commander of the Colombian Armed Forces, stated recently that while the Army in the 1960s and 1970s used to find the writings of Marx and Lenin in the documents captured during raids on FARC hideouts now all they find are receipts and documentation of the smuggling of drugs, precursor chemicals used to process cocaine and weapons shipments.

The FARC, ELN and AUC get the vast majority of their funding from narcotics trafficking. All three of these groups also obtains large amounts of money from the terrorist tactics of kidnapping and extortion. FARC has extensive ties with international terrorist and criminal organizations. Right now there are three members of the Irish Republican Army in the custody of the government of Colombia after they were arrested for providing training to the FARC on bombmaking and other terrorist tactics.

Colombian President Andres Pastrana was elected in 1998 on a platform that called for making peace with the Marxist guerrillas that have operated in his country since the 1960s. He has engaged in negotiations with the

FARC and the ELN since before he took office. In fact, President Pastrana, in an act of good faith, gave total control of a piece of central Colombia the size of Switzerland, which was supposed to remain demilitarized, to the FARC as an enticement for continuing negotiations. In the four years since President Pastrana opened negotiations the FARC has continued to engage in narcotics trafficking and terrorist activities. In fact, in the past few months they have engaged in countless terrorist attacks throughout the country that have killed hundreds of people. The FARC is responsible for the kidnapping of Colombian presidential candidate Ingrid Betancourt, who they still hold hostage. They tortured and murdered Colombian Senator Martha Daniels who was attempting to negotiate the release of two kidnapping victims. And just a few months ago, they attempted to assassinate President-elect Alvaro Uribe with a car bomb that killed three civilian bystanders. In the face of these acts of terrorism, President Pastrana declared an end to peace negotiations and reclaimed the demilitarized zone that he ceded to the FARC. When the Colombian Armed Forces re-captured this territory they found that terrorists had been using the territory for all kinds of illegal activity. The Colombian Army found 27 new airstrips that were used for drug and weapons transports, numerous drug laboratories and storage areas for pre-cursor drug processing chemicals, several training bases for terrorist activities that were used by international terrorist organizations, and evidence that 14 new guerrilla units had been established and trained in this “demilitarized” zone. This was also the area where the FARC had landed several hijacked aircraft and drastically increased the production of coca. So it is now undoubtedly clear that the FARC is not interested in serious negotiations and does not want peace. They are only interested in maintaining and expanding their narcotics funded terrorist activities.

The United States must do the right thing and support our friends and allies in Colombia. The government of Colombia has categorically stated that they do not want US troops to come and fight their war for them. They are willing and able to destroy this threat to their country and the world. I am glad that the Administration has made the decision to request the removal of the counter-narcotics restrictions on our aid to Colombia. Colombia is looking into the abyss and this threatens the entire Andean region.

Congress needs to pass this legislation so that we can keep up the pressure on terrorists within our own hemisphere and across the globe.

I thank the Senator from Florida for his leadership. I am pleased to join with him and stress this is an exceedingly important matter for us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.



Mr. WELLSTONE. Mr. President, everyone has spoken on one side.

I ask for 1 minute.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, one other perspective: For the record, the FARC and ELN are involved in narco-trafficking up to their eyeballs. For the record, the paramilitary and the AUC are involved in narco-trafficking up to their eyeballs. For the record, two-thirds of the extrajudicial killings last year were by the AUC and the paramilitary. And for the record, there is one documented case after another after another about the military and the paramilitary being all too connected.

So before we provide direct military assistance and weapons that can be used in counterinsurgency by the military, we ought to take a real close look at what is going on in Colombia. I wanted to say that tonight. We will have debate later.

I yield the floor.

AMENDMENT NO. 3569 WITHDRAWN

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, offering this amendment was for the purpose of affording our colleagues an opportunity to express their strong opinions and to indicate to the American people the great importance of the relationship between our Nation and the peoples of Colombia for our mutual well-being. As our colleague from Minnesota has just said, this is an issue that deserves full debate.

Given the hour of the night, given the fact that it is my hope that when this matter reaches conference, the Senate conferees will look carefully at the proposals that our House colleagues have already adopted to allow the use of Department of Defense-funded equipment in the war against terrorism as well as the counternarcotics war, I will ask to withdraw the amendment and hope we will have an opportunity at a future date to have a full debate on the United States relationship with Colombia.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, for the information of our colleagues, we are getting closer to finalizing this bill. To my knowledge, there are possibly two additional amendments that will require rollcall votes. I also think the time for debate on both of those can be fairly brief. We will have a managers' amendment, and I guess we will have a vote on final passage.

I don't think we would have come this far had it not been for the very competent and capable leadership of Senators BYRD and STEVENS as well as my colleague and friend, Senator REID. To finish this bill, frankly, for this many amendments and for the most part with votes taken in one day is pretty remarkable.

I make one editorial comment. I thank the managers for supporting an

amendment offered by Senator INHOFE and myself dealing with \$12 million for restoration of the I-40 bridge in Oklahoma which was hit by barge traffic. It caused 14 fatalities, the largest number of fatalities of any bridge accident in U.S. history. It also shut down east-west traffic into our State. This is one of our major east-west corridors. It is a major inconvenience not just for our State but for the entire country. We have some money, as requested by the Department of Transportation, in this bill. I thank my colleagues for their assistance in that proposal. Also, I particularly thank my colleague, Senator INHOFE, who is on the authorizing committee and worked very hard to make that happen. I compliment him for it.

AMENDMENT NO. 3588

Mr. NICKLES. Mr. President, I ask that amendment No. 3588 be called up. The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 3588.

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

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

The amendment is as follows:

(Purpose: To restore the discretion of the President to agree with Congressionally-designated emergency spending)

Strike section 2002 of the bill.

Mr. NICKLES. Mr. President, this amendment is very straightforward. It would strike section 2002 that is on page 116 of the bill. Section 2002 deals with the emergency provisions in the bill.

I have been in the Senate for 22 years. We have never done this. Ever since we have had emergency provisions in the bill, we have never done it. The impact of the amendment is that it prohibits the President from spending any money, any nondefense emergency spending in the bill unless he spends it all. That is not the way we have done emergencies under the Clinton administration. That is not the way we have handled emergencies under President Bush's administration since 1990.

I will read the language in the bill on page 116:

Any amount appropriated in this Act that is designated by Congress as emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, shall not be available for obligation unless all such amounts appropriated in this Act are designated by the President, upon enactment of this Act, as emergency requirements pursuant to that section.

What that means is, for nondefense, there are some sections in this bill and in the President's requirements calling for emergency designations. This says if he spends any of it, he has to spend it all. We have never done this before. We didn't do that in the Clinton administration. The Clinton administration

had emergency requests every year. We granted almost all of them plus some.

This President requested the emergency designation. He came to Congress and actually requested \$24.47 billion in emergency assistance, emergency appropriations, and an additional 2.7 under contingency emergency appropriations. He requested that. We are getting ready to give him more.

What has happened is, the House has already passed a bill. They passed a bill at \$29 billion. The President's total was 27. The House came back and said: We will give you the \$27 billion you requested, and we will do an additional \$1.5 billion for defense. But the additional \$1.5 billion for defense was under contingency. If the President declared it an emergency, he could spend it. But if he didn't, he wouldn't. So the President is basically saying: He still is getting his \$27.3 billion of emergency assistance. He doesn't have to spend that additional \$1.5 billion. That is the way we have done it.

In other words, when we go into emergency spending, the special designation means it doesn't count. We have budgets every year. Until this year, we have passed budgets. Those budgets have had targets. But when we have an emergency, we say it doesn't count towards the caps; we are going to waive it because there is a special emergency. Maybe we have had an earthquake, a fire, a flood, serious damage, so we call that an emergency. They were not budgeted, they were not planned, they were not expected, such as the World Trade Center incident of 9-11. We had a very significant, as a matter of fact, \$40 billion emergency that we paid for last year. But it was with the concurrence of the President and the Congress.

Now in this case we are saying: Mr. President, that is fine, we will take your emergency, but you have to take all of our emergencies or you don't get any of yours on nondefense. We have never done that before, to my knowledge.

I used to be on the Appropriations Committee. I happen to still be on the Budget Committee. The Budget Committee should be outraged by this. Every once in a while one committee kind of exceeds jurisdiction or goes into the jurisdiction of another committee. That is what we are doing right here. We have never had a supplemental appropriations bill, to my knowledge, that had language like this.

Incidentally, this has the attention of the administration. The administration's position basically states that they will veto the bill if this is in there. I will read from the administration's statement of policy dated June 4, the first page:

In addition, the bill severely constrains the President's ability to fund emergency homeland requirements by compelling him to release nonemergency money provided in the bill. If the supplemental appropriation bill were presented to the President in its current form, his senior advisors would recommend that he veto the bill.



That is on the first page. On the third page of the statement of administration policy it says:

The Senate version of the bill also unduly restricts the President's prerogatives in numerous areas. First, it requires the President to designate all or none of the nondefense funding contained in the bill as an emergency. The Budget Enforcement Act provides that the President retain control over the release of emergency funds added by Congress to ensure that the funds respond to critical emergency needs. By contravening in this long established budget enforcement mechanism, the Senate would require the President to waste taxpayers' dollars on low priority, nonemergency items in order to access vital, high priority homeland security recovery funding.

It is very clear, the administration is adamantly opposed to this provision. This is as direct a veto threat as we have had from this administration in their time in office. It is reversing a precedent we have followed on emergency spending for the last 13 years.

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

Mr. NICKLES. I am happy to yield.

Mr. McCAIN. Can he give an example, to those of us who are not experts on the budgetary process, of what the President might not decide to spend and then would be forced to spend?

Mr. NICKLES. To give an example—I appreciate the question—there are a lot of things in this bill. My friend from Arizona pointed out a couple of them earlier today. There is one where the President said, some of these provisions don't relate to homeland security, including \$11 million to the National Oceanic and Atmospheric Administration, NOAA, for economic assistance to New England fishing and fishing communities; \$26.8 million for the USGS survey for urban mapping activities. The administration said that is not urgent; it wasn't requested.

If section 2002 is not stricken, those things will have to be funded or you don't get funding for New York City. You don't get funding for homeland security needs that are requested. There is billions of dollars in here that the President did request that we are putting in jeopardy because of this bill's "all or nothing" approach.

We do that on normal appropriations. We don't do it on emergency bills. The reason we don't do it on emergency bills is that the emergency bills are outside the budget. They are special. They are figures over and above set spending levels. We have agreed to a budget. We have agreed to caps. We shake hands. That is what we are going to abide by. But when it comes to emergencies, we say we are going to waive the budget. The budget no longer applies. Therefore, caps no longer apply.

This is the national emergency. That is what we passed, the \$40 billion following the World Trade Center. It is a national emergency. We agreed to do it. Usually, we do it with overwhelming majorities, if it is truly an emergency. This is saying, well, before you get part

of that emergency, you have to take the entire thing.

All I am saying is that previous Presidents have always said we have to concur. When we made the budget deal—and this goes back, I tell my colleagues to Andrews Air Force Base in 1990. That basically said if you are going to have caps, cases in which we have an emergency might pose a problem. So we put in emergency provisions, and you can waive the caps if there is truly an emergency, and that could be designated if it is agreed upon by both Congress and the administration.

Now we are saying if Congress has it in there, Mr. President, you have to take it all, or you don't get a dime. I think that is an infringement on the budget process.

I think the emergency process all together is a big waiver of the budget, a big way to get around budgets, one of the reasons why spending can grow astronomically. It has grown dramatically over the last few years. If we allow this provision, I think we are opening up the door to greater abuse of the emergency provisions.

Very quickly and briefly I urge colleagues to strike section 2002 and keep the emergency provisions we have had for the last 13 years at least the same as they are. Let's not change them. We have a new President. Why should we curtail his authority, vis-a-vis his predecessors? I think that would open the door to a lot of spending and abuse of the emergency process. I urge my colleagues to strike section 2002.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, let me try to set this in historical context. In 1990, in the so-called budget summit agreement, a decision was made to allow the Congress and the President, acting jointly, to declare items emergency items and, therefore, allow the spending on that item to operate outside the budget process. In other words, where the President and the Congress agreed that something was an emergency, then the budget process did not apply. But what was required to make it an emergency was two things: The President said it was an emergency and Congress said it was an emergency, and the combination of the two triggered the exemption.

Now, I have been here a long time, and my memory fades, but I don't believe that we have ever had a provision such as the one in this bill because in this bill we have a situation where there is \$14 billion of funding that the President did not say was an emergency. Congress says it is an emergency and, therefore, by the definition of the emergency waiver that was written into permanent law in 1990, this \$14 billion would not qualify. It would not qualify because it only has half of the action that is required to provide the emergency. It has Congress saying it is an emergency, but the President says it is not an emergency.

This bill gets around that 1990 permanent law provision by saying the President has a choice. He can take the whole bill as a deemed emergency or he cannot spend any part of it as an emergency. In other words, it overrides the President's prerogative in this process by saying to him that under the law you had to say it was an emergency and Congress had to say it was an emergency, and you had to be talking about the same thing. But now we want to spend \$14 billion that you say is not an emergency. We have \$18 billion in the bill that you say is an emergency and we say is an emergency. But we are not going to let you spend that \$18 billion unless you spend our \$14 billion and say it is an emergency. So this is a complete perversion of that emergency waiver.

Now, I have to say that the waiver has been probably the most misused part of every budget that has been adopted since 1990. If I had known then at Andrews Air Force Base what I know today, I would have never agreed to this waiver because it has been abused over and over again. But it has never been abused—at least to the best of my knowledge—the way it is being abused today because the President is being forced to make this an emergency, even though he did not designate it, in order to get the genuine emergency money which he designated and Congress approved. I think this really perverts the process, and I really believe this amendment ought to be adopted.

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

Mr. GRAMM. Yes.

Mr. McCAIN. How long has the Senator been involved in budgetary issues?

Mr. GRAMM. For 24 years.

Mr. McCAIN. And the Senator has never seen anything like this in those 24 years?

Mr. GRAMM. Not that I can recall. So many things have gone by my old eyes; there may have been something, but I don't remember it.

Mr. McCAIN. As the Senator knows, we will not have a budget this year.

Mr. GRAMM. It sure enough looks like we are not going to have one.

Mr. McCAIN. With this new wrinkle, or new provision, in the appropriations bill, that really does give all power to the Appropriations Committee, even overriding any authority that the President might have, doesn't it?

Mr. GRAMM. In one sense it does, and in one sense it doesn't. In all fairness, this doesn't make the President spend a single penny of this money. But he cannot spend a penny of it unless he designates all of it in an emergency. The way this is being used, it doesn't make the President spend the money, but it says that if the President is going to spend the \$18 billion that Congress and the President agree on as being an emergency, he cannot spend a penny of that unless he also designates this \$14 billion that he says

is not an emergency. The Appropriations Committee says it is an emergency and, obviously, if Congress passes it, we will say that. So the President has to spend it as an emergency if he is to get a penny of the \$18 billion. But he could, theoretically, under this, sign the bill and then not spend any of it. But, obviously, it puts him in the position that he cannot get this \$18 billion of homeland security funds unless he takes this \$14 billion he doesn't want and counts it as an emergency so it doesn't come under the budget process, and that is the perversion of the system I was talking about.

Mr. McCAIN. I don't like to drag out the debate, but I ask the Senator this. This seems to me like it is almost a constitutional issue.

Mr. GRAMM. Well, there is certainly a separation of powers issue. Whether it gets to the constitutional level or not, I don't know. The point is, this is taking away the President's role in the emergency designation by changing the system so that he cannot get any of the money, even the amount we agree is a genuine emergency, when the President says so and we say so. Therefore, by law, that makes it an emergency. He cannot get a penny of that money unless he takes the \$14 billion that he says is not an emergency, but he has to say it is an emergency to get the other \$18 billion.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, the distinguished Senator from Texas and other Senators—I believe the distinguished Senator from Oklahoma made the same statement—say that this is a precedent. Am I correct?

Mr. GRAMM. As far as I am aware, it is a precedent. As I said, I haven't gone back and researched it, but I don't remember one.

Mr. BYRD. Let me state to the Senate the real precedent. It was enacted by this Congress when it was under the control of the Republican Party—both Houses—in 2001. It was in title I of the bill making appropriations for Kosovo and other national security matters.

Here is what the provision said at that time:

Section 126. Any amount appropriated in this chapter that is designated by the Congress as an emergency requirement pursuant to section 251(B)(2)(a) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, shall not be available for obligation unless all—

Not just part—

unless all such amounts are designated by the President upon enactment of this Act as emergency requirements pursuant to such section.

That was the precedent, and I voted for it, and the Senator from Texas voted for it.

Mr. GRAMM. Are you sure I voted for it?

Mr. BYRD. I voted for it then, and I am for it now.

Mr. GRAMM. If the Senator will yield.

Mr. BYRD. Oh, I will be glad to yield.

Mr. GRAMM. I do not know if I voted for it or not, but it was a bad precedent.

(Laughter.)

Mr. BYRD. I have been to many a revival meeting, and when the altar call came, the Senators hit the sawdust trail. The Senator remembers Billy Sunday, that great evangelist. So that is a time for admitting one's errors. Maybe I was in error then, but I voted with the Republican-controlled Congress and against my own President in that instance.

What we are doing here tonight is certainly not a precedent. We are just following in the wake. It was that language that gave us the idea. That was the precedent. Without that, we might not have thought of this.

Mr. President, I rise in opposition to the amendment to strike section 2002 of the bill. Congress should be proud of the lead it has taken in funding homeland defense programs that will help prevent, detect, and respond to potential terrorist attacks.

Last year, we acted on a bipartisan basis to provide \$10 billion for homeland defense programs. Last year, in the face of a veto threat from the President, this Congress, this Appropriations Committee added \$4 billion more than what was requested by the President. That money is being well spent, and it is making a difference. The veto was threatened then. So we have heard that before.

We have a responsibility to use our own judgment in behalf of the American people, in behalf of the security of this homeland. We should make our own judgment. No President sends any Senator here. Calling him the Commander in Chief, if you will—that is what the Constitution says he is, but I do not think that has a thing to do with this bill.

I have heard that term thrown around here today, the "Commander in Chief." No Commander in Chief sends me here. No Commander in Chief sends the Senator from Vermont here. No Commander in Chief sends the Senator from Louisiana here. No Commander in Chief sends the distinguished Senator from Texas here. He comes here by virtue of the wisdom and good judgment of the good people of Texas. Thank God. We are not made or unmade by any President. I have served not under but certainly with, I believe, 10 or 11 Presidents. None of them sent me here, Democrats and Republicans.

I have stood by the principles that I see as being important principles in upholding the prerogatives of this institution and the Constitution, and I have stood against; I have opposed the wishes of Democrat Presidents in this regard, and I opposed those Republican Presidents. It does not make any difference to me who is President. He puts on his trousers just like I put mine on, two legs at a time, two legs at a time. Some say you cannot do that, but you can.

(Laughter.)

I have tried it. You can. If you do not believe it, just sit down in a chair and pull them on both legs.

(Laughter.)

I like this man from Texas. He will smile, he will yield, and he is not only a good Senator, but he is a good sport.

Mr. President, I have seen Presidents come and go. I have never bowed and scraped to any of them. I do not expect the people to bow and scrape to me, and I do not expect to do that to any President. I am for using ROBERT BYRD's judgment, as far as my votes are concerned. PAUL SARBANES will use his own judgment.

We are not here at the beck and call of any President, even if he is the Commander in Chief. We have our own judgments on this. This committee, on a bipartisan basis, supported by the Republicans, 14 of them, and 15 Democrats, reported out this bill. We had hearings. Those hearings were attended by Republicans and Democrats to ask questions. We heard people from the local level. I have said this before but should say it again. We heard the firefighters. We heard the policemen. We heard the health personnel. We heard mayors. We heard Governors. We heard county commissioners. We heard seven Department heads in the executive branch. We heard the Director of FEMA. And based on those hearings, this committee, in its considered judgment, elected to increase the amount by \$3 billion.

We increased the amount by \$4 billion last year. That money has made a difference. I have stated already what is being done with that money, \$4 billion more than the President requested. This year it is \$3 billion more.

Let's use our own judgment. Let's not be here at the beck and call of any President. I am here because the people of West Virginia sent me here, and so is every other Senator here because of the people of their State.

I hear all this business about Commander in Chief. I get a little tired of hearing Commander in Chief, Commander in Chief. Under the English history, there were commanders in chief all over the continent, all over the islands. So they were called commanders in chief. So what, Commander in Chief.

The Constitution says the Congress will enact the laws. It will have all power herein provided to enact laws. It says that the Congress will make the appropriations of moneys. So let's use our own judgment.

Mr. President, I will not be much longer. I emphasized in my opening remarks on this bill that Congress came together on a bipartisan basis to increase funding for homeland defense programs, and that funding is now making a difference.

I do not understand why my friend from Oklahoma, who offers this amendment, would want to give the President what would essentially be a line-item veto. In other words, he can pick and choose. No, when it comes to defense,

there will be emergencies, but when it comes to homeland defense, nondefense spending, then he can pick and choose. He does not have to call that an emergency.

What do Senators think will happen? The President, in my judgment, will certainly support the making of an emergency on defense moneys, but when it comes to homeland defense, he may or he may not. So why should we give him that authority to pick and choose? The Supreme Court turned down the line-item veto which I opposed on this floor and which several Senators here—Mr. SARBANES and Mr. REID and others—opposed. Now we have it in a different form. This is a kind of line-item veto. The President can pick and choose. I am not for that.

Which programs would the President choose not to make available? The firefighter equipment and training funds? The port security grants? The money for the Coast Guard? The money for the Customs Service to inspect cargo containers overseas when we currently inspect only 2 percent of our imports? Or how about the money for making sure our first responders, our police, our fire and emergency medical care personnel have communications equipment that is interoperable?

The one thing we do know is that the President has already designated as an emergency \$1.6 billion for foreign aid. Why would we want the President to have the authority to use the emergency designation for \$1.6 billion of foreign aid but not require him to designate the homeland defense fund as an emergency?

This amendment is not just about homeland defense. If this amendment were adopted, it would allow the President to not release \$275 million for veterans' medical care. How about that? It would allow him not to release the \$80 million for the Sierra Grande fire victims. How about that? It would allow him not to release \$1 billion for the Pell grant shortfall. How about that? Do we want to give the President that kind of authority? No, not I.

I want to assure all Senators that there is precedent for this language, as I indicated at the beginning of my remarks. I urge all Senators to stand by their priorities, stand by their people back home, and oppose this amendment.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Alaska.

Mr. STEVENS. Madam President, the Senator from West Virginia, our chairman, is correct. I was chairman of the committee at the time we imposed the same requirement on the past President. I have further memories of some of the bills we have passed in which we said the President could not spend specific monies until he had obligated others. We have had ways through our career in appropriations of making certain that the congressional priorities were met as the President executed his powers under the Constitution.

I have another reason for supporting the provisions in the bill. I do say parenthetically I know the House of Representatives has the same feelings as expressed by the Senator from Oklahoma and the Senator from Texas. We are probably going to have to work out some sort of a compromise before the bill is through.

I want a bill that will be signed by the President, but my problem is this: After the disasters of September 11, the President requested funds from the Congress, and he requested \$10 billion—no hearings, no strings attached, just \$10 billion, no accounting whatsoever to the Congress. We granted that. He then also wanted another \$10 billion, and this time we said we would like to know how he was going to spend it, so we agreed that we would get an accounting for those monies after they were spent, which is entirely contrary to existing law and our procedures.

Following that, he asked for more money. As the Senator from West Virginia said, we added \$4 billion to the monies he requested, and that money was in accordance with the normal procedures. Every dime the President asked for was appropriated.

When we look at what we have done this year, we have labored hard over the debate on homeland security. I am delighted to hear the President's proposal tonight about the creation of a new Department of Homeland Security. I think most of us have wanted that from the very beginning. In any event, we have also had some priorities that have come to us from our various States and from people who have been involved in security in the United States for a long time, and they have pointed out a great many things.

One, for instance, is the incompatibility of our communications systems. Our communications systems are not national. As a matter of fact, if we think about it, every function of government—Federal, State and local—in the United States awards the contracts to the lowest bidder. There is no requirement that when they buy radios or any kind of communications equipment, they be able to communicate with the people in the next county, let alone the next State or let alone nationally. We found that out in New York when so many of the fire trucks and ambulances that came into New York could not be used because they could not answer the dispatcher. No one could tell them where to go or what to do.

In hearings, we have discovered from FEMA, the Federal Emergency Management Agency, the horrendous burden we have now of trying to make first responders capable of interacting with anybody who comes to help them. That is something that has not been done so far. We have some money in the bill to start that process.

My point is this: We are entitled to have some say in what is spent now to prevent further emergencies and to deal with those as they come up, God

forbid, when they do come up. I believe we are entitled to say to the President, we have worked with you, we have tried to work with you, but we have some priorities we ask you to recognize and to concur in. If it were not for the fact that we have the necessity of going to an emergency because the existing budget does not allow us any further funds—by that I mean we had a budget for this year, we have fulfilled that budget—any amounts in addition to that now must be by virtue of an emergency. The President himself requested these monies on the basis of an emergency or they were offset partially.

What we are saying in this bill is, after these hearings, after the long debates we have had, both last year and now on this subject, we have some priorities. We want the President to recognize those, and we will allocate the monies we believe should be allocated before we agree to this additional money that he wants.

I know the OMB does not like that. They do not like it any more than I like it every time when we make a change in an appropriations bill, that is called a congressional add-on. That request is something made by an elected representative to the Congress and not made by request from some unknown bureaucratic and the millions of people who work for the Departments. Anything they want comes through, and no one challenges it. No one challenges it at all.

The appropriations process affects about 3 percent of the total budget. Our budget now is about \$700 billion for this year. We change less than 3 percent. In terms of the total budget of the United States, total expenditures, \$1.7 billion, if one looks at it, we do not even control half of that in terms of the appropriations process anymore. The entitlement created by the Finance Committee, the Ways and Means Committee, spent \$1.1 billion this year. We will spend about \$700 billion through the total process of the appropriations, but we are going to change less than 3 percent.

On this bill, we have changed a little less than \$4 billion. Last year, we changed \$4 billion in the bills that were signed.

Now, what is all the hullabaloo about? Are we entitled to have any role in setting the priorities for spending for homeland defense? Are we allowed to have any priorities in terms of spending of the balance of the monies that are available to us through offsets in this year?

I would like to work it out with the bureau of the budget, and I would like to have some accommodation of views. One of the accommodations I want is that if we make a recommendation pursuant to our constitutional powers to spend specific money in a specific way, it is not going to be put aside because it is a congressional add-on but everything that has been requested by

some agency of the Federal Government is going to be spent without any further review.

Of all the monies that come through this Congress, the monies in the supplemental appropriations bill get more attention than anything else. We pass 13 bills, and we pass them usually very quickly. They are pretty well debated among us. But in terms of the items in them, they do not get the attention that the supplemental bills do. The supplemental bills, of necessity, are additions to the current year. We have authorized expenditures and appropriated expenditures for this year. This adds to that amount.

I think the Senator from West Virginia deserves a lot of credit for having stood for the proposition that we should not enlarge this bill beyond the scope that the President will approve. We have had to vote against things that each one of us agrees with. Twice today we voted against things on a point of order that we would like to see approved, but because of our roles we must hold the line and try to get a bill the President will approve.

When we get to conference, we will try to get a bill the President will approve. I know he wants this bill. I know the Nation needs this bill. I regret that it does not have the debt ceiling change in it. I regret that we do not have a provision that establishes some mechanism for handling the 13 bills we have yet to handle in this Congress. We do not have a budget yet. Before we start the process for appropriations, I hope we have it. I hope the Senate will let us take this to conference.

I have said to my friend from West Virginia, the chairman of our committee, I know we want to get the President to sign it and currently his people say he is objecting to this very much.

But in the final analysis, maybe we can select out of this whole bill some of the things that will be available and go back to the old provision we used to use. In other words, he cannot get the money he wants until we obligate the money we want. I did that as chairman several times with a President of a different party.

What is wrong with doing it now when the roles are changed? My friend, as chairman today, has accorded himself with great distinction as chairman of the Appropriations Committee in facing up to the problems we have had today. I intend to stay with him and make a motion to table this amendment.

First, I want to give time to anyone who wants a chance for a rebuttal.

Mr. GRAMM. I don't want to make a rebuttal but try to save the Senate a little time. The only thing I know that remains to be done is a point of order against the bill. I don't think it will change a single vote. If we could agree to let me make the point of order and then have these two votes back to back, we could save people some time—if we wanted to do that.

Mr. STEVENS. That is above my pay grade.

Mr. REID. 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. 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. STEVENS. Madam President, I move to table.

Mr. GRAMM. Will the Senator yield for a unanimous consent request?

Mr. STEVENS. Yes.

Mr. GRAMM. I ask unanimous consent that I be able to make a point of order against the bill and that, when that point of order is made, the Senator from Alaska be immediately recognized to move to table the pending amendment, and that those two votes occur back to back, with the vote on the motion to table to occur first and then the motion to waive this point of order to occur second. By doing it that way we save people some time. Given that it is 9:30, that would probably be welcome.

Mr. BYRD. How much time did we have for making some comments?

Mr. GRAMM. I don't need to make any. If you want to make some comments, you have all the time you need.

Mr. BYRD. I will want to move to waive the Gramm point of order for nondefense emergency in the bill.

Mr. GRAMM. If that unanimous consent request is agreed to, I would go ahead and then make a point of order and the Senator can move to waive it.

Mr. BYRD. Is the Senator going to make any remarks in support of his point?

Mr. GRAMM. I would say we have spoken all day. I think people know what the issue is. This really questions whether everything in the bill is an emergency. It is that simple. As provided in section 205(b) of House Con. Res. 290, I raise a point of order against the emergency designation on the non-defense spending items.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Madam President, I move to waive the Gramm point of order.

Mr. BYRD. Mr. President, I am in opposition to the amendment to strike section 2002 of the bill. Congress should be proud of the lead that it has taken in funding homeland defense programs that will help prevent, detect and respond to potential terrorist attacks. Last year, we acted together on a bipartisan basis and provided \$10 billion for homeland defense programs, \$4 billion more than was requested by the President.

Last December, President Bush threatened to veto the Defense Appropriations bill if it contained funding for homeland defense programs that he regarded as excessive. Last November, Homeland Security Director Tom

Ridge wrote me and said, "no additional resources beyond what the President has already requested are needed at this time."

Yet, as I emphasized in my opening remarks on this bill, the Congress came together on a bi-partisan basis to increase funding for homeland defense programs and that funding is now making a difference. Over 2,200 more INS border agents and Customs inspectors are being hired. The INS is now implementing a system for tracking foreign students in this country. Our police, fire and medical personnel are getting better training and equipment for detecting and responding to potential biological, chemical or nuclear attacks. The FBI is hiring hundreds of new agents. 750 more food inspectors and investigators are being hired. The number of ports with Food and Drug Administration investigators is being doubled. 324 additional protective personnel are being hired to protect our nuclear weapons complex, and additional resources are being spent on efforts to destroy or secure nuclear materials overseas.

I do not understand why the Senator offering this amendment would want to give the President what would essentially be line item veto authority over the homeland defense funds contained in this bill. If this amendment is adopted, the President would be able to completely disregard the priorities contained in this bill.

Which programs would the President choose not to make available, the firefighter equipment and training funds, the port security grants, the money for the Coast Guard, the money for the Customs Service to inspect cargo containers overseas when we currently inspect only 2 percent of our imports, or how about the money for making sure that our first responders, our police, fire and emergency medical care personnel have communications equipment that are interoperable?

One thing we do know is that the President has already designated as an emergency \$1.6 billion for foreign aid. Why would we want the President to have the authority to use the emergency designation for \$1.6 billion of foreign aid but not require him to designate the homeland defense funds as an emergency?

And this amendment is not just about homeland defense. If this amendment were adopted, it would allow the President to not release \$275 million for Veterans Medical Care. It would allow him to not release the \$80 million for the Cerro Grande fire victims. It would allow him to not release \$1 billion for the Pell grant shortfall.

Finally, Mr. President, I want to assure all Senators that there is precedent for this language. In fact, two years ago, the Republican House and the Republican Senate approved substantially the same language on a fiscal year 2000 supplemental appropriations bill for President Clinton. I supported that bill, when the conference

report passed the Senate on a voice vote.

I urge all Senators to stand by their priorities and oppose this amendment.

Mr. STEVENS. Madam President, I move to table the amendment and 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.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Dakota (Mr. DASCHLE), and the Senator from Minnesota (Mr. DAYTON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Colorado (Mr. CAMPBELL), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

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

The result was announced—yeas 58, nays 36, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—58

Akaka	Edwards	Nelson (FL)
Allen	Feinstein	Nelson (NE)
Baucus	Graham	Reed
Biden	Harkin	Reid
Boxer	Hollings	Roberts
Breaux	Inouye	Rockefeller
Burns	Jeffords	Sarbanes
Byrd	Johnson	Schumer
Cantwell	Kennedy	Shelby
Carnahan	Kerry	Smith (OR)
Carper	Kohl	Snowe
Cleland	Landrieu	Specter
Clinton	Leahy	Stabenow
Cochran	Levin	Stevens
Collins	Lieberman	Torricelli
Conrad	Lincoln	Warner
Corzine	Mikulski	Wellstone
Dodd	Miller	Wyden
Dorgan	Murkowski	
Durbin	Murray	

NAYS—36

Allard	Enzi	Kyl
Bayh	Feingold	Lott
Bennett	Fitzgerald	Lugar
Bond	Frist	McCain
Brownback	Gramm	McConnell
Bunning	Grassley	Nickles
Chafee	Gregg	Santorum
Craig	Hagel	Sessions
Crapo	Hatch	Smith (NH)
DeWine	Hutchinson	Thomas
Domenici	Hutchison	Thompson
Ensign	Inhofe	Voivovich

NOT VOTING—6

Bingaman	Daschle	Helms
Campbell	Dayton	Thurmond

The motion was agreed to.

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

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the motion to waive the emergency designation point of order.

Mr. REID. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Parliamentary inquiry: Should this point of order be agreed to, what is the impact on the bill?

The PRESIDING OFFICER. It will be open to a budget point of order.

Mr. GRAMM. Mr. President, parliamentary inquiry: If the point of order should be sustained, would there be a vote on final passage on the bill tonight requiring us to stay here to cast it?

(Laughter.)

The PRESIDING OFFICER. That is probably not an inquiry for the Chair.

Mr. REID. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. BYRD. Mr. President, will the Chair state the question for the RECORD so that all who read it may understand on what we are voting?

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the emergency designation point of order.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Dakota (Mr. DASCHLE), and the Senator from Minnesota (Mr. DAYTON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Colorado (Mr. CAMPBELL), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

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

The yeas and nays resulted—yeas 69, nays 25, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—69

Akaka	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Edwards	Murkowski
Bennett	Feinstein	Murray
Biden	Graham	Nelson (FL)
Bond	Gregg	Nelson (NE)
Boxer	Harkin	Reed
Breaux	Hatch	Reid
Burns	Hollings	Roberts
Byrd	Hutchinson	Rockefeller
Cantwell	Hutchison	Sarbanes
Carnahan	Inouye	Schumer
Carper	Jeffords	Shelby
Cleland	Johnson	Smith (OR)
Clinton	Kennedy	Snowe
Cochran	Kerry	Specter
Collins	Kohl	Stabenow
Conrad	Landrieu	Stevens
Corzine	Leahy	Torricelli
Craig	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden

NAYS—25

Allard	Frist	Nickles
Brownback	Gramm	Santorum
Bunning	Grassley	Sessions
Chafee	Hagel	Smith (NH)
Crapo	Inhofe	Thomas
Ensign	Kyl	Thompson
Enzi	Lott	Voivovich
Feingold	Lugar	
Fitzgerald	McCain	

NOT VOTING—6

Bingaman	Daschle	Helms
Campbell	Dayton	Thurmond

The PRESIDING OFFICER. On this vote, the yeas are 69, the nays are 25. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to, and the point of order fails.

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

The motion to lay on the table was agreed to.

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.

Mr. REID. Mr. President, I yield the floor, without losing my right to the floor, to the Senator from Utah for the purpose of withdrawing an amendment.

The PRESIDING OFFICER. Without objection, the Senator from Utah is recognized.

AMENDMENT NO. 3759

Mr. HATCH. Mr. President, I ask unanimous consent that Senate amendment No. 3759 relating to resources for the Food and Drug Administration be recalled.

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

Mr. HATCH. Mr. President, for many years now, it has been abundantly clear to many of us that one of the most important Federal agencies, the Food and Drug Administration, FDA, is woefully underfunded. It was for that reason that I reluctantly agreed to pharmaceutical user fees in 1992, even though I preferred that safety and efficacy review of new drugs remain a government function.

Integrally related to the operations of the FDA are the agency's facility needs. Studies dating back to 1976 have cited serious deficiencies in FDA's facilities. For example, one 1976 FDA study found that the condition of agency laboratories at five of nine locations were "unacceptable." Another two labs were found to be "marginal," and the remaining two were cited as "generally suitable" with some marginal deficiencies. Many of these deficiencies remain today.

As long ago as 1988, the Labor and Human Resources Committee recognized this fact by approving legislation I authored, S. 2468, the Food and Drug Administration Revitalization Act. Enacted in 1990 as Public Law 101-635, this

law improved FDA's resources in a number of areas, including, most importantly, granting the Secretary and the General Services Administration enhanced authority to modernize and improve FDA's real property needs.

I still recall the motivation for that legislation as if it were today, the shocking reports we read about FDA facilities being scattered across far-flung locations. I remember hearing of renowned scientists literally working in converted chicken coops. More recently, in 1996, one FDA official testified before that Congress that FDA was scattered in more than 40 buildings, many with outdated and unacceptable laboratories, in more than 18 different locations. For an agency that is responsible for one-quarter of every consumer dollar, for an agency that makes decisions that are literally life and death, that was—and is—simply unacceptable.

A number of us, including Senator MIKULSKI and Senator KENNEDY, and on the House side, Representative CONNIE MORELLA, have been working to accomplish a consolidation of the FDA headquarters in one location. It is our belief that this enhanced, state-of-the-art facility will enable the agency to operate more efficiently. In short, we will be enabling agency personnel to do the job that the American people expect of them.

Through the Base Realignment and Closure Act process, the Naval Surface Warfare Center in White Oak, Maryland, was transferred to the General Services Administration (GSA). This property will be used pursuant to the FDA Revitalization Act to consolidate new laboratories, office buildings, and support facilities of FDA's most important functions: the Office of the Commissioner; the Office of Regulatory Affairs; the Center for Drug Evaluation and Research; the Center for Devices and Radiological Health; and the Center for Biologics Evaluation and Research. If there were a dietary supplement center, I feel certain it would go there as well. I was encouraged to learn that, under the most recent plan, 6,235 headquarters personnel would be located in over 2.3 million square feet of office and laboratory space.

Unfortunately, though, our history of financial support for the consolidation is not as promising. For example, by 1994, a total of \$325 million had been provided for the project, but \$228 million of that was rescinded in FY 1995 based on concerns about the scope of the project as well as its location. The current budget only proposes \$5.5 million for FY 2003, delaying the project by an estimated year and resulting in almost \$23 million in increased costs due to commercial lease extensions, delays in design and construction, and the impact on management and inspection of the project.

This delay would have the most adverse effect on the Center for Devices and Radiological Health, CDRH, which occupies seven leased buildings in

Rockville. Efficient operations of CDRH are critically important for my home state of Utah, which is proud to be the home base for literally dozens of thriving medical device manufacturers. They need to be able to count on FDA to maintain its gold standard review of devices to assure the public of their safety and efficacy. This is increasingly hard for FDA personnel to do, given that one of the two device labs is about 40 years old and in need of considerable attention. In fact, I am advised by the GSA that this CDRH lab is in "extensive disrepair". The ventilation system is old and at risk of failure, and the owner has blocked even temporary repairs.

The unfortunate events of September 11 have made this consolidation even more crucial. Many FDA facilities are currently leased and physical security varies by building. The new complex will improve security dramatically, both for current employees, and for the 128 additional headquarters personnel funded by the counter-terrorism appropriation.

In short, I remain discouraged by our lack of progress on this project over the last 15 years or so. I recognize that resources are constrained, but providing the FDA with necessary resources to assure public health and safety is a very important government function that needs to be funded.

In an effort to provide new funds for this project, and to reassure the thousands of FDA employees that we are behind them and their important work, earlier this week Senators MIKULSKI, KENNEDY and I proposed that the record \$500 million settlement resolving quality-control problems at four Schering-Plough factories be devoted to the FDA consolidated headquarters. We believe it is entirely fitting that this pharmaceutical money be used to improve the operations of the FDA, rather than being dispersed into the general receipts of the Treasury.

Unfortunately, it now appears that a budget point of order would be lodged against our amendment, despite its important purpose. Therefore, deferring to the guidance of our colleagues on the Appropriations Committee, and recognizing the administration's serious concerns about the overall costs of the bill, I am reluctantly recalling this amendment. However, I am encouraged that the subcommittee chairman and ranking Republican member have indicated their willingness to work with us during formulation of the FY 2003 Treasury-Postal bill, and we intend to work closely with them to provide this necessary funding in the weeks to come.

The PRESIDING OFFICER. The Senator from Nevada.

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

Mr. REID. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object.

The PRESIDING OFFICER. The Senator from Nevada objects.

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

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, I am sorry; I did not hear.

The PRESIDING OFFICER. The Senator may not reserve the right to object.

Mr. GRAMM. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. I asked unanimous consent the call of the quorum be terminated.

Mr. GRAMM. Fine.

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

Mr. REID. Mr. President, we are going to try to work our way through this in various stages. The first stage is a group of amendments that everyone has agreed to—good guys, bad guys, those in between.

I send this list of amendments to the desk and ask the clerk to read them individually, report them individually.

The PRESIDING OFFICER. The clerk will report the amendments.

AMENDMENT NO. 3676, AS MODIFIED

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. LEAHY, for himself and Mr. MCCONNELL, proposes an amendment numbered 3676, as modified.

Mr. REID. I waive further reading of the amendments.

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

The amendment is as follows:

On page 67, line 19, strike "established" and insert in lieu thereof "committed, in writing, to establish".

AMENDMENT NO. 3677

The legislative clerk read as follows:

The Senator from Nevada, [Mr. REID], for Mr. LEAHY, for himself and Mr. MCCONNELL, proposes an amendment numbered 3677.

The amendment is as follows:

On page 67, line 17, strike "inaugurated" and insert in lieu thereof "elected".

AMENDMENT NO. 3678

The legislative clerk read as follows:

The Senator from Nevada, [Mr. REID], for Mr. LEAHY, for himself and Mr. MCCONNELL, proposes an amendment numbered 3678.

The amendment is as follows:

On page 67, line 15, strike "certify" and insert in lieu thereof "report."

AMENDMENT NO. 3679

The legislative clerk read as follows:

The Senator from Nevada, [Mr. REID], for Mr. LEAHY, for himself and Mr. MCCONNELL, proposes an amendment numbered 3679.

The amendment is as follows:

On page 68, line 12, after "or" insert "United States".



## AMENDMENT NO. 3680, AS MODIFIED

The legislative clerk read as follows:

The Senator from Nevada, [Mr. REID], for Mr. LEAHY, for himself and Mr. MCCONNELL, proposes an amendment numbered 3680, as modified.

The amendment is as follows:

On page 68, line 6, strike "dedicated" and insert in lieu thereof "committed, in writing, to support".

## AMENDMENT NO. 3696

The legislative clerk read as follows:

The Senator from Nevada, [Mr. REID], for Mr. LEAHY, for himself and Mr. MCCONNELL, proposes an amendment numbered 3696.

The amendment is as follows:

On page 63, line 15, strike "or subsequent Acts".

## AMENDMENT NO. 3697

The legislative clerk read as follows:

The Senator from Nevada, [Mr. REID], for Mr. LEAHY, for himself and Mr. MCCONNELL, proposes an amendment numbered 3697.

The amendment is as follows:

On page 60, line 4, strike "and equipment" and insert in lieu thereof "equipment and related assistance".

## AMENDMENT NO. 3698

The legislative clerk read as follows:

The Senator from Nevada, [Mr. REID], for Mr. LEAHY, for himself and Mr. MCCONNELL, proposes an amendment numbered 3698.

The amendment is as follows:

On page 63, line 19, strike "may" and everything that follows through "Initiative" on line 20, and insert in lieu thereof "shall be made available for any of the programs and activities identified in clause (i) to improve the lives of the Colombian people".

## AMENDMENT NO. 3715

The legislative clerk read as follows:

The Senator from Nevada, [Mr. REID], for Mr. LEAHY, for himself and Mr. MCCONNELL, proposes an amendment numbered 3715.

The amendment is as follows:

On page 63, line 12, strike "ownership share of" and insert in lieu thereof "financial interest in".

Mr. REID. Mr. President, I would say to all the Members, these amendments are offered on behalf of Senator LEAHY. I think without exception they have been cosponsored by Senator MCCONNELL.

Mr. LOTT. That is correct.

Mr. STEVENS. That is right.

Mr. REID. As I indicated to the Senators, the two managers approve these amendments, and they have been through the cleansing operation. These amendments have been available for people to look at. One I looked at changes the word "election" to "inauguration," dealing with the matters in Central or South America.

So I think it would be to everyone's best interests—I don't think we need to go through each one of these and debate them. That is because we also know then we are going to ask consent that a list of the managers' amendments on which we have not had general agreement, that we will ask that be sent to the desk after we get this accepted, and then there will be rulings on the germaneness of a number of these that have not been approved.

Ms. LANDRIEU. Mr. President, I have an inquiry.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I wanted to inquire if the Senator would consider amendment No. 3581, to which I believe there is no objection. Although it may not be technically germane, I do not believe there is objection to No. 3581, to add to that list.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I say to my friend from Louisiana, we have been told by the Parliamentarian that is not germane. We would have to pass that and we might have trouble doing that at this time.

Ms. LANDRIEU. I understand that, just as long as we have had opportunity to consider it, is my question.

Mr. REID. I say to my friend, let us adopt a group of amendments. We are going to get to a number of amendments like yours that are nongermane. These have been approved.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. If the Senator will yield, I would say your amendment No. 3581 is on a list that would be given an opportunity to be considered, or acted on in some way, once we get this non-controversial list that was offered agreed to. We are trying to move forward on the process.

Ms. LANDRIEU. I thank the Senator from Mississippi. I understand it has no objection, so I wanted to make sure it would have a chance to come up.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent the amendments that have just been sent to the desk be adopted en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, the amendments are adopted en bloc.

The amendments (Nos. 3676, as modified, through 3680, as modified, 3696, 3697, 3698, and 3715) were agreed to en bloc.

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

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. 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 the order for the quorum call be dispensed with.

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

Mr. REID. Mr. President, I would say to all Members, this is a very important bill. We know that or we would not be working going on the midnight hour. There has been a tremendous amount of work done by staff and by the two managers of the bill. We are now at a stage where the end is in

sight. Just because that is the case, it doesn't necessarily mean we are going to get to the end.

I ask the cooperation of all Members to work with us here a little bit. If there is something we feel strongly about, we will explain to them why the managers, or the subcommittee chairs, other Members did not accept their particular amendment. Of course, the Chair is the one who rules on whether or not they are germane.

So I ask we move through these as rapidly as possible. I yield to my friend, the Republican leader.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. I know the hour is late and Members would like to try to find a way to bring this to conclusion. I know this is not the ideal way to proceed. But I ask Senators at this point to be cooperative.

Many of us might have an amendment or amendments we would like to have included. If they are not germane or they have been objected to one way or the other, there will be other bills. This is not the last opportunity.

I hope we will cooperate at this point with Senator REID and the Members who are involved on both sides and bring this bill to a conclusion. If any Senator starts objecting and insists on votes, the horse is out of the barn and we will never end it.

This is an important bill. We have done good work. It is time to bring it to a conclusion. I hope all Senators will wait for another opportunity if they didn't get their nongermane amendments on this bill.

Mr. REID. Mr. President, this is not normal Senate procedure. Normally in the Senate there is an indefinite time. We have a definite time. This bill is going to end either tonight or at 5:30 tomorrow afternoon. We are going to finish the bill. It is not a question of being able to hold up this bill because this bill is going forward. The President wants it. The two managers worked hard. The House is waiting for it to be brought to conference.

The list of amendments commonly referred to as "the managers' amendment" I know causes people's hair to bristle at the back of their neck. But that is what this is. The managers worked on this for about 7 hours. Senator MCCAIN and Senator GRAMM have been going through it for about 3 hours. The staff has worked. We now have this list that has been culled.

We would like to go through these. There are some to which the respective parties have agreed. Some will fall because they are not germane.

I ask for the cooperation of the two managers of the bill. Senator STEVENS is ready, it is my understanding, to move through these. He has a list of those that have been accepted. He has a list of those that are nongermane.

I ask if the Senator from Alaska is ready to move through this package. Senator BYRD and I have spoken to the ranking member. He has worked with Senators GRAMM and MCCAIN.

Mr. STEVENS. Mr. President, in order to facilitate this, I send to the desk a list of the items that the Parliamentarian has ruled are not germane. I ask the Parliamentarian to examine that and confer. These have been ruled as not germane. There are eight of them.

Parliamentary inquiry: Has the Parliamentarian confirmed that those have been ruled to be not germane?

The PRESIDING OFFICER. That is correct.

AMENDMENTS NOS. 3558, 3581, 3584, 3604, 3625, 3740, 3744, AND 3745, RECALLED EN BLOC

Mr. STEVENS. Mr. President, I will read the list so Senators know what is on the list: amendment No. 3558 by Senator MURRAY; amendment No. 3581 by Senator LANDRIEU; amendment No. 3584 by Senator STABENOW; amendment No. 3604 by Senator HOLLINGS; amendment No. 3625 by Senator COCHRAN; amendment No. 3740 by Senator HOLLINGS; amendment No. 3744 by Senator DURBIN; and amendment No. 3745 by Senator SARBANES. Those are the eight that have been ruled to be nongermane.

It is my understanding that if those amendments were called up and objection was made the Parliamentarian would rule them not be germane and not in order to be considered at this time. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. I ask if any Senator objects if I ask those amendments be withdrawn at this time?

Ms. LANDRIEU. I object.

The PRESIDING OFFICER. Objection is heard.

Is the Senator proposing these amendments? Is there objection?

Mr. STEVENS. Parliamentary inquiry: Is Senator LANDRIEU's amendment, No. 3581, the \$2.5 million requested to eliminate the need to recover funds from States under the Developmental Disabilities Assistance and Bill of Rights Act? Is that the right amendment?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. It is my understanding that the Senator from Texas and the Senator from Arizona object to that. Is that correct?

Mr. GRAMM. That is correct. I object.

The PRESIDING OFFICER. Has the Senator from Alaska offered that amendment?

Mr. STEVENS. Mr. President, I am prepared to offer a request that all of those amendments be withdrawn as they would be knocked down if called up.

I recall those amendments.

The PRESIDING OFFICER. The Senator has asked that those amendments be recalled.

Mr. STEVENS. All eight en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NOS. 3559, 3568, 3591, 3593, 3598, 3602, 3607, 3614, AS MODIFIED; 3615, 3616, 3624, AS MODIFIED; 3631, 3632, 3653, 3656, AS MODIFIED; 3657, 3658, 3665, 3666, 3667, 3669, 3682, 3702, 3716, 3754, AS MODIFIED; AND 3766, AS MODIFIED, EN BLOC

Mr. STEVENS. Mr. President, I send to the desk the list. There is a list of amendments that were proposed by Senators and that were examined by the majority and minority of the Appropriations Committee and which they agreed to accept. Those that sought to review the list had no objection to the amendments on this list. I ask that these amendments be called up and considered en bloc and adopted en bloc.

I am pleased to read the list, in case anyone has any question of what is on it: amendment No. 3559 by Senator HUTCHISON; amendment No. 3568 by Senator NELSON of Florida; amendment No. 3591 by Senator BIDEN; amendment No. 3593 by Senator MCCONNELL; amendment No. 3598 by Senator CLINTON; amendment No. 3602 by Senator TORRICELLI; amendment No. 3607 by Senator BUNNING; amendment No. 3614 by Senator WYDEN; amendment No. 3615 by Senator DASCHLE; amendment No. 3616 by Senator BYRD; amendment No. 3624 by Senator WELLSTONE; amendment No. 3631 by Senator KYL; amendment No. 3632 by Senator KYL; amendment No. 3653 by Senator SESSIONS; amendment No. 3656 by Senator MCCONNELL; amendment No. 3657 by Senator KOHL; amendment No. 3658 by Senator HARKIN; amendment No. 3665, my own amendment, amendment No. 3666; my amendment, No. 3667; my amendment, amendment No. 3669 by Senator KERRY; amendment No. 3682 by Senator KOHL; amendment No. 3702, another amendment that I offered; amendment No. 3716 by Senator LEAHY; amendment No. 3754 by Senator HUTCHINSON; and amendment No. 3766 by Senator CRAIG.

Those are the amendments that have been agreed to. No objection has been raised to date by any Senator.

I ask that this list of amendments, together with modifications that have been filed with the list, and the statements made on each of the amendments by Senators involved be printed in the RECORD. I ask unanimous consent that these amendments be called up en bloc and agreed to en bloc.

Mr. REID. Mr. President, reserving the right to object, there are some amendments on this list that have not been included. As soon as we complete this, we will discuss those, if necessary, one by one.

Mr. STEVENS. There are other amendments that are in sort of an uncertain category.

Mr. LEVIN. Mr. President, reserving the right to object, I have an inquiry of my friend from Alaska. It is my understanding that amendment No. 3657 is not in a dubious category, is germane, and is supported by both managers.

Mr. STEVENS. What is the number?

Mr. LEVIN. Amendment No. 3627. It has to do with flood damage repairs for

six States that both managers have supported—and it is germane—including Missouri, Kentucky, West Virginia, Virginia, Illinois, and Michigan.

Mr. STEVENS. What is the amendment number?

Mr. LEVIN. No. 3627.

Mr. STEVENS. No. 3627, unfortunately, was objected to by two Senators who wish to be heard on it.

Mr. LEVIN. I understand it is a germane amendment which the managers have supported; is that correct?

Mr. STEVENS. It is on another list. It is supported by both managers. And it is germane.

Mr. LEVIN. I thank the Senator.

Mr. STEVENS. But there is an objection to be heard.

Mr. LEVIN. There will be then another list offered?

Mr. STEVENS. There is another list right behind this one. But this is the agreed-to list that we submitted to those who wished to review the managers' package. The managers' package was composed of amendments that had been referred to the subcommittees involved, checked, on a bipartisan basis, by the subcommittees, reviewed by Senator BYRD's staff, my staff, and by the two of us personally, submitted to those who wished to review it, and this is the agreed-to package with no objection to be raised to date to any one of them.

The PRESIDING OFFICER. Is there objection to the amendments?

Mr. GRAHAM. Reserving the right to object for purposes of inquiry.

The PRESIDING OFFICER. The Senator from Florida reserves the right to object.

Mr. GRAHAM. Amendment No. 3747, which has been ruled germane, relates to an emergency for additional U.S. marshals.

Mr. STEVENS. Yes, that is germane. It has the approval of the managers in the subcommittees. There are two Senators who wish to object. That would be subject to debate. It is in that undecided package.

The PRESIDING OFFICER. Is there objection to the package of the Senator from Alaska?

Without objection, it is so ordered. The amendments are adopted.

The amendments (Nos. 3559; 3568; 3591; 3593; 3598; 3602; 3607; 3614, as modified; 3615; 3616; 3624, as modified; 3631; 3632; 3653; 3656, as modified; 3657; 3658; 3665; 3666; 3667; 3669; 3682; 3702; 3716; 3754, as modified; and 3766, as modified) were agreed to, as follows:

AMENDMENT NO. 3559

(Purpose: Technical change)

On pages 6 and 7, strike section 101 and insert the following:

**SEC. 101. ASSISTANCE TO AGRICULTURAL PRODUCERS THAT HAVE USED WATER FOR IRRIGATION FROM RIO GRANDE RIVER.**

(a) IN GENERAL.—The Secretary of Agriculture shall use \$10,000,000 of the funds of the Commodity Credit Corporation to make a grant to the State of Texas, acting through the Texas Department of Agriculture, to provide assistance to agricultural producers in

the State of Texas with farming operations along the Rio Grande River that have suffered economic losses during the 2001 crop year due to the failure of Mexico to deliver water to the United States in accordance with the Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, and Supplementary Protocol signed November 14, 1944, signed at Washington on February 3, 1944 (59 Stat. 1219; TS 944).

(b) AMOUNT.—The amount of assistance provided to individual agricultural producers under this section shall be proportional to the amount of actual losses described in subsection (a) that were incurred by the producers.

(c) EMERGENCY REQUIREMENT.—

(1) IN GENERAL.—The entire amount necessary to carry out this section shall be available only to the extent that an official budget request for the entire amount, that includes designation of the entire amount of the request as an emergency requirement under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.), is transmitted by the President to Congress.

(2) DESIGNATION.—The entire amount necessary to carry out this section is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of that Act (2 U.S.C. 901(b)(2)(A)).

AMENDMENT NO. 3568

(Purpose: To express the sense of the Senate regarding the reorganization of the Federal Bureau of Investigation to conduct counter terrorism activities)

At the appropriate place, insert the following:

SEC. \_\_\_\_ (a) The Senate finds that—

(1) the Federal Bureau of Investigation is the principle investigative arm of the Department of Justice;

(2) the Federal Bureau of Investigation has the authority and responsibility to investigate specific crimes assigned to it, including violations concerning organized crime and drugs, civil rights, violent crimes, financial crimes, counterterrorism, and foreign counterintelligence; and

(3) the mission of the Federal Bureau of Investigation is—

(A) to uphold the law through the investigation of violations of Federal criminal law;

(B) to protect the United States from foreign intelligence and terrorist activities;

(C) provide leadership and law enforcement assistance to Federal, State, local, and international agencies; and

(D) to perform these responsibilities in a manner that is responsive to the needs of the public and is faithful to the Constitution of the United States.

(b) It is the sense of the Senate that—

(1) the reorganization of the Federal Bureau of Investigation is a positive and important response to challenges posed by the increased threat of terrorism and that continued constructive dialog between FBI Director Robert Mueller and Congress will help make the reorganization a success;

(2) the Federal Bureau of Investigation shall continue to allocate adequate resources for the purpose of investigating all crimes under its jurisdiction;

(3) the reallocation of agents and resources to counterterrorism investigations should not hamper the ability of the Federal Bureau of Investigation to investigate crimes involving drugs; and

(4) sufficient homeland security resources should be made available to State and local law enforcement and public safety officials to enable them to meet their responsibilities as the Nation's first responders.

AMENDMENT NO. 3591

(Purpose: To make funds available for the preservation of a commercial manufacturing capability for defense grade nitrocellulose)

At the end of chapter 3 of title I, add the following:

SEC. 307. The Secretary of the Army shall obligate and expend the \$2,000,000 appropriated for the Army by Public Law 107-117 for procurement of smokeless nitrocellulose under Activity 1, instead under Activity 2, Production Base Support Industrial Facilities, for the purpose of preserving a commercially owned and operated capability of producing defense grade nitrocellulose at the rate of at least 10,000,000 pounds per year in order to preserve a commercial manufacturing capability for munitions precursor supplies for the High Zone Modular Artillery Charge System and to preserve competition in that manufacturing capability.

AMENDMENT NO. 3593

(Purpose: To transfer, and merge, Economic Support Fund assistance for Israel with funds appropriated by this Act for "Nonproliferation, Anti-Terrorism, Demining and Related Programs" for activities relating to combating international terrorism)

On page 58, line 10, after "Israel" insert the following: ", all or a portion of which may be transferred to, and merged with, funds appropriated by this Act under the heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs" for defensive, non-lethal anti-terrorism assistance in accordance with the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961".

AMENDMENT NO. 3598

(Purpose: To provide that the local educational agency serving New York City distribute funds in fiscal year 2002 that are in excess of the fiscal year 2001 allocation on an equal per-pupil basis consistent with section 1113(c) of the Elementary and Secondary Education Act of 1965)

On page 89, between lines 3 and 4, insert the following:

SEC. 807. LOCAL EDUCATIONAL AGENCY SERVING NEW YORK CITY.

Notwithstanding section 1124(c)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)(2)), for fiscal year 2002, if the local educational agency serving New York City receives an allocation under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) in an amount that is greater than the amount received by the agency under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for fiscal year 2001, then—

(1) the agency shall distribute any funds in excess of the amount of the fiscal year 2001 allocation on an equal per-pupil basis consistent with section 1113(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(c)); and

(2) each county in New York City shall receive an amount from the agency that is not less than the amount the county received in fiscal year 2001.

AMENDMENT NO. 3602

(Purpose: To require the Federal Aviation Administration to report to Congress on the air traffic controller staffing shortage at Newark International Airport)

On page 101, after line 23, insert the following:

SEC. 1008. Not later than 30 days after the date of enactment of this Act, the Adminis-

trator of the Federal Aviation Administration shall submit to Congress a report—

(1) explaining how the Administrator will address the air traffic controller staffing shortage at Newark International Airport; and

(B) providing a deadline by which the airport will have an adequate number of air traffic controllers.

AMENDMENT NO. 3607

(Purpose: To redirect previously appropriated funds for safe and reliable water services to residents in Kentucky)

On page 111, after line 2 insert the following:

STATE AND TRIBAL ASSISTANCE GRANTS

The referenced statement of the managers under this heading in Public Law 106-377 is deemed to be amended by striking everything after "\$1,000,000" in reference to item 91 and inserting "to the Northern Kentucky Area Development District for Carroll County Wastewater Infrastructure Project (\$500,000), City of Owenton Water Collection and Treatment System Improvements and Freshwater Intake Project (\$400,000), Grant County Williamstown Lake Expansion Study (\$50,000), and Pendleton County Williamstown Lake Expansion Study (\$50,000)".

AMENDMENT NO. 3614, AS MODIFIED

(Purpose: To provide \$500,000 to carry out a West Coast groundfish fishing capacity reduction program)

In lieu of the matter proposed to be inserted, insert the following:

SEC. 210. Of the amounts appropriated in Public Law 107-77, under the heading "Department of Commerce, National Oceanic and Atmospheric Administration, Operations, Research, and Facilities", for Oregon groundfish cooperative research, \$500,000 shall be for the cost of a reduction loan of \$50,000,000 as authorized under sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g) to carry out a West Coast groundfish fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1871a(b)).

AMENDMENT NO. 3615

On page 71, at the end of line 23, strike the "." and insert the following: ". Provided, That the Secretary of Agriculture shall draft and submit to Congress legislation implementing the agreement recently reached between the interested parties including the Department of Justice and the Department of Agriculture, regarding management of the Black Hills National Forest which shall include actions for protection of resources and communities from fire."

AMENDMENT NO. 3616

(Purpose: To express the sense of the Senate regarding avian influenza)

On page 7, after line 12, insert the following:

"SEC. . SENSE OF THE SENATE ON COMPENSATION TO PRODUCERS OF POULTRY AFFECTED BY AVIAN INFLUENZA.

It is the sense of the Senate that the Secretary of Agriculture act expeditiously to provide compensation through the Commodity Credit Corporation to producers of poultry that have been affected by outbreaks of avian influenza in Virginia, West Virginia, and other states which have resulted in the destruction of poultry flocks in order to contain this disease."

## AMENDMENT NO. 3624, AS MODIFIED

(Purpose: To express the sense of the Senate regarding the provision of surplus non-fat dry milk to combat HIV/AIDS, with a special focus on HIV-positive mothers and children)

At the appropriate place, insert:

“SEC. 102. Whereas of the 40 million people living with HIV/AIDS, nearly 2.7 million are children under 15, and 11.8 million are young people aged 15-24, more than 540,000 children were infected in mother-to-child transmission in 2000, and a baby born to an HIV-positive mother has a 25 to 35 per cent chance of becoming infected;

Whereas targeted provision of dairy products for HIV/AIDS mitigation provides an economical and efficient means to strengthen nutrition, ward off infectious diseases and extend the lives of HIV-positive individuals;

Whereas good nutrition including dairy products is critical to programs that provide and enhance anti-retroviral drugs to prevent mother-to-child transmission of HIV/AIDS, and nutrition experts recommend the use of dairy products with anti-retroviral drugs to combat mother-to-child transmission;

Whereas in the diets of young children, growing adolescents and pregnant women, milk has been proven to provide a concentration of critical nutritional elements that promote growth and robust health, and the National Institutes of Health (NIH) recommends that dairy products be used to boost the nutrition of HIV-positive young children.

Whereas it is imperative that attempts to improve the availability of dairy products to the HIV/AIDS afflicted do not undermine the security and stability of the indigenous dairy production and processing sector.

Whereas the United States has more than one billion pounds (450,000 metric tons) of surplus non-fat dry milk in storage that has been acquired at an average cost of over 90 cents per pound for a total cost approaching \$1 billion, and storage costs are \$1.5 million per month and growing;

Whereas this huge amount of milk overhangs U.S. and world markets and deteriorates rapidly, going out of condition in about three years when it must be sold for a salvage value of only a few cents per pound;

Whereas the impacts of breast-feeding on mother to child transmission remain controversial and appropriate interventions are not yet scientifically proven, especially in low-income communities where appropriate alternatives are not available and may be unsafe;

Whereas there is a need for non-fat dry milk in international relief to use in human feeding programs that target the most vulnerable in society, particularly those affected by HIV/AIDS: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the Secretary of Agriculture should—

(A) utilize the existing 416(b) authority of the Agricultural Act of 1949 to dispose of dairy surpluses for direct feeding programs to mothers and children living with HIV/AIDS and communities heavily impacted by the HIV/AIDS pandemic;

(B) Make available funds for the provision of 100,000 metric tons of surplus non-fat dry milk to combat HIV/AIDS, with a special focus on HIV-positive mothers and children, to include ocean and inland transportation, accounting, monitoring and evaluation expenses incurred by the Secretary of Agriculture, and expenses incurred by private and voluntary organizations and cooperatives related to market assessments, project design, fortification, distribution, and other project expenses;

(C) Give careful consideration to the local market conditions before dairy products are

donated or monetized into a local economy, so as not to undermine the security and stability of the indigenous dairy production and processing sector; and

(D) Use none of these funds or commodities in any programs that would substitute dairy products for breast-feeding.

(Purpose: To require the transfer of funds to cover an increase in pay for Border Patrol agents and immigration inspectors and to make certain requirements with respect to the Chimera system and the expenditure of information technology funds by the Immigration and Naturalization Service)

On page 26, between lines 4 and 5, insert the following:

SEC. 210. (a) Subject to subsection (b), the Attorney General shall, out of appropriations available to the Department of Justice made in Public Law 107-77, transfer to, and merge with, the appropriations account for the Immigration and Naturalization Service entitled “Salaries and Expenses” the following amounts for the following purposes:

(1) \$4,900,000 to cover an increase in pay for all Border Patrol agents who have completed at least one year’s service and are receiving an annual rate of basic pay for positions at GS-9 of the General Schedule under section 5332 of title 5, United States Code, from the annual rate of basic pay payable for positions at GS-9 of the General Schedule under such section 5332, to an annual rate of basic pay payable for positions at GS-11 of the General Schedule under such section 5332; and

(2) \$3,800,000 to cover an increase in pay for all immigration inspectors who have completed at least one year’s service and are receiving an annual rate of basic pay for positions at GS-9 of the General Schedule under section 5332 of title 5, United States Code, from the annual rate of basic pay payable for positions at GS-9 of the General Schedule under such section 5332, to an annual rate of basic pay payable for positions at GS-11 of the General Schedule under such section 5332.

(b) Funds transferred under subsection (a) shall be available for obligation and expenditure only in accordance with the procedures applicable to reprogramming notifications set forth in section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (Public Law 107-77; 115 Stat. 798).

(c) Not later than September 30, 2002, the Justice Management Division of the Department of Justice shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives describing the progress made in the development of the Chimera system.

(d) No funds available to the Immigration and Naturalization Service for technology activities in the fiscal year 2003 may be obligated or expended unless the program manager of the Chimera system approves the obligation or expenditure of those funds and so reports to the Attorney General.

## AMENDMENT NO. 3632

(Purpose: To make available funds for the Center for Identification Technology Research at the West Virginia University for the purpose of developing interoperability standards and an application profile for technology neutral, portable, and data independent biometrics)

On page 14, line 19, before the period insert the following: “: *Provided*, That of the amount appropriated under this heading, \$500,000 shall be for the Center for Identification Technology Research at the West Virginia University for the purpose of developing interoperability standards and an ap-

plication profile for technology neutral, portable, and data independent biometrics, in accordance with section 403(c)(2) of The USA PATRIOT Act (Public Law 107-56) and sections 201(c)(5) and 202(a)(4)(B) and title III of the Enhanced Border Security and Visa Reform Act (Public Law 107-173), and the amendments made by those provisions”.

## AMENDMENT NO. 3653

(Purpose: To make available funds to the National Forum Foundation to implement the TRANSFORM Program to obtain available space on commercial ships for the shipment of humanitarian assistance to needy foreign countries.)

On page 69, after line 23, add the following: SEC. 605. Of the amounts appropriated to the President for the United States Agency for International Development (USAID) for the fiscal year 2002 and made available for the Ocean Freight Reimbursement Program of USAID, \$300,000 shall be made available to the National Forum Foundation to implement the TRANSFORM Program to obtain available space on commercial ships for the shipment of humanitarian assistance to needy foreign countries.

## AMENDMENT NO. 3656, AS MODIFIED

(Purpose: To provide a substitute for section 503 (relating to a contract for the construction of a facility for the disposition of depleted uranium hexafluoride on the site of the gaseous diffusion plant at Paducah, Kentucky, and a similar facility on the site of the gaseous diffusion plant at Portsmouth, Ohio)

Strike section 503 and insert the following: SEC. 503. Section 1 of Public Law 105-204 (112 Stat. 681) is amended—

(1) in subsection (b), by striking “until the date” and all that follows and inserting “until the date that is 30 days after the date on which the Secretary of Energy awards a contract under subsection (c), and no such amounts shall be available for any purpose except to implement the contract.”; and

(2) by striking subsection (c) and inserting the following:

“(c) CONTRACTING REQUIREMENTS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law (except section 1341 of title 31, United States Code), the Secretary of Energy shall—

“(A) not later than 10 days after the date of enactment of this paragraph, request offerors whose proposals in response to Request for Proposals No. DE-RP05-010R22717 (‘Acquisition of Facilities and Services for Depleted Uranium Hexafluoride (DUF6) Conversion Project’) were included in the competitive range as of January 15, 2002, to confirm or reinstate the offers in accordance with this paragraph, with a deadline for offerors to deliver reinstatement or confirmation to the Secretary of Energy not later than 20 days after the date of enactment of this paragraph; and

“(B) not later than 30 days after the date of enactment of this paragraph, select for award of a contract the best value of proposals confirmed or reinstated under subparagraph (A), and award a contract for the scope of work stated in the Request for Proposals, including the design, construction, and operation of—

“(i) a facility described in subsection (a) on the site of the gaseous diffusion plant at Paducah, Kentucky; and

“(ii) a facility described in subsection (a) on the site of the gaseous diffusion plant at Portsmouth, Ohio.

“(2) CONTRACT TERMS.—Notwithstanding any other provision of law (except section 1341 of title 31, United States Code) the Secretary of Energy shall negotiate with the

awardee to modify the contract awarded under paragraph (1) to—

“(A) require, as a mandatory item, that groundbreaking for construction occur not later than July 31, 2004, and that construction proceed expeditiously thereafter;

“(B) include as an item of performance the transportation, conversion, and disposition of depleted uranium contained in cylinders located at the Oak Ridge K-25 uranium enrichment facility located in the East Tennessee Technology Park at Oak Ridge, Tennessee, consistent with environmental agreements between the State of Tennessee and the Secretary of Energy; and

“(C) specify that the contractor shall not proceed to perform any part of the contract unless sufficient funds have been appropriated, in advance, specifically to pay for that part of the contract.

“(3) CERTIFICATION OF GROUNDBREAKING.—Not later than 5 days after the date of groundbreaking for each facility, the Secretary of Energy shall submit to Congress a certification that groundbreaking has occurred.

“(e) FUNDING.—

“(1) IN GENERAL.—For purposes of carrying out this section, the Secretary of Energy may use any available appropriations (including transferred unobligated balances).

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in addition to any funds made available under paragraph (1), such sums as are necessary to carry out this section.”

AMENDMENT NO. 3657

(Purpose: To provide for international food assistance)

On page 7 after line 12, insert the following:

SEC. . (a) RESCISSION.—The unobligated balance of authority available under section 2108(a) of Public Law 107-20 is rescinded as of the date of the enactment of this Act.

(a) APPROPRIATION.—There is appropriated to the Secretary of Agriculture an amount equal to the unobligated balance rescinded by subsection (a) for expenses through fiscal year 2003 under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1721-1726a) for commodities supplied in connection with disposition abroad pursuant to title II of said Act.”

AMENDMENT NO. 3658

(Purpose: To enhance support for international food assistance programs)

On page 7 after line 12, insert the following:

“SEC. . Section 416(b)(7)(D)(iv) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(iv)) is amended by striking “subsection.” and inserting in lieu thereof the following ‘subsection, or to otherwise carry out the purposes of this subsection.’”

AMENDMENT NO. 3665

Strike section 806 and inserting in lieu thereof the following new section:

SEC. 806. None of the funds provided by this or any other Act may be used to enforce the amendments made by section 166 of the Community Renewal Tax Relief Act of 2000 on the State of Alaska, including the imposition of any penalties.

AMENDMENT NO. 3666

On page 89, at the end of line 3, add a new section as follows:

SEC. . In the statement of the managers of the committee of conference accompanying the fiscal year 2001 Labor, Health and Human Services, and Education appropriations bill (Public Law 106-554; House Report 106-1033),

the provision specifying \$464,000 for the Bethel Native Corporation worker demonstration project shall be deemed to read as follows: “for the Alaska CHAR vocational training program, \$100,000 and \$364,000 for the Yuut Eliitnavriat People’s Learning Center in Bethel, Alaska for vocational training for Alaska Natives”.

AMENDMENT NO. 3667

Amend title II by adding a new section as follows:

SEC. . In subsection (e)(4) of the Alaska Native Claims Settlement Act created by section 702 of P.L. 107-117—

(a) subparagraph (B) is amended by—  
(1) striking “subsection (e)(2)” and inserting in lieu thereof “subsections (e)(1) or (e)(2)”; and

(2) striking “obligations under section 7 of P.L. 87-305” and inserting in lieu thereof “small or small disadvantaged business subcontracting goals under section 502 of P.L. 100-656, provided that where lower tier subcontractors exist, the entity shall designate the appropriate contractor or contractors to receive such credit”; and

(b) subparagraph (C) is amended by striking “subsection (e)(2)” and inserting “subsection (e)(1) or (e)(2)”.

AMENDMENT NO. 3669

(Purpose: To provide that amounts appropriated for the National Veterans Business Development Corporation in Public Law 107-77 shall remain available until expended)

At the end of chapter 2 of title I, add the following:

SEC. 210. Amounts appropriated by title V of Public Law 107-77 under the heading “NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION” (115 Stat. 795) shall remain available until expended.

AMENDMENT NO. 3682

(Purpose: To allow the closing of certain accounts relating to the Food Safety and Inspection Service)

On page 7, after line 12, insert the following:

“SEC. . Notwithstanding any other provision of law and effective on the date of enactment of this Act, the Secretary may use an amount not to exceed \$12,000,000 from the amounts appropriated under the heading Food Safety and Inspection Service under the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001 (Public Law 106-387) to liquidate over-obligations and over-expenditures of the Food Safety and Inspection Service incurred during previous fiscal years, approved by the Director of the Office of Management and Budget based on documentation provided by the Secretary of Agriculture.”

AMENDMENT NO. 3702

At the appropriate place in the bill insert the text of S. 1713 as ordered favorably reported by the Committee on Governmental Affairs of the United States Senate on May 22, 2002.

AMENDMENT NO. 3716

(Purpose: To require a report setting forth a strategy for meeting the security needs of Afghanistan)

On page 69, after line 23, add the following:

SEC. 605. Not later than 45 days after the date of the enactment of this Act, the President shall transmit to the Committee on Appropriations and the Committee on International Relations of the House of Rep-

resentatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate a report setting forth a strategy for meeting the immediate and long-term security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

AMENDMENT NO. 3754, AS MODIFIED

(Purpose: To restore funding provided for the DEA)

On page 10, strike lines 20 through 24.  
On page 19, line 18, strike “\$35,000,000” and insert “\$48,000,000”.

AMENDMENT NO. 3766, AS MODIFIED

At the appropriate place in Chapter 10, insert:

SEC. . The \$300,000 made available to the State of Idaho under the matter under the heading “JOB ACCESS AND REVERSE COMMUTE GRANTS” under the heading “FEDERAL TRANSIT ADMINISTRATION” in title I of the Department of Transportation and Related Agencies Appropriations Act, 2002 (Public Law 107-87; 115 Stat. 852), shall be deemed to have been made available to the State of Idaho to carry out a job training and supportive services program under section 140(b) of title 23, United States Code.

Mr. REID. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCAIN. Mr. President, I wish to make a couple remarks about the process we are going through right now as we are finishing up. We should not be doing this. This is a managers’ amendment. A managers’ amendment is intended for technical amendments. Now the Senator from Texas and I are causing heartburn for everybody around the Senate who has an amendment they think is worthy.

The amendment should have been brought up and voted on and put in the normal process. Instead, because of the egregious practice that has been going on, I pointed out many times last year, when I said, What is in the managers’ amendment? Nobody knew. There were 32 specific earmarked projects in an appropriations bill.

The Senator from Texas and I decided we wanted to see what was in the managers’ amendment. I have forgotten how many there were—90 to start with, somewhere around 90 amendments to start with. Some of them were \$10 million; some, \$20 million; some, \$50 million; some were \$120 million out of the highway trust fund—all in “managers’ amendments.”

I don't like staying here late at night any more than any of my colleagues do. Why don't we try going through the normal process? An amendment that is worth \$120 million is worthy of debate and voting on, on the floor of the Senate, and not to be included in a managers' package. Then we have to get our staff, the Senator from Texas and I, and make everybody mad because we object to them.

If these amendments had been brought up in the normal procedure, nobody would have been angry because then we would have voted these amendments up or down. Instead, we have now a practice where there is a managers' amendment which in anybody's definition includes technical amendments to the bill where there are huge changes, and many of them policy changes.

I am sympathetic to the Senator from Oregon who wants to keep the search and rescue in the State of Oregon. It is an important issue to him. Where is it? It is in the managers' package, a policy change where we are going to dictate to the U.S. Air Force.

What I hope my colleagues have learned from this, at 20 minutes to midnight on a Thursday night, is that we would go through the normal process, have the amendments considered, vote up or down, the managers' package being purely technical amendments as they are intended, and we wouldn't have this problem that we are in today.

There is enormous heartburn here on the part of some of my colleagues. I understand that. These are important issues to them.

I say to the Senator that this is an important issue, whether search and rescue is available in the State of Oregon at Mount Hood where a disaster took place. Instead, we are supposed to decide the situation on the basis of germane or nongermane. We should not be doing this. I hope the lesson is that we take up amendments and vote on them up or down, and not in a managers' package from now on, which is how it is supposed to be.

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. Mr. President, I think the Senator from Arizona makes good points, and he has made his points throughout the debate. Are we now prepared to complete action on this last list of amendments so we can get to final passage? He has made his point, and is right, but now we have to bring this to a reasonable and quick conclusion. Are we ready to do that?

Mr. GRAMM. Yes.

Mr. STEVENS. I am ready for the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. At the end of the last supplemental, by a clerical error, one of the amendments that was offered by the Senator from New Mexico was clerically left off. We did not discover

that until the next morning. We told the Senator that we would accept that amendment and be sure it was on the next supplemental. Now, we have done that and it has now been ruled not germane. It is amendment No. 3718, and it was arguably not germane. There is an indication now that it is not germane.

I ask the Senate to allow us to keep our commitment to Senator DOMENICI. It would have become law in the last supplemental but for a clerical error.

I ask unanimous consent that we take up amendment No. 3718 and that it be before the Senate for consideration.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object, the amendment is clearly not germane. I don't know what kind of deals were made among the members of the Appropriations Committee. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Mr. President, is there any way to appeal that?

Mr. LOTT. If the Senator will yield, one way is to appeal to the Senator from Arizona. I ask the Senator to reconsider. We have a senior Senator here who is in this position not because of his own fault. He had a commitment made to him by senior members on both sides of the aisle. They are trying to keep that commitment. We should honor that, whether it is Republican or Democrat, no matter where you are from or who it is. I urge the Senator not to object to that request under these conditions. I would be here defending or keeping a commitment to the Senator from Arizona if he were the one involved. I don't know what the subject is, but I ask the Senator to reconsider. I make the request again that it be accepted by unanimous consent, and I make that appeal to the Senator.

Mr. MCCAIN. I object.

Mrs. FEINSTEIN. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. Objection is heard. The Republican leader has the floor.

Mr. LOTT. I yield the floor.

Mr. STEVENS. Mr. President, I had a parliamentary inquiry. Was that matter subject to appeal?

Mr. REID. If the Senator will yield, it is my understanding that post—

The PRESIDING OFFICER. There is no appeal of the objection to the unanimous consent request.

The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I want to make a proposal that I think is reasonable. The Parliamentarian has now ruled on the remaining amendments, as to whether they are germane or whether they are subject to a point of order, which would bring them down, and that is only true in the case of one of Senator BYRD's amendments.

I want to propose that all those that are germane we accept by unanimous

consent and that all those that are not germane fall. They could bring them up, we could raise germaneness. The Chair already ruled they would be struck down. We will have wasted 2 hours of time, and we would end up with exactly the same result. I am not sure if we voted on some of these germane ones they would pass. But it is almost midnight. I want to propose that all of the items on the list that are germane be adopted by unanimous consent or as modified—in the form that the Chair has it—that we adopt them, and those that are not germane we drop, and we would finish our business.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

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.

Mr. REID. Mr. President, we have a list of amendments. We have all gone to the Parliamentarian and gone over them individually. They have looked at these several times to determine whether or not they are germane. I will call up each individual amendment, ask whether or not it is germane, and that will leave some, as the Chair already ruled, and the others will fall.

I ask if amendment No. 3595 offered by the Senator from Rhode Island, Mr. REED, is germane.

Mr. STEVENS. Is the Senator asking consent?

Mr. REID. No.

The PRESIDING OFFICER. That amendment would not be germane.

Mr. REID. That amendment falls; is that right, Mr. President?

The PRESIDING OFFICER. If the amendment were called up, the Chair would rule that it is not germane.

Mr. REID. I make the point of order that it is not germane.

The PRESIDING OFFICER. The amendment is not pending. If the amendment were called up and pending, the Chair would rule that it is not germane.

AMENDMENT NO. 3595

Mr. REID. Mr. President, I call up amendment No. 3595 by Senator REED of Rhode Island.

Ms. LANDRIEU. I object.

The PRESIDING OFFICER. There is no objection in order to calling up an amendment. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. REED, proposes an amendment numbered 3595.

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

The amendment is as follows:



(Purpose: To provide funds to enhance security for public transportation operations)

On page 94, line 19, after "Commerce" insert "Provided further, That, not later than 30 days after the date of enactment of this Act, the Under Secretary for Transportation Security shall report to Congress (1) the amount of Transportation Security Administration funds dedicated to improving public transportation security, (2) the number of full-time Transportation Security Administration personnel engaged in improving public transportation security, and (3) a plan for improving the security of our Nation's public transportation systems".

Mr. REID. Will the Chair rule on the germaneness of that amendment?

The PRESIDING OFFICER. The amendment is not germane.

Mr. DOMENICI. Mr. President, I want to ask my friend a question.

Mr. REID. Mr. President, I will be glad to yield to my friend for a question, without losing my right to the floor.

Mr. DOMENICI. Mr. President, I cannot follow this process. Whatever you say about germaneness or not, I want to bring my amendment up to be discussed. We can take 2 minutes, and then you can do with it what you want. I am not going to stand here and have my amendment possibly disposed of while the process for proceeding is not clear. I have the floor now and—

Mr. REID. You do not have the floor.

Mr. DOMENICI. Can I borrow it from you?

Mr. REID. I have the floor. I know that is tough, but that the rule here.

The PRESIDING OFFICER. The Senate will come to order. The Senator from Nevada yielded for a question.

Mr. REID. I yielded with my right to retain the floor. Nothing unusual is happening. We have a list that we are going to go through with amendments that have been deemed to be non-germane. That will leave those that are germane that we will deal with.

Mr. DOMENICI. My two are not germane. One of them would have been adopted by the Senate but for a clerical error. Are you going to let the Senate listen to that statement?

Mr. REID. I will say that we have heard statements by Senator STEVENS, not only publicly here on the floor, but before the Parliamentarian and a number of other Senators. I believe Senator DOMENICI's cause is just, but the rules of the Senate are going to knock this out.

Mr. DOMENICI. I ask if you would give me 2 minutes right now, and I will not talk anymore.

Mr. REID. I would be happy to yield to my friend, and I will retain the floor following that 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, the Senator from New Mexico is recognized for 2 minutes.

Mr. DOMENICI. I want to say to all of you that what happened to me should not happen to any of you. I have been here almost 30 years. If some of you were here 60 years, I hope it

doesn't happen to you. I don't care why a Senator leaves the floor at the end of a bill, or whether Senator JOHN MCCAIN, who is objecting now, had some reason to leave the floor, or if he didn't like the process and he stomped out of here mad like he does sometimes.

The truth is that a managers' amendment with 20 or 30 managers' amendments in it, with my name on the list, and Senator BINGAMAN, incidentally—Senator BINGAMAN was sitting right over there, and we did not catch it, as the manager read it. We thought it was included in the long list.

We get up the next day and to our surprise, something that we had accomplished, that we thought was very important, was not in the bill and did not get attached, and the conferees said they could not consider it. But they said the next appropriations bill that comes, we will help you.

I could not get help because we entered into an early-on cloture, which we do not do. I should have expected it, but it never happens that early. It happened, and all of us got shut out, and we were urged by our leadership to help with that. I thought we should not. I thought we should wait 2 or 3 days. But the leader asked me, and I said: OK, let's close it down early.

I got closed down, and now I have a Senator or two, because they do not like my amendment, sitting here telling you they do not believe me—that is what they are saying—or they do not believe TED STEVENS who believed me.

Is that what they are saying? I hope they are not saying that. And you can smile if you like, but there is nothing to smile about. It is very serious, and you get a frown on your face like me more frequently than I do.

Excuse me for violating the rules for addressing him in the singular. I should say the senior Senator from Arizona, and I am sorry about that.

The Democratic part of this team from New Mexico could not be here today, or he would stand before you and even tell you he is more in awe than I, when the next day or day after we talked and we said, well, it would get done. No, it is not there. Somebody forgot to put it in. It was all ready. I suggest there ought to be some way to fix this.

I am going to tell you as my time expires, for those who are going to object like this, they better get up early in the morning. They better get here when the appropriations bill comes up because amendments I have in the future are not going to wait around to the end. You are not going to have all this power.

This approach has given you power beyond anything you have, and you are complaining about the processes we have that are inordinate and wrong. It is not right to have one or two Senators who would have had one or two votes but for cloture. That is all they would have had and could not have denied my amendment the way they are

doing tonight with the help of a Parliamentarian who takes the facts not into consideration because he could not. He cannot listen to me. I never said one thing to the Parliamentarian tonight. Your ruling is right or wrong, but I am telling the Senators, it is not right.

I am not going to lose, so you just wake up because the next appropriations bill that comes through here we are going to vote on the Domenici amendment. And I hope you have a lot of people thinking like you do because you are going to lose.

It is going to be a matter of 1 month or 2 months, and this amendment is going to be adopted. And I am going to go to the conference, and it is going to stay in. I thank you for listening and sorry I bothered you. Good night.

Mr. MCCAIN. Point of parliamentary personal privilege since my name was used.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. REID. I say to my friend from New Mexico, I have worked most of my entire career in the Senate shoulder to shoulder with the Senator. We had good fortune to be chairmen and ranking members of the Energy and Water Appropriations Subcommittee, and the Senator from New Mexico has always treated Democrats and Republicans very fairly.

I am disappointed. I understand the reason the Senator from Arizona is objecting. I do not agree. Senator DOMENICI, the senior Senator from New Mexico, I can say from a personal perspective, has always been very fair. I can say this personally. If this happened to someone else—

Mr. MCCAIN. I ask the Senator from Nevada if I can have a point of personal privilege to respond to my name being used?

Mr. REID. He would have gone to the wall. I am disappointed that Senator DOMENICI is not going to be given an opportunity. I will be happy to work with him in the future. I think as well as everybody in the Senate.

I do not think there was anything said that in any way diminished the stature of the Senator from Arizona. I think Senator DOMENICI had a right to object. I ask if we can—

Mr. MCCAIN. Is it your decision to make whether I can respond to statements made about me?

Mr. REID. I will be happy to yield to the Senator from Arizona for 2 minutes without losing the floor.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I guess there is no point in me responding as to whether I should smile or not smile. The reason why I objected to this amendment was not because of frivolous reasons. This amendment was going to expand the eligibility of the airline loan guarantee program to include the manufacturers of small jet

turbo fan aircraft. I am proud to be a member of the Commerce Committee and proud to have worked with Senator HOLLINGS as we, working with the administration and the airline industry, came up with the airline and airport security bill, which was an important piece of legislation, a very vital piece of legislation following September 11.

We considered extending the small airline guarantee program to include manufacturers of small jet turbo fan aircraft at the time of the consideration and the hearings in the authorizing committee, and we rejected that idea. So I certainly objected because we had gone through scrutiny of this issue in the proper authorizing process.

I objected to an expansion of the program without authorization or without a hearing, and I will continue to object to changes in authorizing legislation on which we worked very hard in the committee of jurisdiction. That is the reason why I objected to an expansion of the program which was unwarranted by the legislation that was passed by this body by a vote of 98 to 0. It has nothing to do with my feelings toward Senator DOMENICI or any other Senator in this body.

If I have offended Senator DOMENICI, obviously I deeply regret that. I do have a higher obligation to do what I can to make sure the people I represent are adequately represented and according to my best judgment.

I thank the Chair and Senator REID for allowing me to respond.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, we are now at the point in the proceedings where I think we have a good offer from the Senators from Texas and Arizona. There are certain amendments in this list that have been ruled germane tentatively by the Parliamentarian, and the Chair would rule that way. There are some ruled nongermane.

The proposal is that those amendments that have been ruled germane will in effect be accepted upon voice vote. Those not germane will fall. They will fall anyway. There is nothing we can do if the Parliamentarian rules them nongermane. Then they are gone. There is no need to go through that process.

I ask everyone's patience and cooperation that we accept by unanimous consent the proposal made by the Senator from Texas.

May I have the attention of the Senator from Texas? I would like the attention of the Senator from Texas. It is my understanding the Senator from Texas has said those amendments the Parliamentarian has tentatively ruled as being germane would be accepted; those that are nongermane would fall.

Mr. GRAMM. That is right.

Mr. REID. I ask my friend, on amendment No. 3691, what is the pleasure of the Senator?

Mr. GRAMM. No. 3691: That amendment is, as far as I know, germane.

Mr. REID. It is germane.

AMENDMENTS NOS. 3585, AS MODIFIED; 3596, AS MODIFIED; 3613, AS MODIFIED; 3627, AS MODIFIED; 3691, AS MODIFIED; 3733, 3747, AS MODIFIED; EN BLOC

Mr. REID. Mr. President, I ask that amendments Nos. 3585, as modified; 3596, as modified; 3613, as modified; 3627, as modified; 3691, as modified; 3733, and 3747, as modified, be called up en bloc as being germane amendments.

Mr. STEVENS. As modified.

Mr. REID. As modified.

The PRESIDING OFFICER. Is there objection? Is there objection to the consideration of these amendments en bloc and their adoption?

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, was 3581 included in that?

The PRESIDING OFFICER. No. 3581 was not included.

Mr. REID. It is not on the list at all.

The PRESIDING OFFICER. Is there objection to consideration and adoption of the en bloc amendments that have been listed by the Senator from Nevada?

Without objection, it is so ordered.

The amendments (Nos. 3585, as modified, 3596, as modified, 3613, as modified, 3627, as modified, 3691, as modified, 3733 and 3747, as modified) were agreed to as follows:

AMENDMENT NO. 3585, AS MODIFIED

(Purpose: To provide that certain funds appropriated for the United States Customs Bureau Service be used to reimburse State and local law enforcement agencies that have provided Federal assistance to personnel along the Northern Border)

On page 102, line 15, after "amended" insert: "Provided further, That \$10,000,000 is authorized for reimbursing State and local law enforcement agencies that have provided necessary Federal assistance to personnel of the United States Customs Service, along the Northern Border of the United States".

AMENDMENT NO. 3596, AS MODIFIED

On page 79, after line 6 insert the following new proviso:

CENTERS FOR MEDICARE AND MEDICAID SERVICES

PROGRAM MANAGEMENT

"Provided further, That of the funds made available under this heading in Public Law 107-116, \$3,000,000 shall be awarded to the Johns Hopkins School of Medicine for activities associated with an in-home study of self-administered high frequency chest oscillation therapy for patients with chronic obstructive pulmonary disease".

AMENDMENT NO. 3613, AS MODIFIED

(Purpose: To provide for the transition of the naval base on Schoodic Peninsula, Maine, to utilization as a research and education center for Acadia National Park)

On page 37, between lines 2 and 3, insert the following:

SEC. 307. Not later than 15 days after the date of the enactment of this Act, the Secretary of Defense shall obligate, from funds made available in title II of division A of Public Law 107-117 under the heading "Operation and Maintenance, Defense-Wide" (115 Stat. 2233), \$4,000,000 for a grant to support the conversion of the Naval Security Group,

Winter Harbor (the naval base on Schoodic Peninsula), Maine, to utilization as a research and education center for Acadia National Park, Maine, including the preparation of a plan for the reutilization of the naval base for such purpose that will benefit communities in the vicinity of the naval base and visitors to Acadia National Park and will stimulate important research and educational activities.

AMENDMENT NO. 3627, AS MODIFIED

Strike page 48, line 18, through page 49, line 6 and insert in lieu thereof:

"For an additional amount for "Operation and Maintenance General", \$32,000,000, to remain available until expended: *Provided*, That using the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to repair, restore, and clean-up Corps' projects and facilities and dredge navigation channels, restore and clean out area streams, provide emergency streambank protection, restore other crucial public infrastructure (including sewer and water facilities), document flood impacts and undertake other flood recovery efforts deemed necessary and advisable by the Chief of Engineers: *Provided further*, That \$10,000,000 of the funds provided shall be for Southern West Virginia, Eastern Kentucky, and Southwestern Virginia: *Provided further*, That the remaining \$22,000,000 is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That these additional funds shall be available for Western Illinois, Eastern Missouri, and the Upper Peninsula of Michigan."

AMENDMENT NO. 3691, AS MODIFIED

(Purpose: To provide an additional amount for Emergency Relief Highways)

On page 97, line 19, strike "\$200,000,000 are rescinded." and insert:

\$320,000,000 are rescinded.

FEDERAL-AID HIGHWAYS  
EMERGENCY RELIEF PROGRAM  
(HIGHWAY TRUST FUND)

For an additional amount for the "Emergency Relief Program", as authorized by 23 U.S.C. 125, \$120,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That the amount made available under this paragraph shall be used solely for eligible but uncompensated applications pending as of May 28, 2002, including \$13,411,000 for projects in the State of Washington stemming from the Nisqually earthquake and other disasters, and up to \$12,000,000 for emergency expenses to respond to the May 26, 2002 Interstate 40 bridge collapse over the Arkansas River in Oklahoma.

AMENDMENT NO. 3733

(Purpose: To set aside funds for certain National Guard activities)

On page 37, between lines 2 and 3, insert in the following:

SEC. 307. Of the amount available for fiscal year 2002 for the Army National Guard for operation and maintenance, \$2,200,000 shall be made available for the Army National Guard for information operations, information assurance operations, and training for such operations.

AMENDMENT NO. 3747, AS MODIFIED

(Purpose: To provide funding for the United States Marshals Service to provide Deputy United States Marshals for Federal districts with critical courtroom and prisoner security needs)

At the appropriate place in the bill insert the following:

SEC. 210. Of the funds made available under the heading "Courts of Appeals, District Courts, and Other Judicial Services, Salaries, and Expenses" in title III of Public Law 107-77, 37,900,000 shall be transferred to, and merged with, funds available for "Salaries and Expenses, United States Marshals Service" in title I of Public Law 107-77, to be available until expended only for hiring 200 additional Deputy United States Marshals and associated support staff for protection of the judicial process in response to the terrorist attacks of September 11, 2001 to be deployed to the Federal districts with critical courtroom and prisoner security needs.

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

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I ask whether the remaining amendments fall? I ask the Republican leader, is there any need to do more? I think we should move to third reading.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. The point is being made that the remaining amendments have been ruled to be nongermane. Therefore, they automatically would fall. There is no appeal or vote on that, and therefore we should proceed to third reading and pass the bill.

Mr. NICKLES. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. NICKLES. I ask my colleagues from—

The PRESIDING OFFICER. The Republican leader has the floor.

Mr. LOTT. Mr. President, I do know that Senator GORDON SMITH and Senator WYDEN of Oregon have an amendment they were concerned about. Their amendment would fall as nongermane, but if they would like to make a point at this time I think we would have to give them that opportunity.

Mr. NICKLES. Will the Senator yield for a moment?

Mr. LOTT. I yield.

Mr. NICKLES. They would have the right to ask unanimous consent for the amendment to pass. If there is no objection, the amendment would be adopted. If someone raises a point of order on germaneness, their amendment would fall.

Mr. REID. Would the Republican leader yield?

Mr. LOTT. I would be happy to yield.

Mr. REID. Senator ENZI also wishes to make a statement. It is midnight and tomorrow is another day. People can prepare statements and put them in the RECORD and say whatever they want to say. I have been pretty nonchalant throughout the last several days, but I will tell everybody that I am going to object personally to any other amendments at this stage, and I think there are a lot of people who will join with me.

We are through with this legislation. Let us get to third reading and get it over with.

Mr. GRAMM. Will the Senator yield?

Mr. REID. I would—

Mr. LOTT. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Republican leader has the floor.

Mr. LOTT. I will yield.

Mr. GRAMM. I was going to ask, is what we agreed to that we were going to take all the germane ones and drop the nongermane ones?

Mr. LOTT. That is what we have done.

Mr. REID. That is right.

Mr. LOTT. Mr. President, I will yield the floor so others can be recognized.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, parliamentary inquiry: If we go to third reading, are we not still under cloture? Could Members not make statements up to their eligible time before the bill is called up for actually a final vote?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. My suggestion is we go to third reading and let people talk and find out when you want to have the final vote.

Mr. REID. Will the Senator from Alaska yield?

Mr. STEVENS. Yes.

Mr. REID. Tomorrow is another day. We will pass the bill and people can come and talk all day tomorrow if they want.

Mr. STEVENS. Either way. I think Members are still entitled to their time on cloture.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I want to make a very brief point. If my colleague from Arizona, Senator MCCAIN, would listen, I say to the Senator, a while back he talked about a managers' amendment should be purely technical amendments. I wanted to make a point. The arbitrary distinction of nongermaneness at this late hour is something I think is going to throw away some amendments that should have been adopted. An amendment, for example, that I offered, 3689, was offered prior to cloture. It is purely technical, has no money attached to it, is out of previously appropriated funds that deals with two transmission studies. It corrects an error that existed in prior legislation. So it is purely technical and no one would argue it is not technical. Creating an arbitrary distinction of saying those things that are nongermane shall not be considered means that those small issues I have offered previously, for example, in this amendment, that was approved by both the minority and the majority, they said to me, yes, this is fine, we accept the amendment, this kind of an amendment that is purely technical now falls because of an arbitrary distinction that we say nongermane amendments are gone.

I only want to make the point to my friend from Arizona, I agree with him on a lot of issues but this clearly is technical; it is clearly something that

should be a part of the managers' package and was agreed to by both the majority and minority and now is going to fall under this arbitrary distinction at midnight. I do not think that is fair.

Mr. MCCAIN. I am in sympathy with the Senator. I voted against cloture. It was your leader who filed cloture and we voted on it long before I wanted cloture to be invoked. You would not have that problem if it had not been for your leadership that filed cloture at the earliest I have ever seen on an appropriations bill.

I am in sympathy and would like to work with the Senator to get this worthwhile technical amendment approved.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, to try to assist Senator REID in bringing this to a conclusion—

Mr. DORGAN. Mr. President, I thought I yielded to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from North Dakota still has the floor.

Mr. DORGAN. I understand the point the Senator made. I was only making the point if, in fact, the managers' amendment is for technical amendments, really purely technical amendments, and I offered this prior to cloture, was told by the majority and the minority, yes, we accept it, there is no problem, this is not spending money, it is spending previously appropriated money, a total of \$400,000, and deals with an error when, in fact, the distinction on the nonreimbursable portion of it should be in bill language, or the managers' language, which is where it was, this corrects that. It is exactly what, in my judgment, the Senator said ought to be in the managers' package. I hope the Senator will reconsider at least on 3689 and allow this to be put in the managers' package this evening or allow it to be approved this evening.

Mr. President, I would make that request to ask if my two colleagues would agree to that—I know they have reviewed it. The majority and minority have reviewed it and have approved it. It is not spending a dime. It simply corrects an error. I would hope very much that they would agree to approve this amendment.

My point is this, an arbitrary distinction of nongermane at this point is unfair to those who offered their amendments prior to cloture. I understand the point my friend from Arizona made about cloture, but I hope he understands that those of us who came prior to cloture, offered our amendments and were told by the Republican and the Democratic leaders on the floor, yes, we accept it, it is a good amendment, we approve it, at that point I would have expected that this amendment would be approved and not now at midnight be objected to by someone on the floor of the Senate.

So I again ask if we might have some cooperation at least on an amendment

that was approved previously by everyone in the Senate, to my knowledge prior to cloture?

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Will the Senator yield the floor?

Mr. DORGAN. Well, I am asking consent if my colleagues might not agree to include 3689. The Republicans and the Democrats have previously accepted it. It does not spend a dime. Can we not, with respect to this distinction, agree to accept this amendment?

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Yes, I am going to have to object. The point is the way we got—

The PRESIDING OFFICER. The objection is heard.

Mr. GRAMM. The way we got—

Mr. DORGAN. Mr. President, do I still have the floor?

The PRESIDING OFFICER. The Senator from North Dakota retains the floor.

Mr. REID. The objection has been heard. Is that right?

Mr. DORGAN. I understand objection has been heard. I still have the floor.

The PRESIDING OFFICER. Objection has been heard.

Mr. DORGAN. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. Again, let me make the point that coming to this point in time and saying that the amendments that the Parliamentarian says are not germane represents some distinction that has relevance when we have offered these prior to cloture, I understand technically why this is being done but substantively it is unfair, in my judgment.

The Senator talks about the unfairness of coming to the end of this process and having a managers' package that has a bushel of paper attached to it. There is another unfairness that exists as well, and that unfairness is being perpetrated by those who come to the floor and create artificial distinctions at the twelfth hour and they say, oh, now, by the way, something that has previously been approved to we object to, especially in circumstances where we thought this amendment had already been approved. I think we can get by with this once, but it will not happen again, in my judgment, because there are other ways to deal with it.

I say to my colleague from Texas, I think it is unfair. He has a right to object, of course, but I think it is unfair, and I hope he will not ask similar consideration some day.

Mr. GRAMM. Will the Senator yield?

Mr. DORGAN. Of course I will yield.

Mr. GRAMM. The way we were able to draw the delineation at the end of business tonight was the decision that we would take all the germane amendments and we would drop all the non-germane amendments. The problem is, when we take that delineation and

start making exceptions, then everybody gets unhappy.

Mr. DORGAN. Yes. Mr. President, exceptions will require some judgment I agree, but the migraine headache around here for a number of people has been that managers' packages include things other than technical amendments. My point is, this amendment is technical, has been agreed to by everybody, was offered precloture. I understand it would require some judgment, amendment by amendment, to deal with these, but it seems to me that is why we are here. But if the objection stands, I guess I accept that. We will be back, and I guess we will pass it at some point in the future.

I will make the final point. I do not think we ought to be here again on some future bill having just a couple of people deciding what they are going to accept, even in circumstances where purely technical amendments which have been approved previously by Republicans and Democrats in the Senate are going to fall.

I yield the floor.

Mr. LOTT. In an effort to try to facilitate what needs to be done to bring this to a conclusion, I will yield 1 minute to two or three Senators who feel a need to say a few words, but I retain the floor. Then we will move to a third reading immediately after that.

Without losing my recognition on the floor, I yield to the Senator from Oregon 1 minute.

Mr. SMITH of Oregon. I thank Senator LOTT.

Mr. President, a lot of Members went the route of the managers' amendment because we like to accommodate the requests of our appropriators, and to be accommodating to them we did not bring it up. Frankly, I have just learned a lesson here: I have to force a vote during the course of this bill. I have relied upon the good faith of TED STEVENS—and his faith is good. He stood by me the whole time.

RON WYDEN and I are talking about a national emergency that we think exists in our area. You saw on national TV an Air Force Reserve helicopter crash trying to save nine people, all but three of whom lost their lives. The day before, they saved a person on Mount Rainier. This is almost a daily occurrence. The Air Force proposes to move away from the Northwest. We need it there. We need it there. When we have the chance to bring this issue up again in another context, I hope you will remember us. It is one of the few military assets the State of Oregon has at all.

Mr. LOTT. Without yielding the floor, I yield 1 minute to Senator WYDEN.

Mr. WYDEN. Two points. First, the position Senator SMITH and I have tried to convey will cost the taxpayers no money, but what Senator MCCAIN is talking about will cost taxpayers money. Second, there are no objective criteria for the project. There would be if the Smith-Wyden proposal went for-

ward because we laid out basic criteria for dealing with life in Oregon. These people are saving lives. That is what people all over this country saw on national TV.

Now, without any objective criteria and in a way that will cost taxpayers money, we are not even having a chance to debate a bipartisan amendment. That is regrettable. We ought to be following the example that Chairman BYRD and Senator STEVENS have followed. That is what Senator SMITH and I have tried to be a part of. We will be back on this floor again and again and again. Let us put the Senate on notice. We are going to stay here all the way through this session until this gets done.

Mr. LOTT. I propose to recognize the Senator from Wyoming for 1 minute and then the Senator from Louisiana for 1 minute, and then I am prepared to yield the floor for third reading.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 1 minute.

Mr. ENZI. I thank the Parliamentarian for spending a couple of hours today helping me understand the difference between nongermaneness under cloture and nongermaneness on bills that are not under cloture. It is a very difficult distinction, and I can appreciate the work done.

I have been trying to get livestock assistance for all the people in the third year of drought in the West. It is extremely critical.

Mr. President, I wish to discuss the Enzi-Grassley-Hagel amendment No. 3737 to H.R. 4775, the supplemental appropriations bill. This effort seriously acknowledges the plight of our farmers, ranchers and works to ensure the future of our rural communities by providing an avenue of desperately needed assistance.

Our amendment funds the Livestock Assistance Program for disaster experienced in 2001 by reinstating the farm bill payment limitations passed by the Senate in February 2002.

One of the most difficult responsibilities we all have as Senators is prioritizing the targeting of a very limited set of resources. Just as a firefighter prioritizes by deciding which homes to save and which are already on the edge of destruction, or a doctor faced with an emergency or disaster reviews the wounded to determine who most needs his help, we are often called upon to make difficult and important decisions that at times may be highly unpopular. This is one of those times our choice may be difficult and demanding, but it is also very, very clear.

Just as that firefighter and the doctor need to make decisions that have a tremendous impact on lives and livelihoods, our amendment makes a similar priority decision that the farm bill conference failed to make. This amendment is all about taking care of the folks back home in times of trouble. Without the assistance provided under this amendment, the Congress is clearly deciding who will be the winners and

who will suffer the consequences of being the losers. I encourage my colleagues to think about the current structures of the farm bill and how it pits neighbor against neighbor. The farm bill perhaps unintentionally set the winners and condemned the losers to lose in the marketplace. It set up a scenario in which one homestead's rent will be paid and the children in another home will end up watching their belongings go to the highest bidder in an auction.

Wyoming livestock producers are facing a third year of drought. In response, some have begun liquidating their stock while others face the loss of their homes. Just days ago, USDA Secretary Ann Veneman declared all but three Wyoming counties primary and secondary disaster areas for 2002. That's an important step, but the amendment before us was written to address the 2001 disaster year! Producers that sold or reduced their herds in the first year of the drought have been unable to buy replacements. The 2-year tax relief provision available to offer short-term relief from forced sales will soon run out. Now even more producers are being forced to sell their livestock in irrational markets due to the prohibitively expensive price of hay and their ejections from drought-stricken public grazing lands.

A forced livestock sale significantly decreases a rancher's future profitability because it decreases the number of production units, sheep and cattle on the ranch. A forced sale also dilutes genetic quality. Many ranchers utilize stringent genetic improvement plans to differentiate their product. A forced sale can flush years of careful record keeping and genetic improvements out through the sale barn in 1 day.

In its refusal to acknowledge this grave disaster, the farm bill conference report did not accurately represent the priorities of the Senate. It did not fund emergency disaster assistance to the Nation's livestock producers and it included a payment limitation that favors the corporate producer over the family farmers and ranchers who make this country great. Our amendment reinstates the Senate's position on payment limitations on farm bill payments and uses the savings to offset emergency feed assistance to livestock producers for drought disaster.

The Livestock Assistance Program is a program available to livestock producers in counties that have been declared disaster areas by the President or Secretary of Agriculture. It provides minimal financial relief to livestock producers that are experiencing livestock production loss due to drought and other disasters—but only if there is money in the fund. Once LAP is funded, producers apply for relief and a formula splits the available monies accounting to their needs. It assists all producers who qualify, but the extent of the assistance that is available is limited by the program funding and the number of applicants. The more appli-

cants there are across the country, the smaller the individual payment.

In fiscal year 2001, the Livestock Assistance Program was funded at approximately \$430 million for fiscal year 2000 drought assistance. In Wyoming, 933 producers received \$7,752,029 in assistance from those funds at an average of \$8,313 per producer. Nationally, it provided assistance to about 186,000 producers at 88 percent of their grazing loss for drought and other disasters experienced in 2000. The need was similar in 2001, but the program was not funded in appropriations.

The farm bill conference report did include an amendment I offered to authorize the livestock feeding assistance. With its passage, the Secretary of Agriculture now has the authority to use that program to provide assistance to livestock producers. The program is no longer ad hoc. Using this authorization and funding from the Enzi-Grassley-Hagel amendment, Secretary Veneman will be able to initiate and deliver feed assistance to livestock producers.

As a fiscal conservative, the last thing I want to do is further increase supplemental spending over the administration's request. Rather than advocate additional emergency spending, we have worked within the parameters of the President's request to fund this urgent need without using new monies. We are doing this by using an offset the Senate has already approved by rollcall vote.

On February 7 of this year, the Senate voted in support of farm bill payment limitations 61-33. The amendment limited total dollar payments to an average of \$250,000. The farm bill conference report too generously increased the limitation to \$360,000.

It is important to ensure federal agricultural aid is available to those who need it most. My personal philosophy supports targeting federal assistance to the neediest farmers and those with greatest risk of losing their livelihoods. I have difficulty accepting the notion that farmers require assistance to the tune of \$360,000 when I know there are struggling ranchers in Wyoming and other cattle states that receive almost nothing. The Enzi-Grassley-Hagel amendment equalizes this wide gap in farm bill payments and directs federal agricultural aid to ranchers in dire need.

Farm Bill payments were not intended to subsidize every acre of every farm nor every bushel produced. The American taxpayer should not be asked to keep large corporations or weekend hobby farmers in silk overalls and gold-plated pitchforks. Farm assistance was intended for and must continue to be directed at small and medium producers, family farmers who truly need help. Our rural communities depend on farms and the farms, in turn, depend on their communities. Too many small farms are not receiving the assistance that is needed while large multi-million dollar corporations con-

tinue to receive federal funds for every acre they take over. Payments to large corporations have nothing to do with good farm policy but good farm policy has everything to do with family farms.

In Wyoming, farmers, ranchers, and communities as a whole are struggling through yet another year of drought and another year of fear and endless worry. Will we hear them? Will we respond with good farm policy that will assist those in need and keep people on the farm? It is a difficult task but it is our responsibility to set priorities and save our neighbors from ruin. We can do that by equalizing the gap in farm bill payments so we can provide direct aid to ranchers in real need. That is what the Enzi-Grassley-Hagel amendment does and it's what the American people expect us to do.

By supporting our amendment, you are again casting a vote accepting farm bill payment limitations. You are bolstering your earlier votes to provide sorely needed drought relief to livestock producers largely ignored in the farm bill conference report. The choice is simple and has already been made.

I hope the leaders will propound a unanimous consent that allows these amendments to be brought up, statements to be placed in as though given live, and then withdrawn, so we can make sure we have statements in the RECORD. That would save time.

Mr. LOTT. I yield to Senator LANDRIEU.

Ms. LANDRIEU. I appreciate the patience of this body. The reason I have been tenacious about this is that this amendment affects 37 States. It is a technical correction to disability councils. The Senator from Texas and the Senator from Arizona, because of rule XXVIII, there is no way to correct this. It is a technical amendment. If it is not fixed tonight, it will not get fixed; it cannot be fixed at conference and will affect 37 States. These are not huge amounts of money, but these councils do not have a lot of money for the disability councils in 37 States.

It was passed and agreed to by the managers and ranking members. Again, because of the germaneness issue, we have been left out, which is unfortunate.

I thank you for your patience, but I wanted to clarify this amendment.

The supplemental appropriations bill includes authorizing language that will address a technical error in the Developmental Disabilities Assistance and Bill of Rights Act of 2000. The language will reestablish a hold harmless provision that was included prior to its inadvertent omission from the reauthorizing bill enacted in 2000.

The bill also includes \$2.5 million for this purpose. However, this additional budget authority is fully offset by a reduction in funding for NIH buildings and facilities.

This amendment is needed to address the funding formula error recently identified by the Department of Health

and Human Services. For the past 2 years, the Department of Health and Human Services allocated funds to states councils on developmental disabilities as if a hold harmless provision still was in effect. In fiscal year 2001, this error caused 17 councils to receive higher grant awards than allowed under the statute. Last year, 23 councils were overpaid. The additional funding provided in this amendment will hold these states harmless from reductions.

Senator KENNEDY and Senator GREGG, the chairman and ranking member of the Committee on Health, Education, Labor, and Pensions are supportive of this technical change.

The amounts for 37 states are as follows:

- (1) For Alabama, \$91,709.
- (2) For Alaska, \$3,626.
- (3) For Arkansas, \$25,849.
- (4) For Colorado, \$36,547.
- (5) For Connecticut, \$126,810.
- (6) For Delaware, \$3,626.
- (7) For the District of Columbia, \$3,626.
- (8) For Hawaii, \$3,626.
- (9) For Idaho, \$3,626.
- (10) For Illinois, \$119,542.
- (11) For Indiana, \$15,537.
- (12) For Iowa, \$120,529.
- (13) For Kansas, \$12,297.
- (14) For Kentucky, \$90,248.
- (15) For Louisiana, \$219,989.
- (16) For Maine, \$3,626.
- (17) For Massachusetts, \$107,858.
- (18) For Mississippi, \$68,539.
- (19) For Missouri, \$1,166.
- (20) For Montana, \$3,626.
- (21) For Nebraska, \$9,104.
- (22) For Nevada, \$3,626.
- (23) For New Hampshire, \$3,626.
- (24) For New Jersey, \$2,530.
- (25) For New York, \$631,640.
- (26) For North Dakota, \$3,626.
- (27) For Ohio, \$130,898.
- (28) For Oklahoma, \$39,826.
- (29) For Pennsylvania, \$400,847.
- (30) For Rhode Island, \$3,626.
- (31) For South Dakota, \$3,626.
- (32) For Tennessee, \$27,398.
- (33) For Texas, \$25,633.
- (34) For Vermont, \$3,626.
- (35) For West Virginia, \$221,412.
- (36) For Wisconsin, \$13,861.
- (37) For Wyoming, \$3,626.

Mr. REID. It is my understanding further debate on this matter is ended.

Mr. ENZI. Would the leader consider propounding a request to put statements in the RECORD?

Mr. REID. Senator ENZI asked that Members desiring to place statements in the RECORD be allowed to do so.

The PRESIDING OFFICER. Without objection it is so ordered.

#### FEDERAL TRANSIT ADMINISTRATION

Mr. SCHUMER. Mr. President, I would like to take a moment to thank Senators BYRD and STEVENS for their stewardship of this Supplemental Appropriations Bill for Fiscal Year 2002. Their stalwart support of September 11 recovery efforts has substantially benefited millions of Americans, and I support their efforts wholeheartedly.

Mr. President, Senator CLINTON, Senator TORRICELLI, Senator CORZINE and I would like to take a moment to engage our colleague in a colloquy.

Mr. BYRD. I thank my colleague for his kind words and would be happy to engage in a colloquy with the Senators from New York and New Jersey.

Mrs. CLINTON. Mr. President, the events of September 11 had a disastrous effect on Lower Manhattan's mass transit infrastructure. The Metropolitan Transportation Authority serves roughly one third of the entire Nation's commuters. Twelve of its subway stations below Chambers Street were incapacitated as a direct result of the attack, and the current, damaged state of the MTA's systems affects many of its 360,000 riders each day.

Mr. TORRICELLI. Mr. President, my own State of New Jersey was severely impacted by the disruption to major transportation systems caused by the terrorist attacks. Before September 11, 66,000 New Jersey residents had commuted daily to Lower Manhattan through the World Trade Center PATH Station. The loss of this station has severely strained many of New Jersey's rail, bus, and ferry systems, which will continue to operate above capacity for the foreseeable future.

Mr. CORZINE. Mr. President, providing steady and reliable transportation for workers into and out of New York City is vital to the economic recovery of the region. We are pleased that the Committee has provided \$1.8 billion that will be dedicated solely to rebuilding the infrastructure connecting New York and New Jersey residents with Lower Manhattan.

Mr. SCHUMER. Mr. President, this funding will be directed to the construction of a new intermodal station, which is a critical component of the recovery effort for the New York Metropolitan Area. Such a facility will be essential not only to the residents and employees based in Lower Manhattan, but for the thousands of families who will visit whatever memorial will be erected in memory of those men and women who were killed in the attack on the World Trade Center.

Mr. BYRD. I thank my colleagues for their thoughts on this matter, and am gratified that we are able to provide such critical support for this intermodal transportation center.

#### CHEMICAL DEMILITARIZATION

Mr. BAYH. Mr. President, the Senators from Maryland, Senators SARBANES and MIKULSKI and I would like to engage the chairman of the Defense Appropriations Subcommittee, Senator INOUE, in colloquy on funding for the chemical demilitarization program.

I rise today to express my strong support for funding to be included in the Emergency Supplemental Appropriations bill to accelerate the destruction of chemical weapons stored at U.S. Army facilities. Following the tragic events of September 11, I worked with a number of my colleagues, including Senators MIKULSKI and SARBANES of Maryland, in urging the Army to find alternative methods for accelerating the disposal of our Nation's chemical weapons stockpile consistent with the

highest safety and environmental standards. Since that time, the Army has come forward with proposals to accelerate the neutralization of chemical weapons stored at the Newport Chemical Depot in my home State, and the Aberdeen Proving Ground in Maryland. There are presently 1,269 tons of VX agent located at Newport, and 1,621 tons of bulk mustard agent stored at Aberdeen. Let us be clear, the nearly 3,000 tons of chemical agent stored at these two sites poses a dangerously attractive terrorist target and a grave threat to millions of citizens.

The Army has plans to accelerate disposal of these chemical agents by more than 2½ years but needs additional funds for the remainder of fiscal year 2002 to do so. If funding is provided in the supplemental, the Army can alleviate the fears of these communities, and millions of our constituents, by the end of next year. I firmly believe this request falls within the purview of enhancing homeland security in the post-September 11 world in which we live.

Ms. MIKULSKI. I join with the Senator from Indiana in supporting additional funding to accelerate the chemical demilitarization program. This is an urgent homeland security need.

There is no question whether the United States should destroy the chemical weapons stockpiles at Aberdeen Proving Ground and other sites around the country. Congress made that decision in 1986. The United States is also a signatory of the Chemical Weapons Convention. That treaty binds the United States and 144 other countries to destroy chemical weapons stockpiles. We have 10 years from the time the Chemical Weapons Convention came into force—until 2007—to complete destruction.

I have worked for decades to ensure that we destroy chemical weapons in a way that is safe for the workers, safe for nearby communities, and safe for the environment. After extensive research, the Army developed a chemical demilitarization process to destroy the bulk mustard agent stored at Aberdeen Proving Ground.

Last October, I joined with Senator BAYH and Senator SARBANES and other colleagues in urging President Bush to strengthen the security of the nation's chemical weapons storage sites. We recommended several measures, including expediting construction of agent destruction or neutralization facilities, consistent with the highest environmental and safety standards.

We now have National Guard troops guarding chemical weapons storage sites. I am grateful for that added security, but that's not a long-term solution. In fact, it adds to the cost of delay.

The Army also came up with plans to accelerate chemical demilitarization. Under that plan, all of the mustard agent stored at Aberdeen Proving Ground would have been destroyed by the end of this year. The Defense Department wanted funding for this effort



included in the President's supplemental request, but OMB rejected that proposal. I am not sure why OMB would reject an effort to make our country safer and save money, but that is what happened.

We have the opportunity here to address that deficiency, to fulfill the Pentagon request. We have the opportunity to address a very real homeland security need. I am proud to join with Senator BAYH and Senator SARBANES in this effort.

Mr. SARBANES. I am pleased to join with my colleagues, Senator BAYH and Senator MIKULSKI, in calling for the funds necessary to expedite the Army's chemical demilitarization program. Clearly, this is a matter of great importance to ensuring the continued health and safety of millions of Americans.

I have long recognized the environmental and health hazards posed by the chemical agents stored at Aberdeen Proving Ground and Army facilities throughout the country and I have been a strong and consistent supporter of the efforts to eliminate the Nation's chemical weapons stockpile in the most environmentally sensitive manner possible. The critical need to dispose of the stockpiles has only intensified as a result of the events of September 11, 2001, for I believe the continued storage of these agents only increases the vulnerability of our citizens to acts of terrorism.

In this regard, I was pleased to learn of the Army's decision to expedite the process of neutralizing the chemical agents at both Aberdeen and Newport. In my view, doing so is a step in the right direction and the decision represents a real win-win situation for all involved. Not only does accelerated demilitarization eliminate the high risks associated with storing such agents in a highly populated region, it results in considerable savings for the Department. Further, it eliminates costs associated with continued National Guard protection and the construction of new structures to protect stored agent. Finally, it helps us meet our obligations as signatories to the Chemical Weapons Convention.

Like my colleagues, I am most concerned with the decision of the Office of Management and Budget not to include the Department of Defense's proposal for funding for chemical demilitarization in the President's supplemental request. In my view, expeditiously removing the threat posed by these chemical agents is a critical step in the efforts to ensure our domestic security.

Mr. BAYH. While we are prepared to offer an amendment to provide funding for the Army to accelerate chemical demilitarization, we would be willing to withdraw the amendment if the Chairman of the Defense Appropriations Subcommittee would be supportive of funding for the Army's Chemical Demilitarization program during the conference on the supplemental.

Mr. INOUE. I support the Army's decision to expedite destruction of our Nation's chemical weapons stockpile in a safe and cost efficient manner. As the Senators from Indiana and Maryland know, the Army planned to reprogram existing funds this year to accelerate destruction at Aberdeen and Newport, and I would have support such a request. However, I would ask my colleagues to refrain from offering their amendment, and want to assure them that I will support funding for the accelerated destruction of chemical agents stored at Newport and Aberdeen in conference when the opportunity arises.

Mr. BAYH. I appreciate the chairman's willingness to be of help on this matter and am aware of his concerns regarding the Army's failure to reprogram existing funds this year. I also want the chairman to know that we appreciate how hard he worked to ensure that the defense title of the supplemental was consistent with the administration's request.

Ms. MIKULSKI. I appreciate the support of the Senator from Hawaii and look forward to working together with him in conference to fund the accelerated chemical demilitarization effort.

Mr. SARBANES. I thank the chairman for his continued assistance in this regard.

#### REBUILDING THE EIGHTH AIR FORCE HEADQUARTERS AT BARKSDALE AIR FORCE BASE

Ms. LANDRIEU. Mr. President, I would like to engage my colleague, the distinguished chairman of the Defense Appropriations Subcommittee, Senator INOUE, in a colloquy on the importance of rebuilding the 8th Air Force Headquarters at Barksdale Air Force Base, LA. This historic building, which housed the Mighty 8th Air Force, was devastated on March 12, 2002, by a fire that burned for more than 12 hours. It is imperative that the Mighty 8th see its headquarters rebuilt as soon as possible. Over 53,000 airmen served in the Eighth Air Force, including the B-52, B-1, and B-2 crews who have provided air superiority over the skies of Afghanistan in Operation Enduring Freedom. Additionally, key National Guard units patrolling the skies in Operation Noble Eagle also call the 8th Air Force home.

I believe that it is critical to the Air Force to rebuild the 8th Air Force Headquarters at Barksdale Air Force Base. The 8th Air Force is crucial to our warfighting capabilities, and it is imperative that construction begin to rebuild the 8th Air Force Headquarters immediately. I think my colleague would agree on the need.

Mr. INOUE. I certainly do agree that construction must not be delayed. I am also aware of the tremendous role the 8th Air Force has played in the war in Afghanistan.

Ms. LANDRIEU. I appreciate your kind words for the 8th Air Force. They are welcome at this time of need for the 8th Air Force. I have been notified that the facility repair costs for the

8th Air Force Headquarters will total \$19.3 million for fiscal year 2002. I am concerned as to how this money will be made available, especially when service budgets have been stretched thin because of the war on terrorism. Will the Air Force be able to fund and begin construction in fiscal year 2002?

Mr. INOUE. I would say to my friend from Louisiana, that I understand her concern that such an important military resource be rebuilt as soon as possible. I want to let you know that the Air Force has notified the Senate Appropriations Committee by letter that the Air Force will commit \$19.3 million to an operation and maintenance project at Barksdale Air Force Base, LA, to repair the 8th Air Force Headquarters Facility.

Ms. LANDRIEU. That certainly is welcome news. I received a similar letter, but I have seen little action from the Air Force leadership. The men and women in the 8th Air Force have worked diligently since the fire destroyed their headquarters, despite the fact that they have been displaced for several months. Much like so many of us in the Hart Building simply wanted for our staffs to be able to return to their desks following the anthrax attacks, I just want those at 8th Air Force Headquarters to be able to return to their normal workplace.

Mr. INOUE. I agree with the Senator that those of us with offices in the Hart Building know the feeling of being left without adequate office space, but the Senator from Louisiana should be pleased to know that the Air Force has committed to rebuilding the 8th Air Force Headquarters beginning in fiscal year 2002.

Ms. LANDRIEU. I need the chairman to clarify how some other costs associated with the reconstruction of the 8th Air Force Headquarters will be funded. In fiscal year 2002, an additional \$3.5 million is required for clean-up costs from the fire. Furthermore, as you can imagine, the fire destroyed hundreds of computers, expensive communications equipment, and office furniture. The Air Force estimates \$3.5 million will be needed in fiscal year 2003 and fiscal year 2004 to replace this valuable equipment. How will the men and women at the 8th Air Force Headquarters see that the site is cleaned up this year and that office and communications equipment are purchased in the next two years?

Mr. INOUE. I assure the Senator from Louisiana that, within Air Force appropriations for fiscal years 2002 and 2003, sufficient resources will be available to fund the requisite outfitting of the restored 8th Air Force Headquarters.

Ms. LANDRIEU. Again, I thank the Chairman for his assistance and taking this time to address my concerns. The people at Barksdale Air Force Base, the people of Louisiana, and I appreciate your efforts, and I look forward to working with you on other vital issues in the future.

REIMBURSEMENT BY THE POSTAL SERVICE OF ANTHRAX-RELATED COSTS INCURRED BY HEALTH CARE PROVIDERS

Mr. TORRICELLI. Mr. President, I rise to enter into a brief colloquy with the distinguished chairman of the Senate Appropriations Subcommittee on Treasury and General Government, Senator DORGAN, and my colleague from New Jersey, Senator CORZINE, regarding reimbursement by the Postal Service of anthrax-related costs incurred by health care providers in New Jersey.

Mr. Chairman, as your know, last fall our Nation experienced the worst biological warfare attack in American history when terrorists used the mail system to send deadly anthrax spores to various political and media targets. New Jersey—where all of the tainted letters were mailed—was literally at the frontlines of the anthrax crisis, and New Jersey health care providers bore the brunt of responding to the crisis. Indeed, the Postal Service urged its employees to seek testing and antibiotic therapy at New Jersey hospitals, and these hospitals responded promptly and effectively, providing invaluable health care services to affected employees and customers. Unfortunately, despite assurances from the Administration that the Postal Service would reimburse these costs, the Postal Service has not reimbursed any of the costs.

Mr. Chairman, it is my understanding that the committee is aware of the costs incurred by New Jersey health care providers and encourages the Postal Service to meet the need to reimburse the costs incurred by them in responding to last fall's anthrax crisis.

Mr. DORGAN. The Senator from New Jersey is correct.

Mr. CORZINE. As my colleague, Senator TORRICELLI, has noted, last fall health care providers in New Jersey responded quickly, effectively and responsibly to the anthrax crisis in New Jersey, yet they have not been reimbursed for the care they provided. Failure to reimburse these very real costs places a significant burden on these providers.

Failure to reimburse is troubling because in many cases the Postal Service directed its employees to these hospitals for care. For example, the Postal Service instructed employees to report to the Robert Wood Johnson University Hospital at Hamilton for anthrax testing. As a result, Robert Wood Johnson Hospital ultimately incurred \$651,500 in costs for treating 1,400 postal service employees and dispensing over 3,500 prescriptions for antibiotics. Seven months later, the Postal Service has not reimbursed Robert Wood Johnson for the lifesaving health care it provided.

Mr. Chairman, it is my understanding that the committee believes that the Postal Service has received adequate funding to address the anthrax crisis and that the Postal Service

is encouraged to meet its obligations to New Jersey health care providers.

Mr. DORGAN. I agree with both my colleagues that this matter needs to be resolved. I understand that the Postal Service has been in contact with the hospital's administrator to arrange a meeting to review the data supporting the reimbursement request. The Postal Service informs me that this is a necessary step as any funds the Postal Service pays to any entity are subject to an audit by the Postal Inspector General. I am confident that once this review is completed, this issue will be resolved to the satisfaction of the parties involved.

Mr. TORRICELLI. I thank the Senator from North Dakota for his clarification of this issue and his leadership on this vital homeland security supplemental appropriations bill.

Mr. CORZINE. I, too, thank the Senator from North Dakota for his assistance on this matter that is so important to New Jersey health care providers.

FOREIGN ASSISTANCE SPENDING

Mrs. FEINSTEIN. Mr. President, as the United States fights this war against terrorism—and puts in place the programs called for in this emergency supplemental for homeland defense and on-going military operations in Afghanistan and elsewhere—we can't overlook the fact that global poverty is a contributing factor and a breeding ground for terrorism, and that if we are to be successful in this war the United States must significantly increase its foreign assistance spending commitments.

Several of my colleagues and I had hoped to be able to do so on this emergency supplemental. Unfortunately, this does not appear to be possible.

But we want to be clear that we remain committed to this goal, and intend to work through the normal appropriations process to see this happen.

It is in our country's national interest to bring aid and functioning, free-market democratic institutions to countries and regions that might otherwise wallow in poverty, be preyed on by fanatics, or provide safe havens for terrorists.

I see one of my colleagues in these efforts, Senator DEWINE, and would ask him his thoughts on the importance of this issue in safeguarding U.S. national interests.

Mr. DEWINE. I would like to echo what my colleague from California has said. Providing humanitarian assistance is in our national interest, and it is also the right thing to do. We have a moral obligation to help ease the suffering that billions of people are facing around the world. We have an obligation to help those in the world who are suffering at the hands of evil leaders and corrupt governments.

We know that chaos, poverty, hunger, political uncertainty, and social stability are the root causes of violence and conflict around the world. We also know that if used correctly, our foreign

assistance is a vital foreign policy tool to prevent violence and conflict. Our foreign aid can be used to fight global terrorism and foster political stability, food security, rule of law, democracy, and ultimately peace around the world. When applied effectively, foreign assistance works.

One of the many lessons of the tragic September 11th terrorist attacks is that we must not wait for a nation to implode before we take action. We must not wait for a nation's people to suffer from poverty, disease, hunger, despotic leaders, or corrupt governments.

Yet, tragically, despite its importance and immeasurable value, our overall foreign affairs budget has been stagnant for the past 20 years. And in real dollars, it has gone down. That is a mistake.

I ask my colleague from California, what level does U.S. foreign assistance spending stand at today?

Mrs. FEINSTEIN. United States foreign assistance spending today is just eight-tenths of 1 percent of the budget with less than six-tenths of 1 percent going to humanitarian assistance and economic development.

And yet, 2.8 billion people on this planet live in abject poverty—getting by on \$2 a day or less. That's less than a cappuccino at Starbucks. Close to 1 billion people are undernourished; 1.2 billion lack access to even safe drinking water; and 2.5 million do not have access to adequate sanitation.

In the wake of September 11, I introduced a resolution to triple our foreign aid budget over the next 5 years, a resolution which was passed by the Senate just this week.

So I was pleased when president Bush committed to increasing the United States foreign aid by an additional \$10 billion over 4 years, beginning in 2004. The President is to be commended for this initiative.

But although this additional funding represents a significant increase in foreign aid it is still well short of historic levels, and well short of the level I believe is needed to engage and win the war against terrorism.

In 1946, the United States devoted 3 percent of its Federal budget to foreign assistance—a high water mark which was reached again under the Kennedy administration.

But since then, spending has gone downhill. According to a Congressional Budget Office report entitled "The Role of Foreign Aid in Development," United States spending on foreign assistance has fluctuated from year-to-year but has been on a downward path since the 1960's. A tripling of our foreign aid budget—a level that I consider to be appropriate and which the Senate is now on record as supporting—would simply bring it back in line with historic levels.

If the United States is to be successful in the war on terrorism—if we are to be successful in helping to spread democracy and free-markets around the

globe—we must be willing to step up and bear the burden of leadership.

Even looking beyond the humanitarian rationale—which I believe is sufficient reason alone for action—the United States will never be secure in a world in which: Sub-Saharan Africa is ravaged by the AIDS pandemic; more than half the people of the world go to bed hungry every night; civil wars are a constant; and where failed or failing states, unable to meet the needs of their peoples, and allow terrorists and terrorism to thrive.

Reducing poverty, promoting equitable economic growth, and developing democratic institutions advances United States national security interests. The failure to address these issues through a significant increase in foreign assistance spending, and the resulting risk of social, economic, and political instability and violence, places United States national security interests and the welfare and safety of United States citizens at risk.

I look forward to working with my colleagues in the days and years ahead to address this important issue, and to assure that U.S. foreign assistance spending levels are appropriate to the challenges that our nation faces and our leadership position in the international community.

Mr. DEWINE. I thank my colleague. Our foreign assistance is absolutely critical for people in war-ravaged, politically unstable, impoverished nations. The children, the elderly, and the civilian people are not responsible for the political and economic turmoil in their homelands, but they are the ones who always end up suffering the most. I look forward to working with you to continue to help these folks around the world. We have a moral obligation to stay committed to these people.

#### LITENING PODS

• Mr. DASCHLE. I wish to briefly discuss with the distinguished chairman of the Senate Defense Appropriations Committee the LITENING targeting pods—an issue of some concern to the Air National Guard in my state and many others around the country.

Mr. INOUE. I am delighted to discuss LITENING pods with the majority leader.

Mr. DASCHLE. As the chairman knows, on April 24th, in testimony before the Senate Appropriations Committee, the Air National Guard (ANG) identified the procurement of 24 additional LITENING II targeting pods as their number one priority. At the present time, U.S. ANG fighter components equipped with the LITENING II targeting pods are participating in Operation Noble Eagle and Operation Enduring Freedom. By all accounts, the ANG aircraft are performing their combat missions with great success, due in large measure to the fact that the pods provide the aircraft with a precision target capability. As a result, the Air National Guard has established a requirement to equip additional ANG air-

craft with the LITENING II pods. The South Dakota National Guard has indicated to me that their mission effectiveness would be greatly enhanced if we were to outfit their aircraft with these pods. Other Senators from other states have heard a similar message from their Guard units. We all agree that the procurement of an additional 24 LITENING II AT pods will greatly increase the Guard's ability to carry out its combat missions.

Having said this, I am well aware of the many difficult decisions the Appropriations Committee made in crafting this Supplemental. Resources are not limitless and difficult choices must be made—both in the defense portions of this supplemental as well as the regular defense appropriations bill. As we wrap up debate on this important measure and begin preparing for conference, I hope we will do all we can to provide our military with all the resources and tools they need to fight and win the war on terrorism. Given the combat performance of the LITENING II pods and the high priority the ANG places on acquiring more, I hope we can reach an agreement to procure 24 additional targeting pods for the Guard.

Mr. INOUE. I am aware of the testimony to which you refer and the importance the Guard attaches to acquiring additional targeting pods. I will gladly work with the Majority Leader to secure funds for additional LITENING pods for the Air National Guard.

Mr. DASCHLE. I thank the Senate for his support on this important matter. •

#### STATES DEVASTATED BY FLOODING

Mr. BAYH. Mr. President, I rise today to express my concern with language contained in the report accompanying the Emergency Supplemental Appropriations Act, specifically under the Watershed and Flood Prevention Program. During the month of May, much of the Midwest, and the State of Indiana in particular, was devastated by heavy rain and flooding. In our home state, a disaster declaration has been requested for a total of 33 counties. Many of these areas were under water for weeks and FEMA has recently completed its assessment of damages.

I hope my friend from Wisconsin will add Indiana to the list of states under the Watershed and Flood Prevention Program that have been adversely affected by flooding.

Mr. LUGAR. I join with my colleague from Indiana to express my concern about the flooding situation in Indiana. A number of Indiana communities are working to recover from damages caused by recent flooding. Should the Conference Committee include a listing of specific states in the final Conference report under this program, I hope Indiana will be included.

Mr. KOHL. I understand and am aware of the concerns expressed by my colleagues from the State of Indiana,

and want to assure them that Indiana is among the states for which NRCS has identified need and for which assistance is provided through this appropriation.

Mr. BAYH. I thank the Senator from Wisconsin and am happy to assist him with any information that he might need to ensure that Indiana's concerns are adequately addressed in the conference.

#### MEDICARE RECLASSIFICATION AMENDMENTS

Mr. BAUCUS. Mr. President, I have just looked over a list of amendments to the supplemental appropriations bill and noticed that several fall within the jurisdiction of the Finance Committee.

I am most concerned about several hospital reclassification amendments that were filed. The House bill included reclassifications for hospitals in New York and Pennsylvania counties, and that has only fueled the fire of other members to get their "rifle shot" fixes in the bill too.

I oppose these provisions, and I believe that Ranking Member GRASSLEY shares my policy concerns.

Mr. GRASSLEY. Absolutely. There is an administrative structure already in place for hospitals and counties to seek these reclassifications. This process was put into the Medicare statute specifically to review and adjust payments to hospitals that might be disadvantaged under the current system.

Unfortunately, hospitals often seek a legislative remedy either before they have exhausted this administrative avenue or after they have been turned down by the Classification Review Board because they don't meet the standards.

It is also my observation that including one hospital or one county will only invite dozens of other hospitals and counties to seek similar payment increases, regardless of whether such a fix is warranted.

Mr. BAUCUS. Not to mention that these reclassifications are unfair to other hospitals. Reclassifications from rural to urban counties are budget neutral. That means that every change we make will decrease payments to all other hospitals. My Montana hospitals are not enthusiastic about shouldering the burden of financial gains for hospitals across the country.

Mr. GRASSLEY. Hospitals in Iowa are already concerned about payment levels compared to more urban states. It is not acceptable to me to lower payments to them for the benefit of hospitals in other states that are already much higher paid. One approach we should consider for rifleshots is to require budget neutrality to be applied only to hospitals in the area into which the county is reclassified, or perhaps to all hospitals in that state. In other words, if hospitals in certain New York counties want to be reclassified into New York City, then the budget neutrality payment reductions could be applied to New York City hospitals, or to all hospitals in New York State, rather than to the rest of the country.

That might help bring some discipline to this issue.

Mr. BAUCUS. That is not a bad idea, and something that maybe the Finance Committee ought to look into.

Let me close by adding that the Finance Committee, and not the Appropriations Committee or any other Committee, should be making these policy decisions.

The Finance Committee has worked to safeguard and improve the programs under its jurisdiction. Any requests for additional changes to these programs, including further increases in provider payments or changes in payment for individual hospitals or counties, need to be examined with great care.

Our committee intends to address Medicare payment policy issues this year. Given that there is an opportunity to consider legislation to change Medicare provider payment policies in the coming months, we do not believe there is any reason to take action on any legislation that is not of a time-sensitive nature at this time.

Therefore, we will object to the consideration by the Senate until the matter in question is removed.

As I have said in the past, I look forward to working together in a bipartisan fashion on all of the other Medicare, Medicaid, and health issues that the Congress will be working on this summer and fall.

#### METROPOLITAN STATISTICAL AREAS

Mr. SPECTER. Mr. President, I would like to engage the Chairman of the Committee, Senator BYRD, in a colloquy regarding the inequities in Medicare reimbursement rates that many hospitals in Pennsylvania are experiencing.

Many Northeastern Pennsylvania hospitals are facing substantial operating losses. This region's hospitals are extremely dependent on Medicare reimbursements and are experiencing one of the most rapid and dramatic shifts to managed care in the country. While almost no hospital in the Nation has been left untouched by the cost pressures inflicted by the Balanced Budget Act, hospitals in Schuylkill County, Scranton-Wilkes Barre-Hazleton, Williamsport and Sharon, Pennsylvania face unique situations.

Scranton-Wilkes Barre-Hazleton and Williamsport are being reimbursed at 12% less than their neighbor—the Geisenger medical center—because Geisenger has been reclassified as part of the Harrisburg Metropolitan Statistical Area. The Sharon medical center is having difficulty hiring skilled workers because they are located only 12 miles from the Ohio border. The Sharon reimbursement rate is unacceptably low compared to the reimbursements received by the Ohio hospitals.

Last year, during conference deliberations on the FY 02 Labor, Health and Human Services and Education appropriations bills, the conference was prepared to include the provision to correct the inequities faced by these

hospitals. However, during that conference, word came that if the provision was included, the conference report would be subject to a point of order under Rule XVIII and on those grounds, you objected to the provision. At that time, I left the conference and came down to talk to you. You understandably said that you could not agree to the provision because Rule XVIII had to be observed. At my request, you did state that you would give very serious consideration to including it in the FY 02 Supplemental Appropriations bill.

Mr. BYRD. The Senator is correct. You and I had a discussion regarding the unique situation facing the Pennsylvania hospitals and I sympathized with the plight of these hospitals. However, because your reclassification provision would have violated Rule XXVIII, which precludes matter from being included in conference agreements unless relevant language was contained in either the House or Senate version of the appropriation bill, we were unable to accommodate your provision.

Mr. SPECTER. This year, Mr. Chairman, the FY 02 supplemental appropriations bill that passed the House on May 24, 2002, does include two Medicare provisions which would reclassify some Pennsylvania and New York Hospitals.

Mr. BYRD. This is a matter that is in conference. I will give it serious consideration. However, I shall point out that the Chairman and Ranking Member of the Senate Finance Committee have written to me, opposing inclusion of any items in this Supplemental that fall within their committee's jurisdiction.

Mr. SPECTER. I thank the Chairman of the Committee. I intend to work out language in the conference that will be acceptable to all parties and include the reclassification provisions for these Pennsylvania hospitals.

#### ARKANSAS RIVER BRIDGE

Mr. INHOFE. Mr. President, I would like to thank Senators BYRD, STEVENS, SHELBY, and MURRAY for their help in providing the necessary funding for the repair and reconstruction of the Arkansas River bridge on Interstate 40 which was hit by a barge on the morning of May 26. As my colleagues are aware, the accident caused a catastrophic failure of the bridge structure and resulted in several sections of the bridge collapsing. Tragically, 14 lives were lost before the traffic crossing the bridge was stopped.

Interstate 40 is a major east-west route for personal vehicle traffic as well as commercial trucking. According to the American Trucking Association, approximately 40% of the traffic on I-40 each day is trucks. The estimated cost to just the trucks delayed by the detour is estimated by ATA to be \$480,000 per day. That does not even consider the cost to passenger traffic as a result of the delay. Lengthy travel delays are exaggerated by the fact that the immediate area around the bridge

is rural and alternate routes are only two lanes.

According to transportation statistics, the chances of an accident occurring on a narrow two lane road is double when compared to a four lane divided highway. Complicating that of course is the added problem of the increased truck traffic.

Mr. President, we are facing not only a major east-west traffic disruption and all the corresponding economic consequences, but the elements are in place for a serious safety hazard. The potential for further loss of life cannot be overstated.

It is because of these reasons that I was happy to work with the Appropriation committee in securing the emergency spending for Oklahoma to reconstruct the bridge.

This reconstruction is eligible for reimbursement under the Emergency Relief program with the Federal Highway Administration. Unfortunately, that program has a \$108 million backlog which means that Oklahoma could not reasonably expect to be reimbursed in a timely manner. Because Oklahoma highway resources are fully committed, it would be impossible to get the repairs on the bridge done quickly if they could not on a quick reimbursement. This language addresses not only the Oklahoma emergency but also the backlog of existing needs in the Emergency Relief program.

I see my Colleagues, Senator NICKLES is also wanting to speak on this, so I yield the floor to him.

Mr. NICKLES. Mr. President, I would first like to thank President Bush for providing the down payment of \$3 million to begin the process of the recovery. I would also like to thank Senators BYRD, STEVENS, SHELBY and MURRAY for their help in providing the remaining \$12 million. This is the appropriate way to respond to an emergency.

Interstate 40 is one of the nation's vital east-west links. This tragedy not only took lives, but also is causing hardships and major economic disruptions in surrounding communities.

I applaud Senator INHOFE for his efforts. I am pleased that we could work together to secure the additional funds for the bridge repair and all other associated costs.

Mr. MCCONNELL. Mr. President, included in the supplemental is foreign assistance for Turkey. My colleagues and I recognize and appreciate Turkey's contributions to our war on terrorism and the reconstruction of Afghanistan.

We are also aware of a recent meeting in Iceland between the foreign minister of Turkey and Armenia, and encourage additional efforts to improve bilateral relations. I fully support the President's April 24, 2002 statement calling for Turkey to restore economic, political and cultural links with Armenia. I have already communicated to both the Secretary of State and the Secretary of Defense my hope that confidence building measures—including

opening a rail link between Kars, Turkey and Gyumri, Armenia—can be agreed upon and implemented. Opening the border is in America's national interests, as I believe it may help America in our war on terrorism.

The benefits of resolving regional disputes greatly outweigh the maintenance of the status quo. In short, regional stability not only enhances U.S. security interests, but also contributes to economic, political, and social development in Turkey and throughout the Caucasus.

Turkey and Armenia have an opportunity to make meaningful progress in their bilateral relations—and they have my support and encouragement.

I ask unanimous consent that a copy of the President's statement be printed in the RECORD following my remarks.

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

THE WHITE HOUSE,

Washington, April 24, 2002.

Today, we commemorate an appalling tragedy of the 20th century, the massacre of as many as 1.5 million Armenians through forced exile and murder at the end of the Ottoman Empire. These horrific killings left wounds that remain painful for people in Armenia, in Turkey, and around the world. I join the Armenian community in America and across the globe in mourning this horrendous loss of life.

Today is an occasion for the world to reflect upon and draw lessons from these terrible events. It is a day for recognizing that demonizing others lays the foundation for a dark cycle of hatred. Transcending this venomous pattern requires painful introspection about the past and wise determination to forge a new future based on truth and reconciliation. In this spirit, I look forward to Turkey restoring economic, political, and cultural links with Armenia.

The United States greatly values the contributions that Armenians make to our national life. With faith and courage, generations of Armenians have overcome great suffering and proudly preserved their centuries-old culture, traditions, and religion. The United States is also deeply grateful for Armenia's swift and decisive cooperation in the war against terrorism.

Just as the United States reached out to the Armenian people to provide shelter and freedom early in the last century, so did Armenia extend a supportive hand to the American people in the immediate aftermath of September 11. Our two peoples stand together in this fight in support of values that define civilization itself.

I am also very proud of America's strong support for a free Armenian state, whose citizens enjoy the fruits of peace and increasing prosperity. In the months to come, America will continue to increase its security cooperation with Armenia and with Armenia's neighbors to combat terrorism and pursue a lasting and just settlement to the Nagorno-Karabakh conflict, which will strengthen peace and stability in the Caucasus. The United States will also continue its strong support for Armenia's efforts to develop democratic and free market institutions, and to deepen its integration into the Euro-Atlantic community.

On behalf of the American people, I send warm wishes and expressions of solidarity to the Armenian people on this solemn day of remembrance. Together, our nations look with hope and determination toward a future of peace, prosperity, and freedom.

GEORGE W. BUSH.

Mr. KYL. Mr. President, I rise in opposition to S. 2551, legislation making

supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

On March 21, the President submitted to Congress a \$27.1 billion request for emergency funding to continue to fight the war on terrorism and respond to the September 11 attacks on our country. It was a prudent request and one that should have been quickly acted upon. The legislation passed on May 24 by the House of Representatives closely tracked the President's request. Unfortunately, the majority in the Senate has chosen a much different course of action and constructed a wasteful amalgamation of pork.

The President asked for emergency funding for critical resources to support the war on terrorism and secure the homeland as we recover and rebuild. Yet the product before the Senate includes scores of unneeded items that cost billions of dollars—all classified as an "emergency." The numbers speak for themselves. The Senate Appropriations Committee reported out a bill that spends \$3.8 billion more than requested by the President, for a total of over \$31 billion. More significantly, by reshuffling priorities, the committee failed to fund \$10.4 billion in emergency spending items that the President had requested, and instead decided to fund \$14.6 billion in spending items not included in the President's request. Most astounding is the fact that each Federal agency is allocated more money than the President requested except for one—the Department of Defense. I cannot support this bill.

Fortunately, it will never be enacted into law. On June 4, the administration sent the Senate a Statement of Administration Policy. Pointedly, the letter says that, "[i]f the supplemental appropriation bill were presented to the President in its current form, his senior advisors would recommend that he veto the bill." Our efforts to improve this legislation have been thwarted by the Majority. Consequently, this legislation should be vetoed by the President if it reaches his desk.

It is important to remember the context here: that the Federal Government is facing a potential deficit somewhere in the range of \$100 to \$150 billion. Spending needs must be met, but they must be met in a responsible manner. This bill truly fails the test of fiscal restraint—with every extra dime, it should be noted, coming out of the Social Security surplus. It is worth mentioning that some of the most vocal supporters of this bill are those very same Senators who routinely lament efforts to return taxpayer dollars to the American people in the form of tax relief. In fact, this bill costs—in spending for this year alone—30 times more than what it would cost to make repeal of the death tax permanent. It is deeply disappointing to me that those Senators who reflexively label tax relief "fiscally irresponsible" are the quickest to turn right around and

spend it on unnecessary items in the name of an "emergency."

The fact is that the great majority of these questionable add-ons are for purposes that have absolutely nothing to do with national defense, homeland security, or antiterrorism efforts—for example, \$11 million to the National Oceanic and Atmospheric Administration, NOAA, for economic assistance to New England fishermen and fishing communities; \$2 million for the Smithsonian to begin design of an alcohol storage facility for specimens; \$50 million for renovating the Ames, IA animal research lab; \$45 million for Amtrak; \$40 million for monitoring animal health and enhancing pest detection; and \$2.5 million for charting the Hawaiian coral reefs. This is just a small sample of an exhaustive list of funding for programs totally unrelated to homeland security.

As the administration's SAP accurately states, "[t]he President's FY 2002 emergency supplemental request was targeted at this year's immediate emergency needs and funding in addition to this request is not warranted at this time." The SAP continues by stating that the Senate bill "includes scores of unneeded items that total billions of dollars—all classified as 'emergency.' The bill adds unrequested funds for numerous programs and projects throughout nearly all of the Federal agencies."

What's more, the bill, by requiring that the President designate as emergency items "all or none" of its non-defense funding items, unduly restricts the President's authority. Under the Budget Enforcement Act, the President is supposed to have control over the release of emergency funds added by the Congress to ensure that the funds respond to critical emergency needs. By contravening this long-established budget enforcement mechanism, the Senate would require the President to waste taxpayers' dollars on low-priority, nonemergency items in order to access high priority homeland security and recovery funding. Thus, this legislation prohibits the President from designating anything for defense—such as ammunition and medical stocks—as an emergency, unless unrequested items—like alcohol collections and coral reef charting—are also designated as emergencies.

Expansion of government often occurs during times of war. We have a fundamental responsibility to the American people, however, to use only those additional resources necessary to counter the threat to our country. It is not our place to use the current emergency as a veil for our own special interest initiatives. Unfortunately, the Senate supplemental appropriation funding bill breaks faith with the American people, and accordingly, I vote my conscience. I vote no.

Mr. McCONNELL. Mr. President, yesterday's terror attack in the Middle

East is tragic and heartbreaking. A car packed with explosives and driven by a Palestinian terrorist blew up next to a bus near the town of Afula in northern Israel, killing at least 17 people and wounding dozens more.

This act of terrorism came on the 35th anniversary of the 1967 Mideast War.

The Palestinian terrorist group "Islamic Jihad" claimed responsibility for the attack, which occurred during CIA Director George Tenet's trip to the region. It is clear that extremists are actively undermining any prospects for peace with Israel.

PLO Chairman Yasser Arafat—by virtue of his inability to reign-in extremists and terrorists—is becoming increasingly irrelevant in the peace process. It is time for Arafat to lead the Palestinians to peace, or to pass the mantle to someone who will.

The amendment I offer will allow Israel to use the funds appropriated in the supplemental bill in the most targeted and effective manner to counter terrorism that is claiming innocent lives and destroying prospects for peace in that region.

As this aid is provided through the Economic Support Fund (ESF) account, its use is restricted in a manner that does not address our ally's most pressing counterterrorism needs—non-lethal equipment vital to defending civilian populations from terrorist attacks.

Section 531(e) of the Foreign Assistance Act of 1961 expressly prohibits the use of ESF funds for "military or paramilitary purposes". I do not believe that it is the intention of the Senate to hamstring the ability of Israel authorities to counter the clear and ever-present danger posed to Israeli civilians by homicide bombers.

My amendment provides for the transfer of ESF funds for Israel in this bill to the "Nonproliferation, Anti-Terrorism, Demining and Related Programs" account, which will allow for the purchase of non-lethal equipment that will contribute to countering acts of terrorism against the Israeli people. This includes bomb detection, x-ray, and personnel protection equipment, among other essential items.

Let me be clear that the defensive nature of the assistance provided to Israel in this supplemental bill is unchanged by my amendment, as is the overall amount provided for counterterrorism programs and activities.

Mr. President, Americans understand the devastation caused by extremists bent on waging jihad against the world's democracies. We know the pain of surprise attacks, and the collective suffering of a nation following the slaughter of innocent civilians.

During these difficult times, the people of Israel should know that they do not stand alone. We have a common enemy in terrorism. And we will fight—and win—as many battles as it takes to protect the freedom and de-

mocracy both the American and Israeli people enjoy.

Mr. President, I hope my colleagues will join me in keeping in our thoughts and prayers the victims and their families of this latest terrorist attack.

Mr. BUNNING. Mr. President, I address some of the concerns I have with H.R. 4775, the Fiscal Year 2002 Emergency Supplemental Appropriations Act.

According to the Congressional Budget Office (CBO), the cost of President Bush's emergency spending request is pegged at \$28.4 billion. This Senate bill we are considering is almost \$4 billion more than what President Bush requested in his emergency supplemental request to Congress. And even though the Senate bill we are considering is billions more than what the President requested, we still aren't even fully funding \$10.4 billion in emergency spending requested by the President. We are shortchanging the President \$10.4 billion in this bill from his emergency spending request to help fight the war on terrorism, yet we are piling on \$4 billion in new funding in special projects which is not at all designated as emergency spending by the President.

The bill's priority funding of non-emergency measures, while ignoring the President's full request for emergency funding to fight terrorism and ensure the safety of our citizens, just doesn't make sense to me. The real kicker is this, Mr. President, despite the \$4 billion of overfunding in this bill, only one federal agency did not receive more money than requested by President Bush—the Department of Defense. The purpose of this bill is to provide the President with emergency funding to help fight the war on terrorism, and in this bill we are refusing to fully fund the Department of Defense's needs to help us fight this war. That point baffles me.

As well, I am disappointed that we were unable to address some serious budgetary issues facing the Senate. We have no fiscal year 2003 budget resolution or discretionary spending caps as we venture towards committee and floor consideration of our 13 appropriations bills. For the first time since 1974 the Senate has failed to pass a budget resolution. This is embarrassing and a bit disgraceful. It is not simply a problem for the Senate alone. The lack of a budget resolution is the potential problem of every American. For without a budget resolution and discretionary allocation limits, we are essentially walking Americans down a path scattered with deficit and debt landmines.

Let me just touch on how bad things have gotten lately with our Nation's checkbook. Last year, CBO anticipated and predicted a \$313 billion surplus for fiscal year 2002. And now, we all know we are facing a gaping deficit. We will borrow and spend all of the \$168 billion Social Security surplus and at the same time have to borrow about another \$137 billion from the private mar-

kets. So the bottom line is that we are going to have to borrow over \$300 billion. And this is new debt stacked on top of the whopping \$6 trillion debt we already have.

Now we can all cross our fingers and hope that we are going to experience a long economic recovery which will allow us to balance our federal checkbook and say goodbye to deficits and debt, but that just isn't smart and fiscally prudent. If there is no timely recovery with the growth rate we all would like to anticipate, then the deficits are going to get bigger and bigger and make it all the harder in the future to curb spending and get any reign on fiscal restraint. I know some of these choices aren't easy to make, but we have to make them.

Earlier today we had the opportunity to pass a provision on this bill to institute some fiscal discipline by imposing some enforceable discretionary spending caps. Unfortunately, this provision failed. Hopefully, somehow soon before we trek down the appropriations process, we can set some limits on spending and live within our means.

The White House has released a Statement of Administration Policy for the Senate on this bill. President Bush say he will veto this bill outright because of the lack of fully funding his emergency requests, and because there are many extraneous spending provisions in the bill that he did not request.

In fact, here is a quote from President Bush regarding the supplemental bill. He say, "It's important that we get a supplemental out and, frankly, a supplemental that doesn't bust the budget. And we'll be looking forward to working with senators, to explain to them that the supplemental ought to focus on emergency measures, measures that are needed to fight the war, to button-up the homeland. But the supplemental shouldn't be viewed as an opportunity to load it up with special projects."

I am hopeful that when we eventually get to conference with the House of Representatives, that the conferees work to report a bill out which removes the non-emergency spending, fully funds the President's emergency spending request, and addresses the fact that we have set no limits on discretionary spending for fiscal year 2003.

Mr. President, I thank you for time allotted to me to address my concerns with this bill.

Mr. MILLER. Mr. President, before we invoked cloture on the supplemental appropriations bill today, it had been my intention to offer a sense-of-the-Senate resolution, which I believed was a very important statement about our commitment to fiscal constraint and responsibility. Senate rules now prevent my amendment from being considered, so I want to go on record regarding the amendment, our budgetary situation and the need to tighten our belts.



The bill we are considering, S. 2551, a bill making supplemental appropriations for Further Recovery From and Response to Terrorist Attacks on the United States, was scored at \$30.9 billion or roughly \$4 billion over the President's request of \$27.1 billion. While this bill recognizes the need to fund emergency homeland requirements and has many worthwhile things in it, one could argue that some of its contents are questionable at best.

Now, I realize that "pork" and other unfavorable terms for specific projects are clearly in the eyes of the beholder. But where does it all stop?

I am sure that we could all justify, even enthusiastically promote, projects in our own states that most members might think loony or wasteful. Whether it is Federal marshals, summer school, hospitals or jars of alcohol on the Mall, they are all important, but where does it stop? It is one thing to spend money for these types of things when you have money, but quite another when your broke or in debt. That is why we must have strong controls and a cap on what we can spend. I was disappointed that the Senate rejected such controls yesterday voting down the Feingold-Gregg amendment. I haven't been here long, but I do know that if we don't enact some spending controls, things will get out of control quickly.

There is a general acknowledgement that a short-term budget deficit may be necessary to provide the appropriate resources to fight the war on terrorism. But at the same time, we need to look at the impact of this very supplemental appropriations bill on our domestic spending and our budget deficit.

Therefore, I had intended to offer a sense-of-the-Senate resolution which basically said that the total of the fiscal year 2003 appropriations bills should have been reduced by the amount we spend over the President's request as determined by the Congressional Budget Office. If this supplemental ends up being \$3.8 billion higher or \$4.2 billion, or whatever the number is over the President's \$27.1 billion request, then the Senate should agree that we would reduce our total appropriations figure by that amount in the upcoming appropriations cycle. It is not a scientific formula, just a start down the path of fiscal responsibility—a concept that seems to have lost its preeminence.

So, while I will not offer this amendment today, I will promote this idea in the coming weeks and fight for real progress during the upcoming appropriations process.

Mr. KERRY. Mr. President, I strongly support helping New England fishermen and their communities, and by that I mean helping them now, when they need it, not later this year or next year, but now. And I want to thank our distinguished Chairman of the Appropriations Committee Senator BYRD and the Ranking Member Senator STEVENS.

I would also like to thank Chairman HOLLINGS of the Senate Appropriations Subcommittee on Commerce, Justice, State and the Judiciary and the Subcommittee Ranking Member, Senator GREGG, for their steadfast support of the New England fishermen and for including provisions to help fishermen and fishing communities in New England recover from the effects of a devastating lawsuit which is already having severe economic consequences in New England.

The entire New England groundfish industry is reeling from a lawsuit that was finally decided on May 23. I would like to point out that the fishing season starts on May 1, so the fishermen and the shore side industry learned the rules by which they must live less than a month into the season. It's hard to plan a fishing season under those circumstances. And the ramifications reach beyond just our fishermen. We have over 1,000 active groundfish boats in New England employing thousands of fishermen, and economists estimate that for each job on a fishing vessel we have four jobs on shore to support the industry.

In addition, Massachusetts Bay, the prime inshore fishing grounds for the small day boats from our North Shore, South Shore and Provincetown fleets have been closed since January 1. The area was scheduled to open in May, but the court order extends that closure. These fishermen and their families are struggling and have barely made it through the winter. Now, when May comes around they are unable to go fishing, earn some money and pay the bills. These families need help now!

I want to be clear. We are not backing away from our obligation to protect New England's fisheries. I know as much as anyone that this is a federal resource. We have an obligation to protect it and preserve it, to ensure that generations of New Englanders have the opportunity to fish and to protect a Federal, natural resource that belongs to all Americans. But at the same time, we are seeking some help for the people and communities who bear the brunt of these necessary conservation rules. These people need some financial assistance while we make the transition to sustainable fishing.

I would like to point out that it is not just the New England fishermen who are hurting. As I mentioned earlier, for every job at sea in Massachusetts, economists estimate that we have four shore side jobs to support the industry. This includes net makers, processors, ice dealers and boat maintenance facilities. I should add that part of the court order increased the mesh size from 6 inches to six and 1/2 inches for all nets used to catch groundfish. This is great for conservation because it reduces the catch of undersized fish, however overnight every fishermen had to replace his nets. That means that all of the net makers with 6 inch mesh were now sitting on hundreds of thousands of dollars of worth-

less inventory. For the typical gillnetter in New England this means they all have to come up with \$10,000 before they can go fishing. Remember, these are all small, family-owned businesses and in some cases these are people that have not been working since January 1. These people need some help!

Again I wish to thank Senators BYRD, STEVENS, HOLLINGS and GREGG for their stalwart support of these hardworking fishermen and their families.

Ms. SNOWE. Mr. President, I rise today to express my strong support for the provisions in this supplemental that provide financial aid to the New England groundfish fishery. This crisis is not caused by natural disaster, but by the failure of our fisheries management system to effectively manage marine resources and dependent industries.

I worked with my colleagues from Massachusetts, Rhode Island and New Hampshire to get this funding in the bill. And I want to thank the Chairman, Senator BYRD, and the Ranking Member, Senator STEVENS, for understanding the need for this funding.

The bill includes \$11 million for economic assistance to fishermen and fishing communities affected by Federal closures and restrictions on fishing. My State of Maine will receive \$2 million as a result of this provision. States have the option of developing locally-appropriate spending plans for this money or asking NMFS to distribute the money, to ensure that it goes to those who need it most.

It also provides \$5 million for direct economic assistance to those in the industry affected by court-ordered management measures, in return for their participation in activities that support port and coastal security. In this way, we can meet two important goals, helping fishermen who temporarily cannot fish and helping coastal communities participate in national security efforts.

Over the past several months, New England fishermen have been watching their livelihoods disappear. Litigation was brought against the National Marine Fisheries Service for not rebuilding stocks fast enough, and this litigation ended in court-ordered management measures that would have resulted in more than 4,000 lost days at sea for Maine's fishermen alone. The court ignored the negotiated settlement reached by the interested parties and issued its ruling five days before the fishing season started.

These numbers pale in comparison to the economic, cultural, and historical value of the New England groundfish fishery. In Maine alone, 26,000 people have jobs directly related to the fishing industry and last year groundfish alone accounted for \$17.7 million in fish landings. Nationally, the fishing industry contributes over \$7 billion to the U.S. economy.

While the Judge reconsidered her original ruling and adopted the negotiated settlement, the number of days

that fishermen can target groundfish is reduced by a minimum of 20 percent. And that translates into thousands of lost fishing days and millions of dollars lost to the regional economy.

The economic assistance in this bill will not fix the flaws in the management system, but it will help our fishermen through a difficult transition period while we fix the management problems that left NMFS facing 104 lawsuits at the beginning of May. I am the Ranking Member of the Commerce Oceans and Fisheries Subcommittee, and I am working with Chairman KERRY to get the Magnuson-Stevens Fisheries Act preauthorized so that we can stop managing our fisheries by litigation.

Mr. ENSIGN. Mr. President, I would like to address the Senate today with regard to the amendment offered by Senators KENNEDY, SMITH, and BOXER on Wednesday, June 5. As you know, this amendment would provide \$150 million in emergency spending for the 21st Century Community Learning Centers program for summer school programs. While I do support this program, I do not support the amendment offered by Senator KENNEDY.

The supplemental appropriations bill is designed to be a vehicle for emergency spending measures, most often funding for the defense of the United States. I am particularly disappointed with the Senate's version of the supplemental appropriations bill because it contains increased appropriations for every Federal department except for the Department of Defense while we are at war against terrorism.

In my opinion, funding for summer school programs simply does not qualify as emergency spending worthy of placement in the supplemental appropriations bill. It is highly likely that school districts and other eligible grantees would not even get the funds in enough time to effectively utilize them. I do recognize that many States have been faced with difficult financial decisions because of constrained budgets and that many have had to cut summer school programs. The regular appropriations process for education programs is the appropriate time for the Senate to determine the appropriation for the 21st Century Community Learning Centers program.

Mr. REED. Mr. President, I rise today to briefly describe an amendment that I filed to the fiscal year 2002 Emergency Supplemental Appropriations bill currently before the Senate. Simply, my amendment dealt with the Food and Drug Administration's 'Pediatric Rule,' which the agency issued in 1999 to require that companies conduct clinical trials in which children are the subjects for drugs that may provide a health benefit for the pediatric population. After discussing my amendment with several colleagues, I have decided not to offer it at this time. I believe, however, that this is an important issue that must be settled this year.

In 1999, FDA issued new regulations requiring pediatric studies of certain

new and marketed pharmaceutical and biological products. The agency determined that most drugs had not been adequately tested in the pediatric population. The 1999 rule requires that manufacturers of certain products provide sufficient data and information to support the directions for pediatric use for claimed indications. The pediatric rule filled an important gap in FDA's regulation of drug and biologic products. I know that many of us have been concerned about the lack of important pediatric information on marketed drug products.

The rule and the Best Pharmaceuticals for Children Act, which was enacted in January of this year, have different provisions, though they complement each other in important respects. The Best Pharmaceuticals for Children Act provides incentives for companies to test products in children and provides them with six month pediatric marketing exclusivity for products approved for pediatric use. The statute does not require any pediatric testing. In addition, the rule includes biological products in its requirements whereas the statute does not. Many of the new products that may provide significant health benefits to the children of this country are biologics. And the statute only allows each product to be considered once in its lifecycle, which means that FDA cannot request information on any pediatric uses not anticipated at the beginning.

I understand that the Secretary of Health and Human Services supports the continued enforcement of the pediatric rule and that he so stated in a Labor Health and Human Services Appropriations Subcommittee hearing earlier this week.

Congressional action ensuring that the pediatric rule remains in effect for the foreseeable future is necessary and appropriate, and I look forward to working with my colleagues in the coming weeks on this issue.

Mr. KENNEDY. Mr. President, I was very disturbed to learn that the Appropriations Committee included language in the Emergency Supplemental that would direct the Department of Transportation to work with the Immigration and Naturalization Service and State motor vehicle authorities to implement a policy with respect to immigrant eligibility for drivers licenses. This decision was made without any consultation with the Committee of jurisdiction. The issue of immigrant access to drivers licenses is a complex one, implicating road safety, as well as questions of immigration, discrimination and racial profiling. It is a controversial issue that is being addressed by almost all state legislatures and about which there has yet to develop a national consensus.

My reading of the provision is that this language applies solely in the case where a State elects to move towards the policy on nonimmigrants referenced by the Report. In such a case, the Committee intends to direct the

Department of Transportation to act as a liaison between the state motor vehicle department and the INS to facilitate implementation of the State's policy.

This language should not be intended as a mandate to the states, nor affect in any way the States' discretion to determine which of their residents is eligible for a drivers license. Indeed, there is no statute on the books authorizing the Department of Transportation to limit, entice, or otherwise influence a state's discretion to provide drivers licenses to immigrants. Moreover, there are no funds in the bill itself or elsewhere that have been authorized for such purposes.

Finally, the language does not authorize the Department of Transportation or the Immigration and Naturalization Service to publish regulations or guidelines for States to follow, nor does it require any particular action either by the Department of Transportation or by the Immigration and Naturalization Service.

Everyone agrees that drivers licenses must provide accurate and reliable proof of one's identity and ability to operate a motor vehicle. However, tying drivers licenses expiration dates to visa expiration dates will not enhance our security. Sophisticated terrorists with substantial financial resources are likely to have the ability to obtain drivers licenses when necessary, regardless of restrictions like those discussed in the Supplemental.

Moreover, State drivers license issuing agencies should not be in the business of verifying immigration status, as determining immigration status is very complicated with serious ramifications for all non-citizens. The term nonimmigrant itself is a technical legal term that leads to much confusion. Errors will likely result as motor vehicle personnel attempt to interpret complicated immigration law provisions. Distinguishing between immigrant, nonimmigrant, and other applicants, as well as understanding when visas expire, is complicated and very difficult without proper training. Furthermore, nonimmigrant visas do not have uniform documentation nor do they have a simple expiration date.

Experience has shown that when public officials are required to check immigration status, Latinos, Asians, and others who appear to be foreign are asked to produce additional documentation or have their documents more closely scrutinized. This behavior often results in civil rights violations, frequently involving U.S. citizens and legal permanent residents.

While security concerns are extremely important, we need to consider the negative consequences of linking drivers licenses to immigration status.

Mr. President, this legislation on supplemental appropriations for further recovery from and response to terrorist attacks on the United States for fiscal year 2002 provides \$15 million for the State Department to create a new

high school exchange program for students from predominantly Islamic countries. The program that will be established with this funding is based on S. 2505, the Cultural Bridges Act, which Senators LUGAR, LEAHY, CHAFFEE, DODD, HAGEL, GORDON SMITH, COCHRAN, BROWNBACK, JEFFORDS, DURBIN, FEINGOLD, and I introduced on May 10.

One of the clear lessons of September 11th is that our government needs to do more to ensure that future generations in the Islamic world understand more about American values and culture. A recent Gallup poll in nine predominantly Muslim countries revealed strong anti-American attitudes. Nearly 1.5 billion people live in the Islamic world, and if we ignore these sentiments, we do so at our own peril. If we try to address the problem directly, by teaching American values to students from the Islamic world, we have a chance, in the long run, of changing negative attitudes. It's a long process, which September 11th has taught us we must begin now.

There are no better ambassadors for American values than Americans themselves, and student exchange programs have proven to be an effective tool in reaching out to the next generation of leaders. As Secretary Powell said in his August 2001 Statement on International Education Week, "I can think of no more valuable asset to our country than the friendship of future world leaders who have been educated here."

In October of last year, President Bush spoke eloquently about the need to reach out in friendship to children and the Islamic world. In a speech to students at Thurgood Marshall Extended Elementary School, the President said that America is "determined to build ties of trust and friendship with people all around the world—particularly with children and people in the Islamic world."

To facilitate the President's goal of reaching children, this supplemental appropriations bill provides the funding that is essential for the State Department to create a new program for high school students from the Islamic world to study in the United States. No federal program currently exists to facilitate such student exchanges with ever-increasing numbers of youth in the Islamic world.

There are many benefits to reaching out to students while they are young and open-minded to enhance mutual cultural understanding and tolerance. Today's high school students are tomorrow's leaders, and we need to begin working with them now to inform their attitudes about our country.

In January 20, 2002 op-ed in the Washington Post, a former Fulbright scholarship recipient from Egypt expressed concern that his university in Egypt was and continues to be fertile ground for recruiters from terrorist or extremist organizations. Our challenge is to provide young students with the opportunity to learn about America, partici-

pate in all aspects of American family life, and understand our values before they reach that stage.

The high school student exchange program that will be developed with this funding will be modeled on the State Department's highly successful Future Leaders Exchange Program (FLEX), which brings approximately 1,000 students ages 15-17 from the Newly Independent States to the United States each year to attend an American high school for a year and live with an American family.

The FLEX program has been extremely effective in shaping attitudes among the students selected to participate from the Newly Independent States. A 1998 U.S. government study, which compared Russian FLEX alumni with other Russian youth of the same age, indicated that the FLEX alumni are more open to and accepting of Western values and democratic ideals. They are more likely to want to become leaders in and to make a contribution to their society. They tend to be more optimistic about the future of their country—especially its evolution to a more democratic, rule-of-law society—than other Russian youths.

Significantly, the FLEX program has been successful in the six predominantly Islamic countries from the Newly Independent States—Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. More than 1,500 students from those Muslim countries have studied and lived in the United States since the program began. FLEX alumni in Azerbaijan and Turkmenistan are teaching English in their home countries, and alumni in Kyrgyzstan and Tajikistan have been involved in activities to develop democratic practices. Given the track record in these countries, there is every reason to believe that a high school student exchange program would succeed throughout the Islamic world.

Like the existing student exchange program for the Newly Independent States, and consistent with the Cultural Bridges Act, this new program should require participating students in high school exchanges from the Islamic world to be selected competitively and in a manner that ensures geographic, gender, and socio-economic diversity. To qualify, students should be tested extensively and interviewed under State Department guidelines. As with the FLEX program, the State Department should work with experienced American non-governmental organizations to recruit, select, and place students and will remain in close contact with the public high school, American host family, and American non-governmental organizations while the students are in the United States.

Importantly, consistent with the Cultural Bridges Act, all students and visitors participating in programs authorized in this legislation should be admissible under all immigration laws and procedures. Furthermore, legislation recently signed into law improves

our ability to screen foreign students by requiring increased communication among the State Department, the INS, and the schools enrolling foreign students and by closing gaps in the existing foreign student monitoring program.

The high school exchange program included in this supplemental appropriations bill has been endorsed by the Alliance for International Education and Cultural Exchange, AMIDEAST, AFS, the Academy for Educational Development, the American Councils for International Education, the American Institute for Foreign Study, the Institute of International Education, the National Council for International Visitors, Sister Cities International, World Learning, and World Study Group.

America must respond to the terrorist threat on many levels. We need to ensure that our defenses are strong, our borders are secure, and our relationships with allies are vibrant. We also need to do more in the area of public diplomacy.

It is clearly in America's national security interest to promote more people-to-people contacts throughout the Muslim world. Indeed, in a May 3rd speech to the World Affairs Council in California, Deputy Secretary of Defense Paul Wolfowitz spoke about the need to reach out and strengthen voices of moderation in the Islamic world and to bridge the "dangerous gap" between the West and the Muslim world. He said America must "begin now . . . the gap is wide and there is no time for delay."

After September 11, many of the Muslim countries condemned those acts and pledged to help the United States fight terrorism. As we have seen in Afghanistan, Pakistan, and elsewhere in the Muslim world, some individuals and factions within a country can support terrorists and terrorist organizations, while others seek to resolve issues peacefully. America must reach out in friendship to all individuals in the Islamic world who share our worldview.

The Koran says, "O Mankind! We created you from a single pair of a male and a female, and made you into nations and tribes, that ye may know each other." These words speak eloquently of the need for this legislation. Building bridges of understanding and tolerance across cultures will help ensure that Americans and people of the Islamic world will truly understand and know each another.

I am grateful to Senator LEAHY for recommending that funding for this new student exchange program be included in the supplemental appropriations bill. I am grateful as well to Senators MCCONNELL, BYRD, and STEVENS for their support. I urge my colleagues to support funding for this program, and I hope it will be preserved during the conference on the supplemental appropriations bill.

The PRESIDING OFFICER. The question is on the engrossment of the

amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. WELLSTONE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall it pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Dakota (Mr. DASCHLE), the Senator from Minnesota (Mr. DAYTON), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. NICKLES. I announce that the Senator from South Carolina (Mr. THURMOND), the Senator from North Carolina (Mr. HELMS), and the Senator from Colorado (Mr. CAMPBELL) are necessarily absent.

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

The result was announced—yeas 71, nays 22, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—71

Akaka	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bennett	Edwards	Murkowski
Biden	Feinstein	Murray
Bond	Frist	Nelson (FL)
Boxer	Graham	Nelson (NE)
Breaux	Gregg	Reed
Burns	Harkin	Reid
Byrd	Hollings	Roberts
Cantwell	Hutchinson	Rockefeller
Carnahan	Hutchison	Sarbanes
Carper	Inhofe	Schumer
Chafee	Inouye	Shelby
Cleland	Jeffords	Smith (OR)
Clinton	Johnson	Snowe
Cochran	Kerry	Specter
Collins	Kohl	Stabenow
Conrad	Landrieu	Stevens
Corzine	Leahy	Torricelli
Craig	Levin	Warner
Crapo	Lieberman	Wellstone
DeWine	Lincoln	Wyden
Dodd	Lugar	

NAYS—22

Allard	Gramm	Santorum
Bayh	Grassley	Sessions
Brownback	Hagel	Smith (NH)
Bunning	Hatch	Thomas
Ensign	Kyl	Thompson
Enzi	Lott	Voinovich
Feingold	McCain	
Fitzgerald	Nickles	

NOT VOTING—7

Bingaman	Dayton	Thurmond
Campbell	Helms	
Daschle	Kennedy	

The bill (H.R. 4755), as amended was passed.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I take the floor at this late hour to express my appreciation to the senior Senator from Alaska, Mr. STEVENS, for his cooperation in handling this bill and for his masterful handling of the bill on the floor. I thought it best to let him do that without any action or work on

my part. The problem was on his side. I believed that Chairman STEVENS was the man to deal with those things. He did it to perfection. I thank him. We couldn't have gotten to this point had it not been for Senator STEVENS and his support.

Let me also thank HARRY REID. Senator REID is a whip sui generis. He has been a real asset to the leadership, and to the managers of the bill in getting this bill passed. It has taken hours on his part. For his willingness to stay until the last, for his willingness to take our statements and get them in the RECORD, I want to personally thank him for a job well done. It is a hard job. I have been a whip. I have not been whipped, but I have been a whip around here. So I know the kind of work he did.

I also thank the wonderful staff on both sides of the aisle. They worked hard. They worked during the hours after some of us went home to sleep. But they stayed here. And they will still be here after we go home tonight. We can't thank them enough. They are excellent.

I thank Members on both sides of the aisle for the courtesies they extended.

I think this is a good bill. I am glad we passed it. We need to get it to conference. Perhaps there will battles there.

I thank all Senators, and I thank the floor staff—the people who are here who work many hours. I thank you all.

Again, I thank Mr. STEVENS. He couldn't be a better Senator from Alaska. He is the "Senator of the 20th century" from Alaska. I salute him.

Mr. STEVENS. Mr. President, I thank the Senator from West Virginia. The Senator from West Virginia is not only a great chairman, he is a great friend. I thank him for the privilege of trying to deal with the problems that occurred on this side of the aisle.

I also join in thanking Senator REID. I think he has shown persistence in trying to get this bill through. I don't criticize the concept of having gone to cloture, but I do criticize the conduct of some under cloture. We will have to deal with that later.

It is a difficult process. But I will say this: I think this bill is important to the country. It is very important to the President. It is a bill which I think is very important to those of us who worked so hard to try to get it through. We are now going to go to conference with the House. Many of the provisions in this bill the House is not aware of yet, but I am sure they will be controversial. It is my hope we can move in the conference sometime next week and hopefully try to address some of the issues that are not in this bill today. They are in the House bill. We have cut out some of them.

I am still bothered by the debt ceiling. I hope that leadership will look to the debt ceiling problem to see if we can't get a stand-alone bill or some way to address that issue. I remember so well in days past when it would fes-

ter and get to the point where people were being threatened of being put into jail and all of that because Congress had not acted. The debt ceiling being lifted reflects the fact that the economy of this country has expanded enormously. We have been through a period of inflation. As we go into a period of inflation and we roll over our debt, we end up with an imbalance by the passage of time rather than expenditures of money.

I believe we ought to accommodate the situation so that people who are administering our laws downtown don't feel fearful of what might happen to them because of expenditures over which they really cannot maintain total control. As we get close to these debt ceiling limitations, I think Government slows down out of fear. This is no time to have that kind of reaction when we are at war.

I look forward to working with everyone with the hope that we can address that problem sometime before the end of this month. Again, I thank my colleagues. I thank the Chair and everyone for their patience. I thank the Parliamentarian for his impartiality.

I was happy to see yesterday come to an end.

Thank you very much.

Mr. REID. Mr. President, very briefly, I have spoken to Senator DASCHLE about the debt limit. We have a free-standing debt limit bill. We are going to work as hard as we can to get it to the floor as quickly as we can. I have spoken to Senator DASCHLE several times in that regard.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The Presiding Officer (Mr. DURBIN) appointed Mr. BYRD, Mr. INOUE, Mr. HOLLINGS, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. REID of Nevada, Mr. KOHL, Mrs. MURRAY, Mr. DORGAN, Mrs. FEINSTEIN, Mr. DURBIN, Mr. JOHNSON, Ms. LANDRIEU, Mr. REED of Rhode Island, Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. BURNS, Mr. SHELBY, Mr. CRAIG, Mr. BENNETT, Mr. CAMPBELL, Mr. GREGG, Mrs. HUTCHISON of Texas, and Mr. DEWINE conferees on the part of the Senate.

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.

Mr. REID. Mr. President, we are going to wrap up things here in just a

minute. I would like to say publicly, as I have said to the Senators privately, and to the Presiding Officer, that we have been through a very difficult time while you have been presiding. It really is most helpful, where there is confusion on the floor, to have someone who understands what is going on and who has absolute control of the Senate. You did an outstanding job of presiding. That is not easy.

We have Parliamentarians who help. But it certainly is a tremendous help if you have someone such as the Presiding Officer who makes the decisions on his own. They were all right. I extend my appreciation and our appreciation for the way in which you presided over the Senate during consideration of a most important bill. We have heard enough talk about it.

But this is an important bill. It is an emergency supplemental appropriations bill which will help our troops, help homeland defense, and help veterans.

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#### UNANIMOUS CONSENT AGREEMENT—S. 625

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of S. 625, the hate crimes bill, Friday, tomorrow, June 7, at 11 a.m. That is today, I guess.

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

Mr. REID. For the information of Members, the next vote will be on Monday, at approximately 5:30 p.m. Today there will be no more votes.

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#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

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

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#### VOTE EXPLANATION

Mr. LIEBERMAN. I was not able to vote on the Helms-Frist amendment (Number 3725) to the Supplemental Appropriations bill. I was unavoidably detained. I would like to express my support for this measure and applaud its passage. I co-sponsored the defeated Durbin amendment that would have provided an additional \$500 million towards the global fight against AIDS, malaria, and tuberculosis. I was disappointed that it did not pass tonight. In the absence of the Durbin provisions, I agree with the Senator from Tennessee that we must at least provide the additional \$100 million called for in the Helms-Frist amendment. I ask that the record show that I would have voted in favor of the Helms-Frist Amendment and I support its passage.

#### PERFORMANCE GOALS FOR THE PRESCRIPTION DRUG USER FEE AMENDMENTS OF 2002

Mr. KENNEDY. Mr. President, on May 23, 2002, the Senate passed the Conference Report to H.R. 3448, the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. Included in Title V of this Conference Report is the reauthorization of the Prescription Drug User Fee Act, "PDUFA".

Performance goals, existing outside of the statute, accompany the reauthorization of PDUFA. These goals represent a realistic projection of what the Food and Drug Administration Center for Drug Evaluation and Research and Center for Biologics Evaluation and Research can accomplish with industry cooperation. The Secretary of Health and Human Services forwarded these goals to the chairmen of the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate, in a document entitled "PDUFA Reauthorization Performance Goals and Procedures." According to Section 502 of the Conference Report, "the fees authorized by amendments made in this subtitle will be dedicated towards expediting the drug development process and the process for the review of human drug application as set forth in the goals in the CONGRESSIONAL RECORD."

Today I am submitting for the RECORD this document, which was forwarded to the Committee on Health, Education, Labor and Pensions on June 4, 2002, as well as the letter from Secretary Thompson that accompanied the transmittal of this document.

I ask unanimous consent it be printed in the RECORD.

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

THE SECRETARY OF  
HEALTH AND HUMAN SERVICES,  
Washington, DC, June 4, 2002.

Hon. EDWARD M. KENNEDY,  
Chairman, Committee on Health, Education,  
Labor and Pensions, U.S. Senate Wash-  
ington, DC.

DEAR CHAIRMAN KENNEDY: As you are aware, the Prescription Drug User Fee Act of 1992 (PDUFA), as reauthorized by the Food and Drug Administration Modernization Act of 1997, expires at the end of Fiscal Year 2002. Under PDUFA, the additional revenues generated from fees paid by the pharmaceutical and biological prescription drug industries have been used to expedite the process for the review of prescription drugs, in accordance with performance goals that were developed by the Food and Drug Administration (FDA) in consultation with PDUFA stakeholders.

FDA has worked with various stakeholders, including representatives from consumer, patient, and health provider groups, and the pharmaceutical and biological prescription drug industries, to develop a reauthorization proposal for PDUFA that would build upon and enhance the success of the program. Title 5, Subtitle A, of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, as passed by

the House on May 22, 2002, and by the Senate on May 23, 2002, reflects the fee mechanisms and other improvements developed in these discussions. The performance goals referenced in Section 502 are specified in the enclosure to this letter, entitled "PDUFA Reauthorization Performance Goals and Procedures." I believe they represent a realistic projection of what FDA can accomplish with industry cooperation and both the additional resources identified in the bill and annual FDA appropriations that fully cover the costs of pay and inflation increases for the drug and biologics review process each year.

This letter and the enclosed goals document pertain only to Title 5, Subtitle A (Prescription Drug User Fees) of H.R. 3448, the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. OMB has advised that there is no objection to the presentation of these views from the standpoint of the Administration's program. We appreciate the support of you and your staffs, the assistance of other Members of the Committee, and that of the Appropriations Committees, in the reauthorization of this vital program.

Sincerely,

TOMMY S. THOMPSON.

Enclosure.

#### PDUFA REAUTHORIZATION PERFORMANCE GOALS AND PROCEDURES

The performance goals and procedures of the FDA Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER), as agreed to under the reauthorization of the prescription drug user fee program in the [cite statute] are summarized as follows:

##### I. REVIEW PERFORMANCE GOALS—FISCAL YEAR 2003 THROUGH 2007

###### A. NDA/BLA submissions and resubmissions

Review and act on 90 percent of standard original NDA and BLA submissions filed during fiscal year within 10 months of receipt.

1. Review and act on 90 percent of priority original NDA and BLA submissions filed during fiscal year within 6 months of receipt.

2. Review and act on 90 percent of Class 1 resubmitted original applications filed during fiscal year within 2 months of receipt.

3. Review and act on 90 percent of Class 2 resubmitted original applications filed during fiscal year within 6 months of receipt.

###### Original Efficacy Supplements

1. Review and act on 90 percent of standard efficacy supplements filed during fiscal year within 10 months of receipt.

2. Review and act on 90 percent of priority efficacy supplements filed during fiscal year within 6 months of receipt.

###### Resubmitted Efficacy Supplements

###### Fiscal Year 2003:

1. Review and act on 90 percent of Class 1 resubmitted efficacy supplements filed during fiscal year 2003 within 6 months of receipt and review and act on 30 percent within 2 months of receipt.

2. Review and act on 90 percent of Class 2 resubmitted efficacy supplements filed during fiscal year 2003 within 6 months of receipt.

###### Fiscal Year 2004:

1. Review and act on 90 percent of Class 1 resubmitted efficacy supplements filed during fiscal year 2004 within 4 months of receipt and review and act on 50 percent within 2 months of receipt.

2. Review and act on 90 percent of Class 2 resubmitted original applications filed during fiscal year 2000 within 6 months of receipt.

###### Fiscal Year 2005:

1. Review and act on 90 percent of Class 1 resubmitted efficacy supplements filed during fiscal year 2005 within 4 months of receipt and review and act on 70 percent within 2 months of receipt.

2. Review and act on 90 percent of Class 2 resubmitted efficacy supplements within 6 months of receipt.

**Fiscal Year 2006**

1. Review and act on 90 percent of Class 1 resubmitted efficacy supplements filed during fiscal year 2006 within 4 months of receipt and review and act on 80 percent within 2 months of receipt.

2. Review and act on 90 percent of class 2 resubmitted efficacy supplements within 6 months of receipt.

**Fiscal Year 2007:**

1. Review and act on 90 percent of Class 1 resubmitted efficacy supplements filed during fiscal year 2007 with 2 months of receipt.

2. Review and act on 90 percent of Class 2 resubmitted efficacy supplements within 6 months of receipt.

**Original Manufacturing Supplements**

1. Review and act on 90 percent of manufacturing supplements filed during fiscal year within 6 months of receipt and review and act on 90 percent of manufacturing supplements requiring prior approval within 4 months of receipt.

These review goals are summarized in the following tables:

**ORIGINAL AND RESUBMITTED NDAS/BLAS**

Submission cohort	Standard	Priority
Original Applications .....	90% in 10 mo .....	90% in 6 mo.
Class 1 Resubmissions .....	90% in 2 mo .....	90% in 2 mo.
Class 2 Resubmissions .....	90% in 6 mo .....	90% in 6 mo.

**ORIGINAL AND RESUBMITTED EFFICACY SUPPLEMENTS**

Submission cohort	Standard	Priority
Original Efficacy Supplements.	90% in 10 mo .....	90% in 6 mo.

**RESUBMITTED EFFICACY SUPPLEMENTS**

Submission cohort	Class 1	Class
FY 2003 .....	90% in 6 mo/30% in 2 mo.	90% in 6 mo.
FY 2004 .....	90% in 4 mo/50% in 2 mo.	90% in 6 mo.
FY 2005 .....	90% in 4 mo/70% in 2 mo.	90% in 6 mo.
FY 2006 .....	90% in 4 mo/80% in 2 mo.	90% in 6 mo.
FY 2007 .....	90% in 2 mo .....	90% in 6 mo.

**MANUFACTURING SUPPLEMENTS**

Submission cohort	Manufacturing supplements no prior approval ("changes being effected" or "30-day supplements")	Manufacturing supplements that do require prior approval
FY 2003-2007 .....	90% in 6 mo .....	90% in 4 mo.

**II. NEW MOLECULAR ENTITY (NME) PERFORMANCE GOALS**

A. The performance goals for standard and priority original NMEs in each submission cohort will be the same as for all of the original NDAs (including NMEs) in each submission cohort but shall be reported separately.

B. For biological products, for purposes of this performance goal, all original BKSs will be considered to be NMEs.

**III. MEETING MANAGEMENT GOALS**

**A. Responses to meeting requests**

1. Procedure: Within 14 calendar days of the Agency's receipt of a request from industry for a formal meeting (i.e., a scheduled face-to-face, teleconference, or video-conference) CBER and CDER should notify the requester in writing (letter or fax) of the date, time, and place for the meeting, as well as expected Center participants.

2. Performance Goal: FDA will provide this notification within 14 days for 90% in FY 2003-2007.

**B. Scheduling meetings**

1. Procedure: The meeting date should reflect the next available date on which all applicable Center personnel are available to attend, consistent with the component's other business; however, the meeting should be scheduled consistent with the type of meeting requested. If the requested date for any of these types of meetings is greater than 30, 60, or 75 calendar days (as appropriate) from the date the request is received by the Agency, the meeting date should be within 14 calendar days of the date requested.

Type A Meetings should occur within 30 calendar days of the Agency receipt of the meeting request.

Type B Meetings should occur within 60 calendar days of the Agency receipt of the meeting request.

Type C Meetings should occur within 75 calendar days of the Agency receipt of the meeting request.

2. Performance goal: 90% of meetings are held within the timeframe (based on cohort year of request) from FY 03 to FY 07.

**C. Meeting minutes**

1. Procedure: The Agency will prepare minutes which will be available to the sponsor 30 calendar days after the meeting. The minutes will clearly outline the important agreements, disagreements, issues for further discussion, and action items from the meeting in bulleted form and need not be in great detail.

2. Performance goal: 90% of minutes are issued within 30 calendar days of date of meeting (based on cohort year of meeting) in FY 03 to FY 07.

**D. Conditions**

For a meeting to qualify for these performance goals:

1. A written request (letter or fax) should be submitted to the review division; and

2. The letter should provide:  
a. A brief statement of the purpose of the meeting;

b. A listing of the specific objectives/outcomes the requester expects from the meeting;

c. A proposed agenda, including estimated times needed for each agenda item;

d. A listing of planned external attendees;

e. A listing of requested participants/disciplines representative(s) from the Center;

f. The approximate time that supporting documentation (i.e., the "background") for the meeting will be sent to the Center (i.e., "x" weeks prior to the meeting, but should be received by the Center at least 2 weeks in advance of the scheduled meeting for Type A meetings and at least 1 month in advance of the scheduled meeting for Type B and Type C meetings); and

3. The Agency concurs that the meeting will serve a useful purpose (i.e., it is not premature or clearly unnecessary). However, requests for a "Type B" meeting will be honored except in the most unusual circumstances.

**IV. CLINICAL HOLDS**

A. Procedure: The Center should respond to a sponsor's complete response to a clinical hold within 30 days of the Agency's receipt of the submission of such sponsor response.

B. Performance goal: 90% of such responses are provided within 30 calendar days of the Agency's receipt of the sponsor's response in FY 03 to FY 07 (cohort of date of receipt).

**V. MAJOR DISPUTE RESOLUTION**

**A. Procedure**

For procedural or scientific matters involving the review of human drug applications and supplements (as defined in PDUFA) that cannot be resolved at the divisional level (including a request for reconsideration

by the Division after reviewing any materials that are planned to be forwarded with an appeal to the next level), the response to appeals of decisions will occur within 30 calendar days of the Center's receipt of the written appeal.

**B. Performance goal**

90% of such answers are provided within 30 calendar days of the Center's receipt of the written appeal in FY 03 to FY 07.

**C. Conditions**

1. Sponsors should first try to resolve the procedural or scientific issue at the Division level. If it cannot be resolved at that level, it should be appealed to the Office Director level (with a copy to the Division Director) and then, if necessary, to the Deputy Center Director or Center Director (with a copy to the Office Director).

2. Responses should be either verbal (followed by a written confirmation within 14 calendar days of the verbal notification) or written and should ordinarily be to either deny or grant the appeal.

3. If the decision is to deny the appeal, the response should include reasons for the denial and any actions the sponsor might take in order to persuade the Agency to reverse its decision.

4. In some cases, further data or further input from others might be needed to reach a decision on the appeal. In these cases, the "response" should be the plan for obtaining that information (e.g., requesting further information from the sponsor, scheduling a meeting with the sponsor, scheduling the issue for discussion at the next scheduled available advisory committee).

5. In these cases, once the required information is received by the Agency (including any advice from an advisory committee), the person to whom the appeal was made, again has 30 calendar days from the receipt of the required information in which to either deny or grant the appeal.

6. Again, if the decision is to deny the appeal, the response should include the reasons for the denial and any actions the sponsor might take in order to persuade the Agency to reverse its decision.

7. N.B. If the Agency decides to present the issue to an advisory committee and there are not 30 days before the next scheduled advisory committee, the issue will be presented at the following scheduled committee meeting in order to allow conformance with advisory committee administrative procedures.

**VI. SPECIAL PROTOCOL QUESTION ASSESSMENT AND AGREEMENT**

**A. Procedure**

Upon specific request by a sponsor (including specific questions that the sponsor desires to be answered), the agency will evaluate certain protocols and issues to assess whether the design is adequate to meet scientific and regulatory requirements identified by the sponsor.

1. The sponsor should submit a limited number of specific questions about the protocol design and scientific and regulatory requirements for which the sponsor seeks agreement (e.g., is the dose range in the carcinogenicity study adequate, considering the intended clinical dosage; are the clinical endpoints adequate to support a specific efficacy claim).

2. Within 45 days of Agency receipt of the protocol and specific questions, the Agency will provide a written response to the sponsor that includes a succinct assessment of the protocol and answers to the questions posed by the sponsor. If the agency does not agree that the protocol design, execution plans, and data analyses are adequate to achieve the goals of the sponsor, the reasons for the disagreement will be explained in the response.



3. Protocols that qualify for this program include: carcinogenicity protocols, stability protocols, and Phase 3 protocols for clinical trials that will form the primary basis of an efficacy claim. (For such Phase 3 protocols to qualify for this comprehensive protocol assessment, the sponsor must have had an end of Phase 2/pre-Phase 3 meeting with the review division so that the division is aware of the developmental context in which the protocol is being reviewed and the questions being answered.)

4. N.B. For products that will be using Subpart E or Subpart H development schemes, the Phase 3 protocols mentioned in this paragraph should be construed to mean those protocols for trials that will form the primary basis of an efficacy claim no matter what phase of drug development in which they happen to be conducted.

5. If a protocol is reviewed under the process outlined above and agreement with the Agency is reached on design, execution, and analyses and if the results of the trial conducted under the protocol substantiate the hypothesis of the protocol, the Agency agrees that the data from the protocol can be used as part of the primary basis for approval of the product. The fundamental agreement here is that having agreed to the design, execution, and analyses proposed in protocols reviewed under this process, the Agency will not later alter its perspective on the issues of design, execution, or analyses under public health concerns unrecognized at the time of protocol assessment under this process are evident.

#### B. Performance goal

90% of special protocols assessments and agreement requests completed and returned to sponsor within timeframes (based on cohort year of request) from FY 03 to FY 07.

#### VII. CONTINUOUS MARKETING APPLICATION

To test whether providing early review of selected applications and additional feedback and advice to sponsors during drug development for selected products can further shorten drug development and review times, FDA agrees to conduct the following two pilot programs:

##### A. Pilot 1—Discipline review letters for pre-submitted “reviewable units” of NDAs/BLAs

1. This pilot applies to drugs and biologics that have been designated to be Fast Track drugs or biologics, pursuant to section 112 of the FDA Modernization Act (21 U.S.C. 356), have been the subject of an End-of-Phase 2 and/or a Pre-NDA/BLA meeting, and have demonstrated significant promise as a therapeutic advance in clinical trials.

2. For drugs and biologics that meet these criteria, FDA may enter into an agreement with the sponsor to accept pre-submission of one or more “reviewable units” of the application in advance of the submission of the complete NDA/BLA.

3. If following an initial review FDA finds a “reviewable unit” to be substantially complete for review (i.e., after a “filing review” similar to that performed on an NDA/BLA), FDA will initiate a review clock for the complete review of the “reviewable unit” of the NDA/BLA. The review clock would start from the date of receipt of the “reviewable unit.”

4. To be considered fileable for review under paragraph 3, a “reviewable unit” must be substantially complete when submitted to FDA. Once a “reviewable unit” is “filed” by FDA, except as provided in paragraph 5 below, only minor information amendments submitted in response to FDA inquiries or requests and routine stability and safety updates will be considered during the review cycle.

5. Major amendments to the “reviewable unit” are strongly discouraged. However, in

rare cases, and with prior agreement, FDA may accept and consider for review a major amendment to a “reviewable unit.” To accommodate these rare cases, a major amendment to a “reviewable unit” submitted within the last three months of a 6-month review cycle may, at FDA’s discretion, trigger a 3-month extension of the review clock for the “reviewable unit” in question. In no case, however, would a major amendment be accepted for review and the review clock for the “reviewable unit” extended if the extended review clock for the “reviewable unit” exceeded the review clock for the complete NDA/BLA. (See paragraph 10 below).

6. After completion of review of the “reviewable unit” of the NDA/BLA by the appropriate discipline review team, FDA will provide written feedback to the sponsor of the review findings in the form of a discipline review letter (DRL).

7. The DRL will provide feedback on the individual “reviewable unit” from the discipline review team, and not final, definitive decisions relevant to the NDA/BLA.

8. If an application is to be presented to an advisory committee, the final DRL on the “reviewable unit” may be deferred pending completion of the advisory committee meeting and internal review and consideration of the advice received.

9. The following performance goals will apply to review of “reviewable units” of an NDA/BLA for Fast Track drugs and biologics that are submitted in advance of the complete NDA/BLA under this pilot program:

a. Discipline review team review of a “reviewable unit” for a Fast Track drug or biologic will be completed and a DRL issued within 6 months of the date of the submission for 30% of “reviewable units” submitted in FY04;

b. Discipline review team review of a “reviewable unit” for a Fast Track drug or biologic will be completed and a DRL issued within 6 months of the date of the submission for 50% of “reviewable units” submitted in FY05;

c. Discipline review team review of a “reviewable unit” for a Fast Track drug or biologic will be completed and a DRL issued within 6 months of the date of the submission for 70% “reviewable units” submitted in FY06, and

d. Discipline review team review of a “reviewable unit” for a Fast Track drug or biologic will be completed and a DRL letter issued within 6 months of the date of the submission for 90% of “reviewable units” submitted in FY07.

10. If the complete NDA/BLA is submitted to FDA while a 6-month review clock for a “reviewable unit” is still open, FDA will adhere to the timelines and performance goals for both the “reviewable unit” and the complete NDA/BLA. For example, if a “reviewable unit” is submitted in January and the complete NDA/BLA is submitted in April, the review goal for the “reviewable unit” will be July and the review goal for the complete NDA/BLA will be October.

11. Any resubmission or amendment of a “reviewable unit” submitted by the sponsor in response to an FDA discipline review letter will not be subject to the review timelines and performance goals proposed above. FDA review of such resubmissions and amendments in advance of submission of the complete NDA/BLA will occur only as resources allow.

12. This pilot program is limited to the initial submission of an NDA/BLA and is not applicable to a resubmission in response to an FDA complete response letter following the complete review of an NDA/BLA.

13. Guidance: FDA will develop and issue a joint CDER/CBER guidance on how it intends to implement this pilot program by

September 30, 2003. The guidance will describe the principles, processes, and procedures that will be followed during the pilot program. The guidance also will define what subsections of a complete technical section would be considered an acceptable “reviewable unit” for pre-submission and review and how many individual “reviewable units” from one or more technical sections of an NDA/BLA can be pre-submitted and reviewed subject to separate review clocks under this program at any given time. The pilot program will be implemented in FY 2004, after the final guidance is issued and will continue through FY 2007.

##### B. Pilot 2—Frequent scientific feedback and interactions during drug development

1. This pilot applies to drugs and biologics that have been designated to be Fast Track drugs or biologics pursuant to section 112 of the FDA Modernization Act (21 U.S.C. 356), that are intended to treat serious and/or life-threatening diseases, and that have been the subject of an end-of-phase 1 meeting. The pilot program is limited to one Fast Track product in each CDER and CBER review division over the course of the pilot program.

2. For drugs and biologics that meet these criteria, FDA may enter into an agreement with the sponsor to initiate a format program of frequent scientific feedback and interactions regarding the drug development program. The feedback and interactions may take the form of regular meetings between the division and the sponsor at appropriate points during the development process, written feedback from the division following review of the sponsor’s drug development plan, written feedback from the division following review of important new protocols, and written feedback from the division following review of study summaries or complete study reports submitted by the sponsor.

3. Decisions regarding what study reports would be reviewed as summaries and what study reports would be reviewed as complete study reports under this pilot program would be made in advance, following discussions between the division and the sponsor of the proposed drug development program. In making these decisions, the review division will consider the importance of the study to the drug development program, the nature of the study, and the potential value of limited (i.e., based on summaries) versus more thorough division review (i.e., based on complete study reports).

4. Guidance: FDA will develop and issue a joint CDER/CBER guidance on how it intends to implement this pilot program by September 30, 2003. The guidance will describe the principles, processes, and procedures that will be followed during the pilot program. The pilot program will be implemented in FY 2004, after the final guidance is issued and will continue through FY 2007. The full (unredacted) study report will be provided to the FDA Commissioner and a version of the study report redacted to remove confidential commercial information or other information exempt from disclosure, will be made available to the public.

##### C. Evaluation of the pilot programs

1. In FY 2004, FDA will contract with an outside expert consultant(s) to evaluate both pilot programs.

2. The consultant(s) will develop an evaluation study design that identifies key questions, data requirements, and a data collection plan, and a conduct a comprehensive study of the pilot programs to help assess the value, costs, and impact of these programs to the drug development and review process. A preliminary report will be generated by the consultant by the end of FY06.

## VIII. PRE-AND PERI-NDA/BLA RISK MANAGEMENT PLAN ACTIVITIES

a. Submission and Review of pre-NDA/BLA meeting packages: A pre-NDA/BLA meeting package may include a summary of relevant safety information and industry questions/discussion points regarding proposed risk management plans and discussion of the need for any post-approval risk management studies. The elements of the proposal may include:

1. assessment of clinical trial limitations and disease epidemiology
2. assessment of risk management tools to be used to address known and potential risks
3. suggestions for phase 4 epidemiology studies, if such studies are warranted
4. proposals for targeted post-approval surveillance (this would include attempts to quantify background rates of risks of concern and thresholds for actions)

The pre-NDA/BLA meeting package will be reviewed and discussed by the review divisions as well as the appropriate safety group in CDER or CBER.

b. Pre-NDA/BLA meeting with industry: This meeting may include a discussion of the preliminary risk management plans and proposed observational studies, if warranted, as outlined above. Participants in this meeting will include product safety experts from the respective Center. The intent of these discussions will be for FDA to get a better understanding of the safety issues associated with the particular drug/biologic and the proposed risk management plans, and to provide industry with feedback on these proposals so that they can be included in the NDA/BLA submission. It is the intent of this proposal that such risk management plans and the discussions around them would focus on specific issues of concern, either based on already identified safety issues or reasonable potential focused issues of concern.

c. Review of NDA/BLA: The NDA/BLA submitted by industry may include the proposed risk management tools and plans, and protocols for observational studies, based on the discussions that began with the pre-NDA/BLA meeting, as described above, and may be amended as appropriate to further refine the proposal. These amendments would not normally be considered major amendments. Both the review division and the appropriate safety group will be involved in the review of the application and will try to communicate comments regarding the risk management plan as early in the review process as practicable, in the form of a discipline review letter. Items to be included in the risk management plan to assure FDA of the safety and efficiency of the drug or biologic are to be addressed prior to approval of an application. The risk management plan may contain additional items that can be used to help refine the risks and actions (e.g., background rates and observational studies) and these items may be further defined and completed after approval in accordance with time frames agreed upon at the time of product approval.

d. Peri-Approval Submission of Observational Study Reports and Periodic Safety Update Reports (PSURs): For NDA/BLA applications, and supplements containing clinical data, submitted on or after October 1, 2002, FDA may use user fees to review an applicant's implementation of the risk management plan for a period of up to two years post-approval for most products and for a period of up to three years for products that require risk management beyond standard labeling (e.g., a black box or bolded warning, medication guide, restricted distribution). This period is defined for purposes of the user fee goals as the peri-approval period. Issues that arise during implementation of the risk management plan (e.g., whether the

plan is effective) will be reported to FDA either in the form of a PSUR or in a periodic or annual report (21 CFR 314.80 and 314.81) (ICH Guidance E2C, Clinical Safety Data Management: Periodic Safety Update Reports for Marketed Drugs) and addressed during the peri-approval period through discussions between the applicant and FDA. PSURs may be submitted and reviewed semi-annually for the first two or three years post approval to allow adequate time for implementation of risk management plans.

For drugs approved under PDUFA III, FDA may use user fees to independently evaluate produce utilization for drugs with important safety concerns, using drug utilization databases, for the first three years post approval. The purpose of such utilization evaluations is to evaluate whether these products are being used in a safe manner and to work proactively with companies during the peri-approval period to accomplish this. FDA will allocate \$70,900,000 in user fees over 5 years to the activities covered in this section. FDA will track the specific amounts of user fees spent on these activities and will include in its annual report to Congress an accounting of this spending.

e. Guidance Document Development: By the end of Fiscal Year 04, CDER and CBER will jointly develop final guidance documents that address good risk assessment, risk management, and pharmacovigilance practices.

## IX. INDEPENDENT CONSULTANTS FOR BIOTECHNOLOGY CLINICAL TRIAL PROTOCOLS

## A. Engagement of expert consultant

During the development period for a biotechnology product, a sponsor may request that FDA engage an independent expert consultant, selected by FDA, to participate in the Agency's review of the protocol for the clinical studies that are expected to serve as the primary basis for a claim.

## B. Conditions

1. The product must be a biotechnology product (for example, DNA plasmid products, synthetic peptides of fewer than 40 amino acids, monoclonal antibodies for in vivo use, and recombinant DNA-derived products) that represents a significant advance in the treatment, diagnosis or prevention of a disease or condition, or have the potential to address an unmet medical need;

2. The product may not have been the subject of a previously granted request under this program;

3. The sponsor must submit a written request for the use of an independent consultant, describing the reasons why the consultant should be engaged (e.g., as a result of preliminary discussions with the Agency the sponsor expects substantial disagreement over the proposed protocol); and

4. The request must be designated as a "Request for Appointment of Expert Consultant" and submitted in conjunction with a formal meeting request (for example, during the end-of-Phase II meeting or a Type A, meeting).

## C. Recommendations for consultants

The sponsor may submit a list of recommended consultants for consideration by the Agency. The selected consultant will either be a special government employee, or will be retained by FDA under contract. The consultant's role will be advisory to FDA and FDA will remain responsible for making scientific and regulatory decisions regarding the clinical protocol in question.

## D. Denial of requests

FDA will grant the request unless the Agency determines that engagement of an expert consultant would not serve a useful purpose (for example it is clearly pre-

mature). FDA will engage the services of an independent consultant, of FDA's choosing, as soon as practicable. If the Agency denies the request, it will provide a written rationale to the requester within 14 days of receipt.

## E. Performance goal change

Due to the time required to select and screen the consultant for potential conflicts of interest and to allow the consultant sufficient time to review the scientific issues involved, the performance goals for scheduling the formal meeting (see section III) may be extended for an additional sixty (60) days.

## F. Evaluation

During FY 2006, FDA will conduct a study to evaluate the costs and benefits of this program for both sponsors and the Agency.

## X. FIRST CYCLE REVIEW PERFORMANCE PROPOSAL

## A. Notification of issues identified during the filing review

1. Performance Goal: For original NDA/BLA applications and efficacy supplements, FDA will report substantive deficiencies identified in the initial filing review to the sponsor by letter, telephone conference, facsimile, secure e-mail, or other expedient means.

2. The timeline for such communication will be within 14 calendar days after the 60 day filing date.

3. If no deficiencies were noted, FDA will so notify the sponsor.

4. FDA's filing review represents a preliminary review of the application and is not indicative of deficiencies that may be identified later in the review cycle.

5. FDA will provide the sponsor a notification of deficiencies prior to the goal date for 50% of applications in FY 2003, 70% in FY 2004, and 90% in FY 2005, FY 2006, and FY 2007.

## B. Good review management principles guidance

FDA will develop a joint CDER-CBER guidance on Good Review Management Principles (GRMPs), and publish final guidance by the end of FY 2003. The Good Review Management Principles will address, among other elements, the following:

1. The filing review process, including communication of issues identified during the filing review that may affect approval of the application.

2. Ongoing communication with the sponsor during the review process (in accordance with 21 CFR 314.102(a)), including emphasis on early communication of easily correctable deficiencies (21 CFR 314.102(b)).

3. Appropriate use of Information Request and Discipline Review letters, as well as other informal methods of communication (phone, fax, e-mail).

4. Anticipating/planning for a potential Advisory Committee meeting.

5. Completing the primary reviews—allowing time for secondary and tertiary reviews prior to the action goal date.

6. Labeling feedback—planning to provide labeling comments and scheduling time for teleconferences with the sponsor in advance of the action goal date.

## C. Training

FDA will develop and implement a program for training all review personnel, including current employees as well as future new hires, on the good review management principles.

## D. Evaluation

FDA will retain an independent expert consultant to undertake a study to evaluate issues associated with the conduct of first cycle reviews.

1. The study will be designed to assess current performance and changes that occur

after the guidance on GRMPs is published. The study will include collection of various types of tracking data regarding actions that occur during the first cycle review, both from an FDA and industry perspective (e.g., IR letters, DR letters, draft labeling comments from FDA to the sponsor, sponsor response to FDA requests for information).

2. The study will also include an assessment of the first cycle review history of all NDAs for NMEs and all BLAs during PDUFA III. This assessment will include a more detailed evaluation of the events that occurred during the review process with a focus on identifying best practices by FDA and industry that facilitated the review process.

3. The study will also include an assessment of the effectiveness of the training program implemented by FDA.

4. FDA will develop a statement of work for the study and will provide the public an opportunity to review and comment on the statement of work before the study is implemented. The consultant will prepare annual reports of the findings of the study and a final study report at the end of the 5-year study period. The full (un-redacted) study reports will be provided to the FDA Commissioner and a version of the study reports redacted to remove confidential commercial information or other information exempt from disclosure, will be made available to the public.

5. Development and implementation of the study of first cycle review performance will be a component of the Performance Management Plan conducted out of the Office of the Commissioner (see section X).

6. Administrative oversight of the study will rest in the Office of the Commissioner. The Office of the Commissioner will convene a joint CDER/CBER review panel on a quarterly basis as a mechanism for ongoing assessment of the application of Good Review Management Principles to actions taken on original NDA/BLA applications.

#### XI. IMPROVING FDA PERFORMANCE MANAGEMENT

##### A. Performance fund

The Commissioner will use at least \$7 million over five years of PDUFA III funds for initiatives targeted to improve the drug review process.

1. Funds would be made available by the Commissioner to the Centers based both on identified areas of greatest need for process improvements as well as on achievement of previously identified objectives.

2. Funds also could be used by the FDA Commissioner to diagnose why objectives are not being met, or to examine areas of concern.

3. The studies conducted under this initiative would be intended to foster:

a. Development of programs to improve access to internal and external expertise

b. Reviewer development programs, particularly as they relate to drug review processes.

c. Advancing science and use of information management tools

d. Improving both inter- and intra-Center consistency, efficiency, and effectiveness

e. Improved reporting of management objectives

f. Increased accountability for use of user fee revenues

g. Focused investments on improvements in the process of drug review

h. Improved communication between the FDA and industry

4. In deciding how to spend these funds, the Commissioner would take into consideration how to achieve greater harmonization of capabilities between CDER and CBER.

##### B. First two initiatives

Two specific initiatives will begin early in PDUFA III and supported from performance

management initiative funds (1) evaluation of first cycle review performance, and (2) process review and analysis within the two centers.

##### 1. First Cycle Review Performance

See the First Cycle Review Performance (See section X. for details on this proposed study).

##### 2. Process Review and Analysis

a. In FY 2003, FDA will contract with an outside consultant to conduct a comprehensive process review and analysis within CDER and CBER. This review will involve a thorough analysis of information utilization, review management, and activity cost.

b. The review is expected to take from 18-24 months, although its duration will depend on the type and amount of complexity of the issues uncovered during the review.

c. The outcome of this review will be a thorough documentation of the process, a re-map of the process indicating where efficiencies can be gained, activity-based project accounting, optimal use of review tools, and a suggested path for implementing the recommendations.

d. FDA would anticipate delivery of a report of the consultant's findings and recommendations in FY 2004-2005. The agency would consider these recommendations in planning any redesign or process re-engineering to enhance performance.

##### 3. Further Studies

In subsequent years of PDUFA III, FDA may develop other study plans that will focus on further analysis of program design, performance features and costs, to identify potential avenues for further enhancement. Future studies would be likely to include a comprehensive re-analysis of program costs following the implementation of new PDUFA III review initiatives and the adoption of any process changes following the recommendations of the year 1 and 2 studies.

#### XII. ELECTRONIC APPLICATIONS AND SUBMISSIONS—GOALS

a. The Agency will centralize the accountability and funding for all PDUFA Information Technology initiatives/activities for CBER, CDER, ORA and OC under the leadership of the FDA CIO. The July 2001 HHS IT 5-year plan states that infrastructure consolidation across the department should be achieved, including standardization. The Agency CIO will be responsible for ensuring that all PDUFA III IT infrastructure and IT investments support the Agency's common IT goals, fit into a common computing environment, and follow good IT management practices.

b. The Agency CIO will chair quarterly briefings on PDUFA IT issues to periodically review and evaluate the progress of IT initiatives against project milestones, discuss alternatives when projects are not progressing, and review proposals for new initiatives. On an annual basis, an assessment will be conducted of progress against PDUFA III IT goals and, established program milestones, including appropriate changes to plans. A documented summary of the assessment will be drafted and forwarded to the Commissioner. A version of the study report redacted to remove confidential commercial or security information, or other information exempt from disclosure, will be made available to the public. The project milestones, assessment and changes will be part of the annual PDUFA III IT reports.

c. FDA will implement a common solution in CBER, CDER, ORA and OC for the secure exchange of content including secure e-mail, electronic signatures, and secure submission of, and access to application components.

d. FDA will deliver a single point of entry for the receipt and processing of all elec-

tronic submissions in a highly secure environment. This will support CBER, CDER, OC and ORA. The system should automate the current electronic submission processes such as checking the content of electronic submissions for completeness and electronically acknowledging submissions.

e. FDA will provide a specification format for the electronic submission of the Common Technical Document (e-CTD), and provide an electronic review system for this new format that will be used by CBER, CDER and ORA reviewers. Implementation should include training to ensure successful deployment. This project will serve as the foundation for automation of other types of electronic submissions. The review software will be made available to the public.

f. Within the first 12 months, FDA will conduct an objective analysis and develop a plan for consolidation of PDUFA III IT infrastructure and desktop management services activities that will assess and prioritize the consolidation possibilities among CBER, CDER, ORA and OC to achieve technical efficiencies, target potential savings and realize cost efficiencies. Based upon the results of this analysis, to the extent appropriate, establish common IT infrastructure and architecture components according to specific milestones and dates. A documented summary of the analysis will be forwarded to the Commissioner. A version of the study report redacted to remove confidential commercial or security information, or other information exempt from disclosure, will be made available to the public.

g. FDA will implement Capability Maturity Model (CMM) in CBER, CDER, ORA and OC for PDUFA IT infrastructure and investments, and include other industry best practices to ensure that PDUFA III IT products and projects are of high quality and produced with optimal efficiency and cost effectiveness. This includes development of project plans and schedules, goals, estimates of required resources, issues and risks/mitigation plans for each PDUFA III IT initiative.

h. Where common business needs exist, CBER, CDER, ORA and OC will use the same software applications, such as eCTD software, and COTS solutions.

i. Within six months of authorization, a PDUFA III IT 5-year plan will be developed. Progress will be measured against the milestones described in the plan.

#### XIII. ADDITIONAL PROCEDURES

##### A. Simplification of action letters

To simplify regulatory procedures, CBER and CDER intend to amend their regulations and processes to provide for the issuance of either an "approval" (AP) or a "complete response" (CR) action letter at the completion of a review cycle for a marketing application.

##### B. Timing of sponsor notification of deficiencies in applications

To help expedite the development of drug and biologic products, CBER and CDER intend to submit deficiencies to sponsors in the form of an "information request" (IR) letter when each discipline has finished its initial review of its section of the pending application.

#### XIV. DEFINITIONS AND EXPLANATION OF TERMS

A. The term "review and act on" is understood to mean the issuance of a complete action letter after the complete review of filed complete application. The action letter, if it is not an approval, will set forth in detail the specific deficiencies and, where appropriate, the actions necessary to place the application in condition for approval.

B. A major amendment to an original application, efficacy supplement, or resubmission of any of these applications, submitted

within three months of the goal date, extends the goal date by three months. A major amendment to a manufacturing supplement submitted within two months of the goal date extends the goal date by two months.

C. A resubmitted original application is a complete response to an action letter addressing all identified deficiencies.

D. Class 1 resubmitted applications are applications resubmitted after a complete response letter (or a not approvable or approvable letter) that include the following items only (or combinations of these items):

1. Final printed labeling
2. Draft labeling
3. Safety updates submitted in the same format, including tabulations, as the original safety submission with new data and changes highlighted (except when large amounts of new information including important new adverse experiences not previously reported with the product are presented in the resubmission)
4. Stability updates to support provisional or final dating periods
5. Commitments to perform Phase 4 studies, including proposals for such studies
6. Assay validation data
7. Final release testing on the last 1–2 lots used to support approval
8. A minor reanalysis of data previously submitted to the application (determined by the agency as fitting the Class 1 category)
9. Other minor clarifying information (determined by the Agency as fitting the Class 1 category)
10. Other specific items may be added later as the Agency gains experience with the scheme and will be communicated via guidance documents to industry.

E. Class 2 resubmissions are resubmissions that include any other items, including any item that would require presentation to an advisory committee.

F. A Type A Meeting is a meeting which is necessary for an otherwise stalled drug development program to proceed (a "critical path" meeting).

G. A Type B Meeting is a 1) pre-IND, 2) end of Phase 1 (for Subpart E or Subpart H or similar products) or end of Phase 2/pre-Phase 3, or 3) a pre-NDA/BLA meeting. Each requestor should usually only request 1 each of these Type B meetings for each potential application (NDA/BLA) (or combination of closely related products, i.e., same active ingredient but different dosage forms being developed concurrently).

H. A Type C Meeting is any other type of meeting.

I. The performance goals and procedures also apply to original applications and supplements for human drugs initially marketed on an over-the-counter (OTC) basis through an NDA or switched from prescription to OTC status through an NDA or supplement.

#### 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 last 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 July 23, 2001 in Thibodaux, LA. A black woman was shot in the face with a paintball gun

outside her home. Two teens were arrested and charged for aggravated battery in what police called a hate crime. The assailants were heard to have made comments about "wanting to shoot black people."

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 and changing current law, we can change hearts and minds as well.

#### TRIBUTE TO THE HEROES OF D- DAY

Mr. BAUCUS. Mr. President, I rise today in commemoration of the 58th anniversary of the largest air, land, and sea invasion ever undertaken: D-Day.

This monumental task involved over 150,000 American, British, Canadian, Free French, and Polish troops. Each of these individuals took great risks, sacrificing themselves for the sake of freedom and democracy.

For many of the Americans storming the Utah and Omaha beach, D-Day offered their first glimpse of the enemy and death. Although, there had been extensive training and planning of the invasion, this was a challenge unlike any other. Facing incredible odds, natural obstacles and man-made fortifications, the allied troops secured a beachhead in Nazi occupied Europe from which to begin a western frontal attack. D-Day was a colossal moment where freedom and democracy regained a foothold in Europe at the cost of many brave individuals.

There are many heroes of D-Day; many we honored and remembered just a little over a week ago during Memorial Day weekend and others who are passing each day. I know it is my wish, as it must be for the other members of this body, that the valor and sacrifices of our Nation's fighting men and women are not forgotten. Each generation deserves to understand the important events that shaped the world we live in. I'm happy to see construction underway with the World War II monument on the National Mall. This will serve as another reminder to those of today and tomorrow of those who came before us and made, "For God and Country," the ultimate sacrifice.

On the anniversary of possibly the most difficult military invasion, I tip my hat in solemn remembrance to those who fought so bravely to protect freedom and liberty here and abroad. I also ask that all Americans take a moment to remember their sacrifices, which allowed the world to enjoy a greater freedom.

In conclusion, it is evident that following the savage attacks of September 11, new sacrifices lay ahead of us. As America rises to meet these challenges we can take solace in the model of courage and determination of

those who gave their lives on the beaches of Normandy to protect our freedom.

Mr. JOHNSON. Mr. President, on this day 58 years ago, Allied forces began the D-Day invasion of Normandy, France. Given the importance of this event to our nation's history, we should take a moment today to remember and to honor those who sacrificed their lives on the beaches of France in the fight against the forces of fascism.

D-Day was the largest air, land, and sea invasion in history. More than 5,000 ships, 10,000 airplanes, and 150,000 troops participated in the invasion of June 6, 1944. Soldiers from America, Britain, Canada, and France worked in concert to storm the beaches of Normandy, overcome entrenched German defensive positions, and establish a beachhead from which France and all of Europe was liberated. The success of the D-Day invasion not only turned the tide of the war, but changed the course of history as well.

Exact casualties from the invasion have proven difficult to calculate. But upwards of 10,000 men were killed or wounded on the five beaches whose code names we have all come to know so well: Utah, Omaha, Gold, Juno, and Sword.

Today, we pause to honor all of those who participated in the Normandy invasion, including those who were killed, those who have died in the six decades since the invasion, and those who survive today to tell of their comrades' bravery and sacrifices. We owe a debt to each of these men that can never be fully repaid. Yet, I believe one of the best ways for us to pay our respect to these heroes, is to honor our commitments to our veterans and to those serving in the active duty and reserve.

In an attempt to thank the U.S. servicemembers who participated in the liberation of France, the French government is offering certificates to U.S. veterans who served in France, its territorial waters, or airspace between June 6, 1944 and May 8, 1945. I am working to make my constituents aware of these Thank-You-America Certificates so that all eligible South Dakota veterans get the recognition for their service that they deserve.

I know that my colleagues will join with me in commemorating the 58th anniversary of the D-Day invasion and honoring the veterans who answered our Nation's call to service on that fateful day.

#### ADDITIONAL COSPONSOR TO S. RES. 281

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senator from Iowa, Mr. GRASSLEY, be added as a cosponsor to S. Res. 281. I ask unanimous consent that the RECORD to reflect that Senator GRASSLEY was inadvertently left off the list of original cosponsors to S. Res. 281 due to an error.

BACKGROUND CHECKS ARE  
NEEDED

Mr. LEVIN. Mr. President, an op-ed column in Tuesday's New York Times highlighted how fast, easy and unintrusive background checks for gun purchases can be if performed properly. Yet, this is not the story we are told by groups that oppose closing the gun show

loophole. According to the National Rifle Association, background checks often take days to complete. But according to the Department of Justice, 95 percent of background checks are completed within two hours, and according to the Violence Policy Center, a vast majority of background checks are completed within a few minutes.

The New York Times op-ed also highlighted why it is so important that we conduct these checks at gun shows. The author, Nicholas Kristof, cited the availability of .50 caliber semiautomatic rifles and assault rifles which sellers claim are powerful enough to penetrate bulletproof glass. It is common sense to make sure that criminals and other restricted buyers are prohibited from buying such lethal weapons. While any legitimate purchaser can buy such weapons from a federally licensed dealer after an instant background check, they can also be purchased from an unlicensed dealer at any gun show without a background check.

According to Bureau of Justice Statistics, between 1994 and 1999, over 22 million background checks were completed and more than 536,000 felons, fugitives and other prohibited persons were prevented from illegally purchasing firearms. But convicted criminals and suspected terrorists have reportedly used the gun show loophole to purchase firearms and smuggle them out of the United States. For example, in Florida, a man accused of having ties to the Irish Republican Army testified that he purchased thousands of dollars worth of machine guns, rifles and high-powered ammunition at gun shows and proceeded to smuggle them to Ireland. A 1999 study by the Bureau of Alcohol, Tobacco and Firearms found 314 cases of fraud at gun shows, involving 54,000 guns. To help eliminate this type of activity, I cosponsored Senator REED's Gun Show Background Check bill to close the gun show loophole. This bill simply applies existing law governing background checks to persons buying guns at gun shows. I cosponsored that bill because I believe it would prevent criminals from getting guns.

The gun show loophole is an even more serious problem if .50 caliber semiautomatic rifles are available for sale. Gun dealers recognize that these weapons represent a very dangerous amount of firepower. The .50 caliber rifle has apparently been promoted as a weapon able to "wreck several million dollars worth of jet aircraft with one or two dollars worth of cartridge." These weapons are among the most powerful,

and least regulated, firearms legally available. According to one seller's Web site, "Never mind that the gun haters don't want you to have'em. Forget about the lily-livered whiners in Congress. Exercise your rights before it's too late." Even some dealers know that .50 caliber weapons are too powerful and too accessible to be ignored any longer. Tighter regulations are needed. That is why I cosponsored Senator FEINSTEIN's Military Sniper Weapon Regulation Act. This bill would strengthen the regulation of long-range .50 caliber sniper weapons.

I believe both pieces of legislation are common sense steps to ensure that guns do not get into the hands of criminals and other prohibited buyers. I urge my colleagues to join me in supporting them and other pieces of common sense gun safety legislation.

ADDITIONAL STATEMENTS

TRIBUTE TO JOLENE FRANKEN

• Mr. HARKIN. Mr. President, next week will mark a new beginning for the Iowa State Education Association when Jolene Franken steps down as President. I would like to take this opportunity to recognize Jolene for her many accomplishments as a teacher and the outstanding job she has done as the head of the organization representing Iowa teachers. She has done Iowa proud.

We are all familiar with the expression that teachers touch the future. Whenever I see these words I think of teachers like Jolene Franken, a woman who is passionate about education and our children. As an elementary teacher for thirty years in Iowa, she has touched the lives of thousands of children.

Jolene Franken earned her Bachelor of Science degree at Greenville College in Greenville, IL and Masters Degree from Northwest Missouri State University. Jolene exemplifies life long learning and has participated in additional professional development activities at the University of Northern Iowa and University of Iowa.

Most of Jolene's career has been spent teaching first grade, but she is always open to new challenges. Most recently, she taught academically talented elementary students in the Denison Community School District's Extended Learning Program. Jolene has also been active in the creative problem solving competition, "Destination Imagination," and has served as coach of the Iowa team for five years. Her Destination Imagination teams have participated in two World Championships. She has also been a driving force behind the Iowa State Academic Decathlon since its inception.

Jolene has also been an active member of the Iowa State Education Association and National Education Association throughout her career where

she has held numerous offices. As President of ISEA for the past four years, she has been a tireless advocate for children and public education. She has fought to increase awareness of the teacher shortage in Iowa, fought to increase teachers' salaries and has pushed for quality teacher mentor programs.

As a first grade teacher, Jolene understands the importance of reading and has been an avid participant in NEA's Read Across America Day. Every year on Dr. Seuss' birthday, Jolene dons a "Cat in the Hat" costume to visit Iowa schools and read to the children.

I commend and thank Jolene for her hard work to improve Iowa schools and educate Iowa's youth. Jolene's community, her State and her country are better off because of her years as an educator and leader for the futures of all of our children. While I have highlighted some of her accomplishments and interests over the years, the list is so much longer, and I speak from the heart when I say she will be missed. I know she will continue to be active on behalf of Iowa's children

I also know that ISEA will be in good hands as John Hieronymus takes over as President. John is a math teacher from Iowa City and has served as vice-president of the organization for the past several years. Jolene Franken is a tough act to follow, but I know he is more than prepared to take on the challenging mission of leading ISEA. •

COMMEMORATING THE 58TH ANNIVERSARY OF THE NORMANDY D-DAY INVASION ON JUNE 6, 1944

• Mr. THURMOND. Mr. President, I rise today to commemorate an event that took place 58 years ago today. Of course, I am speaking about the invasion of Normandy on D-Day, June 6, 1944. The magnitude of the event, its scope and complexity, even now, instills a sense of awe in all of us. It remains the largest air, land, and sea invasion ever undertaken. The invasion force of over 150,000 soldiers was supported by over 5,000 ships and 10,000 airplanes. These troops were from the United States, Britain, and Canada and included Free French and Polish forces under the overall command of General Dwight David Eisenhower.

The invasion sites, from west to east, were designated as Utah, Omaha, Sword, Juno, and Gold. The British Second Army was responsible for Sword, Juno, and Gold, while the U.S. First Army was responsible for Utah and Omaha. The U.S. 1st and 29th Infantry Divisions landed at Omaha Beach, the U.S. 4th Infantry Division came ashore on Utah. The 82nd and 101st Airborne Division were dropped behind the beaches. I might add that some of the Airborne troops arrived by glider, an operation in which I was a participant.

Although the invasion was ultimately successful, it was a very hard

fought battle with many challenges. However, the individual initiative and courage of common soldiers saved the day. Many were teenagers or just in their twenties; most were frightened and on foreign soil under fire for the first time. Actions of courage and bravery were everywhere.

Now it seems so long ago, but I vividly remember this event. I remember these gallant men and their heroic actions. I remember those that paid the ultimate price for our freedom. During this military operation I landed at Normandy with the Glider Infantry of the 82nd Airborne Division, First U.S. Army. I am proud to have been a part of that endeavor and bear witness to the heroism and gallantry demonstrated that day.

One of the most challenging and rewarding experiences of my life has been to serve my Nation as an Officer in the U.S. Army. Although it has been many years since I last wore an Army uniform, my love for the service and pride in its heritage remain as strong today as it was when I was commissioned a Second Lieutenant. As I think about the sacrifice being made today by a new generation, I continue to remember the great effort and sacrifice made by so many young lives at Normandy. They paid the ultimate price for the freedoms we continue to enjoy today.

With each passing year, the number of Normandy Invasion veterans grows smaller. This is the final opportunity that I will have, as a Member of the Senate, to mark the anniversary of this occasion. I call upon my Senate colleagues and all Americans to never forget what happened on those French beaches 58 years ago. I encourage all Americans to remember the courageous men who fought and those who died to defend our liberties.●

#### TO COMMEMORATE THE DEDICATION AND UNVEILING OF THE DETROIT ARSENAL TANK PLANT HISTORICAL MARKER

● Mr. LEVIN. Mr. President, I rise today to call my colleagues' attention to a significant event taking place in my home state of Michigan. On June 6, 2002 in the City of Warren, elected officials, business and community leaders, and members and staff of the Tank-Automotive and Armaments Command, will join with the Warren Historical Commission and the Michigan Historical Commission to dedicate and unveil a Historical Marker at the Detroit Arsenal Tank Plant site. Also joining them will be veterans and former workers of the Tank Plant who well remember the contributions of this facility to the American war effort. Together, they will reflect back over 60 years ago, when on 113 acres of farmland in what was then Warren Township, the Detroit Tank Arsenal emerged as the nation's largest defense plant. And they will note that the Tank Arsenal marked the beginning of a legacy of how government and business can

unite for the common purpose of equipping our military and advancing our defense capability.

The Detroit Tank Arsenal success story began in 1940 when the U.S. Army contracted with the Chrysler Corporation to create a separate armored force of ground vehicles. Albert Kahn was called upon to design the mammoth structure needed to mass produce the Army's tanks and when it was completed it was the largest building of its type in all the world. The first prototype rolled off the assembly line on Good Friday, April 11, 1941. By early December 1941, the plant had shipped its 500th tank. Production continued to increase to a total of five assembly lines, and in December 1942, the plant set an all-time monthly production record by delivering 907 Sherman tanks.

President Roosevelt visited the Detroit Tank Arsenal in 1942 as part of his tour of the nation's defense facilities. He made the plant his first stop, touring the operations and watching the tanks run along the arsenal's test tracks. After returning to Washington, the president called the Detroit Tank Arsenal "an amazing demonstration of what can be done by the right organization, spirit and planning." FDR further proclaimed the Detroit Arsenal Tank Plant in Warren "The Arsenal of Democracy."

During World War II the Detroit Arsenal lived up to its motto "Enough and On Time" by delivering more than 22,234 tanks such as the Sherman. Production continued through the Korean and Vietnam Wars, throughout the Cold War, and right into Desert Storm. By 1996, however, all tank manufacturing ceased at this facility. But the Tank-Automotive Center that was created through the Arsenal in 1942 has evolved into the Tank-Automotive and Armaments Command which is housed close to the original plant site. I am sure that my Senate colleagues join me in paying tribute to the great history of the Detroit Arsenal Tank Plant and in celebrating the future of progress that it opened to us.●

#### COMMUNITY HEROS

● Mr. SMITH of Oregon. Mr. President, today I salute a community leader in my home State of Oregon. Today, I want to recognize the efforts of Susan Abravanel, Education Coordinator at SOLV, a non-profit organization in Oregon, in advocating for service-learning, one of the most exciting educational initiatives taking hold in our nation today.

Service-learning gives students the opportunity to learn through community service, but it is important to note that it is much more than just community service, Mr. President—it is a method of classroom instruction that engages a student's intellect through hands-on work outside the classroom that benefits the community at large. Research shows that students

participating in service-learning make gains on achievement tests, complete their homework more often, and increase their grade point averages.

In addition to producing academic gains, service-learning is also associated with both increased attendance and reduced dropout rates. It is clear to educators across the country that service-learning helps students feel more connected to their own education while strengthening their connection to their community as well. It is for all of these reasons that Susan Abravanel is working so hard to advocate for service-learning in classrooms in Oregon and across the nation.

Ms. Abravanel is working closely with my office and with education leaders in Oregon to ensure that my home state remains a national leader in service-learning. Just two months ago, I introduced a bill with my colleague, Senator EDWARDS, to strengthen our nation's commitment to service-learning. I feel confident that this bill will soon become law and that with Ms. Abravanel's continued efforts both here in Washington, D.C. and at home in Oregon, students will continue to benefit from an education tied to civic engagement.

Ms. Abravanel exemplifies the type of engaged citizen our schools must endeavor to produce, and her persistence will ensure that future generations of Americans will give back to their communities just as she has. I would also like to note that Susan isn't just concerned about education—her interests and efforts in Portland's Jewish community are well known and highly appreciated—she is the new President of the Oregon chapter of the American Jewish Committee. I look forward to working with Susan in her new role at the AJC and thank her for her continuing devotion to service-learning.●

#### THE DEATH OF LEW R. WASSERMAN

● Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to my dear friend and a true Hollywood legend: Lew Wasserman, a man who stood as a giant among giants. On Monday, June 3rd, Lew passed away at his home from complications of a stroke.

My heart goes out to his wife Edie, daughter Lynne Kay Wasserman, his grandson Casey and granddaughter Carol Leif, and to members of his extended family.

Lew was a great pioneer in the entertainment industry. He began his career in show business while in high school, working as an usher at the Palace Theater in Cleveland.

Together Lew and Dr. Jules Stein built the world's largest talent agency representing such legends as Bette Davis, James Stewart, Alfred Hitchcock, Tommy Dorsey, Kay Kyser, and Errol Flynn to name a few.

He also built a conglomerate of motion picture and television companies that produced the memorable hit movies "American Graffiti", "ET—the



Extra Terrestrial” and “Schindler’s List.”

Without question Lew Wasserman was one of the most powerful and influential people in the entertainment industry, and his presence and leadership will be truly missed.

I am certain that his memory and good works will live on and continue to touch and improve the lives of people everywhere.

To list Lew’s accomplishments does not come near to his contributions to our great nation.

Although Lew was unable to afford college, he was inspired to donate millions of dollars for undergraduate scholarships at UCLA. Indeed, few people have been as big-hearted and giving as Lew and his wife Edie.

Together they have given millions of dollars to a myriad of philanthropic causes including the Motion Picture & Television Hospital in Woodland Hills.

Lew was instrumental in building the Dorothy Chandler Music Center in Los Angeles and served as a trustee of the John F. Kennedy Center for the Performing Arts and the California Institute of Technology.

I know that the Wasserman family will continue the legacy of philanthropic giving.

Lew also was very active in the foundation, Research to Prevent Blindness for which he was awarded the Presidential Medal of Freedom, the country’s highest civilian honor, by former President Clinton.

Throughout his distinguished career, Lew was often called upon by important leaders in our country including former Presidents Clinton, Reagan, Carter and Lyndon B. Johnson, who wanted him as his Secretary of Commerce.

Despite his retirement, Lew was a man of tireless energy. He was an avid and effective mediator during the labor tensions last year, when major studios were negotiating with writers and actors, Lew privately advised both sides to compromise, avoiding a strike that could have potentially paralyzed the economy of California.

Simply put Lew Wasserman was a great American. His legacy is one of inspiring leadership and extraordinary accomplishment.

I am proud to say Lew was a loyal and good friend. Lew set a high standard and his passing has left an enormous void to fill.

I know the next few weeks and months will be difficult for Edie and the rest of the Wasserman family. But as they grieve, I hope they find comfort in knowing what a wonderful contribution Lew made to the world around him.●

#### HOUSTON DIGITAL BROADCAST

● Mrs. HUTCHISON. Mr. President, I rise today to congratulate the city of Houston on its recent designation as a “Digital Television Zone.” Viewers in Houston are fortunate to be served by

local television stations that are broadcasting in digital. These stations are: KPRC, the NBC affiliate; KHOU, the CBS affiliate; KRIV, the local FOX station; KTRK, the local ABC owned and operated station; KTXH, a FOX owned UPN affiliate; and KUHT, the local PBS station.

I would like to especially note KPRC, a Post-Newsweek owned NBC affiliate, where I had the privilege to work in a former life as a journalist.

As the broadcast industry undertakes its transition to digital television, I am proud to say all these local Houston stations are already fully on the air in digital. For those not familiar with digital television, it is the next step in the evolution of television. Just as other communication mediums are moving from an analog to a digital format, television is too.

This year, coverage of the Olympics’ opening ceremonies and the NCAA Men’s Basketball Championship was broadcast in High-definition digital television. Today, Houston viewers can watch popular programs like “Drew Carey,” “NYPD Blue,” and “the Tonight Show” in High Definition TV. Programming like this will propel the transition forward and encourage consumers to invest in digital technology—like their local broadcasters have done already.

In January, as one of only three cities in the country with all affiliates on the air in digital, Houston earned the distinction of being designated a “Digital TV Zone.” Houston broadcasters pooled their resources over the past year to educate Houston consumers about digital TV technology and its benefits. The local stations cooperated with electronics manufacturers and retailers to post digital sets in high traffic areas throughout the city.

Houston broadcasters are doing their part to launch the digital television future. As with other technological advances, there will be challenges before consumers can fully benefit from everything digital TV offers. There are issues about making digital television sets capable of communicating with digital VCRs and DVD players. There are questions about the availability of digital tuners in new TV sets. Importantly, American consumers will need to embrace digital television. Despite these remaining questions, I am proud to say that Houston broadcasters are ready for the digital future.●

#### DEFENDING THE 939TH AIR RESCUE WING

● Mr. SMITH of Oregon. Mr. President, I rise today to introduce an amendment with Senator WYDEN to preserve a truly invaluable search and rescue capability in the Pacific Northwest.

On May 30, all eyes in Oregon and across the Nation watched as brave Oregonians put themselves in harms way to rescue climbers on Mt. Hood. The rescuers included members of the Oregon National Guard, the Portland

Mountain Rescue, and the Air Force Reserve 939th Air Rescue Wing, whose members have been lauded for scores of rescues on Mt. Hood and the Oregon Coast, not to mention rescues in our neighboring state of Washington.

Last week, nine climbers were swept into a 20-foot deep crevasse on Mt. Hood. Tragically three of the climbers did not survive, but the skills of the rescuers ensured that others would survive. The rescue last week highlighted the skills of the Rescue Wing and the importance Oregonians placed on the Wing’s capabilities in the region. While adverse wind conditions most likely sent one of the helicopters into an inevitable crash, the highly skilled pilot of the 939th ensured that the crew survived and that all on the ground were unharmed.

This happened just one week after the 939th rescued a sick climber from Mt. Hood’s Sandy Glacier. I believe this rescue highlights the Wing’s capabilities. Late in the evening, the 304th Rescue Squadron used its night vision capabilities to spot the climber at an elevation of 8,750 feet. The Pave Hawk, equipped with a hoist, lowered down Steve Rollins of Portland Mountain Rescue onto the Glacier to assess the climber. After being secured to the hoist, the climber and rescuer were raised into the helicopter and transported to safety.

Oregonians were devastated to hear of Air Force plans to take away the 939th Search and Rescue Wing out of the State to move it to Florida.

Oregonians realize that the 939th’s mission is to rescue our brave men in combat. In fact, we believe that the members of the 939th are among the very best trained in the Nation. We know this because we know the Oregon terrain and we have witnessed firsthand their skill under most challenging conditions.

The decision to move the 939th came about in December 2000—ten months prior to a day that has changed our understanding of national security and defense needs. We have been at war since September 11. We need to keep the highly trained combat search and rescuers who are ready to serve at a moment’s notice. A new active duty wing would neither be ready today nor tomorrow, not next week nor next month. It would take two years to stand up a new active duty rescue wing. We not only need assets in places abroad where al Qaeda members train, but we need a capability at home to support homeland security needs.

I have not seen enough evidence to make me believe that changing the mission of a CSAR Wing would be advantageous to the United States in wartime.

In the wake of September 11, the President established the White House Office of Homeland Security and the Homeland Security Council to ensure that our Federal response and protection efforts are coordinated and effective. The President also directed

Homeland Security Advisor Tom Ridge to determine if the current government structure allows us to meet the threats of today while anticipating the unknown threats of tomorrow. I question why the Air Force has not done the same.

I understand that my original amendment was not considered germane. This amendment would have prevented any funds from being made available for this conversion. The amendment the managers accepted requires the Secretary of the Air Force to certify that a comparable search and rescue capability is available in the 939th Combat Search and Rescue Wing's area of responsibility and that any new aircraft assigned to the unit will comply with local environmental and noise standards, and that the Air Force has developed a plan for the transition of personnel currently assigned to the unit.

I appreciate the assistance from Senators STEVENS, INOUE, and BYRD and look forward to working with them on this important issue.

Let me close by illustrating why this is so important to me and all Oregonians. The pioneer spirit of the Oregon Trail did not end with the settlement of the valleys of Oregon. That spirit and bravery is very much still alive in my state. But Oregonians cannot go any further west. They can only go up, into the skies and into the mountains. It is there that the modern-day pioneers meet with both triumph and tragedy, and their lessons are learned.

The lessons of last week on Mt. Hood are harsh ones that remind us of human frailty and the unbending forces of nature. Not unlike the tragic events of the last year, what I saw in the recovery on Mt. Hood also illustrates the bravery and compassion inherent in us all, and I want that spirit to continue in Oregon.

This is the spirit that is the bedrock of America's Armed Forces. It is clear to me that removing the 939th from Oregon would truly be a tragedy without a lesson.●

#### THE RETIREMENT OF MAJOR GENERAL HAROLD TIMBOE, USA

● Mr. THURMOND. Mr. President, I rise today to recognize an American who has honorably served our Nation for 34 years—Major General Harold L. Timboe, United States Army Medical Corps, Commanding General, North Atlantic Regional Medical Command and Walter Reed Army Medical Center, Washington, D.C.

A native of Long Beach, CA, General Timboe attended the United States Military Academy at West Point, New York, where he earned a Bachelor of Science Degree in 1968. He started his Army career as an Air Defense Artillery officer with assignments in Saudi Arabia and Vietnam. Following graduation from the University of Texas Medical School in 1978 and his residency, Major General Timboe served

with distinction in a variety of leadership and executive positions including the following: Corps Surgeon, XVIII Airborne Corps, Operation Desert Storm; Commanding General, 44th Medical Brigade, Fort Bragg, NC; Commanding General, Great Plains Regional Medical Command, Fort Sam Houston, TX; culminating as the Lead Agent, TRICARE Northeast, Region 1, headquartered at Walter Reed Army Medical Center.

In his most recent position Major General Timboe directed the integration of the National Capital Area Composite Health Care System across the Army, Navy, Air Force, and Coast Guard services, which includes 77 work centers between National Naval Medical Center, Bethesda, Malcom Grow Medical Center, Walter Reed Army Medical Center and their 41 Satellite facilities. Through his distinctive accomplishments, Major General Timboe reflected great credit upon himself, the United States Army, and the Department of Defense.

General Timboe's accomplishments and service have been recognized in numerous military awards. He has been awarded the Legion of Merit with four Oak Leaf Clusters, Bronze Star with one Oak Leaf Cluster, Meritorious Service Medal with three Oak Leaf Clusters, Air Medal, Joint Service Commendation Medal, Army Commendation Medal, Army Achievement Medal, Vietnam Service Medal, Humanitarian Service Medal, Armed Forces Expeditionary Medal, Southwest Asia Service Medal, Expert Field Medical Badge, Flight Surgeon Badge, U.S., British, and German Parachutist Badges, and the Army Staff Identification Badge.

Major General Timboe and his wife Donna are to be commended for their dedication and contribution to our Nation. Major General Timboe's service to his country has been exemplary and in the finest traditions of the United States Army. I extend my appreciation to General Timboe, and congratulate him as he retires from his distinguished military career. I wish him and his family well in their future endeavors as they enter a new phase of their lives in Texas.●

#### TRIBUTE TO CLARENCE B. CRAFT

● Mr. HUTCHINSON. Mr. President, it is with great pride, but with a heavy heart that I rise today to pay tribute to one of America's greatest heroes and fellow Arkansan, Clarence B. Craft. Mr. Craft passed away on March 28, 2002, but left behind a legacy of kindness and courage. Though he was born in California, he spent the last twenty-five years of his life in northwest Arkansas giving selflessly of his time as a volunteer for the Veterans' Affairs Medical Center in Fayetteville. He will be remembered as a true and dedicated friend to the veterans, one who lifted their spirits with personal visits, often visiting every patient in the hospital.

After his passing, those who knew him characterized Clarence as a "special man."

Clarence Craft was an extremely humble person, and rarely talked about the accolades that made this great American truly special. On May 31, 1945, then-Private First Class Craft faced a numerically superior Japanese force on the island of Okinawa. PFC Craft's one-man attack against a Japanese defense that had repelled repeated, heavy assaults by battalion-sized U.S. formations for 12 days, resulted in the entire defensive line crumbling. For these heroic acts Clarence Craft was recognized with our nation's highest award for actions above and beyond the call of duty, the Congressional Medal of Honor.

Let the record show on behalf of a grateful nation, that the U.S. Senate pays tribute to Clarence B. Craft, an American hero. He will be sorely missed.●

#### 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 sundry nominations which were referred to the appropriate committees.

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

#### NINTH BIENNIAL REPORT OF THE INTERAGENCY ARCTIC RESEARCH POLICY COMMITTEE FROM FEBRUARY 1, 2000 THROUGH JANUARY 31, 2002—PM 89

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 Government Affairs:

*To the Congress of the United States:*

As required by section 108(b) of Public Law 98-373 (15 U.S.C. 4107(b)), I transmit herewith the Ninth Biennial Report of the Interagency Arctic Research Policy Committee (February 1, 2000, to January 31, 2002).

GEORGE W. BUSH.  
THE WHITE HOUSE, June 6, 2002.

#### REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING FOR CALENDAR YEAR 2001—PM 90

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 Commerce, Science, and Transportation:

To the Congress of the United States:

As required by section 19(3) of the Public Telecommunications Act of 1992 (Public Law 102-356), I transmit herewith the report of the Corporation for Public Broadcasting for calendar year 2001.

GEORGE W. BUSH.  
THE WHITE HOUSE, June 6, 2002.

#### MESSAGE FROM THE HOUSE

At 1:40 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4664. An act to authorize appropriations for fiscal years 2003, 2004, and 2005 for the National Science Foundation, and for other purposes.

#### ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on today, June 6, 2002, by the President pro tempore (Mr. BYRD).

H.R. 1366. An act to designate the United States Post Office building located at 3101 West Sunflower Avenue in Santa Ana, California, as the "Hector G. Godinez Post Office Building."

H.R. 1374. An act to designate the facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, as the "Philip E. Ruppe Post Office Building."

H.R. 3448. An act to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies.

H.R. 3789. An act to designate the facility of the United States Postal Service located at 2829 Commercial Way in Rock Springs, Wyoming, as the "Teno Roncalio Post Office Building."

H.R. 3960. An act to designate the facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, as the "Joseph W. Westmoreland Post Office Building."

H.R. 4486. An act to designate the facility of the United States Postal Service located at 1590 East Joyce Boulevard in Fayetteville, Arkansas, as the "Clarence B. Craft Post Office Building."

#### MEASURES REFERRED

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

H.R. 4664. An act to authorize appropriations for fiscal years 2003, 2004, and 2005 for the National Science Foundation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

#### MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 4800. An act to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

H.R. 4823. An act to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime.

able monument to the Marine Raiders; to the Committee on Veterans' Affairs.

able monument to the Marine Raiders; to the Committee on Veterans' Affairs.

#### 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. TORRICELLI (for himself and Mr. CLELAND):

S. 2593. A bill to protect diverse and structurally complex areas of the seabed in the United States exclusive economic zone by establishing a maximum diameter size limit on rockhopper, roller, and all other ground gear used on bottom trawls; to the Committee on Commerce, Science, and Transportation.

By Mr. REID (for himself, Mr. CRAPO, Mr. ENSIGN, Mr. BENNETT, Mr. ALLARD, and Mr. CRAIG):

S. 2594. A bill to authorize the Secretary of the Treasury to purchase silver on the open market when the silver stockpile is depleted, to be used to mint coins; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CAMPBELL:

S. 2595. A bill to authorize the expenditure of funds on private lands and facilities at Mesa Verde National Park, in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself, Mr. CHAFEE, Mr. JEFFORDS, Mr. TORRICELLI, Mr. CORZINE, Mr. BIDEN, and Mr. DURBIN):

S. 2596. A bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund; to the Committee on Finance.

By Mr. CRAIG (for himself, Mrs. MURRAY, Mr. BURNS, Mr. CRAPO, Mr. MURKOWSKI, and Ms. CANTWELL):

S. 2597. A bill to authorize a 3-year demonstration program to recruit and train physicians to serve in a rural setting; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY (for himself, Mr. INOUE, Mrs. CLINTON, Mr. BINGAMAN, and Mrs. BOXER):

S. 2598. A bill to enhance the criminal penalties for illegal trafficking of archaeological resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself, Mr. KYL, and Mr. CRAPO):

S. 2599. A bill to establish the Water Supply Technologies Program within the Office of Energy Efficiency and renewable Energy of the Department of Energy, and for other purposes; to the Committee on Environment and Public Works.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BURNS (for himself and Mr. INOUE):

S. Con. Res. 119. A concurrent resolution honoring the United States Marines killed in action during World War II while participating in the 1942 raid on Makin Atoll in the Gilbert Islands and expressing the sense of Congress that a site in Arlington National Cemetery, near the Space Shuttle Challenger Memorial at the corner of Memorial and Faragut Drives, should be provided for a suit-

#### ADDITIONAL COSPONSORS

S. 860

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 860, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 987

At the request of Mr. TORRICELLI, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 987, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low-income individuals infected with HIV.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1284

At the request of Mr. KENNEDY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1284, a bill to prohibit employment discrimination on the basis of sexual orientation.

S. 1379

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1379, a bill to amend the Public Health Service Act to establish an Office of Rare Diseases at the National Institutes of Health, and for other purposes.

S. 1549

At the request of Mr. LIEBERMAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1549, a bill to provide for increasing the technically trained workforce in the United States.

S. 1818

At the request of Mr. DURBIN, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1818, a bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

S. 1867

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. 1867, a bill to establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes.

S. 1922

At the request of Mr. HUTCHINSON, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1922, a bill to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls.

S. 1992

At the request of Mr. KENNEDY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1992, a bill to amend the Employee Retirement Income Security Act of 1974 to improve diversification of plan assets for participants in individual account plans, to improve disclosure, account access, and accountability under individual account plans, and for other purposes.

S. 2003

At the request of Mr. NELSON of Nebraska, his name was added as a cosponsor of S. 2003, a bill to amend title 38, United States Code, to clarify the applicability of the prohibition on assignment of veterans benefits to agreements regarding future receipt of compensation, pension, or dependency and indemnity compensation, and for other purposes.

S. 2010

At the request of Mr. LEAHY, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 2010, a bill to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities, to disallow debts incurred in violation of securities fraud laws from being discharged in bankruptcy, to protect whistleblowers against retaliation by their employers, and for other purposes.

S. 2051

At the request of Mr. REID, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2059

At the request of Ms. MIKULSKI, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 2059, a bill to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants.

S. 2070

At the request of Mr. BINGAMAN, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Vermont (Mr. JEFFORDS), the Senator from Michigan (Mr. LEVIN), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 2070, a bill to amend part A of title IV to exclude child care from the deter-

mination of the 5-year limit on assistance under the temporary assistance to needy families program, and for other purposes.

S. 2116

At the request of Mr. KERRY, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2116, a bill to reform the program of block grants to States for temporary assistance for needy families to help States address the importance of adequate, affordable housing in promoting family progress towards self-sufficiency, and for other purposes.

S. 2135

At the request of Mr. BAUCUS, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 2135, a bill to amend title XVIII of the Social Security Act to provide for a 5-year extension of the authorization for appropriations for certain medicare rural grants.

S. 2194

At the request of Mr. MCCONNELL, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2194, a bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes.

S. 2211

At the request of Mr. HUTCHINSON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2211, a bill to amend title 10, United States Code, to apply the additional retired pay percentage for extraordinary heroism to the computation of the retired pay of enlisted members of the Armed Forces who are retired for any reason, and for other purposes.

S. 2218

At the request of Mrs. LINCOLN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2218, a bill to amend title XVIII of the Social Security Act to provide coverage for kidney disease education services under the medicare program, and for other purposes.

S. 2233

At the request of Mr. THOMAS, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 2233, a bill to amend title XVIII of the Social Security Act to establish a medicare subvention demonstration project for veterans.

S. 2239

At the request of Mr. SARBANES, the names of the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Maine (Ms. COLLINS), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2239, a bill to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers.

S. 2250

At the request of Mr. CORZINE, the names of the Senator from Mississippi

(Mr. COCHRAN) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 2250, a bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55.

S. 2455

At the request of Mr. ENSIGN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2455, a bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 2536

At the request of Ms. STABENOW, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 2536, a bill to amend title XIX of the Social Security Act to clarify that section 1927 of that Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the medicaid program.

S. 2548

At the request of Mr. BINGAMAN, the names of the Senator from Washington (Mrs. MURRAY), the Senator from Rhode Island (Mr. REED), and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 2548, a bill to amend the temporary assistance to needy families program under part A of title IV of the Social Security Act to improve the provision of education and job training under that program, and for other purposes.

S. 2554

At the request of Mr. SMITH of New Hampshire, the names of the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Idaho (Mr. CRAPO), and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2572

At the request of Mr. KERRY, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2572, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 2591

At the request of Ms. MIKULSKI, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 2591, a bill to reauthorize the Mammography Quality Standards Act, and for other purposes.

S. RES. 270

At the request of Mr. CAMPBELL, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S.

Res. 270, a resolution designating the week of October 13, 2002, through October 19, 2002, as "National Cystic Fibrosis Awareness Week."

S. RES. 281

At the request of Mr. LEVIN, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. Res. 281, a resolution designating the week beginning August 25, 2002, as "National Fraud Against Senior Citizens Awareness Week."

AMENDMENT NO. 3566

At the request of Mr. BINGAMAN, the names of the Senator from Hawaii (Mr. INOUE) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of amendment No. 3566 intended to be proposed to H.R. 4775, a bill making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 3667

At the request of Mr. STEVENS, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of amendment No. 3667 proposed to H.R. 4775, a bill making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 3671

At the request of Mr. REID, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of amendment No. 3671 intended to be proposed to H.R. 4775, a bill making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 3672

At the request of Mr. CLELAND, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of amendment No. 3672 intended to be proposed to H.R. 4775, a bill making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 3700

At the request of Mr. SMITH of Oregon, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of amendment No. 3700 intended to be proposed to H.R. 4775, a bill making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 3704

At the request of Mr. MCCAIN, the names of the Senator from Texas (Mr. GRAMM) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of amendment No. 3704 proposed to H.R. 4775, a bill making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 3727

At the request of Mr. KENNEDY, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of amendment No. 3727 intended to be proposed to H.R. 4775, a bill making supplemental appropri-

tions for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 3729

At the request of Mr. DURBIN, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from California (Mrs. BOXER), the Senator from South Dakota (Mr. DASCHLE), the Senator from Vermont (Mr. LEAHY), the Senator from Ohio (Mr. DEWINE), the Senator from Massachusetts (Mr. KERRY), the Senator from Maryland (Mr. SARBANES), the Senator from California (Mrs. FEINSTEIN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Connecticut (Mr. DODD), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Michigan (Mr. LEVIN), the Senator from New York (Mr. SCHUMER), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Delaware (Mr. BIDEN), and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 3729 proposed to H.R. 4775, a bill making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes.

At the request of Mr. SMITH of Oregon, his name was added as a cosponsor of amendment No. 3729 proposed to H.R. 4775, supra.

At the request of Mr. KENNEDY, his name was added as a cosponsor of amendment No. 3729 proposed to H.R. 4775, supra.

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 3729 proposed to H.R. 4775, supra.

At the request of Mr. WELLSTONE, his name was added as a cosponsor of amendment No. 3729 proposed to H.R. 4775, supra.

AMENDMENT NO. 3732

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3732 intended to be proposed to H.R. 4775, a bill making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 3755

At the request of Mr. HUTCHINSON, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of amendment No. 3755 intended to be proposed to H.R. 4775, a bill making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI (for himself and Mr. CLELAND):

S. 2593. A bill to protect diverse and structurally complex areas of the seabed in the United States exclusive economic zone by establishing a maximum diameter size limit on rockhopper, roller, and all other ground gear used on bottom trawls; to the Committee on

Commerce, Science, and Transportation.

Mr. TORRICELLI. Mr. President, our oceans are one of America's most precious and valuable resources. For hundreds of millions of people, our coastal waters are a place of relaxation, recreation, and rejuvenation. The oceans are also a tremendous supply of fish and other seafood, many caught by commercial fishers and others by recreational sportsmen and hobbyists.

There is a growing concern, however, about protecting ocean habitat from the damaging effects of some types of commercial fishing gear. The manner in which these concerns are presently being handled by the National Marine Fishery Service has led to a great deal of confusion and litigation. Therefore, in an effort to protect important ocean substrates that are recognized as critical areas of marine habitat, I, with my colleague, Senator MAX CLELAND of Georgia, am introducing a bill today that takes a much more direct approach.

I have received many letters from constituents in my home State of New Jersey who are concerned about the use of "rock hopper" nets in the New York Bight area and elsewhere. They have chronicled the negative effects of this gear and the damage they see occurring as a result of its use. In response to their concerns I feel compelled to introduce in the Senate companion legislation to Congressman JOEL HEFLEY's Sea Bed Protection Act of 2002, which he introduced recently in the House. This bill will amend the Magnuson-Stevens Fishery Conservation Act by reining in the use of this damaging fishing gear.

Rock hopper nets are used in hard-bottom areas where naturally occurring vertical structures prevents the use of more conventional trawl gear. The rock hopper incorporates a series of rollers that act like the drum on the front of a steamroller. While operating, the rollers prevent the net from becoming entangled by guiding it up and over obstructions. While it is effective at catching fish, it is equally effective at damaging the sea floor where it is used.

It has been clearly documented that rock hopper nets kill clinging organisms and living corals, the very things that attracted the fish they were designed to catch in the first place. The heavy rollers and sweeps that guide the nets crush marine life and can even flatten bottom topography.

When a specific piece of equipment is demonstrated to be harmful to marine life or the marine environment, it is common sense to stop using it and find a more ecosystem-friendly method of harvesting fish for the market. It is folly to allow the continued use of fishing gear that has an uncontrollable level of bycatch of that is damaging to the very habitat necessary for the fish it catches to grow and reproduce. Rock hopper nets are clearly a threat to fragile habitats that are particularly important to a healthy marine ecosystem. The Sea Bed Protection Act

will limit their use and protect critical habitat, while highlighting our concern for the broader issues of sustainable fisheries and habitat protection.

By Mr. REID (for himself, Mr. CRAPO, Mr. ENSIGN, Mr. BENNETT, Mr. ALLARD, and Mr. CRAIG):

S. 2594. A bill to authorize the Secretary of the Treasury to purchase silver on the open market when the silver stockpile is depleted, to be used to mint coins; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REID. Mr. President, I rise today to introduce the Support of American Eagle Silver Bullion Program Act. The American Eagle Silver Bullion Program was originally created in 1985 to provide a vehicle for investors who wish to invest in silver, and to deplete the Defense Logistics Agency's Strategic and Critical Materials Stockpile. As many investors in silver bullion know, since its inception, the American Eagle Silver Bullion Coin Program has grown to become the largest and most successful coin program in the United States, generating millions of dollars in revenue each year. In fact, between 1995 and 2001, the American Eagle Silver Coin program has generated revenues of over \$264 million, much of which has been used to pay down the national debt.

Ironically, the success of this program threatens its future, because it has also fulfilled its secondary purpose, depleting the Strategic and Critical Materials Stockpile. The authorizing language for the American Eagle Silver Bullion Program mandates that silver to mint the coins may only be drawn from the stockpile. Legislation is needed to allow the program, which is so beneficial to both investors and the government, to continue.

The Support of American Eagle Silver Bullion Program Act will allow the U.S. Mint to continue the American Eagle Silver Bullion Program by authorizing them to purchase silver on the open market. Given the dual purposes of the program's birth, it is only fitting that its rebirth will also have two results. Not only will the program be able to continue to serve the needs of investors and the government, it will also provide a needed boost to the nation's silver mining industry. It is estimated that the Mint will purchase approximately 9 million ounces of silver per year for the American Eagle Silver Bullion Program. As the largest silver producing state in the nation, representing approximately 34 percent of the United States' silver production, Nevada will lead the other 12 silver producing states in supplying this successful program.

By Mr. CAMPBELL:

S. 2595. A bill to authorize the expenditure of funds on private lands and facilities at Mesa Verde National Park, in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CAMPBELL. Mr. President, today, I am introducing a very simple and important bill that will aid in our Nation's understanding of an ancient time.

The 52,000 acre Mesa Verde National Park in southwestern Colorado holds one of the most unique archaeological sites in the world. The culture represented at Mesa Verde reflects more than 700 years of history. People lived and flourished in communities in the area from around 400 A.D. through 1300 A.D.

Eventually, the people there built elaborate stone villages in the sheltered alcoves of the canyon walls that are today regarded as "cliff dwellings." The villagers lived in the cliff dwellings during the last 100 to 125 years of occupation at Mesa Verde. Within the span of two generations, in the late 1200s, the people left their homes and moved away. However, they left behind a literal treasure trove of artifacts in the ruins, artifacts that are still being collected and studied to this day.

Our Nation's first conservationist and fellow Republican, President Theodore Roosevelt established the Mesa Verde National Park in 1906. Since that time, countless artifacts have been carefully excavated and catalogued.

Unfortunately, those priceless treasures have not had a suitable home, and instead have been housed in what effectively is a tin shed built in the 1950s, which has since become infested with mice. The tin shed lacks proper temperature and humidity controls in an area where the humidity can swing from seventeen to eighty percent in a short time. A tin shed is no place to store 800 year old corn and yucca leaves or clay pot artifacts, especially considering such drastic and damaging climate changes.

My bill provides the Secretary of the Interior with the authority to collect and expend donated funds for the design and construction and associated costs to build a visitors center. The legislation provides no Federal money for this much needed project, but allows for Interior to partner with devoted non-profit historical and cultural organizations, especially the Mesa Verde Foundation.

The visitors center will be located on land owned by the Foundation adjacent to the entrance of the park. The proximity of the cultural and visitors center to the cliff dwellings will allow archeologists, students, and visitors an open and accessible window to the lives of indigenous and prehistoric people.

I am proud to follow in the footsteps of fellow conservationist, Teddy Roosevelt, and ask the Senate for quick passage of this important bill. Thank you, and 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. 2595

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,*

The Secretary of the Interior is authorized to collect and expend donated funds and expend appropriated funds for the design, construction, maintenance, and operation of a cultural center and related facilities to be constructed to accommodate visitors, to protect artifacts and archival materials, and for the administration of Mesa Verde National Park on privately owned lands located outside and adjacent to the boundary of the park.

By Mrs. BOXER (for herself, Mr. CHAFEE, Mr. JEFFORDS, Mr. TORRICELLI, Mr. CORZINE, Mr. BIDEN, and Mr. DURBIN):

S. 2596. A bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund; to the Committee on Finance.

Mrs. BOXER. Mr. President, today I am pleased to introduce a bill that addresses a critical gap that now exists in the funding for the clean-up of the Nation's most toxic waste sites. The Toxic Clean-up Polluter Pays Renewal Act restores the fees on oil, chemical and other industries to ensure that the Superfund trust fund is solvent, and that polluters, not the American Taxpayers, bear the burden of cleaning up sites that pose a threat to the health and safety of our communities.

I am also pleased to be joined in this effort by the ranking member of the Superfund Subcommittee, Senator CHAFEE as well as the chairman of the Environment and Public Works Committee, Senator JEFFORDS. As Chair of the Superfund Subcommittee, I thank them for joining me in this effort.

Senators TORRICELLI, CORZINE, and BIDEN are also cosponsors.

The threats posed by Superfund sites affect communities in every corner of the country. One in every four Americans lives within four miles of a Superfund site. That's 70 million Americans, including 10 million children, who are at risk of cancer and other health problems.

My State of California has the second highest number of Superfund sites in the country after New Jersey. And more than 40 percent of Californians live within four miles of a Superfund site.

Anyone who lives anywhere near a Superfund site knows about the terrible damage these industrial sites do to the community. Parents worry if their kids are safe when they find out there is a toxic mess down the street; real estate values go down the drain; and major challenges must be overcome to get the responsible parties to own up to their responsibility.

Fortunately, after Love Canal in 1980, Congress enacted the Superfund law to address the serious threat posed by these sites. And this law has worked. Great progress was made. Since the creation of this program over 800 sites have been cleaned up. During the last four years of the Clinton Administration, there was an average of 87 final cleanups a year.



Unfortunately, this program has seen a sharp decline since the start of the Bush Administration. The pace of cleanups has slowed to a crawl. Instead of 87 National Priority List sites a year, less than half of that are now being cleaned-up. The number is projected to drop further, to just 40 sites, this year.

At the same time, the heart of the Superfund law is under attack: the principle that polluters must pay for cleanups. And that is the issue that my bill addresses.

The Superfund trust fund, which includes funds from Superfund fees previously paid by oil, chemical, and other industries, is nearly gone. It will be depleted by 2004. Why? Because these fees expired in 1995.

The result is that a greater and greater share of the cost of Superfund cleanups is being borne by taxpayers instead of polluters. In fact, in 1995, taxpayers contributed just 18 percent to the Superfund trust fund. But by next year, American taxpayers will pay 54 percent of the Superfund budget.

This trend must be reversed. We must return to the principle of "polluter pays."

That is what the Toxic Clean-up Polluter Pays Renewal Act would do. It would reinstate the two Superfund fees, the excise tax on oil and chemical companies as well as the corporate environmental income tax, as they existed from 1986 to 1995.

These fees are not large in scope. For example, for every barrel of oil, the excise tax is only 9.7 cents. Chemical manufacturers pay \$4.45 for every ton of arsenic or mercury they produce. This fee varies based on the frequency and toxicity of the chemical.

With regard to the corporate environmental income tax, corporations that have over \$2 million in taxable income pay only 0.12 percent on taxable income above \$2 million dollars. That means that a company that has \$2,010,000 in taxable income would pay only \$12.

These companies make millions on their sales. This fee is a small price to pay for a healthy, safe environment.

And, while the fees themselves are relatively small, the preliminary estimates indicate that they would generate \$15 billion to \$16 billion over the next 10 years for the Superfund Trust Fund. And that is \$16 billion that the American taxpayer would not have to pay.

After the Superfund fees expired in 1995, President Clinton repeatedly tried to have them reinstated. Unfortunately, the Bush Administration is not supporting returning to the important principle of polluters pays.

Polluters pays is fair. Polluters pays works. And polluter pays must continue. To shift the burden to all taxpayers is wrong, and we will fight this Administration's attempt to turn its back on the health of the American people.

Mr. CHAFEE. Mr. President, today I join with Senator BOXER to introduce a

bill to fund the Superfund program for the 10 years. With the Superfund Trust Fund on the verge of insolvency and with a large number of Superfund sites still requiring cleanup, it is incumbent upon us to provide a stable source of funding for this important program. I am pleased that the bill we introduce today will ensure Superfund cleanups will continue without jeopardizing funding for other key programs.

The need for the Superfund program dates back to the late 1970 and the discovery of thousands of barrels of toxic waste buried illegally in a New York community outside of Buffalo. Congress responded to Love Canal and other sites by enacting Superfund. This law was intended to address the Nation's worst sites and ensure that parties are held responsible for the contamination they created. Litigation ensued throughout the 1980's, which slowed down the pace of cleanups. By the 1990s, the pace of Superfund cleanups increased. Administrative and legislative reforms in the last 10 years have significantly improved the effectiveness and pace of the Superfund program.

Collection of excise and income taxes to supply the Superfund ceased at the end of 1995 and have never been reinstated. While spending for the Superfund program has remained steady, the dependence on general revenue dollars have grown. By fiscal year 2004, the Superfund program will be funded virtually entirely by general revenues. Unfortunately, we are currently living in an atmosphere of budget deficits. We find ourselves unable to pay for key programs due to insufficient resources and I believe it is a mistake to make the Superfund program compete for those limited general revenue dollars because we did not replenish the Superfund Trust Fund.

The legislation which we have introduced today will reinstate the Superfund taxes for 10 years. It is true that these taxes will generate less revenue than those that expired in 1995. This is a deliberate effort maintain balance between the amount of money paid into the trust fund and the amount of money appropriated by Congress. We do not want to create a situation in which we are putting more money into the trust fund than will be spent. At the same time, we must ensure that Superfund cleanups progress as quickly as possible. Despite some claims that Superfund cleanups will soon be complete, the U.S. Environmental Protection Agency testified recently before the Environment and Public Works Committee that the remaining Superfund sites are complex and costly. All evidence points to the fact that the Superfund program is not in jeopardy of winding down any time soon and that adequate funding will be needed.

In conclusion, I would like to say that I believe this to be a reasonable proposal. It is not perfect, because a perfect solution would ensure that the people responsible for the contamina-

tion pay to clean it up. In the future we may wish to look for more equitable ways to fund the Superfund program. However, with the Superfund Trust Fund on the verge of insolvency, a return to the previous funding mechanism is a prudent step.

By Mr. CRAIG (for himself, Mrs. MURRAY, Mr. BURNS, Mr. CRAPO, Mr. MURKOWSKI, and Ms. CANTWELL):

S. 2597. A bill to authorize a 3-year demonstration program to recruit and train physicians to serve in a rural setting; to the Committee on Health, Education, Labor, and Pensions.

Mr. CRAIG. Mr. President, I rise today to introduce the Rural Health Training Incentive Act. I am pleased that Senators PATTY MURRAY, CONRAD BURNS, MIKE CRAPO and FRANK MURKOWSKI are joining with me in this effort today.

We are all aware there is a nationwide shortage of health practitioners in rural America and that this shortage is affecting the availability of health care in those communities. This trend is aggravated by the upcoming retirement of 77 million baby-boomers and the overall aging of the rural populations. Unfortunately, there is no quick fix for the problem, and the solution will require a long-term investment in human resources. The bill that I am introducing today would begin work on this long-term investment through the regional Washington, Wyoming, Alaska, Montana and Idaho, WWAMI, program.

The WWAMI program has an excellent track record in its 30 year history of designing programs that work. It has a regionally focused medical school with a mission to train physicians for the communities in Washington, Wyoming, Alaska, Montana and Idaho. With 27 percent of the land mass of the Nation and only 3.3 percent of its population it is truly a ready made laboratory for exploring the best ways to recruit and train rural health care professionals.

This legislation seeks to expand upon the existing WWAMI programs for the recruitment and training of all health care professionals in the five state rural settings and to develop and evaluate similar programs that could be used in other regions of the country. This legislation would be a step in preparing our young people to go into the medical professions and, importantly, would encourage them to practice in rural communities.

I am pleased to be able to introduce this legislation as part of an overall strategy to stabilize health care in rural communities. This session, I have introduced legislation that would provide rural health care facilities with much needed capital to build new or repair existing infrastructure and to purchase medical equipment to help them keep pace with changing technologies. I am also pleased to have worked with my colleague Senator HARKIN on two

separate pieces of legislation that would provide Medicare equity to both providers and seniors in rural States. The bill that I am introducing today adds an integral element of this strategy by making sure that health professionals are available to serve in rural areas.

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. 2597

*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 "Rural Health Training Incentive Act".

**SEC. 2. WWAMI DEMONSTRATION PROJECT.**

(a) GRANT AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") is authorized to award a grant to the Washington, Wyoming, Alaska, Montana, and Idaho joint medical school (in this section referred to as "WWAMI") to strengthen and expand programs to encourage more health professionals to practice in rural areas.

(2) DURATION.—The Secretary shall award the grant in paragraph (1) for a period of 3 years.

(b) USE OF FUNDS.—The grant awarded pursuant to subsection (a) may be used for activities including—

(1) developing new mechanisms for recruiting and mentoring rural youth with respect to all health professions;

(2) strengthening and stabilizing the system of training for the family physicians needed in rural areas; and

(3) expanding the network of rural training tracks throughout WWAMI.

(c) REPORT.—Not later than 6 months after the end of the grant period described in subsection (a)(2), WWAMI shall submit to the Secretary a report evaluating the results of programs funded with the grant authorized under subsection (a)(1) and any recommendations regarding the effectiveness of such programs.

**SEC. 3. PROJECT EXPANSION.**

(a) IN GENERAL.—After submission of the report required in section 2(c), the Secretary is authorized to award grants to eligible entities to expand the programs under section 2, and to implement the recommendations made in such report, in other geographic areas.

(b) ELIGIBLE ENTITY DEFINED.—As used in this section, the term "eligible entity" means a partnership between a regional university or college and the medical school associated with such university or college where such medical school has a rural area training track of at least 2 months.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, except section 2(c) and section 3, \$3,400,000 for fiscal year 2003, \$4,100,000 for fiscal year 2004, and \$4,800,000 for fiscal year 2005.

(b) EVALUATION.—There is authorized to be appropriated to carry out the report described in section 2(c), \$500,000 for fiscal year 2005.

(c) PROJECT EXPANSION.—There is authorized to be appropriated to carry out section 3, such sums as may be necessary beginning in fiscal year 2006.

By Mr. LEAHY (for himself, Mr. INOUE, Mrs. CLINTON, Mr. BINGAMAN, and Mrs. BOXER):

S. 2598. A bill to enhance the criminal penalties for illegal trafficking of archaeological resources, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. LEAHY. Mr. President, I rise today to introduce the Enhanced Protection of Our Cultural Heritage, EPOCH, Act of 2002. This legislation will increase the maximum penalties for violations of three existing statutes that protect the cultural and archaeological history of the American people, particularly Native Americans. The United States Sentencing Commission recommended the statutory changes contained in this bill, which would complement the Commission's strengthening of Federal sentencing guidelines to ensure more stringent penalties for criminals who steal from our public lands. I welcome the Commission's suggestion and am pleased that Senators INOUE, CLINTON, BINGAMAN, and BOXER have joined me as co-sponsors.

This bill will increase the maximum penalties for the Archaeological Resources Protection Act, ARPA, 16 USC § 470ee, the Native American Graves Protection and Repatriation Act, NAGPRA, 18 USC § 1170, and for 18 USC § 1163, which prohibits theft from Indian Tribal Organizations. All three statutes currently impose a 5-year maximum sentence, and each includes a lower maximum for a first offense of the statute and/or a violation of the statute involving property of less than a specified value. This bill would create a 10-year maximum sentence for each statute, while eliminating the lower maximums under ARPA and NAGPRA for first offenses.

Such maximum sentences would be consistent with similar Federal statutes. For example, the 1994 law proscribing museum theft carries a 10-year maximum sentence, as do the general statutes punishing theft and the destruction of government property. Moreover, increasing the maximum sentences will give judges and the Sentencing Commission greater discretion to impose punishments appropriate to the amount of destruction a defendant has done.

Making these changes will also enable the Sentencing Commission's recent sentencing guidelines to be fully implemented. The Commission has increased sentencing guidelines for cultural heritage crimes, but the statutory maximum penalties contained in current law will prevent judges from issuing sentences in the upper range of the new guidelines. Those new guidelines have the enthusiastic support of the Justice and Interior Departments, the Society for American Archeology, the National Trust for Historic Preservation, numerous Native American nations, and many others. Congress should take the steps necessary to see the guidelines take full effect.

Two of the three laws we amend with this legislation protect Native American lands and property. The third, ARPA, protects both public and Indian lands, and provides significant protection to my State of Vermont. For example, ARPA can be used to prosecute those who would steal artifacts from the wrecked military vessels at the bottom of Lake Champlain that date to the Revolutionary War and the War of 1812. U.S. Attorneys can also use ARPA to prosecute criminals who take items that are at least 100 years old from a protected site on Vermont State property without a permit, and then transport those goods into another State. In addition, ARPA protects artifacts found on the approximately 5 percent of Vermont land that is Federal property, land that includes many "ghost towns" that have long been abandoned but are an important part of our history.

Those who would pillage the rich cultural heritage of this Nation and its people are committing serious crimes. These artifacts are the legacy of all Americans and should not be degraded as garage sale commodities or as fodder for private enrichment.

I would like to thank a number of people for their help and advice about this legislation. Charlie Tetzlaff, as well as the rest of the staff at the Sentencing Commission, helped us understand the importance of this issue, and made protecting our cultural heritage a priority when he served as United States Attorney for Vermont. Art Cohn, the director of the Lake Champlain Maritime Museum, and Giovanna Peebles, Vermont's State Archeologist, were very helpful in explaining how our laws protect the cultural heritage of Vermont and the rest of the Nation, and I am grateful for their support for this bill.

Passage of this legislation would demonstrate Congress' commitment to preserving our Nation's history and our cultural heritage. I urge my colleagues to support this common-sense initiative.

I would ask that the text of this legislation be printed in the RECORD.

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

S. 2598

*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 "Enhanced Protection of Our Cultural Heritage Act of 2002".

**SEC. 2. ENHANCED PENALTIES FOR CULTURAL HERITAGE CRIMES.**

(a) ENHANCED PENALTY FOR ILLEGAL TRAFFICKING IN ARCHAEOLOGICAL RESOURCES.—Section 6(d) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ee(d)) is amended by striking "not more than \$10,000" and all that follows through the end of the subsection, and inserting "not more than \$100,000, imprisoned not more than 10 years, or both."

(b) ENHANCED PENALTY FOR EMBEZZLEMENT AND THEFT FROM INDIAN TRIBAL ORGANIZATIONS.—Section 1163 of title 18, United States

Code, is amended by striking "five years" and inserting "10 years".

(C) ENHANCED PENALTY FOR ILLEGAL TRAFFICKING IN NATIVE AMERICAN HUMAN REMAINS AND CULTURAL ITEMS.—Section 1170 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "or imprisoned not more than 12 months, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, or imprisoned not more than 5 years" and inserting "imprisoned not more than 10 years"; and

(2) in subsection (b), by striking "imprisoned not more than one year, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, imprisoned not more than 5 years" and inserting "imprisoned not more than 10 years".

By Mr. DOMENICI (for himself, Mr. KYL, and Mr. CRAPO):

S. 2599. A bill to establish the Water Supply Technologies Program within the Office of Energy Efficiency and Renewable Energy of the Department of Energy, and for other purposes; to the Committee on Environment and Public Works.

Mr. DOMENICI. Mr. President, on behalf of myself, Senator KYL, and Senator CRAPO, I am introducing a bill with reference to water, water supply, and research. We have no American policy, no place that you can go where the basic water issues of our land can be metered and modeled, and where we can find out what the real situation is with reference to water for our growing needs in our cities and the surrounding areas.

If you are interested in that, I think you will find the bill I am sending to the desk to be an intriguing one. It has been put together by very bright, technical people from laboratories and similar entities, where they clearly set forth the way we ought to go about establishing a water supply research center for a country as important as ours, and how we can provide research on an annual basis in these areas for very few dollars.

Water is the lifeblood of our Southwest. We don't have an abundant supply and what we do have is becoming increasingly threatened. Between providing water for people and various endangered species, there just isn't enough water to go around.

I'm sure many of my colleagues are seeing daily headlines like:

Winds Parch Remaining Moisture Out of New Mexico Land,

Navajos Urged To Sell Parched Livestock, New Mexico Going to Drought Emergency, Drought Watch—Skies Without Hope, and Trees Need Big Help To Survive Drought.

There is no larger problem facing our Southwest.

This bill is part of my broad strategy for dealing with water quality and quantity issues. In earlier bills, I have sought to provide grants to communities struggling to meet the new EPA arsenic mandates. I recently introduced the National Drought Preparedness Act of 2002 to help communities develop drought preparedness plans in an effort to mitigate the effects of future droughts.

This bill will help with short term challenges like meeting arsenic mandates and longer term issues like cost-effective desalination technologies and better modeling to enable optimum utilization of the water in our major river basins.

There are good reasons for designating the Department of Energy to create these technologies. Energy is the second largest user of water, second only to agriculture. Furthermore, energy costs are a major component in purifying and pumping drinking water and in treating wastewater.

As scarcity of water intensifies, more and more energy will be needed to obtain and treat it. Water will be pumped from greater depths and over greater distances. More treatment will be needed as we use less pure resources. As just one example, up to half the costs of desalination involve energy.

Removal of arsenic will be one focus for this new program. In New Mexico, as in much of the West, arsenic occurs naturally in significant concentrations. This, coupled with the fact that New Mexico is not a wealthy State, has made the recent unfunded mandate imposed by the EPA insurmountable.

This new standard is going to cost New Mexico around \$400 million. More than 100 community water systems in the State will probably have to upgrade their water treatment facilities. Ratepayers are likely to see monthly rate increases averaging between \$40 and \$90, that's simply unacceptable. Other States have similar problems.

Even worse, these costs may force people to shift from expensive treated water to cheaper domestic wells. Since these wells often contain even greater amounts of arsenic and pollutants, there may be unintended public health consequences created by this new mandate.

I introduced S. 1299 to provide grants to States to help them comply with these new standards. That will help, but grant dollars alone aren't the answer to this issue. We also need to reduce the costs of arsenic removal.

This bill authorizes \$8 million for research and development of cost effective strategies. The program will focus on reducing overall costs, including those for energy and will include demonstration projects in the arid southwest.

The bill also provides for a 4 year extension in the time by which municipalities must comply with the new EPA mandate, in addition to the extension that EPA has already committed to. This extension is open to any public water system that is in the process of utilizing technology authorized under this bill. Our national laboratories, especially Sandia, will be strong contributors to this program.

Another part of the bill deals with the challenges of providing adequate supplies of fresh water for the growing populations of our southwest. These States face severe water shortages, which impact both our urban commu-

nities and our rural agricultural ones. Our fresh water supply will not increase, unless we take steps today and invest in new approaches to water supply and management.

To achieve this, my bill provides authority for the program director, in cooperation with the Commissioner of Reclamation, to coordinate desalination research for improved technologies. This program is authorized at \$6 million.

The program will focus on development and demonstration of technologies appropriate for desalinating brackish water and encourages the use of renewable energy. Part of these funds will enable completion of a national desalination research center in the Tularosa Basin of New Mexico.

The bill also provides \$7 million to implement programs to examine the relationships between water supplies and energy needs. It will focus on the availability of water and on opportunities for increasing our supplies. Hopefully, with this research we can turn our water future into something other than a "zero sum" game.

The program will develop comprehensive models to assess and manage competing demands for water by energy, agriculture and other sectors. To accomplish this, models will include a range of physical phenomena and a complete set of the major water uses. The bill provides for the development of these models for up to 3 domestic river basins, one of which addresses an international border.

Many Americans are under the illusion that water will always flow out of their tap each time it is turned on. And they continue to believe that there will always be an adequate supply of good quality water to meet all needs, energy, agriculture and domestic. I fear this may not always be the case. Unless we develop a long-term strategy for dealing with impending water shortages it could be too late.

I hope this bill starts us down the path of conquering water challenges in the 21st Century.

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. 2599

*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 "Water Supply Technologies Act of 2002".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) the understanding, use, and protection of water resources are matters of national and global security;

(2) increasing demand for water supply may dramatically alter population patterns and strain international relations;

(3) the remediation of many sites of the Department of Energy and the treatment of domestic water supplies require cost-effective, efficient removal of contaminants from water supplies;

(4) such remediation frequently involves knowledge and modeling of water transport at the surface and subsurface levels;

(5)(A) energy costs—

(i) are a major factor in the extraction, storage, treatment, and delivery of water; and

(ii) are particularly high in the case of desalination processes; and

(B) increased efficiencies in energy use, or use of renewable energy sources in treatment processes, can result in large cost savings;

(6)(A) most energy production technologies are highly water intensive;

(B) the energy industry is the second largest water user after agriculture;

(C) energy production requires a reliable, predictable water supply; and

(D) the limited availability of water is beginning to constrain construction of new powerplants;

(7) having strong expertise in geosciences, hydrology, chemistry, energy options, system modeling, and security technologies, the Department of Energy is well positioned to contribute to national efforts relating to water issues;

(8) modeling and simulation of water cycles on at least the scale of river basins can guide strategies affecting—

(A) site cleanup;

(B) agricultural use of land;

(C) industrial use of land;

(D) protection of the environment; and

(E) population expansion;

(9) municipal water systems are facing unfunded Federal mandates to remove heavy metals and other contaminants from water supplies;

(10) in the future, as water supplies are further stressed, municipal water systems may be forced to use water supplies that cannot, using existing technologies, be cost-effectively purified to meet clean water standards;

(11) many components of technologies used in the remediation of heavy metals and other contaminants at sites of the Department would aid municipal water systems in water purification;

(12) for municipal water systems, 2 of the most economically and technically challenging treatment processes are—

(A) reduction of arsenic levels; and

(B) desalination;

(13)(A) the security of water supplies is a growing concern; and

(B) there is an emerging need for real-time sensing, and reporting systems for early warnings to the public, of potentially hazardous contaminants in the drinking water supply;

(14) major water shortages along the United States-Mexico border—

(A) are projected to occur in the future; and

(B) could contribute to many issues affecting the border region; and

(15) research and development of the Department must be coordinated with research and development of other Federal agencies, each of which has responsibilities, interests, and capabilities to contribute to solving the important problems described in this section.

### SEC. 3. DEFINITIONS.

In this Act:

(1) **ARSENIC REMOVAL PROGRAM.**—The term “arsenic removal program” means the program carried out under section 4(d).

(2) **DEPARTMENT.**—The term “Department” means the Department of Energy.

(3) **DEPUTY ASSISTANT SECRETARY.**—The term “Deputy Assistant Secretary” means the Deputy Assistant Secretary for Water Supply Technologies in the Office of Energy Efficiency and Renewable Energy of the Department appointed under section 4(a)(2).

(4) **DESALINATION PROGRAM.**—The term “desalination program” means the program carried out under section 4(e).

(5) **FOUNDATION.**—The term “Foundation” means the American Water Works Association Research Foundation.

(6) **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).

(7) **PROGRAM.**—The term “Program” means the Water Supply Technologies Program established by section 4(a)(1).

(8) **SECRETARY.**—The term “Secretary” means the Secretary of Energy.

(9) **WATER AND ENERGY SUSTAINABILITY PROGRAM.**—The term “water and energy sustainability program” means the program carried out under section 4(f).

(10) **WATER SUPPLY SECURITY PROGRAM.**—The term “water supply security program” means the program carried out under section 4(g).

### SEC. 4. WATER SUPPLY TECHNOLOGIES PROGRAM.

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—There is established within the Office of Energy Efficiency and Renewable Energy of the Department a program to be known as the “Water Supply Technologies Program”.

(2) **DEPUTY ASSISTANT SECRETARY.**—The Secretary shall establish, and appoint an individual to fill, the position of Deputy Assistant Secretary for Water Supply Technologies.

(b) **DUTIES.**—

(1) **IN GENERAL.**—The Deputy Assistant Secretary shall carry out the Program, consisting of—

(A) the arsenic removal program under subsection (d);

(B) the desalination program under subsection (e);

(C) the water and energy sustainability program under subsection (f); and

(D) the water supply security program under subsection (g).

(2) **CONTRACTUAL AUTHORITY.**—In carrying out the duties of the Deputy Assistant Secretary, the Deputy Assistant Secretary may enter into contracts with—

(A) private industries;

(B) colleges and universities;

(C) national laboratories; and

(D) nonprofit organizations.

(c) **OVERSIGHT.**—The Secretary shall ensure that the results of research and development conducted by the Department that are relevant to the Program are communicated to the Deputy Assistant Secretary.

(d) **ARSENIC REMOVAL PROGRAM.**—

(1) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Deputy Assistant Secretary shall offer to enter into a contract with the Foundation under which the Foundation shall carry out a research program to develop and demonstrate innovative arsenic removal technologies.

(2) **TYPES OF RESEARCH.**—In carrying out the arsenic removal program, the Foundation shall, to the maximum extent practicable, conduct research on means of—

(A) reducing energy costs incurred in using arsenic removal technologies;

(B) minimizing materials costs, operating costs, and maintenance costs incurred in using arsenic removal technologies; and

(C) minimizing any quantities of waste (especially hazardous waste) that result from use of arsenic removal technologies.

(3) **WATER PURIFICATION TECHNOLOGIES.**—In carrying out the arsenic removal program, the Foundation shall carry out peer-reviewed projects (including research projects and cost-shared demonstration projects in conjunction with municipal water systems) to

develop and demonstrate water purification technologies.

(4) **DEMONSTRATION PROJECTS.**—

(A) **ARID SOUTHWESTERN UNITED STATES.**—In carrying out the arsenic removal program, the Foundation shall carry out at least 3 demonstration projects to demonstrate the applicability of innovative arsenic removal technologies to the arid southwestern United States.

(B) **RURAL COMMUNITIES AND INDIAN TRIBES.**—Not less than 40 percent of the funds of the Department used for demonstration projects under the arsenic removal program shall be expended in partnership with rural communities or Indian tribes.

(5) **EVALUATION OF COST EFFECTIVENESS.**—In carrying out the arsenic removal program, the Foundation shall use WERC, A Consortium for Environmental Education and Technology Development, to evaluate the cost effectiveness of arsenic removal technologies used in the program.

(6) **EDUCATION AND TRAINING.**—In carrying out the arsenic removal program, the Deputy Assistant Secretary shall provide a mechanism for education, training, and technology transfer to be developed and implemented by WERC, A Consortium for Environmental Education and Technology Development.

(7) **COORDINATION WITH OTHER PROGRAMS.**—The Deputy Assistant Secretary, in conjunction with the Administrator of the Environmental Protection Agency, shall ensure that activities under the arsenic removal program are coordinated with appropriate programs of the Environmental Protection Agency.

(8) **REPORT.**—Not later than 1 year after the date of commencement of the arsenic removal program, and annually thereafter, the Secretary shall submit to Congress a report on the results of the arsenic removal program.

(e) **DESALINATION PROGRAM.**—

(1) **IN GENERAL.**—The Deputy Assistant Secretary, in cooperation with the Commissioner of Reclamation, shall carry out a desalination program in accordance with the desalination technology progress plan developed under the matter under the heading “WATER AND RELATED RESOURCES” under the heading “BUREAU OF RECLAMATION” in title II of the Energy and Water Development Appropriations Act, 2002 (115 Stat. 498), and described in Senate Report 107-39.

(2) **DESALINATION RESEARCH.**—

(A) **IN GENERAL.**—Under the desalination program, Sandia National Laboratories and the Bureau of Reclamation shall coordinate desalination research for next-generation desalination technology.

(B) **REQUIRED RESEARCH ELEMENTS.**—In conducting research under the desalination program, Sandia National Laboratories and the Bureau of Reclamation shall—

(i) focus on research relating to, and development and demonstration of, technologies that are appropriate for use in desalinating brackish groundwater and other saline water supplies; and

(ii) consider the use of renewable energy.

(3) **CONSTRUCTION PROJECTS.**—Under the desalination program, funds made available to carry out activities in the Tularosa Basin, New Mexico, may be used for construction projects, including completion of the National Desalination Research Center.

(4) **STEERING COMMITTEE.**—

(A) **IN GENERAL.**—The Deputy Assistant Secretary and the Commissioner of Reclamation shall jointly establish a steering committee for the desalination program.

(B) **CHAIRPERSONS.**—The steering committee shall be jointly chaired by 1 representative from the Program and 1 representative from the Bureau of Reclamation.

(f) WATER AND ENERGY SUSTAINABILITY PROGRAM.—

(1) IN GENERAL.—The Deputy Assistant Secretary shall carry out a program to ensure that sufficient quantities of water are available for the energy sector through development of modeling and analysis tools to assess and manage—

(A) competing demands for water by the energy sector and other categories of water users, including the agriculture sector, the energy sector, industry, domestic users, and the environment; and

(B) the impacts of energy production on the availability of water.

(2) REQUIRED ELEMENTS.—Under the water and energy sustainability program, the Deputy Assistant Secretary shall—

(A) in accordance with paragraph (3), develop a coordinated strategy to identify technology development and improved modeling capabilities needed to achieve the goal of continued water and energy sustainability;

(B) in accordance with paragraph (4), develop such advanced modeling and decision analysis tools as are necessary to assess and manage competing demands for water by various categories of water users specified in paragraph (1)(A); and

(C) in accordance with paragraph (5), carry out demonstration projects to test the models and tools developed under subparagraph (B).

(3) WATER AND ENERGY SUSTAINABILITY STRATEGY.—In developing the strategy under paragraph (2)(A), the Deputy Assistant Secretary shall—

(A) collaborate with water management agencies, universities, industry, and stakeholder groups to define issues and needs; and

(B) develop a coordinated science and technology strategy to support future water use decisions that include issues of energy sustainability.

(4) ADVANCED MODELING AND DECISION ANALYSIS TOOLS.—

(A) APPLICABLE SCALES.—Modeling and decision analysis tools developed under paragraph (2)(B) shall address water and energy availability issues—

(i) physically, on the scale of river basins; and

(ii) temporally, on scales ranging from seasons to decades.

(B) COORDINATION.—Modeling and decision analysis tools developed under paragraph (2)(B) shall be coordinated with global climate change predictive capabilities supported by the Federal Government.

(C) MODELING TOOLS.—Modeling tools developed under paragraph (2)(B) shall include tools for modeling the effects of—

(i) atmospheric, surface, and subsurface phenomena;

(ii) rural and urban populations and land use changes;

(iii) energy, agriculture, and other industrial demands;

(iv) energy impacts on water quality and quantity; and

(v) changing marketplace behaviors and other economic forces.

(D) DECISION ANALYSIS TOOLS.—Decision analysis tools developed under paragraph (2)(B) shall include tools to support water and energy resources planning through—

(i) provision of direct support for policy and planning decisions;

(ii) optimization of water use for the energy sector and other categories of water users specified in paragraph (1)(A); and

(iii) assessment of the potential benefits of new technologies to improve water and energy sustainability.

(5) DEMONSTRATION PROJECTS.—Demonstration projects carried out under paragraph (2)(C) shall—

(A) test water and energy modeling and decision analysis tools for 3 river basins, at least 1 of which includes an international border;

(B) focus on assessing water resources and managing competing demands for, and impacts on, water by the energy sector and other categories of water users specified in paragraph (1)(A); and

(C) be conducted in collaboration with water resources management organizations in the basins described in subparagraph (A).

(6) REPORT.—Not later than 1 year after the date of enactment of this Act, the Deputy Assistant Secretary shall submit to the Secretary and Congress a report on the water and energy sustainability program that—

(A) describes the elements required under paragraph (2); and

(B) makes recommendations for a management structure and research and development plan for the water and energy sustainability program that optimizes use of Federal resources and programs.

(g) WATER SUPPLY SECURITY PROGRAM.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Deputy Assistant Secretary shall offer to enter into a contract with the Foundation under which the Foundation shall carry out a research program, in coordination with the Assistant to the President for Homeland Security, with the goal of developing low-cost, mass-produced, micro-analytical systems to provide early warning of potentially hazardous contaminants in municipal water systems.

(2) REQUIRED ELEMENTS.—In carrying out the water supply security program, the Foundation shall, to the maximum extent practicable, develop—

(A) means of reducing monitoring costs, including technologies to replace expensive sampling and analysis used, as of the date of enactment of this Act, for routine regulatory compliance;

(B) innovative, cost-effective monitoring technologies for detection of—

(i) chemical and biological threats; and

(ii) chemicals and pharmaceuticals subject to current or potential future regulation; and

(C) rapid and effective methodologies to transform monitoring data into information for decisionmaking and automated response.

(3) MONITORING TECHNOLOGIES.—In carrying out the water supply security program, the Foundation, in conjunction with municipal water systems, shall carry out peer-reviewed projects to develop and demonstrate monitoring technologies.

(4) REPORT.—Not later than 1 year after the date of implementation of the water supply security program, and annually thereafter, the Secretary shall submit to Congress a report on the results of the water supply security program.

(h) COST SHARING.—

(1) IN GENERAL.—Except as provided in paragraph (2), each demonstration project carried out under the Program shall be carried out on a cost-shared basis, as determined by the Secretary.

(2) IN-KIND CONTRIBUTIONS; WAIVERS.—With respect to a demonstration project, the Secretary may—

(A) accept in-kind contributions; and

(B) waive the cost-sharing requirement in appropriate circumstances.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) \$25,000,000 for fiscal year 2003, of which—

(A) \$8,000,000 shall be used to carry out subsection (d);

(B) \$6,000,000 shall be used to carry out subsection (e);

(C) \$7,000,000 shall be used to carry out subsection (f); and

(D) \$4,000,000 shall be used to carry out subsection (g); and

(2) such sums as are necessary for each fiscal year thereafter.

#### SEC. 5. EXTENSIONS OF COMPLIANCE DEADLINES FOR SMALL PUBLIC WATER SYSTEMS.

Section 1412(b)(10) of the Safe Drinking Water Act (42 U.S.C. 300g-1(b)(10)) is amended—

(1) by striking “A national primary” and inserting the following:

“(1) IN GENERAL.—Except as provided in paragraph (2), a national primary”; and

(2) by adding at the end the following:

“(2) EXTENSIONS.—

“(A) SMALL PUBLIC WATER SYSTEMS.—

“(i) IN GENERAL.—In accordance with the report submitted to Congress by the Administrator entitled ‘Small System Arsenic Implementation Issues’, in addition to any 2-year extension described in paragraph (1), the Administrator (or a State, in the case of an individual system) may provide to a public water system that serves a population of not more than 10,000 an extension of 3 years in which to comply with a maximum contaminant level or treatment technique described in that paragraph.

“(ii) RENEWAL OF EXTENSIONS.—The Administrator (or a State, in the case of an individual system) may renew an extension granted to a small public water system under clause (i) if—

“(I) the small public water system serves a population of not more than 3,300; and

“(II) the small public water system demonstrates, to the satisfaction of the Administrator (or the State), that the small public water system is taking all practicable steps to meet the requirements of this title.

“(B) ALL PUBLIC WATER SYSTEMS.—In addition to any 2-year extension received under paragraph (1), the Administrator (or a State, in the case of an individual system) may provide to any public water system an extension of 4 years in which to comply with a maximum contaminant level or treatment technique described in that paragraph if the public water system is in the process of implementing arsenic removal technology developed under section 4(d) of the Water Supply Technologies Act of 2002.”.

#### STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 119—HONORING THE UNITED STATES MARINES KILLED IN ACTION DURING WORLD WAR II WHILE PARTICIPATING IN THE 1942 RAID ON MAKIN ATOLL IN THE GILBERT ISLANDS AND EXPRESSING THE SENSE OF CONGRESS THAT A SITE IN ARLINGTON NATIONAL CEMETERY, NEAR THE SPACE SHUTTLE “CHALLENGER” MEMORIAL AT THE CORNER OF MEMORIAL AND FARRAGUT DRIVES, SHOULD BE PROVIDED FOR A SUITABLE MONUMENT TO THE MARINE RAIDERS

Mr. BURNS (for himself and Mr. INOUE) submitted the following concurrent resolution; which was referred to the Committee on Veterans' Affairs:

S. CON. RES. 119

Whereas Congress remembers with profound sorrow, gratitude, and respect the

United States Marines who were killed in action during World War II while participating in a combat raid on Japanese forces on Makin Atoll in the Gilbert Islands in August, 1942, and whose remains were recovered from Makin Atoll in 1999; and

Whereas Congress hopes and prays for the recovery of the remains of 9 additional United States Marines engaged in that raid who, after surrendering in accordance with the law of armed conflict, were beheaded by their captors on Kwajalein Atoll: Now therefore be it

*Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—*

(1) the United States Marines killed in action or beheaded in captivity on Makin and Kwajalein Atolls during World War II gave hope to the world by offering up their lives; and

(2) a place of honor in Arlington National Cemetery near the Space Shuttle Challenger Memorial at the corner of Memorial and Faragut Drives should be provided for a suitable monument to the Marine Raiders, both as a reminder of United States resolve during the dark, early days of World War II, and as a reminder that the heroism and dedication of those Marines represents the sacrifice all members of the United States Armed Forces stand ready to make when the security of the United States is threatened.

Mr. BURNS. Mr. President, I am honored to stand here today with my distinguished colleague, Senator INOUE, and submit a resolution honoring the Marine Raiders. In recent months, heroism and service to our great Nation have risen as qualities valued and held dearly in the hearts of all Americans, but the men and women of our armed forces are no strangers to these qualities. Our American servicemen and women were not introduced to the concepts of bravery, sacrifice, and patriotism on September 11. The men and women of our armed forces have dedicated their lives to serving this great country since its conception, and I rise today to honor some of this country's greatest servants.

In August, 1942, the United States Marines conduct a combat raid on Japanese forces on Makin Atoll in the Gilbert Islands. On August 17 and 18, 1942, these Marines raided Butaritari Island, in the Makin Atoll. These men were members of the 2nd Raider Battalion, a Marine unit trained to conduct guerrilla-style attacks behind enemy lines. The unit was led by Lieutenant Colonel Evans Carlson; his second-in-command was Major James Roosevelt, son of President Franklin D. Roosevelt. The unit came under heavy Japanese resistance, and during the two-day battle, the Raiders killed 83 Japanese soldiers. However, because of weather, were unable to evacuate the bodies of their fallen comrades. The remains of these valiant men, known as Marine Raiders, were recovered and brought home to a grateful nation, at long last, in 1999. A funeral ceremony was held in August 2001 for nineteen of these brave men.

As Americans, we have become accustomed to the risks and losses incurred while defending the great American principles of democracy, liberty, and patriotism. Our strength and spirit

continue to prevail, and our continuing efforts to honor those who make the ultimate sacrifice in maintaining America's freedom, must not be lost upon the Marine Raiders. The bravery and heroism of these men has gone unsung for almost sixty years, and the time has come now to honor the Marine Raiders by establishing a monument in Arlington National Cemetery.

This site would respectfully honor the Marine Raiders with a monument established at a point next to the Challenger Monument. Such recognition will demonstrate to our country and to the world that America will never leave any of our fallen servicemen and women behind, either in memory or geographic location, and will bring them home to the American soil they perished defending.

As a former Marine, I am proud to have served this great Nation. The call to service as a member of the armed forces is a strong and noble call. In light of the recent attacks upon America, we remain united in a common vow to never forget those make the ultimate sacrifice in protecting the liberty we as Americans hold so precious. We, as Members of Congress and as citizens of this country, must remain united in fulfilling this promise to those who make that sacrifice today and tomorrow, without forgetting the men and women who made it yesterday, and in every war of America's past. We owe these heroes the honor of remembrance, both for the liberty we enjoy today and our freedom tomorrow.

Honoring the Marine Raiders presents us the unique opportunity to present to the world the love and respect we have for our fallen warriors. With the challenges of war looming for our servicemen and women today, this demonstration of respect seems particularly appropriate. I ask my colleagues to join Senator INOUE and me in honoring these men, and their sacrifice, with a memorial in Arlington Cemetery.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3767. Mr. FRIST (for Mr. HELMS (for himself, Mr. KERRY, Mr. WARNER, Mr. DEWINE, and Mr. SMITH, of Oregon) submitted an amendment intended to be proposed by Mr. FRIST to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

SA 3768. Mr. FRIST (for Mr. HELMS (for himself, Mr. KERRY, Mr. WARNER, Mr. DEWINE, and Mr. SMITH, of Oregon) submitted an amendment intended to be proposed by Mr. FRIST to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3769. Mr. FRIST (for Mr. HELMS (for himself, Mr. KERRY, Mr. WARNER, Mr. DEWINE, and Mr. SMITH, of Oregon) submitted an amendment intended to be proposed by Mr. FRIST to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3770. Mr. FRIST (for Mr. HELMS (for himself, Mr. KERRY, Mr. WARNER, Mr. DEWINE, and Mr. SMITH, of Oregon) sub-

mitted an amendment intended to be proposed by Mr. FRIST to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3771. Mr. MCCONNELL, submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3772. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 3552 submitted by Mr. BAUCUS and intended to be proposed to the bill (H.R. 4775) supra; which was ordered to lie on the table.

SA 3773. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 3628 submitted by Mr. BAUCUS (for himself, Mr. BURNS, and Mr. BINGAMAN) and intended to be proposed to the bill (H.R. 4775) supra; which was ordered to lie on the table.

SA 3774. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3775. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3776. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3777. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3778. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3779. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3780. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3781. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3782. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3783. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3784. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3785. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3786. Mr. LEAHY (for himself and Mr. INOUE) submitted an amendment intended to be proposed by Mr. WARNER (for himself, Mr. HELMS, Mr. MILLER, Mr. HATCH, Mr. KYL, Mr. BROWNBACK, Mr. ALLEN, Mr. ENSIGN, Mr. HUTCHINSON, Mr. CRAIG, Mr. SHELBY, Mr. HAGEL, Mr. CRAPO, and Mr. FRIST) to the bill (H.R. 4775) supra; which was ordered to lie on the table.

SA 3787. Mr. DODD (for himself and Mr. WARNER) submitted an amendment intended



to be proposed to amendment SA 3597 proposed by Mr. WARNER (for himself, Mr. HELMS, Mr. MILLER, Mr. HATCH, Mr. KYL, Mr. BROWNBACK, Mr. ALLEN, Mr. ENSIGN, Mr. HUTCHINSON, Mr. CRAIG, Mr. SHELBY, Mr. HAGEL, Mr. CRAPO, and Mr. FRIST) to the bill (H.R. 4775) supra.

SA 3788. Mr. DODD (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 3597 proposed by Mr. WARNER (for himself, Mr. HELMS, Mr. MILLER, Mr. HATCH, Mr. KYL, Mr. BROWNBACK, Mr. ALLEN, Mr. ENSIGN, Mr. HUTCHINSON, Mr. CRAIG, Mr. SHELBY, Mr. HAGEL, Mr. CRAPO, and Mr. FRIST) to the bill (H.R. 4775) supra; which was ordered to lie on the table.

SA 3789. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3790. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3791. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3792. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 3624 proposed by Mr. WELLSTONE to the bill (H.R. 4775) supra; which was ordered to lie on the table.

SA 3793. Mrs. MURRAY (for herself and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3794. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 3628 submitted by Mr. BAUCUS (for himself, Mr. BURNS, and Mr. BINGAMAN) and intended to be proposed to the bill (H.R. 4775) supra; which was ordered to lie on the table.

SA 3795. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3796. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3797. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 3646 submitted by Mr. MCCAIN and intended to be proposed to the bill (H.R. 4775) supra; which was ordered to lie on the table.

SA 3798. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3799. Mr. ENZI (for himself, Mr. GRASSLEY, and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3800. Mr. ENZI (for himself, Mr. GRASSLEY, and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3801. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3802. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3803. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3804. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3805. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

SA 3806. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 4775, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 3767.** Mr. FRIST (for Mr. HELMS (for himself, Mr. KERRY, Mr. WARNER, Mr. DEWINE, and Mr. SMITH of Oregon)) submitted an amendment intended to be proposed by Mr. FRIST to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

For an additional amount for the "Child Survival and Health Programs Fund", \$500,000,000, to remain available until expended: *Provided*, That such funds shall be made available only for programs for the prevention, treatment, and control of, and research on, HIV/AIDS: *Provided further*, That special emphasis shall be given to assistance directed at the prevention of transmission of HIV/AIDS from mother to child, including medications to prevent such transmission: *Provided further*, That of the funds appropriated by this paragraph, the President, in consultation with the Secretary of State, shall make such contribution as the President considers appropriate to the Global Fund to Fight AIDS, Tuberculosis, and Malaria to be used for any of the purposes of the Global Fund, except that such contribution shall be not less than \$100,000,000: *Provided further*, That funds appropriated by this paragraph, other than those made available as a contribution to the Global Fund, shall not exceed the total resources provided, including on an in-kind basis, from other donors: *Provided further*, That not more than seven percent of the amount of the funds appropriated by this paragraph, in addition to funds otherwise available for such purpose, may be made available for the administrative costs of United States Government agencies in carrying out programs funded under this paragraph: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress.

**SA 3768.** Mr. FRIST (for Mr. HELMS (for himself, Mr. KERRY, Mr. WARNER, Mr. DEWINE, and Mr. SMITH of Oregon)) submitted an amendment intended to be proposed by Mr. FRIST to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

For an additional amount for the "Child Survival and Health Programs Fund", \$500,000,000, to remain available until ex-

ended: *Provided*, That such funds shall be made available only for programs for the prevention, treatment, and control of, and research on, HIV/AIDS: *Provided further*, That special emphasis shall be given to assistance directed at the prevention of transmission of HIV/AIDS from mother to child, including medications to prevent such transmission: *Provided further*, That of the funds appropriated by this paragraph, the President, in consultation with the Secretary of State, shall make such contribution as the President considers appropriate to the Global Fund to Fight AIDS, Tuberculosis, and Malaria to be used for any of the purposes of the Global Fund, except that such contribution shall be not less than \$100,000,000: *Provided further*, That funds appropriated by this paragraph, other than those made available as a contribution to the Global Fund, shall not exceed the total resources provided, including on an in-kind basis, from other donors: *Provided further*, That not more than seven percent of the amount of the funds appropriated by this paragraph, in addition to funds otherwise available for such purpose, may be made available for the administrative costs of United States Government agencies in carrying out programs funded under this paragraph: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress.

**SA 3769.** Mr. FRIST (for Mr. HELMS (for himself, Mr. KERRY, Mr. WARNER, Mr. DEWINE, and Mr. SMITH of Oregon)) submitted an amendment intended to be proposed by Mr. FRIST to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

For an additional amount for the "Child Survival and Health Programs Fund", \$500,000,000, to remain available until March 31, 2003: *Provided*, That such funds shall be made available only for programs for the prevention, treatment, and control of, and research on, HIV/AIDS: *Provided further*, That special emphasis shall be given to assistance directed at the prevention of transmission of HIV/AIDS from mother to child, including medications to prevent such transmission: *Provided further*, That of the funds appropriated by this paragraph, the President, in consultation with the Secretary of State, shall make such contribution as the President considers appropriate to the Global Fund to Fight AIDS, Tuberculosis, and Malaria to be used for any of the purposes of the Global Fund, except that such contribution shall be not less than \$100,000,000: *Provided further*, That funds appropriated by this paragraph, other than those made available as a contribution to the Global Fund, shall not exceed the total resources provided, including on an in-kind basis, from other donors: *Provided further*, That not more than seven percent of the amount of the funds appropriated by this paragraph, in addition to funds otherwise available for such purpose, may be made available for the administrative costs of United States Government

agencies in carrying out programs funded under this paragraph: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress.

**SA 3770.** Mr. FRIST (for Mr. HELMS (for himself, Mr. KERRY, Mr. WARNER, Mr. DEWINE, and Mr. SMITH of Oregon)) submitted an amendment intended to be proposed by Mr. FRIST to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

For an additional amount for the "Child Survival and Health Programs Fund", \$500,000,000, to remain available until March 31, 2003: *Provided*, That such funds shall be made available only for programs for the prevention, treatment, and control of, and research on, HIV/AIDS: *Provided further*, That special emphasis shall be given to assistance directed at the prevention of transmission of HIV/AIDS from mother to child, including medications to prevent such transmission: *Provided further*, That of the funds appropriated by this paragraph, the President, in consultation with the Secretary of State, shall make such contribution as the President considers appropriate to the Global Fund to Fight AIDS, Tuberculosis, and Malaria to be used for any of the purposes of the Global Fund, except that such contribution shall be not less than \$100,000,000: *Provided further*, That funds appropriated by this paragraph, other than those made available as a contribution to the Global Fund, shall not exceed the total resources provided, including on an in-kind basis, from other donors: *Provided further*, That not more than seven percent of the amount of the funds appropriated by this paragraph, in addition to funds otherwise available for such purpose, may be made available for the administrative costs of United States Government agencies in carrying out programs funded under this paragraph: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress.

**SA 3771.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

SEC. 503. Section 1 of Public Law 105-204 (112 Stat. 681) is amended—

(1) in subsection (b), by striking "until the date" and all that follows and inserting "until the date that is 30 days after the date on which the Secretary of Energy awards a contract under subsection (c), and no such amounts shall be available for any purpose except to implement the contract."; and

(2) by striking subsection (c) and inserting the following:

"(c) CONTRACTING REQUIREMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law (except section 1341 of title 31, United States Code), the Secretary of Energy shall—

"(A) not later than 10 days after the date of enactment of this paragraph, request offerors whose proposals in response to Request for Proposals No. DE-RP05-010R22717 ('Acquisition of Facilities and Services for Depleted Uranium Hexafluoride (DUF6) Conversion Project') were included in the competitive range as of January 15, 2002, to confirm or reinstate the offers in accordance with this paragraph, with a deadline for offerors to deliver reinstatement or confirmation to the Secretary of Energy not later than 20 days after the date of enactment of this paragraph; and

"(B) not later than 30 days after the date of enactment of this paragraph, select for award of a contract the best value of proposals confirmed or reinstated under subparagraph (A), and award a contract for the scope of work stated in the Request for Proposals, including the design, construction, and operation of—

"(i) a facility described in subsection (a) on the site of the gaseous diffusion plant at Paducah, Kentucky; and

"(ii) a facility described in subsection (a) on the site of the gaseous diffusion plant at Portsmouth, Ohio.

"(2) CONTRACT TERMS.—Notwithstanding any other provision of law (except section 1341 of title 31, United States Code) the Secretary of Energy shall negotiate with the awardee to modify the contract awarded under paragraph (1) to—

"(A) require, as a mandatory item, that groundbreaking for construction occur not later than July 31, 2004, and that construction proceed expeditiously thereafter;

"(B) include as an item of performance the transportation, conversion, and disposition of depleted uranium contained in cylinders located at the Oak Ridge K-25 uranium enrichment facility located in the East Tennessee Technology Park at Oak Ridge, Tennessee, consistent with environmental agreements between the State of Tennessee and the Secretary of Energy; and

"(C) specify that the contractor shall not proceed to perform any part of the contract unless sufficient funds have been appropriated, in advance, specifically to pay for that part of the contract.

"(3) CERTIFICATION OF GROUNDBREAKING.—Not later than 5 days after the date of groundbreaking for each facility, the Secretary of Energy shall submit to Congress a certification that groundbreaking has occurred.

"(d) RIGHT OF ACTION FOR FAILURE TO COMPLY.—Any aggrieved person or entity may bring a civil action in United States district court for an injunction compelling the Secretary of Energy to comply with this section.

"(e) FUNDING.—

"(1) IN GENERAL.—For purposes of carrying out this section, the Secretary of Energy may use any available appropriations (including transferred unobligated balances).

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in addition to any funds made available under paragraph (1), such sums as are necessary to carry out this section."

**SA 3772.** Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 3552 submitted by Mr. Baucus and intended to be proposed to the bill (H.R. 4775) making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this title as the "Secretary") shall use \$1,800,000,000 of funds of the Commodity Credit Corporation to make emergency financial assistance available to producers on a farm that have incurred qualifying income losses in calendar year 2001, including losses due to army worms.

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A-55), including using the same loss thresholds for the quantity and economic losses as were used in administering that section.

(c) USE OF FUNDS FOR CASH PAYMENTS.—The Secretary may use funds made available under this section to make, in a manner consistent with this section, cash payments not for crop disasters, but for income loss to carry out the purposes of this section.

#### SEC. 02. LIVESTOCK ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall use \$500,000,000 of the funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2001 losses in a county that has received an emergency designation by the President or the Secretary after January 1, 2001, of which \$12,000,000 shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A-51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105-277; 114 Stat. 1549A-51).

#### SEC. 03. COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

#### SEC. 04. ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—In addition to funds otherwise available, not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to pay the salaries and expenses of the Department of Agriculture in carrying out this title \$50,000,000, to remain available until expended.

(b) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subsection (a), without further appropriation.

#### SEC. 05. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this title.

(b) PROCEDURE.—The promulgation of the regulations and administration of this title shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971

(36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

**SEC. 06. EMERGENCY REQUIREMENT.**

The entire amount necessary to carry out this title is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)).

**SA 3773.** Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 3628 submitted by Mr. BAUCUS (for himself, Mr. BURNS, and Mr. BINGAMAN) and intended to be proposed to the bill (H.R. 4775) making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE —EMERGENCY AGRICULTURAL ASSISTANCE**

**Subtitle A—Assistance**

**SEC. 01. INCOME LOSS ASSISTANCE.**

(a) MANDATORY FUNDING.—The Secretary of Agriculture (referred to in this subtitle as the "Secretary") shall use \$1,552,000,000 of funds of the Commodity Credit Corporation to make emergency financial assistance available to producers on a farm that have incurred qualifying income losses in calendar year 2001, including losses due to army worms.

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A-55), including using the same loss thresholds for the quantity and economic losses as were used in administering that section.

(c) USE OF FUNDS FOR CASH PAYMENTS.—The Secretary may use funds made available under this section to make, in a manner consistent with this section, cash payments not for crop disasters, but for income loss to carry out the purposes of this section.

**SEC. 02. LIVESTOCK ASSISTANCE PROGRAM.**

(a) MANDATORY FUNDING.—The Secretary shall use \$300,000,000 of the funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2001 losses in a county that has received an emergency designation by the President or the Secretary after January 1, 2001, of which \$12,000,000 shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A-51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105-277; 114 Stat. 1549A-51).

**SEC. 03. COMMODITY CREDIT CORPORATION.**

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subtitle.

**SEC. 04. ADMINISTRATIVE EXPENSES.**

(a) IN GENERAL.—In addition to funds otherwise available, not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to pay the salaries and expenses of the Department of Agriculture in carrying out this subtitle \$50,000,000, to remain available until expended.

(b) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subsection (a), without further appropriation.

**SEC. 05. REGULATIONS.**

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this subtitle.

(b) PROCEDURE.—The promulgation of the regulations and administration of this subtitle shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

**Subtitle B—Offsets**

**SEC. 11. REVISION OF TAX RULES ON EXPATRIATION.**

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

**"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsection (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(3) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by \$600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(4) COST-OF-LIVING-ADJUSTMENT.—

"(A) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2002, the \$600,000 amount under paragraph (3) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar

year, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING RULES.—If any amount after adjustment under subparagraph (A) is not a multiple of \$1,000, such amount shall be rounded to the next lower multiple of \$1,000.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

"(4) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(7) INTEREST.—For purposes of section 6601—

"(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

"(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

“(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

“(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

“(B)(i) the individual’s relinquishment of United States citizenship occurs before such individual attains age 18½, and

“(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

“(d) SECTION NOT TO APPLY TO CERTAIN PROPERTY.—This section shall not apply to the following:

“(1) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

“(2) INTEREST IN CERTAIN RETIREMENT PLANS.—

“(A) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

“(B) FOREIGN PENSION PLANS.—

“(i) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

“(ii) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed \$500,000.

“(3) SPECIFIED PROPERTY.—Any property or interest in property not described in paragraph (1) or (2) which the Secretary specifies in regulations.

“(e) DEFINITIONS.—For purposes of this section—

“(1) EXPATRIATE.—The term ‘expatriate’ means—

“(A) any United States citizen who relinquishes citizenship, and

“(B) any long-term resident of the United States who—

“(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

“(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

“(2) EXPATRIATION DATE.—The term ‘expatriation date’ means—

“(A) the date an individual relinquishes United States citizenship, or

“(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

“(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

“(A) the date the individual renounces such individual’s United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

“(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or

(4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)).

“(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

“(D) the date a court of the United States cancels a naturalized citizen’s certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

“(4) LONG-TERM RESIDENT.—The term ‘long-term resident’ has the meaning given to such term by section 877(e)(2).

“(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES’ INTERESTS IN TRUST.—

“(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

“(A) the individual shall not be treated as having sold such interest,

“(B) such interest shall be treated as a separate share in the trust, and

“(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

“(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

“(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual’s share in the trust.

“(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

“(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

“(i) paragraph (1) and subsection (a) shall not apply, and

“(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

“(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

“(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

“(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

“(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

“(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

“(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for

such periods, except that section 6621(a)(2) shall be applied by substituting ‘5 percentage points’ for ‘3 percentage points’ in subparagraph (B) thereof.

“(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

“(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

“(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

“(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary’s interest in a trust is the amount of gain which would be allocable to such beneficiary’s vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

“(E) TAX DEDUCTED AND WITHHELD.—

“(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

“(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

“(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

“(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

“(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

“(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

“(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

“(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

“(i) QUALIFIED TRUST.—The term ‘qualified trust’ means a trust which is described in section 7701(a)(30)(E).

“(ii) VESTED INTEREST.—The term ‘vested interest’ means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

“(iii) NONVESTED INTEREST.—The term ‘nonvested interest’ means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

“(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

“(3) DETERMINATION OF BENEFICIARIES’ INTEREST IN TRUST.—

“(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary’s interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

“(B) OTHER DETERMINATIONS.—For purposes of this section—

“(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

“(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

“(I) the methodology used to determine that taxpayer’s trust interest under this section, and

“(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary’s trust interest under this section.

“(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

“(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

“(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

“(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”

(b) TAX ON GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—

(1) IN GENERAL.—Subtitle B (relating to estate and gift taxes) is amended by inserting after chapter 14 the following new chapter:

**“CHAPTER 15—GIFTS AND BEQUESTS FROM EXPATRIATES**

“Sec. 2801. Imposition of tax.

**“SEC. 2801. IMPOSITION OF TAX.**

“(a) IN GENERAL.—If, during any calendar year, any United States citizen or resident receives any covered gift or bequest, there is hereby imposed a tax equal to the product of—

“(1) the highest rate of tax specified in the table contained in section 2001(c) as in effect on the date of such receipt, and

“(2) the value of such covered gift or bequest.

“(b) TAX TO BE PAID BY RECIPIENT.—The tax imposed by subsection (a) on any covered gift or bequest shall be paid by the person receiving such gift or bequest.

“(c) EXCEPTION FOR CERTAIN GIFTS.—Subsection (a) shall apply only to the extent that the covered gifts and bequests received during the calendar year exceed the amount determined under section 2503(b)(2).

“(d) TAX REDUCED BY FOREIGN GIFT OR ESTATE TAX.—The tax imposed by subsection (a) on any covered gift or bequest shall be reduced by the amount of any gift or estate tax paid to a foreign country with respect to such covered gift or bequest.

“(e) COVERED GIFT OR BEQUEST.—

(1) IN GENERAL.—For purposes of this chapter, the term ‘covered gift or bequest’ means—

“(A) any property acquired by gift directly or indirectly from an individual who, at the time of such acquisition, was a covered expatriate, and

“(B) any property acquired by bequest, devise, or inheritance directly or indirectly from an individual who, at the time of death, was a covered expatriate.

“(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Such term shall not include—

“(A) any property shown on a timely filed return of tax imposed by chapter 12 which is a taxable gift by the covered expatriate, and

“(B) any property shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate.

“(3) TRANSFERS IN TRUST.—Any covered gift or bequest which is made in trust shall be treated as made to the beneficiaries of such trust in proportion to their respective interests in such trust (as determined under section 877A(f)(3)).

“(f) COVERED EXPATRIATE.—For purposes of this section, the term ‘covered expatriate’ has the meaning given to such term by section 877A(c).”

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle B is amended by inserting after the item relating to chapter 14 the following new item:

“Chapter 15. Gifts and bequests from expatriates.”

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

“(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

“(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual’s citizenship is treated as relinquished under section 877A(e)(3).

“(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.”

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

“(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is determined by the Attorney General, after consultation with the Secretary of the Treasury, not to be in compliance with sections 877A and 2801 of such Code (relating to expatriation).”

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(i) (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by adding at the end the following new paragraph:

“(8) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Except as provided in paragraph (6), upon written request of the Attorney General, the return of an individual or return information with respect to such individual shall be open to inspection by, or disclosure to, officers and employees of the Federal agency responsible for making a determination under section 212(a)(10)(E) of the Immigration and Nationality Act for the purpose of, and to the extent necessary in, making such determination with respect to such individual.”

(B) CONFORMING AMENDMENT.—Section 6103(i)(6) (relating to confidential informants; impairment of investigations) is amended by striking “(5), or (7)” and inserting “(5), (7), or (8)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

“(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after the date of first passage by the Senate of legislation adding section 877A to this title.”

(2) Section 2107 is amended by adding at the end the following new subsection:

“(f) APPLICATION.—This section shall not apply to any expatriate to whom section 877A applies.”

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

“(F) APPLICATION.—This paragraph shall not apply to any expatriate to whom section 877A applies.”

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting “or 877A” after “section 877”.

(B) The second sentence of section 6039G(e) is amended by inserting “or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))” after “877(a)”.

(C) Section 6039G(f) is amended by inserting “or 877A(e)(2)(B)” after “877(e)(1)”.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 of such Code is amended by inserting after the item relating to section 877 the following new item:

“Sec. 877A. Tax responsibilities of expatriation.”

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after the date of the first passage by the Senate of this section.

(2) GIFTS AND BEQUESTS.—Chapter 15 of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to covered gifts and bequests (as defined in section 2801 of such Code, as so added) received on or after the date of the first passage by the Senate of this section from an individual or the estate of an individual whose expatriation date (as so defined) occurs on or after such date.

**SEC. 12. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.**

Section 1633 of the Social Security Act (42 U.S.C. 1383b) is amended by adding at the end the following:

“(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

“(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

“(i) at least 25 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2003; and

“(ii) at least 50 percent of all such determinations that are made in fiscal year 2004 or thereafter.

“(B) In carrying out subparagraph (A), the Commissioner of Social Security shall, to

the extent feasible, select for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.”.

**SA 3774.** Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

“(15) the provision specifying \$500,000 for the Prairie Lakes Education Cooperative in Madison, SD to advance distance learning for Native Americans in BIA and tribal schools shall be deemed to read as follows: ‘Sisseton-Wahpeton School Board in Agency Village, SD to advance distance learning for Native American students, \$500,000.’”.

**SA 3775.** Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, beginning on line 2, strike “under this chapter for the Defense Emergency Response Fund” and insert “under title II of Public Law 107–117 under the heading ‘ARMY NATIONAL GUARD, OPERATION AND MAINTENANCE’”.

**SA 3776.** Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

SEC. . For an additional amount for the Department of the Interior, Bureau of Reclamation, “WATER AND RELATED RESOURCES” for emergency expenses related to compliance with activities required in the existing biological opinion on the Rio Grande in New Mexico, \$4,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

**SA 3777.** Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

SEC. . For an additional amount for the Department of the Interior, Bureau of Reclamation, “WATER AND RELATED RESOURCES” for emergency expenses related to compliance with activities required in the existing biological opinion on the Rio Grande in New Mexico, \$4,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and

Emergency Deficit Control Act of 1985, as amended.

**SA 3778.** Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

SEC. . For an additional amount for the Department of the Interior, Bureau of Reclamation, “WATER AND RELATED RESOURCES” for emergency expenses related to compliance with activities required in the existing biological opinion on the Rio Grande in New Mexico, \$4,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

**SA 3779.** Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

SEC. . For an additional amount for the Department of the Interior, Bureau of Reclamation, “WATER AND RELATED RESOURCES” for emergency expenses related to compliance with activities required in the existing biological opinion on the Rio Grande in New Mexico, \$4,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

**SA 3780.** Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

SEC. . For an additional amount for the Department of the Interior, Bureau of Reclamation, “WATER AND RELATED RESOURCES” for emergency expenses related to compliance with activities required in the existing biological opinion on the Rio Grande in New Mexico, \$4,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

**SA 3781.** Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

SEC. . For an additional amount for the Department of the Interior, Bureau of Reclamation, “WATER AND RELATED RESOURCES” for emergency expenses related to compliance with activities required in the existing biological opinion on the Rio Grande in New Mexico, \$4,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

**SA 3782.** Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

SEC. . For an additional amount for the Department of the Interior, Bureau of Reclamation, “WATER AND RELATED RESOURCES” for emergency expenses related to compliance with activities required in the existing biological opinion on the Rio Grande in New Mexico, \$4,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

**SA 3783.** Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

SEC. . For an additional amount for the Department of the Interior, Bureau of Reclamation, “WATER AND RELATED RESOURCES” for emergency expenses related to compliance with activities required in the existing biological opinion on the Rio Grande in New Mexico, \$4,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

**SA 3784.** Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

SEC. . For an additional amount for the Department of the Interior, Bureau of Reclamation, “WATER AND RELATED RESOURCES” for emergency expenses related to compliance with activities required in the existing biological opinion on the Rio Grande in New Mexico, \$4,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section



251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

**SA 3785.** Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

**SEC. .** For an additional amount for the Department of the Interior, Bureau of Reclamation, "WATER AND RELATED RESOURCES" for emergency expenses related to compliance with activities required in the existing biological opinion on the Rio Grande in New Mexico, \$4,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

**SA 3786.** Mr. LEAHY (for himself and Mr. INOUE) submitted an amendment intended to be proposed to amendment SA 3597 proposed by Mr. WARNER (for himself, Mr. HELMS, Mr. MILLER, Mr. HATCH, Mr. KYL, Mr. BROWNBACK, Mr. ALLEN, Mr. ENSIGN, Mr. HUTCHINSON, Mr. CRAIG, Mr. SHELBY, Mr. HAGEL, Mr. CRAPO, and Mr. FRIST) to the bill (H.R. 4775) making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill add the following:

**SEC. 2015. EXPIRATION OF AUTHORITY.**

This title shall cease to be effective at the end of September 30, 2002.

**SA 3787.** Mr. DODD (for himself and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 3597 proposed by Mr. WARNER (for himself, Mr. HELMS, Mr. MILLER, Mr. HATCH, Mr. KYL, Mr. BROWNBACK, Mr. ALLEN, Mr. ENSIGN, Mr. HUTCHINSON, Mr. CRAIG, Mr. SHELBY, Mr. HAGEL, Mr. CRAPO, and Mr. FRIST) to the bill (H.R. 4775) making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in the bill, add the following:

**SEC. 2015.** Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic and other foreign nationals accused of genocide, war crimes or crimes against humanity.

**SEC. 2016.** This title shall cease to be effective at the end of September 30, 2002.

**SA 3788.** Mr. DODD (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 3597 proposed by Mr. WARNER (for himself, Mr. HELMS, Mr. MILLER, Mr. HATCH, Mr. KYL, Mr. BROWNBACK, Mr. ALLEN, Mr. ENSIGN, Mr. HUTCHINSON, Mr. CRAIG, Mr. SHELBY, Mr. HAGEL, Mr. CRAPO, and Mr. FRIST) to the bill (H.R. 4775) making supplemental appropri-

tions for the fiscal year ending September 30, 2002, and for other purposes which was ordered to lie on the table; as follows:

At the appropriate place in the bill add the following:

**SEC. 2015.** Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic and the other foreign nationals accused of genocide, war crimes or crimes against humanity.

**SA 3789.** Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 775, making supplemental appropriations for the fiscal year ending September 30 2002, and for other purposes, which was ordered to lie on the table, as follows:

At the appropriate place in the Bill insert the following: "Notwithstanding any other provision of this Bill, For an additional amount for "Operation and Maintenance, General", \$32,000,000, to remain available until expended: *Provided*, That using the funds appropriated herein the Secretary of the Army, acting through the Chief of Engineers is directed to repair, restore, and clean-up Corps' projects and facilities and dredge navigation channels, restore and clean out area streams, provide emergency streambank protection, restore other crucial public infrastructure (including sewer and water facilities), document flood impacts and undertake other flood recovery efforts deemed necessary and advisable by the Chief of Engineers due to flooding in eastern Kentucky, Illinois, the western Upper Peninsula of the State of Michigan, Missouri, southern West Virginia, and southwestern Virginia."

**SA 3790.** Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. 210.** Of the amounts appropriated in Public Law 107-77, under the heading "Dept. of Commerce, National Oceanic and Atmospheric Administration, Operations, Research, and Facilities", \$500,000 shall be for the cost of a reduction loan of \$50,000,000 as authorized under sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g) to carry out a West Coast groundfish fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)).

**SA 3791.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. .CONTAMINATED SEAFOOD.**

(a) **IN GENERAL.**—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by—

(1) redesignating subsections (b) through (g) as subsections (c) through (h), respectively; and

(2) inserting after subsection (a) the following:

"(b) CONTAMINATED SEAFOOD.—

"(1) REFUSAL OF ENTRY.—The Secretary of Health and Human Services shall issue an order refusing admission into the United States of all imports of seafood originating from a country or exporter if it appears that shipments of such seafood are likely to be adulterated with 1 or more substances listed in section 530.41(a) of title 21, Code of Federal Regulations. The Secretary may consider—

"(A) the detection of such substances by the Secretary;

"(B) the detection of such substances by a person commissioned to carry out examinations and investigations under section 702(a) of this Act;

"(C) findings from an inspection under §704;

"(D) the detection by other importing countries of such substances in shipments of seafood that originate from such country or exporter; or (E) other evidence or information as determined by the Secretary

"(2) ALLOWANCE OF INDIVIDUAL SHIPMENTS FROM EXPORTING COUNTRY OR EXPORTER.—Notwithstanding an order under paragraph (1) with respect to seafood originating from a country or exporter, the Secretary may permit individual shipments of seafood originating in that country or from that exporter to be admitted into the United States if the exporter or importer presents evidence acceptable to the Secretary that a shipment does not contain a compound listed in section 530.41(a) of title 21, Code of Federal Regulations.

"(3) CANCELLATION OF ORDER.—The Secretary may cancel an order under paragraph (1) with respect to seafood exported from a country or exporter if—

"(A) the country or exporter has shown to the satisfaction of the Secretary that the substance at issue is no longer sold for use, in being used in, or being used in a manner that could contaminate food-producing animals in the country in which the seafood originated; or

"(B) all shipments into the United States under paragraph (2) of seafood originating in that country or from that exporter more than 1 year after the date on which the Secretary issued the order have been found, under the procedures described in paragraph (2), not to contain such a drug.

(b) **CONFORMING AMENDMENTS.**—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381), as amended by subsection (a), is amended by—

(1) striking "subsection (b)" in subsection (a) and inserting "subsection (c)";

(2) striking "subsection (b)" in subsection (d) and inserting "subsection (c)";

(3) striking "subsection (e)" in subsection (g)(1) and inserting "subsection (f)";

(4) striking "section 801(a)" in subsection (h)(1)(A)(i) and inserting "subsection (a) of this section";

(5) striking "section 801(a)" in subsection (h)(1)(A)(ii) and inserting "subsection (a) of this section"; and

(6) striking "section 801(d)(1);" in subsection (h)(1)(A)(iii) and inserting "subsection (d)(1) of this section;"

**SA 3792.** Mr. KOHL submitted an amendment intended to be proposed to amendment SA 3624 proposed by Mr. WELLSTONE to the bill (H.R. 4775) making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Amendment number 3624 is amended by striking the text and inserting the following on page 7, after line 12:

"SEC. . Whereas of the 40 million people living with HIV/AIDS, nearly 2.7 million are

children under 15, and 11.8 million are young people aged 15–24, more than 540,000 children were infected in mother-to-child transmission in 2000, and a baby born to an HIV-positive mother has a 25 to 35 percent chance of becoming infected;

Whereas targeted provision of dairy products for HIV/AIDS mitigation provides an economical and efficient means to strengthen nutrition, ward off infectious diseases and extend the lives of HIV-positive individuals;

Whereas good nutrition including dairy products is critical to programs that provide and enhance anti-retroviral drugs to prevent mother-to-child transmission of HIV/AIDS, and nutrition experts recommend the use of dairy products with anti-retroviral drugs to combat mother-to-child transmission;

Whereas in the diets of young children, growing adolescents and pregnant women, milk has been proven to provide a concentration of critical nutritional elements that promote growth and robust health, and the National Institutes of Health (NIH) recommends that dairy products be used to boost the nutrition of HIV-positive young children.

Whereas it is imperative that attempts to improve the availability of dairy products to the HIV/AIDS afflicted do not undermine the security and stability of the indigenous dairy production and processing sector.

Whereas the United States has more than one billion pounds (450,000 metric tons) of surplus non-fat dry milk in storage that has been acquired at an average cost of over 90 cents per pound for a total cost approaching \$1 billion, and storage costs are \$1.5 million per month and growing;

Whereas this huge amount of milk overhangs U.S. and world markets and deteriorates rapidly, going out of condition in about three years when it must be sold for a salvage value of a few cents per pound;

The impacts of breast-feeding on MTCT remain controversial and appropriate interventions are not yet scientifically proven, especially in low-income communities where appropriate alternatives are not available and may be unsafe;

Whereas there is a need for non-fat dry milk in international relief to use in human feeding programs that target the most vulnerable in society, particularly those affected by HIV/AIDS: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the Secretary of Agriculture should—

(A) utilize the existing 416(b) authority of the Agricultural Act of 1949 to dispose of dairy surpluses for direct feeding programs to mothers and children living with HIV/AIDS and communities heavily impacted by the HIV/AIDS pandemic.

(B) allow for the monetization of surplus non-fat dry milk to help fund market assessments, program costs, strengthen local dairy processing industries, support home care, provide for in-country fortification and carry out general nutritional campaigns to increase the local markets for dairy products as well as income-generating jobs in communities affected by HIV/AIDS.

(C) Make available funds for the provision of 100,000 metric tons of surplus non-fat dry milk to combat HIV/AIDS, with a special focus on HIV-positive mothers and children, to include ocean and inland transportation, for accounting, monitoring and evaluation expenses incurred by the Secretary of Agriculture, and for expenses incurred by private and voluntary organizations and cooperatives related to market assessments, project design, fortification, distribution, and other project expenses.

(D) Give careful consideration to the local market conditions before dairy products are donated or monetized into a local economy, so as not to undermine the security and sta-

bility of the indigenous dairy production and processing sector.

(E) Use none of these funds or commodities in any programs that would substitute dairy products for breast-feeding.

**SA 3793.** Mrs. MURRAY (for herself and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate, insert the following:

SEC. 210. Section 286(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1356(e)(3)) is amended by inserting before the period at the end “, or international ferries that operate between the State of Alaska or the State of Washington and Canada.”.

**SA 3794.** Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 3628 submitted by Mr. BAUCUS (for himself, Mr. BURNS, and Mr. BINGAMAN) and intended to be proposed to the bill (H.R. 4775) making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Where appropriate add the following:

(d) ASSISTANCE FOR LABRUSCA GRAPES.—

(1) IN GENERAL.—Of the funds made available in paragraph (a), not less than \$100,000,000 shall be used to make payments, as soon as practicable after the date of enactment of this Act, to producers of labrusca grapes for quantity, quality, or severe economic losses incurred for the 2001 and 2002 crops of labrusca grapes due to damaging weather and related conditions.

(2) PAYMENT QUANTITY.—The payment quantity of labrusca grapes for which the producers on a farm are eligible for payments under paragraph (d) shall be equal to the average quantity of the 1996 through 2000 crop of labrusca grapes produced by the producers on the farm, as determined by the Secretary of Agriculture.

(3) LIMITATIONS.—The Secretary of Agriculture shall not establish a payment limitation, or gross income eligibility limitation, with respect to payments made under this paragraph.

(4) APPLICABILITY.—This section applies only with respect to the 2002 and 2002 crops of labrusca grapes and producers of those crops.

**SA 3795.** Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

For an additional amount for emergency relief under section 125 of title 23, United States Code, for reconstruction of the portion of Interstate Route 40 spanning the Arkansas River in the State of Oklahoma that was destroyed as a result of a barge collision that occurred on May 26, 2002, and for costs associated with detours during the reconstruction, \$12,000,000: *Provided*, That the entire amount necessary to carry out this paragraph is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and

Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

**SA 3796.** Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

For an additional amount for emergency relief under section 125 of title 23, United States Code, for reconstruction of the portion of Interstate Route 40 spanning the Arkansas River in the State of Oklahoma that was destroyed as a result of a barge collision that occurred on May 26, 2002, and for costs associated with detours during the reconstruction, \$12,000,000: *Provided*, That the entire amount necessary to carry out this paragraph is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

**SA 3797.** Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 3646 submitted by Mr. MCCAIN and intended to be proposed to the bill (H.R. 4775) making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be stricken, insert the following:

**SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “National Defense Rail Act”.

(b) AMENDMENT OF TITLE 49.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

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

Sec. 1. Short title; amendment of title 49; table of contents.

Sec. 2. Findings.

Title I—Rail Transportation Security

Sec. 101. Amtrak security assistance.

Sec. 102. Study of foreign rail transport security programs.

Sec. 103. Passenger, baggage, and cargo screening.

Sec. 104. Rail security.

Sec. 105. Rail transportation security risk assessment.

Sec. 106. Offset for emergency supplemental appropriations.

TITLE II—Interstate Railroad Passenger High-Speed Transportation System

Sec. 201. Interstate railroad passenger high-speed transportation policy.

Sec. 202. High-speed rail corridor planning.

Sec. 203. Implementation assistance.

Sec. 204. Designated high-speed rail corridors.

Sec. 205. Labor standards.

Sec. 206. Railway-highway crossings in high-speed rail corridors.

Sec. 207. Authorization of appropriations.

TITLE III—National Railroad Passenger Corporation

Sec. 301. National railroad passenger transportation system defined.

Sec. 302. Extension of authorization.

- Sec. 303. Additional Amtrak authorizations.  
 Sec. 304. Northeast Corridor authorizations.  
 Sec. 305. Long distance trains.  
 Sec. 306. Short distance trains; State-supported routes.  
 Sec. 307. Re-establishment of Northeast Corridor Safety Committee.  
 Sec. 308. On-time performance.  
 Sec. 309. Amtrak board of directors.  
 Sec. 310. Establishment of financial accounting system for Amtrak operations by independent auditor.  
 Sec. 311. Development of 5-year financial plan.  
 Sec. 312. Revised reporting methodology required.  
 Sec. 313. Appropriated amounts to be spent proportionately.

#### TITLE IV—Miscellaneous

- Sec. 401. Rehabilitation, improvement, and security financing.  
 Sec. 402. Rail passenger cooperative research program.  
 Sec. 403. Conforming amendments to title 49 reflecting ICC Termination Act.  
 Sec. 404. Applicability of reversion to Alaska Railroad right-of-way property.

#### SEC. 2. FINDINGS.

The Congress finds the following:

(1) Financial investment in passenger rail infrastructure is critical, and Federal leadership is required to address the needs of a reliable safe, secure passenger rail network, just as has been used in establishing the interstate highway system and the Federal aviation network.

(2) Lack of investment and attention to the needs of passenger rail infrastructure has resulted in a weak passenger rail network, and has caused a strain on the capacity of other modes of transportation in many areas of the country. According to the Department of Transportation, in 1999 the cost of wasted time and extra fuel consumption due to delays on congested roads was estimated at \$78 billion.

(3) Passenger rail is an integral part of the United States transportation system, and, as can be evidenced in the Northeast Corridor, relieves the pressures of congestion on highways and at airports, and creates a more balanced system of transportation alternatives.

(4) Passenger rail service has been a vital instrument in the transportation needs of our nation. For instance, during World War II, the privately owned, operated, and constructed railroad industry transported 90 percent of all defense freight, and 97 percent of all defense personnel transported to points of embarkation for theaters of action. By the end of the war, railroads accounted for three quarters of the share of the common carrier share of intercity traffic, with airplanes and buses sharing the remaining quarter of traffic.

(5) Significant attention and Federal funding were required to construct the Eisenhower System of Interstate and Defense Highways. The Federal Aid Highway Act of 1956 established a Highway Trust Fund based upon Federal user taxes in order to finance up to 90 percent of the costs of the \$25 billion dollar highway construction plan.

(6) Federal policies with respect to investment in aviation resulted in a strengthened aviation industry and the rapid development of air passenger service, and by the late 1960's most rail companies were petitioning the government to discontinue passenger services because of losses.

(7) Amtrak was established in 1971 by the Rail Passenger Service Act of 1970 to provide passenger rail services in the United States as a public service; at the time of Amtrak's formation, freight railroads were losing

money on unprofitable passenger rail operations. Since 1971 Amtrak has received only \$25 billion in public subsidies; during that period, the United States invested over \$570 billion on highways and aviation.

(8) The Amtrak Reform and Accountability Act of 1997, and preceding statutes, resulted in creating conflicting missions for the National Railroad Passenger Corporation of both serving a public function by operating unprofitable long-distance routes while also attempting to operate at a profit. This policy has also restricted Amtrak's profit potential on the Northeast Corridor by limiting the capital expenditures to help defray other costs.

(9) Due to a lack of capital investment, the Northeast Corridor has accumulated a backlog of repair needs, including life safety and security needs. Investment in the capital needs of the Northeast Corridor would result in capacity improvements which would result in greater utilization of the existing infrastructure.

(10) The Department of Transportation Inspector General's 2001 Assessment of Amtrak's Financial Performance and Requirements (Report #CR-2002-075) found that Amtrak's lack of available capital has impeded its efforts to achieve financial goals.

(11) In order to attempt to meet the mandate of the Amtrak Reform and Accountability Act of 1997, Amtrak has been forced to delay capital improvement projects and other projects which would produce long-term benefits.

(12) The Department of Transportation Inspector General's 2001 Assessment of Amtrak's Financial Performance and Requirements (Report #CR-2002-075) found that Amtrak's most profitable operations are on the Northeast Corridor, where Federal investment in passenger rail infrastructure has been significantly higher than anywhere else in the country.

(13) Federal investments in capital projects to support passenger rail in areas other than the Northeast Corridor would result in improved service and increase profitability.

(14) The need for a balanced interstate and international transportation system that provides a viable alternative to travel by private automobile or commercial aircraft is particularly evident after the events of September 11, 2001.

(15) As a matter of national security, a strong passenger rail network would provide travelers an alternative to highway and air travel, which could lead to reduced United States reliance on foreign oil imports.

(16) In fiscal year 2001, the United States spent less than 1 percent of all transportation modal spending on intercity passenger rail, and since 1998 Amtrak has received only \$2.8 billion of the \$5.3 billion it has been authorized to receive by Congress.

(17) Passenger rail in the United States has no stable funding source, in contrast to highways, aviation, and transit.

(18) Per capita spending on passenger rail is much higher in other countries than the United States and, in fact, the United States ranks behind other countries including Canada, Japan, France, Great Britain, Italy, Spain, Austria, Switzerland, Belgium, Sweden, Luxembourg, Denmark, Ireland, Norway, the Czech Republic, Finland, Slovakia, Portugal, Poland, South Africa, Greece, and Estonia.

(19) The United States needs to engage in long-term planning to foster and address future passenger transportation growth and show forethought regarding transportation solutions rather than be forced to act due to an impending crisis.

(20) It is in the national interest to preserve passenger rail service in the United

States and to maintain the solvency of the National Railroad Passenger Corporation.

(21) Long-term planning and support for passenger rail will help offset the emerging problems created by transportation congestion, and contribute to a cleaner and more environmentally-friendly transportation system.

(22) A comprehensive re-evaluation of our nation's rail passenger policy is required and a clearly defined role for Amtrak and a connected rail passenger network must be established.

(23) The Federal government must take the primary responsibility for developing national railroad passenger transportation infrastructure, and help ensure that it functions as an efficient network. Privatization of the rail passenger industry in Great Britain has been disastrous and passenger service has suffered overall.

(24) The nation should be afforded the opportunity to receive safe, efficient, and cost-effective rail passenger services, taking into account all benefits to the nation as a whole.

#### TITLE I—RAIL TRANSPORTATION SECURITY

##### SEC. 101. AMTRAK SECURITY ASSISTANCE.

(a) INFRASTRUCTURE SECURITY.—The following amounts are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2003:

(1) \$39,714,000 for tunnel security, including closed circuit television cameras, lighting, and fencing, of which \$26,476,000 shall be obligated or expended on the Northeast Corridor and \$13,238,000 shall be obligated or expended outside the Northeast Corridor.

(2) \$176,568,000 for interlocking security needs, including closed circuit television cameras, lighting, and fencing, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(3) \$17,030,000 for equipment facility security, including closed circuit television cameras and lighting, of which \$5,677,000 shall be obligated or expended on the Northeast Corridor and \$11,353,000 shall be obligated or expended outside the Northeast Corridor.

(4) \$29,280,000 for yard and terminal security, including closed circuit television cameras, lighting, and fencing, of which \$9,760,000 shall be obligated or expended on the Northeast Corridor and \$19,520,000 shall be obligated or expended outside the Northeast Corridor.

(5) \$3,779,000 for mail and express facilities security, including closed circuit television cameras, lighting, and fencing, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(6) \$27,233,000 for station security, including closed circuit television cameras, x-ray machines, lighting, and fencing, of which \$7,104,000 shall be obligated or expended on the Northeast Corridor and \$20,129,000 shall be obligated or expended outside the Northeast Corridor.

(7) \$30,798,000 for bridge security, including closed circuit television cameras, lighting, and fencing, of which \$19,065,000 shall be obligated or expended on the Northeast Corridor and \$11,733,000 shall be obligated or expended outside the Northeast Corridor.

(8) \$420,000 for tower security, including closed circuit television cameras, lighting, and fencing, which shall be obligated or expended on the Northeast Corridor.

(9) \$29,451,000 for electric traction facilities security, including closed circuit television cameras, lighting, and fencing, of which \$23,650,000 shall be obligated or expended on the Northeast Corridor and \$5,801,000 shall be

obligated or expended outside the Northeast Corridor.

(10) \$11,112,000 for vehicle barriers, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(11) \$212,000 for centralized electrification and traffic control security, including access control systems, monitoring and alarm systems, and technological protection for systems, which shall be obligated or expended on the Northeast Corridor.

(12) \$10,283,000 for primary and backup central monitoring technology centers, which shall be obligated or expended outside the Northeast Corridor.

(13) \$538,000 for employee identification systems, including improved technology for badges issued to employees and visitors controlled through a centralized database.

(14) \$75,000 for bomb-resistant trash containers, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(15) \$5,800,000 for a passenger information retrieval system to capture security information, create watchlists, and an online history of passengers, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(16) \$6,200,000 for an incident tracking system to create and maintain an electronic database of data on criminal and operational incidents, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(17) \$4,300,000 for upgrades to ticket kiosks for photo imaging for identification purposes, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(18) \$16,750,000 for an incident command system to serve as a second command center and a disaster recovery command site, of which \$5,000,000 shall be obligated or expended on the Northeast Corridor and \$11,750,000 shall be obligated or expended outside the Northeast Corridor.

(19) \$5,000,000 for train locator and tracking systems to provide GPS coordinates for all locomotives, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(20) \$120,000 for a notification system for integration of GPS information into the central computer systems, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(21) \$1,245,000 for mail and express shipment software to identify each shipment positively before it is transported by rail, of which \$405,000 shall be obligated or expended on the Northeast Corridor and \$840,000 shall be obligated or expended outside the Northeast Corridor.

(22) \$1,211,000 for mail and express tracking deployment to identify the status of each rail shipment.

(b) SECURITY OPERATIONS.—The following amounts are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2003:

(1) \$354,000 for hiring 4 police officers, each of whom is to be dedicated to a specific region of the United States, to provide intelligence-gathering and analysis, conduct crime-mapping assessments throughout the entire system, work with law enforcement to prevent terrorist acts and reduce Amtrak's vulnerability, of which 50 percent shall be

obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(2) \$10,411,000 for the hiring of 150 patrol officers and 48 specialized personnel, of whom 101 would be deployed on the Northeast Corridor and 97 outside the Northeast Corridor.

(3) \$11,292,000 for the hiring of 250 security officers, of whom 147 would be deployed on the Northeast Corridor and 103 outside the Northeast Corridor.

(4) \$1,828,000 for the hiring of 20 canine bomb teams, of which 15 are to be deployed outside the Northeast Corridor and 5 are to be deployed on the Northeast Corridor.

(5) \$30,761,000 for infrastructure security inspectors to inspect the rights-of-way, bridges, buildings, tunnels, communications and signaling equipment, fencing, gates, barriers, lighting, catenary system, and other security features, of which 50 percent is to be obligated or expended on the Northeast Corridor and 50 percent is to be obligated or expended outside the Northeast Corridor.

(6) \$2,990,000 to expand aviation capabilities for security coverage and patrol capabilities, including equipment, staff, and facilities, of which \$997,000 is to be obligated or expended on the Northeast Corridor and \$1,993,000 is to be obligated or expended outside the Northeast Corridor.

(7) \$1,095,000 for the leasing of 150 vehicles to support patrol capabilities, of which \$569,000 is to be obligated or expended on the Northeast Corridor and \$526,000 is to be obligated or expended outside the Northeast Corridor.

(8) \$669,000 for 6 management level positions with responsibility for direction, control, implementation, and monitoring of security systems, including the deployment of the 250 security officers throughout the Amtrak system, of which \$446,000 is to be obligated or expended on the Northeast Corridor and \$223,000 is to be obligated or expended outside the Northeast Corridor.

(9) \$980,000 for applicant background investigations, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(10) \$457,000 for rapid response teams to respond to and prepare for on-site consequence management, all of which shall be obligated or expended outside the Northeast Corridor.

(c) EQUIPMENT SECURITY.—

(1) IN GENERAL.—The following amounts are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2003:

(A) \$1,755,000 to provide two-way communication devices for all Amtrak conductors.

(B) \$3,000,000 for 2 mobile emergency command and communication units and rapid response teams, 1 to be located in the Midwest and 1 on the West Coast.

(C) \$651,000 for 200 to 400 radioactive material detectors to be deployed system-wide, of which \$231,000 is to be obligated or expended on the Northeast Corridor and \$420,000 is to be obligated or expended outside the Northeast Corridor.

(D) \$4,000,000 for hand-held bomb detectors for use by police to inspect baggage and packages.

(E) \$1,400,000 to screen express packages before being placed on trains.

(F) \$1,305,000 for secure locking devices on mail and express cars that have satellite-monitoring capability.

(G) \$10,234,000 for video recording systems on road locomotives, of which \$4,859,000 is to be obligated or expended on the Northeast Corridor and \$5,375,000 is to be obligated or expended outside the Northeast Corridor.

(H) \$6,712,000 to acquire and install satellite-based technology to shut down any lo-

comotive that is not under the control of its crew.

(I) \$4,320,000 to install 10 new communications stations to enable radio communications in remote locations and 12 satellite receivers.

(J) \$4,000,000 for 4 self-propelled high-speed rail cars designated for selective patrol and enforcement functions, including critical incident response, dignitary protection, and roving rail security inspections.

(2) ALLOCATION.—Except as provided in subparagraphs (B), (C), and (G) of paragraph (1), 50 percent of any amounts appropriated pursuant to paragraph (1) shall be obligated or expended on the Northeast Corridor and 50 percent of such amounts shall be obligated or expended outside the Northeast Corridor.

(d) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsections (a), (b), and (c) shall remain available until expended.

(e) PROHIBITION ON USE OF EQUIPMENT FOR EMPLOYMENT-RELATED PURPOSES.—An employer may not use closed circuit television cameras purchased with amounts authorized by this section for employee disciplinary or monitoring purposes unrelated to transportation security.

#### SEC. 102. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Not later than June 1, 2003, the Comptroller General shall carry out a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to Congress. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

#### SEC. 103. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Secretary of Transportation shall—

(1) study the cost and feasibility of requiring security screening for all passengers, baggage, and mail, express, and other cargo on Amtrak trains; and

(2) report the results of the study, together with any recommendations that the Secretary may have for implementing a rail security screening program to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives one year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Secretary shall conduct a pilot program of random security screening of passengers and baggage at 5 of the 10 busiest passenger rail stations served by Amtrak (measured by the average number of boardings of Amtrak passenger trains) and at up to five additional rail stations served by Amtrak that are selected by the Secretary. In selecting the additional train stations the Secretary shall attempt to achieve a distribution of participating stations in terms of geographic location and size.

#### SEC. 104. RAIL SECURITY.

(a) SECRETARY OF TRANSPORTATION.—Section 20103(a) is amended by striking "safety" and inserting "safety, including the security of railroad operations,".

(b) RAIL POLICE OFFICERS.—Section 28101 is amended by striking “the rail carrier” each place it appears and inserting “any rail carrier”.

(c) REVIEW OF RAIL REGULATIONS.—Within 180 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Federal Railroad Administration’s Rail Safety Advisory Committee, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail safety and security.

**SEC. 105. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.**

(a) IN GENERAL.—

(1) ASSESSMENT.—The Secretary of Transportation shall assess the security risks associated with rail transportation and develop prioritized recommendations for—

(A) improving the security of rail tunnels, rail bridges, rail switching areas, and other areas identified by the Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) the deployment of chemical and biological weapon detection equipment;

(C) dealing with the immediate and long-term economic impact of measures that may be required to address those risks; and

(D) training employees in terrorism response activities.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall include a review of any actions already taken to address identified security issues by both public and private entities.

(3) RAILROAD CROSSING DELAYS.—The Secretary shall include in the assessment an analysis of the risks to public safety and to the security of rail transportation that are associated with long delays in the movement of trains that have stopped on railroad grade crossings of highways, streets, and other roads for motor vehicle traffic, especially in major metropolitan areas. The Secretary shall include in the recommendations developed under paragraph (1) recommended actions for preventing such delays and reducing the risks identified in the analysis.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Secretary shall—

(1) consult with rail management, rail labor, and public safety officials (including officials responsible for responding to emergencies); and

(2) utilize, to the maximum extent feasible, the resources and assistance of—

(A) the Federal Railroad Administration’s Rail Safety Advisory Committee; and

(B) the Transportation Research Board of the National Academy of Sciences.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report, without compromising national security, containing—

(A) the assessment and prioritized recommendations required by subsection (a); and

(B) any proposals the Secretary deems appropriate for providing Federal financial, technological, or research and development assistance to railroads to assist the railroads in reducing the likelihood, severity, and consequences of deliberate acts of crime or terrorism toward rail employees, rail passengers, rail shipments, or rail property.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(d) SECURITY NEEDS OF NON-AMTRAK STATIONS.—

(1) STUDY.—The Secretary of Transportation shall conduct a study of the security and station improvements that may be needed on rail stations served by Amtrak that are not owned by Amtrak.

(2) REPORT.—The Secretary shall report, within 180 days after the date of enactment of this Act, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the results of the study, including—

(A) the total number of such stations;

(B) the estimated costs of the security and station improvements identified in the study; and

(C) any additional findings, conclusions, and recommendations, including legislative recommendations, the Secretary deems appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$5,000,000 for fiscal year 2003 to carry out this section, such sums to remain available until expended.

**SEC. 106. OFFSET FOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS.**

(a) FINDING.—The Congress finds that amounts were appropriated by the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Pub. Law 107-117) to be obligated or expended for Amtrak security-related activities.

(b) STATEMENT OF INTENT.—It is the intent of the Congress that the amounts appropriated by that Act for Amtrak security-related activities should offset the amounts authorized by this title to be appropriated to the Secretary of Transportation for Amtrak’s use for security-related activities.

(c) REDUCTION OF AUTHORIZATIONS.—Each amount authorized by this title to be appropriated to the Secretary of Transportation for the use of Amtrak for a security-related activity in any preceding section of this title for any fiscal year shall be reduced by any such appropriated amount used by Amtrak for that activity in that fiscal year.

**TITLE II—INTERSTATE RAILROAD PASSENGER HIGH-SPEED TRANSPORTATION SYSTEM**

**SEC. 201. INTERSTATE RAILROAD PASSENGER HIGH-SPEED TRANSPORTATION POLICY.**

(a) IN GENERAL.—Chapter 261 is amended by inserting before section 26101 the following:

**“§ 26100. Policy.**

“(a) IN GENERAL.—The Congress declares that it is the policy of the United States that designated high-speed railroad passenger transportation corridors are the building blocks of an interconnected interstate railroad passenger system that serves the entire Nation.

“(b) SECRETARY REQUIRED TO ESTABLISH NATIONAL HIGH-SPEED GROUND TRANSPORTATION POLICY.—The Secretary of Transportation shall establish the national high-speed ground transportation policy required by section 309(e)(1) of this title no later than December 31, 2002.”.

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 261 is amended by inserting before the item relating to section 26101 the following:

“26100. Policy”.

(2) Section 309(e)(1) is amended by striking “Within 12 months after the submission of

the study required by subsection (d),” and inserting “No later than December 31, 2002.”.

**SEC. 202. HIGH-SPEED RAIL CORRIDOR PLANNING.**

(a) IN GENERAL.—Section 26101(a) is amended to read as follows:

“(a) PLANNING.—

“(1) IN GENERAL.—The Secretary of Transportation shall provide planning assistance to States or group of States and other public agencies promoting the development of high-speed rail corridors designated by the Secretary under section 104(d) of title 23.

“(2) SECRETARY MAY PROVIDE DIRECT OR FINANCIAL ASSISTANCE.—The Secretary may provide planning assistance under paragraph (1) directly or by providing financial assistance to a public agency or group of public agencies to undertake planning activities approved by the Secretary.

“(3) 100 PERCENT FEDERAL FUNDING.—The Secretary may permit, but may not require, a portion of the publicly financed costs associated with eligible activities to come from non-Federal sources.

“(4) PRIORITIES TO CHICAGO, ATLANTA, DALLAS/FORT WORTH, PORTLAND, AND ORLANDO.—In determining projects to be undertaken pursuant to this paragraph, the Secretary shall give the highest priorities to undertaking planning in the vicinity of Union Station in Chicago, Illinois, in metropolitan Atlanta, Georgia, in the Dallas/Fort Worth, Texas, area, in the Portland, Oregon, area, and on the Orlando Corridor in Florida.”.

(b) CONFORMING AND OTHER AMENDMENTS TO SECTION 26101.—Section 26101 is further amended—

(1) by striking subsection (c)(2) and inserting the following:

“(2) the extent to which the proposed planning focuses on high-speed rail systems, giving a priority to systems which will achieve sustained speeds of 125 miles per hour or greater and projects involving dedicated rail passenger rights-of-way;”;

(2) by inserting “and” after the semicolon in subsection (c)(12);

(3) by striking “completed; and” in subsection (c)(13) and inserting “completed.”;

(4) by striking subsection (c)(14); and

(5) by adding at the end the following:

“(d) OPERATORS DEEMED RAIL CARRIERS.—A person that conducts rail operations funded or otherwise receiving assistance under this section is deemed to be a rail carrier for purposes of part A of subtitle IV, when so operating or performing such services.”.

(c) CONFORMING AMENDMENT.—Section 26105(2)(A) is amended by striking “more than 125 miles per hour;” and inserting “90 miles per hour or more;”.

(d) FINANCIAL ASSISTANCE TO INCLUDE LOANS AND LOAN GUARANTEES.—Section 26105(1) is amended by inserting “loans, loan guarantees,” after “contracts.”.

**SEC. 203. IMPLEMENTATION ASSISTANCE.**

(a) IN GENERAL.—Chapter 261 is amended by inserting after section 26101 the following:

**“§ 26101A. Implementation of corridor plans**

“(a) IMPLEMENTATION ASSISTANCE.—

“(1) IN GENERAL.—The Secretary of Transportation shall provide implementation assistance to States or group of States and other public agencies promoting the development of high-speed rail corridors designated by the Secretary under section 104(d) of title 23. The Secretary shall establish an application and qualification process and, before providing assistance under this section, make a determination on the record that the applicant is qualified and eligible for assistance under this section.

“(2) SECRETARY MAY PROVIDE DIRECT OR FINANCIAL ASSISTANCE.—The Secretary may provide implementation assistance under paragraph (1) directly or by providing financial assistance to a public agency or group of

public agencies to undertake implementation activities approved by the Secretary.

“(3) 100 PERCENT FEDERAL SHARE.—The Secretary may permit, but may not require, a portion of the publicly financed costs associated with eligible activities to come from non-Federal sources.

“(4) CONTRIBUTION OF LAND.—Notwithstanding paragraph (3), the Secretary may accept land contributed by a State for right-of-way, without regard to whether the State acquired the land directly or indirectly through the use of Federal funds, including transfers from the Highway Trust Fund under section 9503 of the Internal Revenue Code of 1986.

“(5) PRIORITIES TO CHICAGO, ATLANTA, DALLAS/FORT WORTH, PORTLAND, AND ORLANDO.—In determining projects to be undertaken pursuant to this subsection, the Secretary shall give the highest priorities to undertaking implementation assistance in the vicinity of Union Station in Chicago, Illinois, in metropolitan Atlanta, Georgia, and in the Dallas/Fort Worth, Texas, area, in the Portland, Oregon, area, and on the Orlando Corridor in Florida.

“(6) SPECIAL TRANSPORTATION CIRCUMSTANCES.—In carrying out this section, the Secretary shall allocate an appropriate portion of the amounts available for implementation assistance to providing appropriate related assistance in any State the rail transportation system of which—

“(A) is not physically connected to rail systems in the continental United States; and

“(B) may not otherwise qualify for high-speed rail implementation assistance due to the constraints imposed on the railway infrastructure in that State due to the unique characteristics of the geography of that State or other relevant considerations, as determined by the Secretary.

“(b) ELIGIBLE IMPLEMENTATION ACTIVITIES.—The following activities are eligible for implementation assistance under subsection (a):

“(1) Security planning and the acquisition of security and emergency response equipment.

“(2) Operating expenses.

“(3) Infrastructure acquisition and construction of track and facilities.

“(4) Highway-rail grade crossing eliminations and improvements.

“(5) Acquisition of rights-of-way, locomotives, rolling stock, track, and signal equipment.

“(c) CRITERIA FOR DETERMINING ASSISTANCE FOR IMPLEMENTATION ACTIVITIES.—The Secretary, in selecting recipients of assistance under subsection (a), shall—

“(1) encourage the use of positive train control technologies;

“(2) require that any project meet any existing safety regulations, and give preference to any project determined by the Secretary to have particularly high levels of safety;

“(3) encourage intermodal connectivity by locating train stations in or near airports, bus terminals, subway stations, ferry ports, and other modes of transportation;

“(4) ensure a general regional balance in providing such assistance and avoid the concentration of a disproportionate dedication of available financial assistance resources to a single project or region of the country; and

“(5) ensure that any project is compatible with, and operated in conformance with, plans developed pursuant to the requirements of sections 134 and 135 of title 23, United States Code.

“(d) OPERATORS DEEMED RAIL CARRIERS.—A person that conducts rail operations funded or otherwise receiving assistance under this section is deemed to be a rail carrier for

purposes of part A of subtitle IV, when so operating or performing such services.

“(e) DOMESTIC BUYING PREFERENCES.—

“(1) IN GENERAL.—In carrying out a project assisted under this section, a recipient shall buy only—

“(A) unmanufactured articles, material, and supplies mined or produced in the United States; or

“(B) manufactured articles, material, and supplies manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.

“(2) DE MINIMIS AMOUNT.—Paragraph (1) of this subsection applies only when the cost of those articles, material, or supplies bought is at least \$1,000,000.

“(3) EXEMPTIONS.—On application of a recipient, the Secretary of Transportation may exempt a recipient from the requirements of this subsection if the Secretary decides that, for particular articles, material, or supplies—

“(A) the requirements of paragraph (1) of this subsection are inconsistent with the public interest;

“(B) the cost of imposing those requirements is unreasonable; or

“(C) the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality.

“(4) UNITED STATES DEFINED.—In this subsection, the term ‘the United States’ means the States, territories, and possessions of the United States and the District of Columbia.”

(b) RULEMAKING REQUIRED.—Within 90 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking to create an application and qualification procedure for providing high-speed rail corridor implementation assistance under section 26101A of title 49, United States Code.

(c) PROCEDURES FOR GRANT AWARD.—Within 90 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking to create procedures for the awarding of implementation assistance under this section. The Procedures shall include the execution of a full funding grant agreement between the applicant and the government.

(d) COMPETITIVE BIDDING ON HIGH-SPEED RAIL ROUTES.—The Secretary of Transportation shall determine that a State or group of States and other public agencies promoting a high-speed rail project under the provisions of section 26101A of title 49, United States Code, as a condition of receiving funding under such section, has provided for competitive bidding for the project in accordance with the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (49 C.F.R. section 18.36). Within 180 days after the date of enactment of this Act, the Secretary, in consultation with the States or groups of States and other public agencies, shall issue criteria for the services to which the competitive bidding by this section applies. A train operator selected under section 26101A of title 49, United States Code, is deemed to be a rail carrier for purposes of part A of subtitle 49, United States Code, when performing such services.

(e) CONFORMING AMENDMENT.—The chapter analysis for chapter 261 is amended by inserting after the item relating to section 26101 the following:

“26101A. Implementation of corridor plans”.

## SEC. 204. DESIGNATED HIGH-SPEED RAIL CORRIDORS.

(a) IN GENERAL.—The Secretary of Transportation shall give priority in allocating funds authorized by section 26104 of title 49, United States Code, to designated high-speed rail corridors.

(b) DESIGNATED HIGH-SPEED RAIL CORRIDORS.—For purposes of subsection (a), the following shall be considered to be designated high-speed rail corridors:

(1) California Corridor connecting the San Francisco Bay area and Sacramento to Los Angeles and San Diego.

(2) Chicago Hub Corridor Network with the following spokes:

(A) Chicago to Detroit.

(B) Chicago to Minneapolis/St. Paul, Minnesota, via Milwaukee, Wisconsin.

(C) Chicago to Kansas City, Missouri, via Springfield, Illinois, and St. Louis, Missouri.

(D) Chicago to Louisville, Kentucky, via Indianapolis, Indiana, and Cincinnati, Ohio.

(E) Chicago to Cleveland, Ohio, via Toledo, Ohio.

(F) Cleveland, Ohio, to Cincinnati, Ohio, via Columbus, Ohio.

(3) Empire State Corridor from New York City, New York, through Albany, New York, to Buffalo, New York.

(4) Florida High-Speed Rail Corridor from Tampa through Orlando to Miami.

(5) Gulf Coast Corridor from Houston Texas, through New Orleans, Louisiana, to Mobile, Alabama, with a branch from New Orleans, through Meridian, Mississippi, and Birmingham, Alabama, to Atlanta, Georgia.

(6) Keystone Corridor from Philadelphia, Pennsylvania, through Harrisburg, Pennsylvania, to Pittsburgh, Pennsylvania.

(7) Northeast Corridor from Washington, District of Columbia, through New York City, New York, New Haven, Connecticut, and Providence, Rhode Island, to Boston, Massachusetts, with a branch from New Haven, Connecticut, to Springfield, Massachusetts.

(8) New England Corridor from Boston, Massachusetts, to Portland and Auburn, Maine, and from Boston, Massachusetts, through Concord, New Hampshire, and Montpelier, Vermont, to Montreal, Quebec.

(9) Pacific Northwest Corridor from Eugene, Oregon, through Portland, Oregon, and Seattle, Washington, to Vancouver, British Columbia.

(10) South Central Corridor from San Antonio, Texas, through Dallas/ Fort Worth to Little Rock, Arkansas, with a branch from Dallas/Fort Worth through Oklahoma City, Oklahoma, to Tulsa, Oklahoma.

(1) Southeast Corridor from Washington, District of Columbia, through Richmond, Virginia, Raleigh, North Carolina, Columbia, South Carolina, Savannah, Georgia, and Jessup, Georgia, to Jacksonville, Florida, with—

(A) a branch from Raleigh, North Carolina, through Charlotte, North Carolina, and Greenville, South Carolina, to Atlanta, Georgia; a branch from Richmond, to Hampton Roads/Norfolk, Virginia;

(B) a branch from Charlotte, North Carolina, to Columbia, South Carolina, to Charleston, South Carolina;

(C) a connecting route from Atlanta, Georgia, to Jessup, Georgia;

(D) a connecting route from Atlanta, Georgia, to Charleston, South Carolina; and

(E) a branch from Raleigh, North Carolina, through Florence, South Carolina, to Charleston, South Carolina, and Savannah, Georgia, with a connecting route from Florence, South Carolina, to Myrtle Beach, South Carolina.

(12) Southwest Corridor from Los Angeles, California, to Las Vegas, Nevada.



(c) OTHER HIGH-SPEED RAIL CORRIDORS.—For purposes of this section, subsection (b)—

(1) does not limit the term “designated high-speed rail corridor” to those corridors described in subsection (b); and

(2) does not limit the Secretary of Transportation’s authority—

(A) to designate additional high-speed rail corridors; or

(B) to terminate the designation of any high-speed rail corridor.

#### SEC. 205. LABOR STANDARDS.

(a) CURRENT EMPLOYEE PROTECTIONS.—Nothing in this Act, or in any amendment made by this Act, shall affect the level of protection provided to freight railroad employees, employees of the National Passenger Railroad Corporation, and mass transportation employees as it existed on the day before the date of enactment of this Act.

(b) LABOR STANDARDS.—

(1) PREVAILING WAGES.—The Secretary of Transportation—

(A) shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed in whole or in part by funds authorized by this Act will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.); and

(B) may make such funds available with respect to construction work only after being assured that required labor standards will be maintained on the construction work.

(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).

(3) EMPLOYEE PROTECTION.—The Secretary of Transportation shall require as a condition of any project financed in whole or in part by funds authorized by this title that the project be conducted in a manner that provides a fair arrangement at least as protective of the interests of employees who are affected by the project so funded as the terms imposed under arrangements reached under section 141 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24706 note).

#### SEC. 206. RAILWAY-HIGHWAY CROSSINGS IN HIGH-SPEED RAIL CORRIDORS.

(a) IN GENERAL.—The entire cost of construction of projects for the elimination of hazards of railway-highway crossings in designated high-speed rail corridors, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings, may be paid from sums authorized by subsection (k). In any case when the elimination of the hazards of a railway-highway crossing can be effected by the relocation of a portion of a railway at a cost estimated by the Secretary of Transportation to be less than the cost of such elimination by one of the methods mentioned in the first sentence of this section, then the entire cost of such relocation project may be paid from sums authorized by subsection (k).

(b) CLASSIFICATION OF PROJECTS.—The Secretary may classify the various types of projects involved in the elimination of hazards of high-speed rail corridor railway-highway crossings, and may set for each such classification a percentage of the costs of construction which shall be deemed to represent the net benefit to the railroad or railroads for the purpose of determining the railroad’s share of the cost of construction. The

percentage so determined shall in no case exceed 10 per cent of such costs. The Secretary shall determine the appropriate classification of each project.

(c) LIABILITY OF RAILROAD.—Any railroad involved in a project for the elimination of hazards of railway-highway crossings paid for in whole or in part from sums made available under this section shall be liable to the United States for the net benefit to the railroad determined under the classification of such project made under subsection (b). That liability to the United States may be discharged by direct payment to the State transportation department of the State in which the project is located, in which case such payment shall be credited to the cost of the project. The payment may consist in whole or in part of materials and labor furnished by the railroad in connection with the construction of the project. If any such railroad fails to discharge such liability within a 6-month period after completion of the project, it shall be liable to the United States for its share of the cost, and the Secretary shall request the Attorney General to institute proceedings against such railroad for the recovery of the amount for which it is liable under this subsection. The Attorney General is authorized to bring such proceedings on behalf of the United States, in the appropriate district court of the United States, and the United States shall be entitled in such proceedings to recover such sums as it is considered and adjudged by the court that such railroad is liable for in the premises. Any amounts recovered by the United States under this subsection shall be credited to miscellaneous receipts.

(d) SURVEY AND SCHEDULE OF PROJECTS.—Each State shall conduct and systematically maintain a survey of all high-speed rail corridor railway-highway crossings to identify those railroad crossings which may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose.

(e) FUNDS FOR PROTECTIVE DEVICES.—The Secretary shall give priority under this section to the elimination of high-speed rail corridor railway-highway grade crossings, but shall make funds authorized for obligation or expenditure under this section available for the installation of protective devices at high-speed rail corridor railway-highway crossings where appropriate.

(f) APPORTIONMENT.—The Secretary shall apportion funds available for obligation and expenditure under this section between high-speed rail corridor railway-highway crossings on the Northeast Corridor and such crossings outside the Northeast Corridor in an equitable fashion, taking into account traffic volume, traffic patterns, frequency of trains, adequacy of existing hazard warnings, and such other factors as the Secretary deems appropriate.

(g) ANNUAL REPORT.—The Secretary shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than December 30 of each year on the progress being made to implement the railway-highway crossings program authorized by this section and the effectiveness of such improvements. Each report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations. The report shall include—

(1) the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident experience at improved locations;

(2) an analysis and evaluation of the program activities in each State, including identification of any State found not to be in

compliance with the schedule of improvements required by subsection (d); and

(3) recommendations for future implementation of the railway-highway crossings program under this section and section 130 of title 23, United States Code.

(h) USE OF FUNDS FOR MATCHING.—Funds authorized to be appropriated to carry out this section may be used to provide a local government with funds to be used on a matching basis when State funds are available which may only be spent when the local government produces matching funds for the improvement of railway-highway crossings.

(i) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—

(1) IN GENERAL.—Notwithstanding any other provision of this section and subject to paragraphs (2) and (3), the Secretary may make incentive payments to a local government upon the permanent closure by such government of public at-grade high-speed rail corridor railway-highway crossings under its jurisdiction.

(2) INCENTIVE PAYMENTS BY RAILROADS.—The Secretary may not make an incentive payment under paragraph (1) to a local government with respect to the closure of a crossing unless the railroad owning the tracks on which the crossing is located makes an incentive payment to the government with respect to the closure.

(3) AMOUNT OF FEDERAL INCENTIVE PAYMENT.—The amount of the incentive payment payable to a local government under paragraph (1) with respect to a crossing may not exceed the lesser of—

(A) the amount of the incentive payment paid to the government with respect to the crossing by the railroad concerned under paragraph (2); or

(B) \$ 7,500.

(j) COORDINATION WITH TITLE 23 PROGRAM.—In carrying out this section, the Secretary shall—

(1) implement this section in accordance with the classification of projects and railroad share of the cost as provided in section 646.210 of title 23, Code of Federal Regulations; and

(2) coordinate the administration of this section with the program established by section 130 of title 23, United States Code, in order to avoid duplication of effort and to ensure the effectiveness of both programs.

(k) FUNDING.—Not less than 10 percent of the amounts appropriated for each fiscal year to carry out section 26101A shall be obligated or expended to carry out this section.

#### SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

Section 26104 is amended to read as follows:

##### “§ 26104. Authorization of appropriations

“(a) FISCAL YEARS 2003 THROUGH 2007.—There are authorized to be appropriated to the Secretary for each of fiscal years 2003 through 2007—

“(1) \$25,000,000 for carrying out section 26101;

“(2) \$1,500,000,000 for carrying out section 26101A; and

“(3) \$25,000,000 for carrying out section 26102.

“(b) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

“(c) SPECIAL RULE.—Except as specifically provided in section 26101, 26101A, or 26102, no amount authorized by subsection (a) may be used for obligation or expenditure on the Boston-to-Washington segment of the Northeast Corridor while that segment is receiving Federal funds for capital or operating expenses.”.

**TITLE III—NATIONAL RAILROAD  
PASSENGER CORPORATION**

**SEC. 301. NATIONAL RAILROAD PASSENGER  
TRANSPORTATION SYSTEM DE-  
FINED.**

(a) IN GENERAL.—Section 24102 is amended—

(1) by striking paragraph (2);  
(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after paragraph (4) as so redesignated the following:

“(5) ‘national rail passenger transportation system’ means—

“(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, D.C.;

“(B) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors, but only after they have been improved to permit operation of high-speed service;

“(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the National Defense Rail Act; and

“(D) short-distance corridors or routes operated as of the date of enactment of the National Defense Rail Act, unless discontinued by Amtrak.”.

(b) AMTRAK ROUTES WITH STATE FUNDING.—

(1) IN GENERAL.—Chapter 247 is amended by inserting after section 27101 the following:

“§ 24702. Transportation requested by States, authorities, and other persons

“(a) CONTRACTS FOR TRANSPORTATION.—Amtrak and a State, a regional or local authority, or another person may enter into a contract for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

“(b) DISCONTINUANCE.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract, Amtrak may discontinue such service or route, notwithstanding any other provision of law.”.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

“24702. Transportation requested by States, authorities, and other persons”.

(c) AMTRAK TO CONTINUE TO PROVIDE NON HIGH-SPEED SERVICES.—Nothing in this Act is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service.

**SEC. 302. AMTRAK AUTHORIZATIONS.**

(a) REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.

(1) TITLE 49 AMENDMENTS.—Chapter 241 is amended—

(A) by striking the last sentence of section 24101(d); and

(B) by striking the last sentence of section 24104(a).

(2) AMTRAK REFORM AND ACCOUNTABILITY ACT AMENDMENTS.—Title II of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt) is amended by striking sections 204 and 205.

(3) COMMON STOCK REDEMPTION DATE.—Section 415 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24304 nt) is amended by striking subsection (b).

(b) LEASE ARRANGEMENTS.—Amtrak may obtain services from the Administrator of General Services, and the Administrator may provide services to Amtrak, under section 201(b) and 211(b) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 481(b) and 491(b)) for each of fiscal years 2003 through 2007.

(c) FINANCIAL POWERS.—Section 415(d) of the Amtrak Reform and Accountability Act of 1997 by adding at the end the following:

“(3) This section does not affect the applicability of section 3729 of title 31, United States Code, to claims made against Amtrak.”.

**SEC. 303. ADDITIONAL AMTRAK AUTHORIZATIONS.**

(a) EXCESS RRTA.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, an amount equal to the amount Amtrak must pay under section 3221 of the Internal Revenue Code of 1986 in fiscal years that is more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries.

(b) PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases, the following amounts:

- (A) For fiscal year 2003, \$105,000,000.
- (B) For fiscal year 2004, \$93,000,000.
- (C) For fiscal year 2005, \$105,000,000.
- (D) For fiscal year 2006, \$108,000,000.
- (E) For fiscal year 2007, \$183,000,000.

(2) INTEREST ON DEBT.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

- (A) For fiscal year 2003, \$160,000,000.
- (B) For fiscal year 2004, \$157,000,000.
- (C) For fiscal year 2005, \$147,000,000.
- (D) For fiscal year 2006, \$142,000,000.
- (E) For fiscal year 2007, \$134,000,000.

(c) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$30,000,000, of which one-third shall be obligated or expended on the Northeast Corridor and two-thirds shall be obligated or expended outside the Northeast Corridor, in order to comply with environmental regulations.

(d) COMPLIANCE WITH ADA REQUIREMENTS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$43,000,000 for access improvements in facilities and stations necessary to comply with the requirements of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162), including an initial assessment of the full set of needs across the national rail passenger transportation system, of which—

- (A) \$10,000,000 shall be obligated or expended on the Northeast Corridor; and
- (B) \$33,000,000 shall be obligated or expended outside the Northeast Corridor, of which \$15,000,000 shall be obligated or expended for long-distance trains.

(2) BEST EFFORTS REQUIREMENT.—If Amtrak fails to meet the period for compliance requirement imposed by section 242(e)(2)(A)(ii)(I) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)(A)(ii)(I))—

(A) it shall not be considered discrimination for purposes of section 202 of that Act (42 U.S.C. 12132) or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) if Amtrak demonstrates to the satisfaction of the Secretary of Transportation that—

(i) Amtrak has made substantial progress toward meeting the requirements of section 242(e)(2)(A)(ii)(I) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)(A)(ii)(I)); and

(ii) Amtrak’s failure to meet the period of compliance requirement of that section is attributable to the insufficiency of appropriated funds; and

(B) the period for compliance under section 242(e)(2)(A)(ii)(I) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)(A)(ii)(I)) shall be extended until—

(i) sufficient funds have been appropriated to the Secretary of Transportation for the use of Amtrak to enable Amtrak to comply fully with the requirements of that section; and

(ii) a reasonable period of time for the completion of necessary construction so funded has passed.

(e) REINVESTMENT OF NET REVENUES FROM NON-PASSENGER OPERATIONS.—Amtrak shall apply any net revenues from non-passenger operations to the railroad’s working capital for use in satisfying systemwide current liabilities. When Amtrak’s working capital has improved to the point at which Amtrak’s liquid assets are sufficient to satisfy projected short-term liabilities, Amtrak shall invest any excess net non-passenger revenues in high priority capital projects.

**SEC. 304. NORTHEAST CORRIDOR AUTHORIZATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, the following amounts:

(1) \$370,000,000 for capital backlog on infrastructure on the Northeast Corridor to bring infrastructure up to state-of-good-repair, including renewal of the South End electric traction system, improvements on bridges and tunnels, and interlocking and signal system renewal.

(2) \$60,000,000 for capital backlog on fleet to bring existing fleet to a state-of-good-repair, including equipment replacement and upgrades necessary to meet current service commitments.

(3) \$40,000,000 for capital backlog on stations and facilities, including improvements to the facility and platform at the existing Penn Station, and bringing maintenance-of-way facilities up to state-of-good-repair.

(4) \$350,000,000 for ongoing capital infrastructure—

- (A) to replace assets on a life-cycle basis;
- (B) to ensure that a state-of-good-repair is maintained in order to meet safety and reliability standards; and

(C) to meet current service commitments.

(5) \$40,000,000 for ongoing capital fleet investment to sustain regularly scheduled maintenance, including a 120-day cycle of preventive maintenance, and heavy overhauls on a 4-year schedule, with interior enhancements as needed.

(6) \$30,000,000 for ongoing capital improvements to stations and facilities to provide for regular upgrades to stations to meet current service needs, and regular improvements to maintenance-of-equipment and maintenance-of-way facilities.

(7) \$20,000,000 for ongoing technology upgrades of reservation, distribution, financial, and operations systems, including hardware, software, infrastructure, and communications.

(b) LIFE SAFETY NEEDS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2003:

(1) \$798,000,000 for the 6 New York tunnels built in 1910 to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers.

(2) \$57,000,000 for the Baltimore & Potomac tunnel built in 1872 to provide adequate

drainage, ventilation, communication, lighting, and passenger egress upgrades.

(3) \$40,000,000 for the Washington, D.C. Union Station tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings to improve ventilation, communication, lighting, and passenger egress upgrades.

(c) **INFRASTRUCTURE UPGRADES.**—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2003, \$3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels, such funds to remain available until expended.

(d) **CORRIDOR GROWTH INVESTMENT.**—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for corridor growth investments in the Northeast Corridor—

(1) For fiscal year 2003, \$200,000,000.

(2) For fiscal year 2004, \$300,000,000.

(3) For fiscal year 2005, \$400,000,000.

(4) For fiscal year 2006, \$500,000,000.

(5) For fiscal year 2007, \$600,000,000.

(e) **FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.**—The Secretary shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in subsection (b)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers if feasible.

(f) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to this section shall remain available until expended.

(g) **REINVESTMENT OF NORTHEAST CORRIDOR NET OPERATING REVENUES.**—Amtrak shall invest any net revenue generated from core passenger operations in the Northeast Corridor in capital needs of the corridor until the backlog of capital improvements is completed under Amtrak's 20-year capital plan.

#### **SEC. 305. LONG DISTANCE TRAINS.**

(a) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$360,000,000 for operating costs associated with long distance trains.

(b) **CAPITAL BACKLOG AND UPGRADES.**—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$70,000,000 to reduce the capital backlog and to bring its existing fleet to a state-of-good-repair, including equipment replacement and upgrades necessary to meet current service commitments.

(c) **ONGOING CAPITAL INFRASTRUCTURE INVESTMENTS.**—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$80,000,000 for ongoing capital infrastructure—

(1) to replace assets on a life-cycle basis;

(2) to ensure that a state-of-good-repair is maintained in order to meet safety and reliability standards;

(3) to meet current service commitments; and

(4) to provide funds for investment in partner railroads to operate passenger service at currently committed levels.

(d) **CAPITAL FLEET NEEDS.**—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$50,000,000 for ongoing capital fleet needs to sustain regularly scheduled maintenance, in-

cluding a 120-day cycle of preventive maintenance, and heavy overhauls on a 4-year schedule, with interior enhancements as needed.

(e) **CAPITAL STATIONS AND FACILITIES.**—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$10,000,000 for ongoing capital stations and facilities needs to provide regular upgrades to stations to meet current service needs, and regular improvements to maintenance-of-way equipment and maintenance-of-way facilities.

(f) **TECHNOLOGY NEEDS.**—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$10,000,000 for ongoing technology needs to upgrade reservation, distribution, financial, and operations systems, including hardware, software, infrastructure, and communications.

#### **SEC. 306. SHORT DISTANCE TRAINS; STATE-SUPPORTED ROUTES.**

There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, for obligation and expenditure on routes outside the Northeast Corridor—

(1) \$20,000,000 for capital backlog on infrastructure to bring infrastructure up to a state-of-good-repair, including improvements on bridges and tunnels that are approaching the end of their useful life and interlocking and signal system renewal;

(2) \$10,000,000 for capital backlog on its fleet to bring Amtrak's existing fleet as of the date of enactment of this Act to a state-of-good-repair, including equipment replacement and upgrades necessary to meet current service commitments;

(3) \$170,000,000 for ongoing capital infrastructure to replace assets on a life-cycle basis to ensure a state-of-good-repair is maintained in order to meet safety and reliability standards needed to deliver current service commitments, including investment in partner railroads to operate passenger service at currently committed levels.

(4) \$40,000,000 for ongoing capital fleet needs to sustain regularly scheduled maintenance, including a 120-day cycle preventive maintenance schedule, and heavy overhauls on a 4-year schedule, with interior enhancements as needed;

(5) \$10,000,000 for ongoing capital stations and facilities needs to provide regular upgrades to stations to meet current service needs, and regular improvements to maintenance-of-way equipment and maintenance-of-way facilities; and

(6) \$20,000,000 for ongoing technology needs to upgrade of reservation, distribution, financial, and operations systems, including hardware, software, infrastructure and communications.

#### **SEC. 307. RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.**

(a) **RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.**—The Secretary of Transportation shall re-establish the Northeast Corridor Safety Committee authorized by section 24905(b) of title 49, United States Code.

(b) **TERMINATION DATE.**—Section 24905(b)(4) is amended by striking "January 1, 1999," and inserting "January 1, 2008,".

#### **SEC. 308. ON-TIME PERFORMANCE.**

Section 24308 is amended by adding at the end the following:

"(f) **ON-TIME PERFORMANCE.**—If the on-time performance of any intercity passenger train averages less than 80 percent for any consecutive 3-month period, Amtrak may petition the Surface Transportation Board to investigate whether, and to what extent,

delays are due to causes that could reasonably be addressed by a rail carrier over the tracks of which the intercity passenger train operates, or by a regional authority providing commuter service, if any. In carrying out such an investigation, the Surface Transportation Board shall obtain information from all parties involved and make recommendations regarding reasonable measures to improve the on-time performance of the train."

#### **SEC. 309. AMTRAK BOARD OF DIRECTORS.**

(a) **IN GENERAL.**—Section 24302 is amended to read as follows:

##### **"§ 24302. Board of directors**

"(a) **COMPOSITION AND TERMS.**—

"(1) The board of directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

"(A) The President of Amtrak.

"(B) The Secretary of Transportation.

"(C) 7 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with an interest, experience, and qualifications in or directly related to rail transportation, including representatives of the passenger rail transportation, travel, hospitality, cruise line, and passenger air transportation businesses, and consumers of passenger rail transportation.

"(2) An individual appointed under paragraph (1)(C) of this subsection serves for 5 years or until the individual's successor is appointed and qualified. Not more than 4 individuals appointed under paragraph (1)(C) may be members of the same political party.

"(3) The board shall elect a chairman and a vice chairman from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

"(4) The Secretary may be represented at board meetings by the Secretary's designee.

"(b) **PAY AND EXPENSES.**—Each director not employed by the United States Government is entitled to \$300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

"(c) **VACANCIES.**—A vacancy on the board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

"(d) **BYLAWS.**—The board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.

"(e) **CONFLICTS OF INTEREST.**—Subparts D, E, and F of part 2635 of title 5, Code of Federal Regulations, shall apply to members of the board of directors during their term of office in the same manner as if they were employees of an executive agency (as defined in section 105 of title 5, United States Code)."

(b) **CONFORMING AMENDMENT TO APPLY SAME STANDARD TO OFFICERS.**—Section 24303(c) is amended to read as follows:

"(c) **CONFLICTS OF INTEREST.**—Subparts D, E, and F of part 2635 of title 5, Code of Federal Regulations, shall apply to officers when employed by Amtrak in the same manner as if they were employees of an executive agency (as defined in section 105 of title 5, United States Code)."

(c) **EFFECTIVE DATE FOR DIRECTORS' PROVISION.**—The amendment made by subsection

(a) shall take effect on October 1, 2003. The members of the Amtrak Reform Board may continue to serve until 3 directors appointed by the President under section 24302(a) of title 49, United States Code, as amended by subsection (a), have qualified for office.

**SEC. 310. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM FOR AMTRAK OPERATIONS BY INDEPENDENT AUDITOR.**

(a) IN GENERAL.—Amtrak shall employ an independent financial consultant—

(1) to assess its financial accounting and reporting system and practices;

(2) to design and assist Amtrak in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable Amtrak to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak \$2,500,000 for fiscal year 2003 to carry out subsection (a), such sums to remain available until expended.

**SEC. 311. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.**

(a) DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.—The Amtrak board of directors shall submit an annual budget for Amtrak, and a 5-year financial plan for the fiscal year to which that budget relates and the subsequent 4 years, prepared in accordance with this section, to the Secretary of Transportation and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriation Act for the fiscal year, if later.

(b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources;

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for non-passenger operations;

(4) capital funding requirements and expenditures necessary to maintain passenger service which will accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including state-supported routes and predicted funding sources;

(6) an assessment of the continuing financial stability of Amtrak, as indicated by factors such as: the ability of the federal gov-

ernment to adequately meet capital and operating requirements, Amtrak's access to long-term and short-term capital markets, Amtrak's ability to efficiently manage its workforce, and Amtrak's ability to effectively provide passenger train service.

(7) lump sum expenditures of \$10 million or more and sources of funding.

(8) estimates of long-term and short-term debt and associated principle and interest payments (both current and anticipated);

(9) annual cash flow forecasts; and

(10) a statement describing methods of estimation and significant assumptions.

(c) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In meeting the requirements of subsection (b) with respect to a 5-year financial plan, Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices; and

(2) use the categories specified in the financial accounting and reporting system developed under section 310 when preparing its 5-year financial plan.

(d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall assess the 5-year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b), and may suggest revisions to any components thereof that do not meet those requirements.

(2) ASSESSMENT TO BE FURNISHED TO THE CONGRESS.—The Inspector General shall furnish to the House of Representatives Committee on Appropriations, the Senate Committee on Appropriations, the House Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation—

(A) an assessment of the annual budget within 90 days after receiving it from Amtrak; and

(B) an assessment of the remaining 4 years of the 5-year financial plan within 180 days after receiving it from Amtrak.

**SEC. 312. REVISED REPORTING METHODOLOGY REQUIRED.**

Within 90 days after the date of enactment of this Act, Amtrak, in consultation with the Comptroller General, shall develop a revised methodology to be used in preparing the annual operations report required by section 24315(a) of title 49, United States Code, beginning with the report on operations for fiscal year 2002. The new report methodology shall specifically exclude non-core profits in calculating the performance of Amtrak's trains.

**SEC. 313. APPROPRIATED AMOUNTS TO BE SPENT PROPORTIONATELY.**

If for any fiscal year the sum of the amounts appropriated to the Secretary of Transportation for the use of Amtrak is less than the sum of the amounts authorized by this title for that fiscal year, then Amtrak shall—

(1) first obligate amounts appropriated pursuant to the authorization in section 303(a); and

(2) then allocate its obligation and expenditure of the remainder of the amounts appropriated for that fiscal year pursuant to this title (except amounts authorized by section 304(b), (c), and (d)) among the segments of the system in the same proportion as the authorizations were allocated among those segments by this title.

**SEC. 314. INDEPENDENT AUDITOR TO ESTABLISH CRITERIA FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.**

(a) INSPECTOR GENERAL TO HIRE CONSULTANT.—The Inspector General of the Department of Transportation shall—

(1) execute a contract to obtain the services of an independent auditor or consultant for the establishment of objective criteria for Amtrak service changes, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of existing services;

(2) review the criteria developed under the contract; and

(3) if the Inspector General approves the criteria, transmit them to the Amtrak board of directors.

(b) INCORPORATION OF CRITERIA BY AMTRAK.—The Amtrak board of directors shall incorporate the criteria in—

(1) its route and service planning and decision-making process; and

(2) its capital plans and budgets developed in compliance with section 311 of this Act.

(c) NOTIFICATION OF CONGRESS WHERE NOT COMPLYING WITH CRITERIA.—The Amtrak board of directors shall—

(1) notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not less than 30 days before the implementation date of any decision to establish a new route, terminate an existing route, or effect any other major change in service that is inconsistent with the criteria incorporated under subsection (b); and

(2) explain its decision not to follow the criteria.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be made available to the Inspector General, out of any amounts appropriated to Amtrak pursuant to the authority of this Act and not otherwise obligated or expended, such sums as may be necessary to carry out this section.

**TITLE IV—MISCELLANEOUS**

**SEC. 401. REHABILITATION, IMPROVEMENT, AND SECURITY FINANCING.**

(a) DEFINITIONS.—Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended to read as follows:

“(7) ‘railroad’ has the meaning given that term in section 20102 of title 49, United States Code; and”.

(b) GENERAL AUTHORITY.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended—

(1) by striking “Secretary may provide direct loans and loan guarantees to State and local governments,” in subsection (a) and inserting “Secretary shall provide direct loans and loan guarantees to State and local governments, interstate compacts entered into under section 410 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt).”;

(2) by striking “or” in subsection (b)(1)(B);

(3) by redesignating subparagraph (C) of subsection (b)(1) as subparagraph (D); and

(4) by inserting after subparagraph (B) of subsection (b)(1) the following:

“(C) to acquire, improve, or rehabilitate rail safety and security equipment and facilities; or”.

(c) EXTENT OF AUTHORITY.—Section 502(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)) is amended—

(1) by striking “\$3,500,000,000” and inserting “\$35,000,000,000”;

(2) by striking “\$1,000,000,000” and inserting “\$7,000,000,000”; and

(3) by adding at the end the following new sentence: “The Secretary shall not establish any limit on the proportion of the unused amount authorized under this subsection that may be used for 1 loan or loan guarantee.”.

(d) COHORTS OF LOANS.—Section 502(f) of the Railroad Revitalization and Regulatory

Reform Act of 1976 (45 U.S.C. 822(f)) is amended—

(1) in paragraph (2)—

(A) by striking “and” at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by adding after subparagraph (D) the following new subparagraph:

“(E) the size and characteristics of the cohort of which the loan or loan guarantee is a member; and”;

(2) by adding at the end of paragraph (4) the following: “A cohort may include loans and loan guarantees. The Secretary shall not establish any limit on the proportion of a cohort that may be used for 1 loan or loan guarantee.”.

(e) **CONDITIONS OF ASSISTANCE.**—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended—

(1) by striking “offered;” in subsection (f)(2)(A) and inserting “offered, if any;”;

(2) by inserting “(1)” before “The Secretary” in subsection (h) and redesignating paragraphs (1), (2), and (3) of that subsection as subparagraphs (A), (B), and (C); and

(3) by adding at the end of subsection (h) the following:

“(2) The Secretary shall not require an applicant for a direct loan or loan guarantee under this section to provide collateral.

“(3) The Secretary shall not require that an applicant for a direct loan or loan guarantee under this section have previously sought the financial assistance requested from another source.

“(4) The Secretary shall require recipients of direct loans or loan guarantees under this section to apply the standards of section 22301(b) and (c) of title 49, United States Code, to their projects.”.

(f) **TIME LIMIT FOR APPROVAL OR DISAPPROVAL.**—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended by adding at the end the following:

“(1) **TIME LIMIT FOR APPROVAL OR DISAPPROVAL.**—Not later than 180 days after receiving a complete application for a direct loan or loan guarantee under this section, the Secretary shall approve or disapprove the application.”.

(g) **FEES AND CHARGES.**—Section 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823) is amended—

(1) by adding at the end of subsection (k) the following: “Funds received by the Secretary under the preceding sentence shall be credited to the appropriation from which the expenses of making such appraisals, determinations, and findings were incurred.”; and

(2) by adding at the end the following new subsection:

“(m) **FEES AND CHARGES.**—Except as provided in this title, the Secretary may not assess any fees, including user fees, or charges in connection with a direct loan or loan guarantee provided under section 502.”.

(h) **SUBSTANTIVE CRITERIA AND STANDARDS.**—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall publish in the Federal Register and post on the Department of Transportation website the substantive criteria and standards used by the Secretary to determine whether to approve or disapprove applications submitted under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822).

(i) **OPERATORS DEEMED RAIL CARRIERS; LOANS AND LOAN GUARANTEES FOR NON-RAILROAD ENTITIES.**—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822), as amended by subsection (f), is amended by adding at the end the following:

“(j) **OPERATORS DEEMED RAIL CARRIERS.**—A person that conducts rail operations funded or otherwise receiving assistance under this section is deemed to be a rail carrier for purposes of part A of subtitle IV of title 49, United States Code, when so operating or performing such services.

“(k) **LOAN AND LOAN GUARANTEES FOR NON-RAILROAD ENTITIES.**—Notwithstanding any other provision of law, entities other than rail companies shall be eligible for loans and loan guarantees under this section.”.

**SEC. 402. RAIL PASSENGER COOPERATIVE RESEARCH PROGRAM.**

(a) **IN GENERAL.**—Chapter 249 is amended by adding at the end the following:

**“§ 24910. Passenger rail cooperative research program**

“(a) **IN GENERAL.**—The Secretary shall establish and carry out a rail passenger cooperative research program. The program shall—

“(1) address, among other matters, intercity rail passenger services, including existing rail passenger technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems;

“(2) give consideration to research on commuter rail, regional rail, freight rail, and other modes of rail transportation that may affect rail passenger transportation due to the interconnectedness of the rail passenger network with other rail transportation services; and

“(3) give consideration to regional concerns regarding rail passenger transportation, including meeting research needs common to designated high-speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

“(b) **CONTENTS.**—The program to be carried out under this section shall include research designed—

“(1) to develop more accurate models for evaluating the indirect effects of rail passenger service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;

“(2) to develop a better understanding of modal choice as it affects rail passenger transportation, including development of better models to predict ridership;

“(3) to recommend priorities for technology demonstration and development;

“(4) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Research Council;

“(5) to explore improvements in management, financing, and institutional structures;

“(6) to address rail capacity constraints that affect passenger rail service through a wide variety of options, ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on freight and commuter rail operations; and

“(7) to improve maintenance, operations, customer service, or other aspects of existing intercity rail passenger service existing in 2002.

“(c) **ADVISORY BOARD.**—

“(1) **ESTABLISHMENT.**—In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger transportation.

“(2) **MEMBERSHIP.**—The advisory board shall include—

“(A) representatives of State transportation agencies;

“(B) transportation and environmental economists, scientists, and engineers; and

“(C) representatives of Amtrak, the Alaska Railroad, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

“(d) **NATIONAL ACADEMY OF SCIENCES.**—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.”.

(b) **CONFORMING AMENDMENT.**—The chapter analysis for chapter 249 is amended by adding at the end the following:

“24910. Passenger rail cooperative research program”.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Transportation \$5,000,000 for each of fiscal years 2003 through 2007, to carry out section 24910(d) of title 49, United States Code.

**SEC. 403. CONFORMING AMENDMENTS TO TITLE 49 REFLECTING ICC TERMINATION ACT.**

(a) **SECTION 307.**—

(1) Section 307 is amended—

(A) by striking “**Interstate Commerce Commission**” in the section heading and inserting “**Surface Transportation Board**”;

(B) by striking “Interstate Commerce Commission” in subsection (a) and inserting “Surface Transportation Board”; and

(C) by striking “Commission” each place it appears and inserting “Board”.

(2) The chapter analysis for chapter 3 is amended by striking the item relating to section 307 and inserting the following:

“307. Safety information and intervention in Surface Transportation Board proceedings”.

(b) **SECTION 333.**—Section 333 is amended—

(1) by striking “Interstate Commerce Commission” each place it appears and inserting “Surface Transportation Board”; and

(2) by striking “Commission” in subsection (e) and inserting “Board”.

(c) **SECTION 351.**—Section 351(c) is amended by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”.

(d) **SECTION 24307.**—Section 24307(b)(3) is amended by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”.

(e) **SECTION 24308.**—Section 24308 is amended—

(1) by striking “Interstate Commerce Commission” in subsection (a)(2)(A) and inserting “Surface Transportation Board”; and

(2) by striking “Commission” each place it appears in subsections (a), (b), and (e) and inserting “Board”.

(f) **SECTION 24311.**—Section 24311 is amended—

(1) by striking “Interstate Commerce Commission” in subsection (c)(1) and inserting “Surface Transportation Board”; and

(2) by striking “Commission” each place it appears in subsection (c) and inserting “Board”.

(g) **SECTION 24902.**—Section 24902 is amended—

(1) by striking “Interstate Commerce Commission” in subsections (g)(2) and (g)(3) and inserting “Surface Transportation Board”; and

(2) by striking “Commission” each place it appears in subsections (g)(2) and (g)(3) and inserting “Board”.

(h) **SECTION 24904.**—Section 24904 is amended—

(1) by striking “Interstate Commerce Commission” in subsection (c)(2) and inserting “Surface Transportation Board”; and

(2) by striking "Commission" each place it appears in subsection (c) and inserting "Board".

**SEC. 404. APPLICABILITY OF REVERSION TO ALASKA RAILROAD RIGHT-OF-WAY PROPERTY.**

Section 610(b) of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1209(b)) is amended—

(1) by inserting "(1)" after "DISCONTINUANCE.—";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end the following new paragraph:

"(2)(A) The State-owned railroad may convey all right, title, and interest of the State in any land within the right-of-way to a third party in exchange for other land that, in substitution for the land conveyed, is to be utilized as part of the right-of-way if the continuity of the right-of-way corridor for transportation, communications, and transmission purposes is provided by such use of the substituted land.

"(B) The provisions of this section that require reversion shall apply to the substituted land, as of the effective date of the exchange of that land in a transaction authorized by subparagraph (A), as fully as if the substituted land had been rail properties of the Alaska Railroad as of January 13, 1983.

"(C) Upon the conveyance of land in a transaction authorized by subparagraph (A), any reversionary interest in the land under this section shall terminate."

**SA 3798.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

**SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the "National Defense Rail Act".

(b) **AMENDMENT OF TITLE 49.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

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

Sec. 1. Short title; amendment of title 49; table of contents.

Sec. 2. Findings.

Title I—Rail Transportation Security

Sec. 101. Amtrak security assistance.

Sec. 102. Study of foreign rail transport security programs.

Sec. 103. Passenger, baggage, and cargo screening.

Sec. 104. Rail security.

Sec. 105. Rail transportation security risk assessment.

Sec. 106. Offset for emergency supplemental appropriations.

**TITLE II—Interstate Railroad Passenger High-Speed Transportation System**

Sec. 201. Interstate railroad passenger high-speed transportation policy.

Sec. 202. High-speed rail corridor planning.

Sec. 203. Implementation assistance.

Sec. 204. Designated high-speed rail corridors.

Sec. 205. Labor standards.

Sec. 206. Railway-highway crossings in high-speed rail corridors.

Sec. 207. Authorization of appropriations.

**TITLE III—National Railroad Passenger Corporation**

Sec. 301. National railroad passenger transportation system defined.

Sec. 302. Extension of authorization.

Sec. 303. Additional Amtrak authorizations.

Sec. 304. Northeast Corridor authorizations.

Sec. 305. Long distance trains.

Sec. 306. Short distance trains; State-supported routes.

Sec. 307. Re-establishment of Northeast Corridor Safety Committee.

Sec. 308. On-time performance.

Sec. 309. Amtrak board of directors.

Sec. 310. Establishment of financial accounting system for Amtrak operations by independent auditor.

Sec. 311. Development of 5-year financial plan.

Sec. 312. Revised reporting methodology required.

Sec. 313. Appropriated amounts to be spent proportionately.

**TITLE IV—Miscellaneous**

Sec. 401. Rehabilitation, improvement, and security financing.

Sec. 402. Rail passenger cooperative research program.

Sec. 403. Conforming amendments to title 49 reflecting ICC Termination Act.

Sec. 404. Applicability of reversion to Alaska Railroad right-of-way property.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) Financial investment in passenger rail infrastructure is critical, and Federal leadership is required to address the needs of a reliable safe, secure passenger rail network, just as has been used in establishing the interstate highway system and the Federal aviation network.

(2) Lack of investment and attention to the needs of passenger rail infrastructure has resulted in a weak passenger rail network, and has caused a strain on the capacity of other modes of transportation in many areas of the country. According to the Department of Transportation, in 1999 the cost of wasted time and extra fuel consumption due to delays on congested roads was estimated at \$78 billion.

(3) Passenger rail is an integral part of the United States transportation system, and, as can be evidenced in the Northeast Corridor, relieves the pressures of congestion on highways and at airports, and creates a more balanced system of transportation alternatives.

(4) Passenger rail service has been a vital instrument in the transportation needs of our nation. For instance, during World War II, the privately owned, operated, and constructed railroad industry transported 90 percent of all defense freight, and 97 percent of all defense personnel transported to points of embarkation for theaters of action. By the end of the war, railroads accounted for three quarters of the share of the common carrier share of intercity traffic, with airplanes and buses sharing the remaining quarter of traffic.

(5) Significant attention and Federal funding were required to construct the Eisenhower System of Interstate and Defense Highways. The Federal Aid Highway Act of 1956 established a Highway Trust Fund based upon Federal user taxes in order to finance up to 90 percent of the costs of the \$25 billion dollar highway construction plan.

(6) Federal policies with respect to investment in aviation resulted in a strengthened aviation industry and the rapid development of air passenger service, and by the late 1960's most rail companies were petitioning the government to discontinue passenger services because of losses.

(7) Amtrak was established in 1971 by the Rail Passenger Service Act of 1970 to provide passenger rail services in the United States as a public service; at the time of Amtrak's formation, freight railroads were losing money on unprofitable passenger rail operations. Since 1971 Amtrak has received only \$25 billion in public subsidies; during that period, the United States invested over \$570 billion on highways and aviation.

(8) The Amtrak Reform and Accountability Act of 1997, and preceding statutes, resulted in creating conflicting missions for the National Railroad Passenger Corporation of both serving a public function by operating unprofitable long-distance routes while also attempting to operate at a profit. This policy has also restricted Amtrak's profit potential on the Northeast Corridor by limiting the capital expenditures to help defray other costs.

(9) Due to a lack of capital investment, the Northeast Corridor has accumulated a backlog of repair needs, including life safety and security needs. Investment in the capital needs of the Northeast Corridor would result in capacity improvements which would result in greater utilization of the existing infrastructure.

(10) The Department of Transportation Inspector General's 2001 Assessment of Amtrak's Financial Performance and Requirements (Report #CR-2002-075) found that Amtrak's lack of available capital has impeded its efforts to achieve financial goals.

(11) In order to attempt to meet the mandate of the Amtrak Reform and Accountability Act of 1997, Amtrak has been forced to delay capital improvement projects and other projects which would produce long-term benefits.

(12) The Department of Transportation Inspector General's 2001 Assessment of Amtrak's Financial Performance and Requirements (Report #CR-2002-075) found that Amtrak's most profitable operations are on the Northeast Corridor, where Federal investment in passenger rail infrastructure has been significantly higher than anywhere else in the country.

(13) Federal investments in capital projects to support passenger rail in areas other than the Northeast Corridor would result in improved service and increase profitability.

(14) The need for a balanced interstate and international transportation system that provides a viable alternative to travel by private automobile or commercial aircraft is particularly evident after the events of September 11, 2001.

(15) As a matter of national security, a strong passenger rail network would provide travelers an alternative to highway and air travel, which could lead to reduced United States reliance on foreign oil imports.

(16) In fiscal year 2001, the United States spent less than 1 percent of all transportation modal spending on intercity passenger rail, and since 1998 Amtrak has received only \$2.8 billion of the \$5.3 billion it has been authorized to receive by Congress.

(17) Passenger rail in the United States has no stable funding source, in contrast to highways, aviation, and transit.

(18) Per capita spending on passenger rail is much higher in other countries than the United States and, in fact, the United States ranks behind other countries including Canada, Japan, France, Great Britain, Italy, Spain, Austria, Switzerland, Belgium, Sweden, Luxembourg, Denmark, Ireland, Norway, the Czech Republic, Finland, Slovakia, Portugal, Poland, South Africa, Greece, and Estonia.

(19) The United States needs to engage in long-term planning to foster and address future passenger transportation growth and show forethought regarding transportation



solutions rather than be forced to act due to an impending crisis.

(20) It is in the national interest to preserve passenger rail service in the United States and to maintain the solvency of the National Railroad Passenger Corporation.

(21) Long-term planning and support for passenger rail will help offset the emerging problems created by transportation congestion, and contribute to a cleaner and more environmentally-friendly transportation system.

(22) A comprehensive re-evaluation of our nation's rail passenger policy is required and a clearly defined role for Amtrak and a connected rail passenger network must be established.

(23) The Federal government must take the primary responsibility for developing national railroad passenger transportation infrastructure, and help ensure that it functions as an efficient network. Privatization of the rail passenger industry in Great Britain has been disastrous and passenger service has suffered overall.

(24) The nation should be afforded the opportunity to receive safe, efficient, and cost-effective rail passenger services, taking into account all benefits to the nation as a whole.

#### TITLE I—RAIL TRANSPORTATION SECURITY

##### SEC. 101. AMTRAK SECURITY ASSISTANCE.

(a) INFRASTRUCTURE SECURITY.—The following amounts are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2003:

(1) \$39,714,000 for tunnel security, including closed circuit television cameras, lighting, and fencing, of which \$26,476,000 shall be obligated or expended on the Northeast Corridor and \$13,238,000 shall be obligated or expended outside the Northeast Corridor.

(2) \$176,568,000 for interlocking security needs, including closed circuit television cameras, lighting, and fencing, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(3) \$17,030,000 for equipment facility security, including closed circuit television cameras and lighting, of which \$5,677,000 shall be obligated or expended on the Northeast Corridor and \$11,353,000 shall be obligated or expended outside the Northeast Corridor.

(4) \$29,280,000 for yard and terminal security, including closed circuit television cameras, lighting, and fencing, of which \$9,760,000 shall be obligated or expended on the Northeast Corridor and \$19,520,000 shall be obligated or expended outside the Northeast Corridor.

(5) \$3,779,000 for mail and express facilities security, including closed circuit television cameras, lighting, and fencing, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(6) \$27,233,000 for station security, including closed circuit television cameras, x-ray machines, lighting, and fencing, of which \$7,104,000 shall be obligated or expended on the Northeast Corridor and \$20,129,000 shall be obligated or expended outside the Northeast Corridor.

(7) \$30,798,000 for bridge security, including closed circuit television cameras, lighting, and fencing, of which \$19,065,000 shall be obligated or expended on the Northeast Corridor and \$11,733,000 shall be obligated or expended outside the Northeast Corridor.

(8) \$420,000 for tower security, including closed circuit television cameras, lighting, and fencing, which shall be obligated or expended on the Northeast Corridor.

(9) \$29,451,000 for electric traction facilities security, including closed circuit television

cameras, lighting, and fencing, of which \$23,650,000 shall be obligated or expended on the Northeast Corridor and \$5,801,000 shall be obligated or expended outside the Northeast Corridor.

(10) \$11,112,000 for vehicle barriers, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(11) \$212,000 for centralized electrification and traffic control security, including access control systems, monitoring and alarm systems, and technological protection for systems, which shall be obligated or expended on the Northeast Corridor.

(12) \$10,283,000 for primary and backup central monitoring technology centers, which shall be obligated or expended outside the Northeast Corridor.

(13) \$538,000 for employee identification systems, including improved technology for badges issued to employees and visitors controlled through a centralized database.

(14) \$75,000 for bomb-resistant trash containers, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(15) \$5,800,000 for a passenger information retrieval system to capture security information, create watchlists, and an online history of passengers, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(16) \$6,200,000 for an incident tracking system to create and maintain an electronic database of data on criminal and operational incidents, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(17) \$4,300,000 for upgrades to ticket kiosks for photo imaging for identification purposes, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(18) \$16,750,000 for an incident command system to serve as a second command center and a disaster recovery command site, of which \$5,000,000 shall be obligated or expended on the Northeast Corridor and \$11,750,000 shall be obligated or expended outside the Northeast Corridor.

(19) \$5,000,000 for train locator and tracking systems to provide GPS coordinates for all locomotives, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(20) \$120,000 for a notification system for integration of GPS information into the central computer systems, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(21) \$1,245,000 for mail and express shipment software to identify each shipment positively before it is transported by rail, of which \$405,000 shall be obligated or expended on the Northeast Corridor and \$840,000 shall be obligated or expended outside the Northeast Corridor.

(22) \$1,211,000 for mail and express tracking deployment to identify the status of each rail shipment.

(b) SECURITY OPERATIONS.—The following amounts are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2003:

(1) \$354,000 for hiring 4 police officers, each of whom is to be dedicated to a specific region of the United States, to provide intelligence-gathering and analysis, conduct crime-mapping assessments throughout the

entire system, work with law enforcement to prevent terrorist acts and reduce Amtrak's vulnerability, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(2) \$10,411,000 for the hiring of 150 patrol officers and 48 specialized personnel, of whom 101 would be deployed on the Northeast Corridor and 97 outside the Northeast Corridor.

(3) \$11,292,000 for the hiring of 250 security officers, of whom 147 would be deployed on the Northeast Corridor and 103 outside the Northeast Corridor.

(4) \$1,828,000 for the hiring of 20 canine bomb teams, of which 15 are to be deployed outside the Northeast Corridor and 5 are to be deployed on the Northeast Corridor.

(5) \$30,761,000 for infrastructure security inspectors to inspect the rights-of-way, bridges, buildings, tunnels, communications and signaling equipment, fencing, gates, barriers, lighting, catenary system, and other security features, of which 50 percent is to be obligated or expended on the Northeast Corridor and 50 percent is to be obligated or expended outside the Northeast Corridor.

(6) \$2,990,000 to expand aviation capabilities for security coverage and patrol capabilities, including equipment, staff, and facilities, of which \$997,000 is to be obligated or expended on the Northeast Corridor and \$1,993,000 is to be obligated or expended outside the Northeast Corridor.

(7) \$1,095,000 for the leasing of 150 vehicles to support patrol capabilities, of which \$569,000 is to be obligated or expended on the Northeast Corridor and \$526,000 is to be obligated or expended outside the Northeast Corridor.

(8) \$669,000 for 6 management level positions with responsibility for direction, control, implementation, and monitoring of security systems, including the deployment of the 250 security officers throughout the Amtrak system, of which \$446,000 is to be obligated or expended on the Northeast Corridor and \$223,000 is to be obligated or expended outside the Northeast Corridor.

(9) \$980,000 for applicant background investigations, of which 50 percent shall be obligated or expended on the Northeast Corridor and 50 percent shall be obligated or expended outside the Northeast Corridor.

(10) \$457,000 for rapid response teams to respond to and prepare for on-site consequence management, all of which shall be obligated or expended outside the Northeast Corridor.

##### (c) EQUIPMENT SECURITY.—

(1) IN GENERAL.—The following amounts are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2003:

(A) \$1,755,000 to provide two-way communication devices for all Amtrak conductors.

(B) \$3,000,000 for 2 mobile emergency command and communication units and rapid response teams, 1 to be located in the Midwest and 1 on the West Coast.

(C) \$651,000 for 200 to 400 radioactive material detectors to be deployed system-wide, of which \$231,000 is to be obligated or expended on the Northeast Corridor and \$420,000 is to be obligated or expended outside the Northeast Corridor.

(D) \$4,000,000 for hand-held bomb detectors for use by police to inspect baggage and packages.

(E) \$1,400,000 to screen express packages before being placed on trains.

(F) \$1,305,000 for secure locking devices on mail and express cars that have satellite-monitoring capability.

(G) \$10,234,000 for video recording systems on road locomotives, of which \$4,859,000 is to be obligated or expended on the Northeast Corridor and \$5,375,000 is to be obligated or expended outside the Northeast Corridor.

(H) \$6,712,000 to acquire and install satellite-based technology to shut down any locomotive that is not under the control of its crew.

(I) \$4,320,000 to install 10 new communication stations to enable radio communications in remote locations and 12 satellite receivers.

(J) \$4,000,000 for 4 self-propelled high-speed rail cars designated for selective patrol and enforcement functions, including critical incident response, dignitary protection, and roving rail security inspections.

(2) ALLOCATION.—Except as provided in subparagraphs (B), (C), and (G) of paragraph (1), 50 percent of any amounts appropriated pursuant to paragraph (1) shall be obligated or expended on the Northeast Corridor and 50 percent of such amounts shall be obligated or expended outside the Northeast Corridor.

(d) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsections (a), (b), and (c) shall remain available until expended.

(e) PROHIBITION ON USE OF EQUIPMENT FOR EMPLOYMENT-RELATED PURPOSES.—An employer may not use closed circuit television cameras purchased with amounts authorized by this section for employee disciplinary or monitoring purposes unrelated to transportation security.

#### SEC. 102. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Not later than June 1, 2003, the Comptroller General shall carry out a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to Congress. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

#### SEC. 103. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Secretary of Transportation shall—

(1) study the cost and feasibility of requiring security screening for all passengers, baggage, and mail, express, and other cargo on Amtrak trains; and

(2) report the results of the study, together with any recommendations that the Secretary may have for implementing a rail security screening program to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives one year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Secretary shall conduct a pilot program of random security screening of passengers and baggage at 5 of the 10 busiest passenger rail stations served by Amtrak (measured by the average number of boardings of Amtrak passenger trains) and at up to five additional rail stations served by Amtrak that are selected by the Secretary. In selecting the additional train stations the Secretary shall attempt to achieve a distribution of participating stations in terms of geographic location and size.

#### SEC. 104. RAIL SECURITY.

(a) SECRETARY OF TRANSPORTATION.—Section 20103(a) is amended by striking "safety"

and inserting "safety, including the security of railroad operations."

(b) RAIL POLICE OFFICERS.—Section 28101 is amended by striking "the rail carrier" each place it appears and inserting "any rail carrier".

(c) REVIEW OF RAIL REGULATIONS.—Within 180 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Federal Railroad Administration's Rail Safety Advisory Committee, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail safety and security.

#### SEC. 105. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) ASSESSMENT.—The Secretary of Transportation shall assess the security risks associated with rail transportation and develop prioritized recommendations for—

(A) improving the security of rail tunnels, rail bridges, rail switching areas, and other areas identified by the Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) the deployment of chemical and biological weapon detection equipment;

(C) dealing with the immediate and long-term economic impact of measures that may be required to address those risks; and

(D) training employees in terrorism response activities.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall include a review of any actions already taken to address identified security issues by both public and private entities.

(3) RAILROAD CROSSING DELAYS.—The Secretary shall include in the assessment an analysis of the risks to public safety and to the security of rail transportation that are associated with long delays in the movement of trains that have stopped on railroad grade crossings of highways, streets, and other roads for motor vehicle traffic, especially in major metropolitan areas. The Secretary shall include in the recommendations developed under paragraph (1) recommended actions for preventing such delays and reducing the risks identified in the analysis.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Secretary shall—

(1) consult with rail management, rail labor, and public safety officials (including officials responsible for responding to emergencies); and

(2) utilize, to the maximum extent feasible, the resources and assistance of—

(A) the Federal Railroad Administration's Rail Safety Advisory Committee; and

(B) the Transportation Research Board of the National Academy of Sciences.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report, without compromising national security, containing—

(A) the assessment and prioritized recommendations required by subsection (a); and

(B) any proposals the Secretary deems appropriate for providing Federal financial, technological, or research and development assistance to railroads to assist the railroads in reducing the likelihood, severity, and consequences of deliberate acts of crime or terrorism toward rail employees, rail passengers, rail shipments, or rail property.

rorism toward rail employees, rail passengers, rail shipments, or rail property.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(d) SECURITY NEEDS OF NON-AMTRAK STATIONS.—

(1) STUDY.—The Secretary of Transportation shall conduct a study of the security and station improvements that may be needed on rail stations served by Amtrak that are not owned by Amtrak.

(2) REPORT.—The Secretary shall report, within 180 days after the date of enactment of this Act, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the results of the study, including—

(A) the total number of such stations;

(B) the estimated costs of the security and station improvements identified in the study; and

(C) any additional findings, conclusions, and recommendations, including legislative recommendations, the Secretary deems appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$5,000,000 for fiscal year 2003 to carry out this section, such sums to remain available until expended.

#### SEC. 106. OFFSET FOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS.

(a) FINDING.—The Congress finds that amounts were appropriated by the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Pub. Law 107-117) to be obligated or expended for Amtrak security-related activities.

(b) STATEMENT OF INTENT.—It is the intent of the Congress that the amounts appropriated by that Act for Amtrak security-related activities should offset the amounts authorized by this title to be appropriated to the Secretary of Transportation for Amtrak's use for security-related activities.

(c) REDUCTION OF AUTHORIZATIONS.—Each amount authorized by this title to be appropriated to the Secretary of Transportation for the use of Amtrak for a security-related activity in any preceding section of this title for any fiscal year shall be reduced by any such appropriated amount used by Amtrak for that activity in that fiscal year.

#### TITLE II—INTERSTATE RAILROAD PASSENGER HIGH-SPEED TRANSPORTATION SYSTEM

##### SEC. 201. INTERSTATE RAILROAD PASSENGER HIGH-SPEED TRANSPORTATION POLICY.

(a) IN GENERAL.—Chapter 261 is amended by inserting before section 26101 the following:

#### "§ 26100. Policy.

"(a) IN GENERAL.—The Congress declares that it is the policy of the United States that designated high-speed railroad passenger transportation corridors are the building blocks of an interconnected interstate railroad passenger system that serves the entire Nation.

"(b) SECRETARY REQUIRED TO ESTABLISH NATIONAL HIGH-SPEED GROUND TRANSPORTATION POLICY.—The Secretary of Transportation shall establish the national high-speed ground transportation policy required by section 309(e)(1) of this title no later than December 31, 2002."

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 261 is amended by inserting before the item relating to section 26101 the following:

"26100. Policy".

(2) Section 309(e)(1) is amended by striking "Within 12 months after the submission of the study required by subsection (d)," and inserting "No later than December 31, 2002,".

**SEC. 202. HIGH-SPEED RAIL CORRIDOR PLANNING.**

(a) IN GENERAL.—Section 26101(a) is amended to read as follows:

“(a) PLANNING.—

“(1) IN GENERAL.—The Secretary of Transportation shall provide planning assistance to States or group of States and other public agencies promoting the development of high-speed rail corridors designated by the Secretary under section 104(d) of title 23.

“(2) SECRETARY MAY PROVIDE DIRECT OR FINANCIAL ASSISTANCE.—The Secretary may provide planning assistance under paragraph (1) directly or by providing financial assistance to a public agency or group of public agencies to undertake planning activities approved by the Secretary.

“(3) 100 PERCENT FEDERAL FUNDING.—The Secretary may permit, but may not require, a portion of the publicly financed costs associated with eligible activities to come from non-Federal sources.

“(4) PRIORITIES TO CHICAGO, ATLANTA, DALLAS/FORT WORTH, PORTLAND, AND ORLANDO.—In determining projects to be undertaken pursuant to this paragraph, the Secretary shall give the highest priorities to undertaking planning in the vicinity of Union Station in Chicago, Illinois, in metropolitan Atlanta, Georgia, in the Dallas/Fort Worth, Texas, area, in the Portland, Oregon, area, and on the Orlando Corridor in Florida.”.

(b) CONFORMING AND OTHER AMENDMENTS TO SECTION 26101.—Section 26101 is further amended—

(1) by striking subsection (c)(2) and inserting the following:

“(2) the extent to which the proposed planning focuses on high-speed rail systems, giving a priority to systems which will achieve sustained speeds of 125 miles per hour or greater and projects involving dedicated rail passenger rights-of-way.”;

(2) by inserting “and” after the semicolon in subsection (c)(12);

(3) by striking “completed; and” in subsection (c)(13) and inserting “completed.”;

(4) by striking subsection (c)(14); and

(5) by adding at the end the following:

“(d) OPERATORS DEEMED RAIL CARRIERS.—A person that conducts rail operations funded or otherwise receiving assistance under this section is deemed to be a rail carrier for purposes of part A of subtitle IV, when so operating or performing such services.”.

(c) CONFORMING AMENDMENT.—Section 26105(2)(A) is amended by striking “more than 125 miles per hour;” and inserting “90 miles per hour or more;”.

(d) FINANCIAL ASSISTANCE TO INCLUDE LOANS AND LOAN GUARANTEES.—Section 26105(1) is amended by inserting “loans, loan guarantees,” after “contracts.”.

**SEC. 203. IMPLEMENTATION ASSISTANCE.**

(a) IN GENERAL.—Chapter 261 is amended by inserting after section 26101 the following: “§ 26101A. Implementation of corridor plans

“(a) IMPLEMENTATION ASSISTANCE.—

“(1) IN GENERAL.—The Secretary of Transportation shall provide implementation assistance to States or group of States and other public agencies promoting the development of high-speed rail corridors designated by the Secretary under section 104(d) of title 23. The Secretary shall establish an application and qualification process and, before providing assistance under this section, make a determination on the record that the applicant is qualified and eligible for assistance under this section.

“(2) SECRETARY MAY PROVIDE DIRECT OR FINANCIAL ASSISTANCE.—The Secretary may

provide implementation assistance under paragraph (1) directly or by providing financial assistance to a public agency or group of public agencies to undertake implementation activities approved by the Secretary.

“(3) 100 PERCENT FEDERAL SHARE.—The Secretary may permit, but may not require, a portion of the publicly financed costs associated with eligible activities to come from non-Federal sources.

“(4) CONTRIBUTION OF LAND.—Notwithstanding paragraph (3), the Secretary may accept land contributed by a State for right-of-way, without regard to whether the State acquired the land directly or indirectly through the use of Federal funds, including transfers from the Highway Trust Fund under section 9503 of the Internal Revenue Code of 1986.

“(5) PRIORITIES TO CHICAGO, ATLANTA, DALLAS/FORT WORTH, PORTLAND, AND ORLANDO.—In determining projects to be undertaken pursuant to this subsection, the Secretary shall give the highest priorities to undertaking implementation assistance in the vicinity of Union Station in Chicago, Illinois, in metropolitan Atlanta, Georgia, and in the Dallas/Fort Worth, Texas, area, in the Portland, Oregon, area, and on the Orlando Corridor in Florida.

“(6) SPECIAL TRANSPORTATION CIRCUMSTANCES.—In carrying out this section, the Secretary shall allocate an appropriate portion of the amounts available for implementation assistance to providing appropriate related assistance in any State the rail transportation system of which—

“(A) is not physically connected to rail systems in the continental United States; and

“(B) may not otherwise qualify for high-speed rail implementation assistance due to the constraints imposed on the railway infrastructure in that State due to the unique characteristics of the geography of that State or other relevant considerations, as determined by the Secretary.

“(b) ELIGIBLE IMPLEMENTATION ACTIVITIES.—The following activities are eligible for implementation assistance under subsection (a):

“(1) Security planning and the acquisition of security and emergency response equipment.

“(2) Operating expenses.

“(3) Infrastructure acquisition and construction of track and facilities.

“(4) Highway-rail grade crossing eliminations and improvements.

“(5) Acquisition of rights-of-way, locomotives, rolling stock, track, and signal equipment.

“(c) CRITERIA FOR DETERMINING ASSISTANCE FOR IMPLEMENTATION ACTIVITIES.—The Secretary, in selecting recipients of assistance under subsection (a), shall—

“(1) encourage the use of positive train control technologies;

“(2) require that any project meet any existing safety regulations, and give preference to any project determined by the Secretary to have particularly high levels of safety;

“(3) encourage intermodal connectivity by locating train stations in or near airports, bus terminals, subway stations, ferry ports, and other modes of transportation;

“(4) ensure a general regional balance in providing such assistance and avoid the concentration of a disproportionate dedication of available financial assistance resources to a single project or region of the country; and

“(5) ensure that any project is compatible with, and operated in conformance with, plans developed pursuant to the requirements of sections 134 and 135 of title 23, United States Code.

“(d) OPERATORS DEEMED RAIL CARRIERS.—A person that conducts rail operations fund-

ed or otherwise receiving assistance under this section is deemed to be a rail carrier for purposes of part A of subtitle IV, when so operating or performing such services.

“(e) DOMESTIC BUYING PREFERENCES.—

“(1) IN GENERAL.—In carrying out a project assisted under this section, a recipient shall buy only—

“(A) unmanufactured articles, material, and supplies mined or produced in the United States; or

“(B) manufactured articles, material, and supplies manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.

“(2) DE MINIMIS AMOUNT.—Paragraph (1) of this subsection applies only when the cost of those articles, material, or supplies bought is at least \$1,000,000.

“(3) EXEMPTIONS.—On application of a recipient, the Secretary of Transportation may exempt a recipient from the requirements of this subsection if the Secretary decides that, for particular articles, material, or supplies—

“(A) the requirements of paragraph (1) of this subsection are inconsistent with the public interest;

“(B) the cost of imposing those requirements is unreasonable; or

“(C) the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality.

“(4) UNITED STATES DEFINED.—In this subsection, the term ‘the United States’ means the States, territories, and possessions of the United States and the District of Columbia.”.

(b) RULEMAKING REQUIRED.—Within 90 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking to create an application and qualification procedure for providing high-speed rail corridor implementation assistance under section 26101A of title 49, United States Code.

(c) PROCEDURES FOR GRANT AWARD.—Within 90 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking to create procedures for the awarding of implementation assistance under this section. The Procedures shall include the execution of a full funding grant agreement between the applicant and the government.

(d) COMPETITIVE BIDDING ON HIGH-SPEED RAIL ROUTES.—The Secretary of Transportation shall determine that a State or group of States and other public agencies promoting a high-speed rail project under the provisions of section 26101A of title 49, United States Code, as a condition of receiving funding under such section, has provided for competitive bidding for the project in accordance with the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (49 C.F.R. section 18.36). Within 180 days after the date of enactment of this Act, the Secretary, in consultation with the States or groups of States and other public agencies, shall issue criteria for the services to which the competitive bidding by this section applies. A train operator selected under section 26101A of title 49, United States Code, is deemed to be a rail carrier for purposes of part A of subtitle 49, United States Code, when performing such services.

(e) CONFORMING AMENDMENT.—The chapter analysis for chapter 261 is amended by inserting after the item relating to section 26101 the following:

“26101A. Implementation of corridor plans”.

**SEC. 204. DESIGNATED HIGH-SPEED RAIL CORRIDORS.**

(a) IN GENERAL.—The Secretary of Transportation shall give priority in allocating funds authorized by section 26104 of title 49, United States Code, to designated high-speed rail corridors.

(b) DESIGNATED HIGH-SPEED RAIL CORRIDORS.—For purposes of subsection (a), the following shall be considered to be designated high-speed rail corridors:

(1) California Corridor connecting the San Francisco Bay area and Sacramento to Los Angeles and San Diego.

(2) Chicago Hub Corridor Network with the following spokes:

(A) Chicago to Detroit.

(B) Chicago to Minneapolis/St. Paul, Minnesota, via Milwaukee, Wisconsin.

(C) Chicago to Kansas City, Missouri, via Springfield, Illinois, and St. Louis, Missouri.

(D) Chicago to Louisville, Kentucky, via Indianapolis, Indiana, and Cincinnati, Ohio.

(E) Chicago to Cleveland, Ohio, via Toledo, Ohio.

(F) Cleveland, Ohio, to Cincinnati, Ohio, via Columbus, Ohio.

(3) Empire State Corridor from New York City, New York, through Albany, New York, to Buffalo, New York.

(4) Florida High-Speed Rail Corridor from Tampa through Orlando to Miami.

(5) Gulf Coast Corridor from Houston Texas, through New Orleans, Louisiana, to Mobile, Alabama, with a branch from New Orleans, through Meridian, Mississippi, and Birmingham, Alabama, to Atlanta, Georgia.

(6) Keystone Corridor from Philadelphia, Pennsylvania, through Harrisburg, Pennsylvania, to Pittsburgh, Pennsylvania.

(7) Northeast Corridor from Washington, District of Columbia, through New York City, New York, New Haven, Connecticut, and Providence, Rhode Island, to Boston, Massachusetts, with a branch from New Haven, Connecticut, to Springfield, Massachusetts.

(8) New England Corridor from Boston, Massachusetts, to Portland and Auburn, Maine, and from Boston, Massachusetts, through Concord, New Hampshire, and Montpelier, Vermont, to Montreal, Quebec.

(9) Pacific Northwest Corridor from Eugene, Oregon, through Portland, Oregon, and Seattle, Washington, to Vancouver, British Columbia.

(10) South Central Corridor from San Antonio, Texas, through Dallas/ Fort Worth to Little Rock, Arkansas, with a branch from Dallas/Fort Worth through Oklahoma City, Oklahoma, to Tulsa, Oklahoma.

(11) Southeast Corridor from Washington, District of Columbia, through Richmond, Virginia, Raleigh, North Carolina, Columbia, South Carolina, Savannah, Georgia, and Jessup, Georgia, to Jacksonville, Florida, with—

(A) a branch from Raleigh, North Carolina, through Charlotte, North Carolina, and Greenville, South Carolina, to Atlanta, Georgia; a branch from Richmond, to Hampton Roads/Norfolk, Virginia;

(B) a branch from Charlotte, North Carolina, to Columbia, South Carolina, to Charleston, South Carolina;

(C) a connecting route from Atlanta, Georgia, to Jessup, Georgia;

(D) a connecting route from Atlanta, Georgia, to Charleston, South Carolina; and

(E) a branch from Raleigh, North Carolina, through Florence, South Carolina, to Charleston, South Carolina, and Savannah, Georgia, with a connecting route from Florence, South Carolina, to Myrtle Beach, South Carolina.

(12) Southwest Corridor from Los Angeles, California, to Las Vegas, Nevada.

(c) OTHER HIGH-SPEED RAIL CORRIDORS.—For purposes of this section, subsection (b)—

(1) does not limit the term “designated high-speed rail corridor” to those corridors described in subsection (b); and

(2) does not limit the Secretary of Transportation’s authority—

(A) to designate additional high-speed rail corridors; or

(B) to terminate the designation of any high-speed rail corridor.

**SEC. 205. LABOR STANDARDS.**

(a) CURRENT EMPLOYEE PROTECTIONS.—Nothing in this Act, or in any amendment made by this Act, shall affect the level of protection provided to freight railroad employees, employees of the National Passenger Railroad Corporation, and mass transportation employees as it existed on the day before the date of enactment of this Act.

(b) LABOR STANDARDS.—

(1) PREVAILING WAGES.—The Secretary or Transportation—

(A) shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed in whole or in part by funds authorized by this Act will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.); and

(B) may make such funds available with respect to construction work only after being assured that required labor standards will be maintained on the construction work.

(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).

(3) EMPLOYEE PROTECTION.—The Secretary of Transportation shall require as a condition of any project financed in whole or in part by funds authorized by this title that the project be conducted in a manner that provides a fair arrangement at least as protective of the interests of employees who are affected by the project so funded as the terms imposed under arrangements reached under section 141 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24706 note).

**SEC. 206. RAILWAY-HIGHWAY CROSSINGS IN HIGH-SPEED RAIL CORRIDORS.**

(a) IN GENERAL.—The entire cost of construction of projects for the elimination of hazards of railway-highway crossings in designated high-speed rail corridors, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings, may be paid from sums authorized by subsection (k). In any case when the elimination of the hazards of a railway-highway crossing can be effected by the relocation of a portion of a railway at a cost estimated by the Secretary of Transportation to be less than the cost of such elimination by one of the methods mentioned in the first sentence of this section, then the entire cost of such relocation project may be paid from sums authorized by subsection (k).

(b) CLASSIFICATION OF PROJECTS.—The Secretary may classify the various types of projects involved in the elimination of hazards of high-speed rail corridor railway-highway crossings, and may set for each such classification a percentage of the costs of construction which shall be deemed to represent the net benefit to the railroad or railroads for the purpose of determining the railroad’s share of the cost of construction. The

percentage so determined shall in no case exceed 10 per cent of such costs. The Secretary shall determine the appropriate classification of each project.

(c) LIABILITY OF RAILROAD.—Any railroad involved in a project for the elimination of hazards of railway-highway crossings paid for in whole or in part from sums made available under this section shall be liable to the United States for the net benefit to the railroad determined under the classification of such project made under subsection (b). That liability to the United States may be discharged by direct payment to the State transportation department of the State in which the project is located, in which case such payment shall be credited to the cost of the project. The payment may consist in whole or in part of materials and labor furnished by the railroad in connection with the construction of the project. If any such railroad fails to discharge such liability within a 6-month period after completion of the project, it shall be liable to the United States for its share of the cost, and the Secretary shall request the Attorney General to institute proceedings against such railroad for the recovery of the amount for which it is liable under this subsection. The Attorney General is authorized to bring such proceedings on behalf of the United States, in the appropriate district court of the United States, and the United States shall be entitled in such proceedings to recover such sums as it is considered and adjudged by the court that such railroad is liable for in the premises. Any amounts recovered by the United States under this subsection shall be credited to miscellaneous receipts.

(d) SURVEY AND SCHEDULE OF PROJECTS.—Each State shall conduct and systematically maintain a survey of all high-speed rail corridor railway-highway crossings to identify those railroad crossings which may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose.

(e) FUNDS FOR PROTECTIVE DEVICES.—The Secretary shall give priority under this section to the elimination of high-speed rail corridor railway-highway grade crossings, but shall make funds authorized for obligation or expenditure under this section available for the installation of protective devices at high-speed rail corridor railway-highway crossings where appropriate.

(f) APPORTIONMENT.—The Secretary shall apportion funds available for obligation and expenditure under this section between high-speed rail corridor railway-highway crossings on the Northeast Corridor and such crossings outside the Northeast Corridor in an equitable fashion, taking into account traffic volume, traffic patterns, frequency of trains, adequacy of existing hazard warnings, and such other factors as the Secretary deems appropriate.

(g) ANNUAL REPORT.—The Secretary shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than December 30 of each year on the progress being made to implement the railway-highway crossings program authorized by this section and the effectiveness of such improvements. Each report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations. The report shall include—

(1) the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident experience at improved locations;

(2) an analysis and evaluation of the program activities in each State, including identification of any State found not to be in

compliance with the schedule of improvements required by subsection (d); and

(3) recommendations for future implementation of the railway-highway crossings program under this section and section 130 of title 23, United States Code.

(h) USE OF FUNDS FOR MATCHING.—Funds authorized to be appropriated to carry out this section may be used to provide a local government with funds to be used on a matching basis when State funds are available which may only be spent when the local government produces matching funds for the improvement of railway-highway crossings.

(i) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—

(1) IN GENERAL.—Notwithstanding any other provision of this section and subject to paragraphs (2) and (3), the Secretary may make incentive payments to a local government upon the permanent closure by such government of public at-grade high-speed rail corridor railway-highway crossings under its jurisdiction.

(2) INCENTIVE PAYMENTS BY RAILROADS.—The Secretary may not make an incentive payment under paragraph (1) to a local government with respect to the closure of a crossing unless the railroad owning the tracks on which the crossing is located makes an incentive payment to the government with respect to the closure.

(3) AMOUNT OF FEDERAL INCENTIVE PAYMENT.—The amount of the incentive payment payable to a local government under paragraph (1) with respect to a crossing may not exceed the lesser of—

(A) the amount of the incentive payment paid to the government with respect to the crossing by the railroad concerned under paragraph (2); or

(B) \$ 7,500.

(j) COORDINATION WITH TITLE 23 PROGRAM.—In carrying out this section, the Secretary shall—

(1) implement this section in accordance with the classification of projects and railroad share of the cost as provided in section 646.210 of title 23, Code of Federal Regulations; and

(2) coordinate the administration of this section with the program established by section 130 of title 23, United States Code, in order to avoid duplication of effort and to ensure the effectiveness of both programs.

(k) FUNDING.—Not less than 10 percent of the amounts appropriated for each fiscal year to carry out section 26101A shall be obligated or expended to carry out this section.

#### SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

Section 26104 is amended to read as follows:

##### “§ 26104. Authorization of appropriations

“(a) FISCAL YEARS 2003 THROUGH 2007.—There are authorized to be appropriated to the Secretary for each of fiscal years 2003 through 2007—

“(1) \$25,000,000 for carrying out section 26101;

“(2) \$1,500,000,000 for carrying out section 26101A; and

“(3) \$25,000,000 for carrying out section 26102.

“(b) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

“(c) SPECIAL RULE.—Except as specifically provided in section 26101, 26101A, or 26102, no amount authorized by subsection (a) may be used for obligation or expenditure on the Boston-to-Washington segment of the Northeast Corridor while that segment is receiving Federal funds for capital or operating expenses.”.

### TITLE III—NATIONAL RAILROAD PASSENGER CORPORATION

#### SEC. 301. NATIONAL RAILROAD PASSENGER TRANSPORTATION SYSTEM DEFINED.

(a) IN GENERAL.—Section 24102 is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after paragraph (4) as so redesignated the following:

“(5) ‘national rail passenger transportation system’ means—

“(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, D.C.;

“(B) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors, but only after they have been improved to permit operation of high-speed service;

“(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the National Defense Rail Act; and

“(D) short-distance corridors or routes operated as of the date of enactment of the National Defense Rail Act, unless discontinued by Amtrak.”.

(b) AMTRAK ROUTES WITH STATE FUNDING.—

(1) IN GENERAL.—Chapter 247 is amended by inserting after section 27101 the following:

“§ 24702. Transportation requested by States, authorities, and other persons

“(a) CONTRACTS FOR TRANSPORTATION.—Amtrak and a State, a regional or local authority, or another person may enter into a contract for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

“(b) DISCONTINUANCE.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract, Amtrak may discontinue such service or route, notwithstanding any other provision of law.”.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

“24702. Transportation requested by States, authorities, and other persons”.

(c) AMTRAK TO CONTINUE TO PROVIDE NON HIGH-SPEED SERVICES.—Nothing in this Act is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service.

#### SEC. 302. AMTRAK AUTHORIZATIONS.

(a) REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.

(1) TITLE 49 AMENDMENTS.—Chapter 241 is amended—

(A) by striking the last sentence of section 24101(d); and

(B) by striking the last sentence of section 24104(a).

(2) AMTRAK REFORM AND ACCOUNTABILITY ACT AMENDMENTS.—Title II of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt) is amended by striking sections 204 and 205.

(3) COMMON STOCK REDEMPTION DATE.—Section 415 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24304 nt) is amended by striking subsection (b).

(b) LEASE ARRANGEMENTS.—Amtrak may obtain services from the Administrator of General Services, and the Administrator may provide services to Amtrak, under section 201(b) and 211(b) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 481(b) and 491(b)) for each of fiscal years 2003 through 2007.

(c) FINANCIAL POWERS.—Section 415(d) of the Amtrak Reform and Accountability Act of 1997 by adding at the end the following:

“(3) This section does not affect the applicability of section 3729 of title 31, United States Code, to claims made against Amtrak.”.

#### SEC. 303. ADDITIONAL AMTRAK AUTHORIZATIONS.

(a) EXCESS RRTA.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, an amount equal to the amount Amtrak must pay under section 3221 of the Internal Revenue Code of 1986 in fiscal years that is more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries.

(b) PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2003, \$105,000,000.

(B) For fiscal year 2004, \$93,000,000.

(C) For fiscal year 2005, \$105,000,000.

(D) For fiscal year 2006, \$108,000,000.

(E) For fiscal year 2007, \$183,000,000.

(2) INTEREST ON DEBT.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2003, \$160,000,000.

(B) For fiscal year 2004, \$157,000,000.

(C) For fiscal year 2005, \$147,000,000.

(D) For fiscal year 2006, \$142,000,000.

(E) For fiscal year 2007, \$134,000,000.

(c) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$30,000,000, of which one-third shall be obligated or expended on the Northeast Corridor and two-thirds shall be obligated or expended outside the Northeast Corridor, in order to comply with environmental regulations.

(d) COMPLIANCE WITH ADA REQUIREMENTS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$43,000,000 for access improvements in facilities and stations necessary to comply with the requirements of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162), including an initial assessment of the full set of needs across the national rail passenger transportation system, of which—

(A) \$10,000,000 shall be obligated or expended on the Northeast Corridor; and

(B) \$33,000,000 shall be obligated or expended outside the Northeast Corridor, of which \$15,000,000 shall be obligated or expended for long-distance trains.

(2) BEST EFFORTS REQUIREMENT.—If Amtrak fails to meet the period for compliance requirement imposed by section 242(e)(2)(A)(ii)(I) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)(A)(ii)(I))—

(A) it shall not be considered discrimination for purposes of section 202 of that Act (42 U.S.C. 12132) or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) if Amtrak demonstrates to the satisfaction of the Secretary of Transportation that—

(i) Amtrak has made substantial progress toward meeting the requirements of section 242(e)(2)(A)(ii)(I) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)(A)(ii)(I)); and

(ii) Amtrak's failure to meet the period of compliance requirement of that section is attributable to the insufficiency of appropriated funds; and

(B) the period for compliance under section 242(e)(2)(A)(ii)(I) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)(A)(ii)(I)) shall be extended until—

(i) sufficient funds have been appropriated to the Secretary of Transportation for the use of Amtrak to enable Amtrak to comply fully with the requirements of that section; and

(ii) a reasonable period of time for the completion of necessary construction so funded has passed.

(e) REINVESTMENT OF NET REVENUES FROM NON-PASSENGER OPERATIONS.—Amtrak shall apply any net revenues from non-passenger operations to the railroad's working capital for use in satisfying systemwide current liabilities. When Amtrak's working capital has improved to the point at which Amtrak's liquid assets are sufficient to satisfy projected short-term liabilities, Amtrak shall invest any excess net non-passenger revenues in high priority capital projects.

#### SEC. 304. NORTHEAST CORRIDOR AUTHORIZATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, the following amounts:

(1) \$370,000,000 for capital backlog on infrastructure on the Northeast Corridor to bring infrastructure up to state-of-good-repair, including renewal of the South End electric traction system, improvements on bridges and tunnels, and interlocking and signal system renewal.

(2) \$60,000,000 for capital backlog on fleet to bring existing fleet to a state-of-good-repair, including equipment replacement and upgrades necessary to meet current service commitments.

(3) \$40,000,000 for capital backlog on stations and facilities, including improvements to the facility and platform at the existing Penn Station, and bringing maintenance-of-way facilities up to state-of-good-repair.

(4) \$350,000,000 for ongoing capital infrastructure—

(A) to replace assets on a life-cycle basis;

(B) to ensure that a state-of-good-repair is maintained in order to meet safety and reliability standards; and

(C) to meet current service commitments.

(5) \$40,000,000 for ongoing capital fleet investment to sustain regularly scheduled maintenance, including a 120-day cycle of preventive maintenance, and heavy overhauls on a 4-year schedule, with interior enhancements as needed.

(6) \$30,000,000 for ongoing capital improvements to stations and facilities to provide for regular upgrades to stations to meet current service needs, and regular improvements to maintenance-of-equipment and maintenance-of-way facilities.

(7) \$20,000,000 for ongoing technology upgrades of reservation, distribution, financial, and operations systems, including hardware, software, infrastructure, and communications.

(b) LIFE SAFETY NEEDS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2003:

(1) \$798,000,000 for the 6 New York tunnels built in 1910 to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers.

(2) \$57,000,000 for the Baltimore & Potomac tunnel built in 1872 to provide adequate

drainage, ventilation, communication, lighting, and passenger egress upgrades.

(3) \$40,000,000 for the Washington, D.C. Union Station tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings to improve ventilation, communication, lighting, and passenger egress upgrades.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2003, \$3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels, such funds to remain available until expended.

(d) CORRIDOR GROWTH INVESTMENT.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for corridor growth investments in the Northeast Corridor—

(1) For fiscal year 2003, \$200,000,000.

(2) For fiscal year 2004, \$300,000,000.

(3) For fiscal year 2005, \$400,000,000.

(4) For fiscal year 2006, \$500,000,000.

(5) For fiscal year 2007, \$600,000,000.

(e) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in subsection (b)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers if feasible.

(f) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

(g) REINVESTMENT OF NORTHEAST CORRIDOR NET OPERATING REVENUES.—Amtrak shall invest any net revenue generated from core passenger operations in the Northeast Corridor in capital needs of the corridor until the backlog of capital improvements is completed under Amtrak's 20-year capital plan.

#### SEC. 305. LONG DISTANCE TRAINS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$360,000,000 for operating costs associated with long distance trains.

(b) CAPITAL BACKLOG AND UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$70,000,000 to reduce the capital backlog and to bring its existing fleet to a state-of-good-repair, including equipment replacement and upgrades necessary to meet current service commitments.

(c) ONGOING CAPITAL INFRASTRUCTURE INVESTMENTS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$80,000,000 for ongoing capital infrastructure—

(1) to replace assets on a life-cycle basis;

(2) to ensure that a state-of-good-repair is maintained in order to meet safety and reliability standards;

(3) to meet current service commitments; and

(4) to provide funds for investment in partner railroads to operate passenger service at currently committed levels.

(d) CAPITAL FLEET NEEDS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$50,000,000 for ongoing capital fleet needs to sustain regularly scheduled maintenance, in-

cluding a 120-day cycle of preventive maintenance, and heavy overhauls on a 4-year schedule, with interior enhancements as needed.

(e) CAPITAL STATIONS AND FACILITIES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$10,000,000 for ongoing capital stations and facilities needs to provide regular upgrades to stations to meet current service needs, and regular improvements to maintenance-of-way equipment and maintenance-of-way facilities.

(f) TECHNOLOGY NEEDS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, \$10,000,000 for ongoing technology needs to upgrade reservation, distribution, financial, and operations systems, including hardware, software, infrastructure, and communications.

#### SEC. 306. SHORT DISTANCE TRAINS; STATE-SUPPORTED ROUTES.

There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for each of fiscal years 2003 through 2007, for obligation and expenditure on routes outside the Northeast Corridor—

(1) \$20,000,000 for capital backlog on infrastructure to bring infrastructure up to a state-of-good-repair, including improvements on bridges and tunnels that are approaching the end of their useful life and interlocking and signal system renewal;

(2) \$10,000,000 for capital backlog on its fleet to bring Amtrak's existing fleet as of the date of enactment of this Act to a state-of-good-repair, including equipment replacement and upgrades necessary to meet current service commitments;

(3) \$170,000,000 for ongoing capital infrastructure to replace assets on a life-cycle basis to ensure a state-of-good-repair is maintained in order to meet safety and reliability standards needed to deliver current service commitments, including investment in partner railroads to operate passenger service at currently committed levels.

(4) \$40,000,000 for ongoing capital fleet needs to sustain regularly scheduled maintenance, including a 120-day cycle preventive maintenance schedule, and heavy overhauls on a 4-year schedule, with interior enhancements as needed;

(5) \$10,000,000 for ongoing capital stations and facilities needs to provide regular upgrades to stations to meet current service needs, and regular improvements to maintenance-of-way equipment and maintenance-of-way facilities; and

(6) \$20,000,000 for ongoing technology needs to upgrade of reservation, distribution, financial, and operations systems, including hardware, software, infrastructure and communications.

#### SEC. 307. RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.—The Secretary of Transportation shall re-establish the Northeast Corridor Safety Committee authorized by section 24905(b) of title 49, United States Code.

(b) TERMINATION DATE.—Section 24905(b)(4) is amended by striking "January 1, 1999," and inserting "January 1, 2008."

#### SEC. 308. ON-TIME PERFORMANCE.

Section 24308 is amended by adding at the end the following:

"(f) ON-TIME PERFORMANCE.—If the on-time performance of any intercity passenger train averages less than 80 percent for any consecutive 3-month period, Amtrak may petition the Surface Transportation Board to investigate whether, and to what extent,



delays are due to causes that could reasonably be addressed by a rail carrier over the tracks of which the intercity passenger train operates, or by a regional authority providing commuter service, if any. In carrying out such an investigation, the Surface Transportation Board shall obtain information from all parties involved and make recommendations regarding reasonable measures to improve the on-time performance of the train.”

**SEC. 309. AMTRAK BOARD OF DIRECTORS.**

(a) IN GENERAL.—Section 24302 is amended to read as follows:

**“§ 24302. Board of directors**

“(a) COMPOSITION AND TERMS.—

“(1) The board of directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

“(A) The President of Amtrak.

“(B) The Secretary of Transportation.

“(C) 7 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with an interest, experience, and qualifications in or directly related to rail transportation, including representatives of the passenger rail transportation, travel, hospitality, cruise line, and passenger air transportation businesses, and consumers of passenger rail transportation.

“(2) An individual appointed under paragraph (1)(C) of this subsection serves for 5 years or until the individual’s successor is appointed and qualified. Not more than 4 individuals appointed under paragraph (1)(C) may be members of the same political party.

“(3) The board shall elect a chairman and a vice chairman from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

“(4) The Secretary may be represented at board meetings by the Secretary’s designee.

“(b) PAY AND EXPENSES.—Each director not employed by the United States Government is entitled to \$300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

“(c) VACANCIES.—A vacancy on the board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

“(d) BYLAWS.—The board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.

“(e) CONFLICTS OF INTEREST.—Subparts D, E, and F of part 2635 of title 5, Code of Federal Regulations, shall apply to members of the board of directors during their term of office in the same manner as if they were employees of an executive agency (as defined in section 105 of title 5, United States Code).”

(b) CONFORMING AMENDMENT TO APPLY SAME STANDARD TO OFFICERS.—Section 24303(c) is amended to read as follows:

“(c) CONFLICTS OF INTEREST.—Subparts D, E, and F of part 2635 of title 5, Code of Federal Regulations, shall apply to officers when employed by Amtrak in the same manner as if they were employees of an executive agency (as defined in section 105 of title 5, United States Code).”

(c) EFFECTIVE DATE FOR DIRECTORS’ PROVISION.—The amendment made by subsection

(a) shall take effect on October 1, 2003. The members of the Amtrak Reform Board may continue to serve until 3 directors appointed by the President under section 24302(a) of title 49, United States Code, as amended by subsection (a), have qualified for office.

**SEC. 310. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM FOR AMTRAK OPERATIONS BY INDEPENDENT AUDITOR.**

(a) IN GENERAL.—Amtrak shall employ an independent financial consultant—

(1) to assess its financial accounting and reporting system and practices;

(2) to design and assist Amtrak in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable Amtrak to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak \$2,500,000 for fiscal year 2003 to carry out subsection (a), such sums to remain available until expended.

**SEC. 311. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.**

(a) DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.—The Amtrak board of directors shall submit an annual budget for Amtrak, and a 5-year financial plan for the fiscal year to which that budget relates and the subsequent 4 years, prepared in accordance with this section, to the Secretary of Transportation and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriation Act for the fiscal year, if later.

(b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources;

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for non-passenger operations;

(4) capital funding requirements and expenditures necessary to maintain passenger service which will accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including state-supported routes and predicted funding sources;

(6) an assessment of the continuing financial stability of Amtrak, as indicated by factors such as: the ability of the federal gov-

ernment to adequately meet capital and operating requirements, Amtrak’s access to long-term and short-term capital markets, Amtrak’s ability to efficiently manage its workforce, and Amtrak’s ability to effectively provide passenger train service.

(7) lump sum expenditures of \$10 million or more and sources of funding.

(8) estimates of long-term and short-term debt and associated principle and interest payments (both current and anticipated);

(9) annual cash flow forecasts; and

(10) a statement describing methods of estimation and significant assumptions.

(c) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In meeting the requirements of subsection (b) with respect to a 5-year financial plan, Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices; and

(2) use the categories specified in the financial accounting and reporting system developed under section 310 when preparing its 5-year financial plan.

(d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall assess the 5-year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b), and may suggest revisions to any components thereof that do not meet those requirements.

(2) ASSESSMENT TO BE FURNISHED TO THE CONGRESS.—The Inspector General shall furnish to the House of Representatives Committee on Appropriations, the Senate Committee on Appropriations, the House Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation—

(A) an assessment of the annual budget within 90 days after receiving it from Amtrak; and

(B) an assessment of the remaining 4 years of the 5-year financial plan within 180 days after receiving it from Amtrak.

**SEC. 312. REVISED REPORTING METHODOLOGY REQUIRED.**

Within 90 days after the date of enactment of this Act, Amtrak, in consultation with the Comptroller General, shall develop a revised methodology to be used in preparing the annual operations report required by section 24315(a) of title 49, United States Code, beginning with the report on operations for fiscal year 2002. The new report methodology shall specifically exclude non-core profits in calculating the performance of Amtrak’s trains.

**SEC. 313. APPROPRIATED AMOUNTS TO BE SPENT PROPORTIONATELY.**

If for any fiscal year the sum of the amounts appropriated to the Secretary of Transportation for the use of Amtrak is less than the sum of the amounts authorized by this title for that fiscal year, then Amtrak shall—

(1) first obligate amounts appropriated pursuant to the authorization in section 303(a); and

(2) then allocate its obligation and expenditure of the remainder of the amounts appropriated for that fiscal year pursuant to this title (except amounts authorized by section 304(b), (c), and (d)) among the segments of the system in the same proportion as the authorizations were allocated among those segments by this title.

**SEC. 314. INDEPENDENT AUDITOR TO ESTABLISH CRITERIA FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.**

(a) INSPECTOR GENERAL TO HIRE CONSULTANT.—The Inspector General of the Department of Transportation shall—

(1) execute a contract to obtain the services of an independent auditor or consultant for the establishment of objective criteria for Amtrak service changes, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of existing services;

(2) review the criteria developed under the contract; and

(3) if the Inspector General approves the criteria, transmit them to the Amtrak board of directors.

(b) INCORPORATION OF CRITERIA BY AMTRAK.—The Amtrak board of directors shall incorporate the criteria in—

(1) its route and service planning and decision-making process; and

(2) its capital plans and budgets developed in compliance with section 311 of this Act.

(c) NOTIFICATION OF CONGRESS WHERE NOT COMPLYING WITH CRITERIA.—The Amtrak board of directors shall—

(1) notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not less than 30 days before the implementation date of any decision to establish a new route, terminate an existing route, or effect any other major change in service that is inconsistent with the criteria incorporated under subsection (b); and

(2) explain its decision not to follow the criteria.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be made available to the Inspector General, out of any amounts appropriated to Amtrak pursuant to the authority of this Act and not otherwise obligated or expended, such sums as may be necessary to carry out this section.

#### TITLE IV—MISCELLANEOUS

##### SEC. 401. REHABILITATION, IMPROVEMENT, AND SECURITY FINANCING.

(a) DEFINITIONS.—Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended to read as follows:

“(7) ‘railroad’ has the meaning given that term in section 20102 of title 49, United States Code; and”.

(b) GENERAL AUTHORITY.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended—

(1) by striking “Secretary may provide direct loans and loan guarantees to State and local governments,” in subsection (a) and inserting “Secretary shall provide direct loans and loan guarantees to State and local governments, interstate compacts entered into under section 410 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt),”;

(2) by striking “or” in subsection (b)(1)(B);

(3) by redesignating subparagraph (C) of subsection (b)(1) as subparagraph (D); and

(4) by inserting after subparagraph (B) of subsection (b)(1) the following:

“(C) to acquire, improve, or rehabilitate rail safety and security equipment and facilities; or”.

(c) EXTENT OF AUTHORITY.—Section 502(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)) is amended—

(1) by striking “\$3,500,000,000” and inserting “\$35,000,000,000”;

(2) by striking “\$1,000,000,000” and inserting “\$7,000,000,000”; and

(3) by adding at the end the following sentence: “The Secretary shall not establish any limit on the proportion of the unused amount authorized under this subsection that may be used for 1 loan or loan guarantee.”.

(d) COHORTS OF LOANS.—Section 502(f) of the Railroad Revitalization and Regulatory

Reform Act of 1976 (45 U.S.C. 822(f)) is amended—

(1) in paragraph (2)—

(A) by striking “and” at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by adding after subparagraph (D) the following new subparagraph:

“(E) the size and characteristics of the cohort of which the loan or loan guarantee is a member; and”;

(2) by adding at the end of paragraph (4) the following: “A cohort may include loans and loan guarantees. The Secretary shall not establish any limit on the proportion of a cohort that may be used for 1 loan or loan guarantee.”.

(e) CONDITIONS OF ASSISTANCE.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended—

(1) by striking “offered,” in subsection (f)(2)(A) and inserting “offered, if any;”;

(2) by inserting “(1)” before “The Secretary” in subsection (h) and redesignating paragraphs (1), (2), and (3) of that subsection as subparagraphs (A), (B), and (C); and

(3) by adding at the end of subsection (h) the following:

“(2) The Secretary shall not require an applicant for a direct loan or loan guarantee under this section to provide collateral.

“(3) The Secretary shall not require that an applicant for a direct loan or loan guarantee under this section have previously sought the financial assistance requested from another source.

“(4) The Secretary shall require recipients of direct loans or loan guarantees under this section to apply the standards of section 22301(b) and (c) of title 49, United States Code, to their projects.”.

(f) TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended by adding at the end the following:

“(i) TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—Not later than 180 days after receiving a complete application for a direct loan or loan guarantee under this section, the Secretary shall approve or disapprove the application.”.

(g) FEES AND CHARGES.—Section 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823) is amended—

(1) by adding at the end of subsection (k) the following: “Funds received by the Secretary under the preceding sentence shall be credited to the appropriation from which the expenses of making such appraisals, determinations, and findings were incurred.”; and

(2) by adding at the end the following new subsection:

“(m) FEES AND CHARGES.—Except as provided in this title, the Secretary may not assess any fees, including user fees, or charges in connection with a direct loan or loan guarantee provided under section 502.”.

(h) SUBSTANTIVE CRITERIA AND STANDARDS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall publish in the Federal Register and post on the Department of Transportation website the substantive criteria and standards used by the Secretary to determine whether to approve or disapprove applications submitted under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822).

(i) OPERATORS DEEMED RAIL CARRIERS; LOANS AND LOAN GUARANTEES FOR NON-RAILROAD ENTITIES.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822), as amended by subsection (f), is amended by adding at the end the following:

“(j) OPERATORS DEEMED RAIL CARRIERS.—A person that conducts rail operations funded or otherwise receiving assistance under this section is deemed to be a rail carrier for purposes of part A of subtitle IV of title 49, United States Code, when so operating or performing such services.

“(k) LOAN AND LOAN GUARANTEES FOR NON-RAILROAD ENTITIES.—Notwithstanding any other provision of law, entities other than rail companies shall be eligible for loans and loan guarantees under this section.”.

##### SEC. 402. RAIL PASSENGER COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Chapter 249 is amended by adding at the end the following:

##### “§ 24910. Passenger rail cooperative research program

“(a) IN GENERAL.—The Secretary shall establish and carry out a rail passenger cooperative research program. The program shall—

“(1) address, among other matters, intercity rail passenger services, including existing rail passenger technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems;

“(2) give consideration to research on commuter rail, regional rail, freight rail, and other modes of rail transportation that may affect rail passenger transportation due to the interconnectedness of the rail passenger network with other rail transportation services; and

“(3) give consideration to regional concerns regarding rail passenger transportation, including meeting research needs common to designated high-speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

“(b) CONTENTS.—The program to be carried out under this section shall include research designed—

“(1) to develop more accurate models for evaluating the indirect effects of rail passenger service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;

“(2) to develop a better understanding of modal choice as it affects rail passenger transportation, including development of better models to predict ridership;

“(3) to recommend priorities for technology demonstration and development;

“(4) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Research Council;

“(5) to explore improvements in management, financing, and institutional structures;

“(6) to address rail capacity constraints that affect passenger rail service through a wide variety of options, ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on freight and commuter rail operations; and

“(7) to improve maintenance, operations, customer service, or other aspects of existing intercity rail passenger service existing in 2002.

“(c) ADVISORY BOARD.—

“(1) ESTABLISHMENT.—In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger transportation.

“(2) MEMBERSHIP.—The advisory board shall include—

“(A) representatives of State transportation agencies;

“(B) transportation and environmental economists, scientists, and engineers; and

“(C) representatives of Amtrak, the Alaska Railroad, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

“(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 249 is amended by adding at the end the following:

“24910. Passenger rail cooperative research program”.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation \$5,000,000 for each of fiscal years 2003 through 2007, to carry out section 24910(d) of title 49, United States Code.

**SEC. 403. CONFORMING AMENDMENTS TO TITLE 49 REFLECTING ICC TERMINATION ACT.**

(a) SECTION 307.—

(1) Section 307 is amended—

(A) by striking “Interstate Commerce Commission” in the section heading and inserting “Surface Transportation Board”;

(B) by striking “Interstate Commerce Commission” in subsection (a) and inserting “Surface Transportation Board”; and

(C) by striking “Commission” each place it appears and inserting “Board”.

(2) The chapter analysis for chapter 3 is amended by striking the item relating to section 307 and inserting the following:

“307. Safety information and intervention in Surface Transportation Board proceedings”.

(b) SECTION 333.—Section 333 is amended—

(1) by striking “Interstate Commerce Commission” each place it appears and inserting “Surface Transportation Board”; and

(2) by striking “Commission” in subsection (e) and inserting “Board”.

(c) SECTION 351.—Section 351(c) is amended by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”.

(d) SECTION 24307.—Section 24307(b)(3) is amended by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”.

(e) SECTION 24308.—Section 24308 is amended—

(1) by striking “Interstate Commerce Commission” in subsection (a)(2)(A) and inserting “Surface Transportation Board”; and

(2) by striking “Commission” each place it appears in subsections (a), (b), and (e) and inserting “Board”.

(f) SECTION 24311.—Section 24311 is amended—

(1) by striking “Interstate Commerce Commission” in subsection (c)(1) and inserting “Surface Transportation Board”; and

(2) by striking “Commission” each place it appears in subsection (c) and inserting “Board”.

(g) SECTION 24902.—Section 24902 is amended—

(1) by striking “Interstate Commerce Commission” in subsections (g)(2) and (g)(3) and inserting “Surface Transportation Board”; and

(2) by striking “Commission” each place it appears in subsections (g)(2) and (g)(3) and inserting “Board”.

(h) SECTION 24904.—Section 24904 is amended—

(1) by striking “Interstate Commerce Commission” in subsection (c)(2) and inserting “Surface Transportation Board”; and

(2) by striking “Commission” each place it appears in subsection (c) and inserting “Board”.

**SEC. 404. APPLICABILITY OF REVERSION TO ALASKA RAILROAD RIGHT-OF-WAY PROPERTY.**

Section 610(b) of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1209(b)) is amended—

(1) by inserting “(1)” after “DISCONTINUANCE.—”;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end the following new paragraph:

“(2)(A) The State-owned railroad may convey all right, title, and interest of the State in any land within the right-of-way to a third party in exchange for other land that, in substitution for the land conveyed, is to be utilized as part of the right-of-way if the continuity of the right-of-way corridor for transportation, communications, and transmission purposes is provided by such use of the substituted land.

“(B) The provisions of this section that require reversion shall apply to the substituted land, as of the effective date of the exchange of that land in a transaction authorized by subparagraph (A), as fully as if the substituted land had been rail properties of the Alaska Railroad as of January 13, 1983.

“(C) Upon the conveyance of land in a transaction authorized by subparagraph (A), any reversionary interest in the land under this section shall terminate.”.

**SA 3799.** Mr. ENZI (for himself, Mr. GRASSLEY, and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after “SEC. 102.” and insert the following:

**LIVESTOCK ASSISTANCE PROGRAM.**

(a) IN GENERAL.—The Secretary of Agriculture shall use \$500,000,000 of the funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2001 losses in a county that has received an emergency designation by the President or the Secretary after January 1, 2001, of which \$12,000,000 shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A-51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105-277; 114 Stat. 1549A-51).

(c) PAYMENT LIMITATIONS.—Section 1001 of the Food Security of 1985 (7 U.S.C. 1308) is amended—

(1) in subsection (b), by striking “\$40,000” each place it appears and inserting “\$17,500”;

(2) in subsection (c), by striking “\$65,000” each place it appears and inserting “\$32,500”;

(3) by striking subsection (d) and inserting the following:

“(d) LIMITATIONS ON MARKETING LOAN GAINS, LOAN DEFICIENCY PAYMENTS, AND COMMODITY CERTIFICATE TRANSACTIONS.—

“(1) IN GENERAL.—The total amount of the following gains and payments that a person may receive during any crop year may not exceed \$75,000:

“(A) Any gain realized by a producer from repaying a marketing assistance loan for 1 or more loan commodities, peanuts, wool, mohair, or honey under subtitle B and C of title I of the Farm Security and Rural Investment Act of 2002 at a lower level than the original loan rate established for the applicable commodity under that subtitle.

“(B) Any loan deficiency payments received for 1 or more loan commodities, peanuts, wool, mohair, or honey under that subtitle.

“(2) ADDITIONAL LIMITATION.—In addition to the limitation under paragraph (1), the total amount of the following gains and payments that a person may receive during any crop year may not exceed \$90,000:

“(A) Any gain and payment described in paragraph (1).

“(B) In the case of settlement of a marketing assistance loan for 1 or more loan commodities, peanuts, wool, mohair, or honey under that subtitle by forfeiture, the amount by which the loan amount exceeds the repayment amount for the loan if the loan had been settled by repayment instead of forfeiture.

“(C) Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation for 1 or more loan commodities, peanuts, wool, mohair, or honey, as determined by the Secretary, including the use of a certificate for the settlement of a marketing assistance loan made under that subtitle.

“(e) SINGLE FARM SERIAL NUMBER.—Notwithstanding subsections (b) through (d), if a person receives 1 or more payments and gains described in this section through only 1 farm serial number, the total amount of payments or gains (as applicable) that the person may receive during a crop year shall equal twice the dollar amount prescribed in this section.”.

**SA 3800.** Mr. ENZI (for himself, Mr. GRASSLEY, and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after “SEC. 102.” and insert the following:

**LIVESTOCK ASSISTANCE PROGRAM.**

(a) IN GENERAL.—The Secretary of Agriculture shall use \$500,000,000 of the funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2001 losses in a county that has received an emergency designation by the President or the Secretary after January 1, 2001, of which \$12,000,000 shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A-51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105-277; 114 Stat. 1549A-51).

(c) PAYMENT LIMITATIONS.—Section 1001 of the Food Security of 1985 (7 U.S.C. 1308) is amended—

(1) in subsection (b), by striking “\$40,000” each place it appears and inserting “\$17,500”;

(2) in subsection (c), by striking "\$65,000" each place it appears and inserting "\$32,500"; and

(3) by striking subsection (d) and inserting the following:

"(d) LIMITATIONS ON MARKETING LOAN GAINS, LOAN DEFICIENCY PAYMENTS, AND COMMODITY CERTIFICATE TRANSACTIONS.—

"(1) IN GENERAL.—The total amount of the following gains and payments that a person may receive during any crop year may not exceed \$75,000:

"(A) Any gain realized by a producer from repaying a marketing assistance loan for 1 or more loan commodities, peanuts, wool, mohair, or honey under subtitle B and C of title I of the Farm Security and Rural Investment Act of 2002 at a lower level than the original loan rate established for the applicable commodity under that subtitle.

"(B) Any loan deficiency payments received for 1 or more loan commodities, peanuts, wool, mohair, or honey under that subtitle.

"(2) ADDITIONAL LIMITATION.—In addition to the limitation under paragraph (1), the total amount of the following gains and payments that a person may receive during any crop year may not exceed \$90,000:

"(A) Any gain and payment described in paragraph (1).

"(B) In the case of settlement of a marketing assistance loan for 1 or more loan commodities, peanuts, wool, mohair, or honey under that subtitle for forfeiture, the amount by which the loan amount exceeds the repayment amount for the loan if the loan had been settled by repayment instead of forfeiture.

"(C) Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation for 1 or more loan commodities, peanuts, wool, mohair, or honey, as determined by the Secretary, including the use of a certificate for the settlement of a marketing assistance loan made under that subtitle.

"(e) SINGLE FARM SERIAL NUMBER.—Notwithstanding subsections (b) through (d), if a person receives 1 or more payments and gains described in this section through only 1 farm serial number, the total amount of payments or gains (as applicable) that the person may receive during a crop year shall equal twice the dollar amount prescribed in this section."

**SA 3801.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike "\$500,000,000" and insert in lieu thereof "\$600,000,000".

**SA 3802.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike "\$500,000,000" and insert in lieu thereof "\$600,000,000".

**SA 3803.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike "\$500,000,000" and insert in lieu thereof "\$700,000,000".

**SA 3804.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike "\$500,000,000" and insert in lieu thereof "\$700,000,000".

**SA 3805.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In the language proposed to be stricken strike \$55 million and insert \$200 million.

**SA 3806.** Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill insert the following:

SEC. . Of the funds made available under the heading "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" in title III of Public Law 107-77, \$37,900,000 shall be transferred to, and merged with, funds available for "hiring 200 additional Deputy United States Marshals and associated support staff for protection of the judicial process in response to the terrorist attacks of September 11, 2001 to be deployed to the Federal districts with critical courtroom and prisoner security needs, \$37,900,000, to remain available until expended."

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Thursday, June 6, at 2:30 p.m., in SD-366. The purpose of this hearing is to receive testimony on the following bills:

S. 1310/H.R. 1870, to provide for the sale of certain real property in the Newlands Project, Nevada, to the city of Fallon, NV;

S. 2475, to amend the Central Utah Project Completion Act to clarify the responsibilities of the Secretary of the Interior with respect to the Central Utah Project, to redirect unexpended budget authority for the Central Utah Project for wastewater treatment and reuse and other purposes, to provide for prepayment of repayment contracts for municipal and industrial water delivery facilities, and to eliminate a deadline for such prepayment;

S. 1385/H.R. 2115, to authorize the Secretary of the Interior, pursuant to the provisions of the Reclamation Wastewater and Groundwater Study and Facilities Act, to participate in the design, planning, and water construction of the Lakehaven water reclama-

tion project for the reclamation and reuse of water;

S. 1824/H.R. 2828, to authorize payments to certain Klamath Project water distribution entities for amounts assessed by the entities for operation and maintenance of the Project's irrigation works for 2001, to authorize refunds to such entities of amounts collected by the Bureau of Reclamation for reserved works for 2001, and for other purposes;

S. 1883, to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes;

S. 1999, to re-authorize the Mni Wiconi Rural Water Supply Project; and

H.R. 706, to direct the Secretary of the Interior to convey certain properties in the vicinity of the Elephant Butte Reservoir and the Caballo Reservoir, NM

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

##### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on "Accountability and IDEA: What Happens When the Bus Doesn't Come Anymore?" during the session of the Senate on Thursday, June 6, 2002, at 9:30 a.m., in SD-430.

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

##### COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Oversight Hearing on Counterterrorism" on Thursday, June 6, 2002, in Hart Room 216 at 9:30 a.m.

##### Witness List

Panel I: the Honorable S. Mueller III, Director, Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC and the Honorable Glen A. Fine, Inspector General, U.S. Department of Justice, Washington, DC.

Panel II: Special Agent Coleen Rowley, Chief Division Counsel, Federal Bureau of Investigation, U.S. Department of Justice, Minneapolis, MN.

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

##### COMMITTEE ON VETERANS AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, June 6, 2002, at 2 p.m., for a markup on pending legislation. The meeting will be held in room 418 of the Russell Senate Office Building.

##### Agenda

1. Committee Print of S. 2043, the proposed "Veterans' Long-Term Care And Mental Health Enhancement Act."

2. Committee Print of S. 2132, the proposed "Department of Veterans Affairs Emergency Preparedness Act of 2002."

3. Committee Print of S. 2074, the proposed "Veterans' Compensation Cost-of-Living Adjustment Act of 2002."

4. Committee Print of S. 2237, the proposed "Veterans Benefits Improvement Act of 2002."

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

#### SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 6, 2002, at 10 a.m. and 2:30 p.m., to hold a closed hearing on intelligence matters.

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

#### SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Financial Institutions of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 6, 2002, at 10 a.m., to conduct an oversight hearing on "Capital Investment in Indian Country."

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

#### SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION AND FEDERAL SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on International Security, Proliferation and Federal Services be authorized to meet on Thursday, June 6, 2002, at 2:30 p.m., for a hearing regarding "Russia and China: Non-Proliferation Concerns and Export Controls."

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

#### PRIVILEGES OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that privileges of the floor be granted to Nicolette Weaver, an intern in my office, during the remainder of today's session.

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

Mr. SESSIONS. Mr. President, I ask unanimous consent that Scott Shepard of my staff be granted the privileges of the floor during the duration of this debate.

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

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Executive session to consider the following: Calendar Nos. 853 through 861, and the military nominations placed on the Secretary's desk; that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, any

statements thereon be printed in the RECORD as though read, and the Senate return to legislative session, without any intervening action or debate.

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

The nominations considered and confirmed are as follows:

#### ARMY

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

##### *To be major general*

Brig. Gen. Kenneth L. Farmer, Jr.

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### *To be lieutenant general*

Maj. Gen. Edward Soriano

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### *To be lieutenant general*

Lt. Gen. David D. McKiernan

#### MARINE CORPS

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

##### *To be brigadier general*

Col. Ronald S. Coleman  
Col. James F. Flock  
Col. Kenneth J. Glueck, Jr.  
Col. Dennis J. Hejlik  
Col. Carl B. Jensen  
Col. Robert B. Neller  
Col. John M. Paxton, Jr.  
Col. Edward G. Usher, III

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### *To be lieutenant general*

Maj. Gen. Richard L. Kelly

#### NAVY

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

##### *To be rear admiral*

Rear Adm. (lh) Mark H. Hazara

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

##### *To be rear admiral (lower half)*

Capt. David J. Venlet

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### *To be vice admiral*

Rear Adm. Richard J. Naughton

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### *To be vice admiral*

Vice Adm. James W. Metzger

#### NOMINATIONS PLACED ON THE SECRETARY'S DESK

#### AIR FORCE

PN1460 Air Force nominations (47) beginning Amy J. Altemus, and ending Thomas F.

Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record of February 27, 2002.

PN1499 Air Force nominations (510) beginning Jorge Acevedo, and ending Keith W. Zuegel, which nominations were received by the Senate and appeared in the Congressional Record of March 6, 2002.

#### ARMY

PN1782 Army nomination of Shawn E. Connors, which was received by the Senate and appeared in the Congressional Record of May 22, 2002.

PN1783 Army nomination of James E. Agnew, which was received by the Senate and appeared in the Congressional Record of May 22, 2002.

PN1784 Army nominations (5) beginning Michael J. Hamilton, and ending James W. Youker, which nominations were received by the Senate and appeared in the Congressional Record of May 22, 2002.

PN1788 Army nominations (83) beginning Robert T. Aarhus, Jr., and ending Scott C. Wright, which nominations were received by the Senate and appeared in the Congressional Record of May 22, 2002.

#### MARINE CORPS

PN1785 Marine Corps nomination which was received by the Senate and appeared in the Congressional Record of May 22, 2002.

#### NAVY

PN1786 Navy nomination which was received by the Senate and appeared in the Congressional Record of May 22, 2002.

PN1787 Navy nominations (401) beginning Peter C. Bondy, and ending Theodore G. Paclab, which nominations were received by the Senate and appeared in the Congressional Record of May 22, 2002.

#### LEGISLATIVE SESSION

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

#### MEASURE READ THE FIRST TIME—H.R. 4800

Mr. REID. Mr. President, it is my understanding that H.R. 4800 is at the desk, and I, therefore, 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. 4800) to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

Mr. REID. I now ask for its second reading but object to my own request.

The PRESIDING OFFICER. Objection is heard.

#### MEASURE READ THE FIRST TIME—H.R. 4823

Mr. REID. Mr. President, I understand that H.R. 4823 is at the desk, and I 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. 4823) to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime.

Mr. REID. I now ask for its second reading but object to my own request.

The PRESIDING OFFICER. Objection is heard.

#### ORDERS FOR FRIDAY, JUNE 7, 2002

Mr. REID. Finally, Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 o'clock in the morning, Friday, June 7; that following the prayer and the 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 there be a period for morning business until 11 a.m.—

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

Mr. REID. Mr. President, I withhold that.

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 the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 11 a.m., Friday, June 7; that following the prayer and the 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 there be a period of morning business until 12 p.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees—Mr. President, we are going to do this again.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Thank you very much.

Mr. President, I ask unanimous consent that the Senate begin its session tomorrow at 11 a.m., that there be no morning business—everyone, including staff should be aware of that—that at 11 a.m. we will proceed to the hate crimes bill, as under the previous order. That is S. 625.

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

#### PROGRAM

Mr. REID. Mr. President, there are no more rollcall votes today. The next vote will occur on Monday at approximately 5:30 p.m.

#### ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 12:42 a.m., adjourned until Friday, June 7, 2002, at 11 a.m.

#### NOMINATIONS

Executive nominations received by the Senate June 6, 2002:

##### SECURITIES INVESTOR PROTECTION CORPORATION

DEBORAH DOYLE MCWHINNEY, OF CALIFORNIA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 2004, VICE ALBERT JAMES DWOSKIN, TERM EXPIRED.

##### FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

ALEJANDRO MODESTO SANCHEZ, OF FLORIDA, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 2002, VICE SHERYL R. MARSHALL.

ALEJANDRO MODESTO SANCHEZ, OF FLORIDA, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 2006. (REAPPOINTMENT)

ANDREW SAUL, OF NEW YORK, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING SEPTEMBER 25, 2004, VICE JAMES H. ATKINS.

GORDON WHITING, OF NEW YORK, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING SEPTEMBER 25, 2006, VICE DON HARRELL, TERM EXPIRING.

##### FEDERAL MEDIATION AND CONCILIATION SERVICE

PETER J. HURTGEN, OF MARYLAND, TO BE FEDERAL MEDIATION AND CONCILIATION DIRECTOR, VICE CHARLES RICHARD BARNES, RESIGNED.

##### DEPARTMENT OF VETERANS AFFAIRS

WILLIAM H. CAMPBELL, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (MANAGEMENT), VICE EDWARD A. POWELL, JR., RESIGNED.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate June 6, 2002:

##### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

##### To be major general

BRIG. GEN. KENNETH L. FARMER, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

MAJ. GEN. EDWARD SORIANO

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

LT. GEN. DAVID D. MCKIERNAN

##### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

##### To be brigadier general

COL. RONALD S. COLEMAN  
COL. JAMES F. FLOCK  
COL. KENNETH J. GLUECK, JR.  
COL. DENNIS J. HEJLIK  
COL. CARL B. JENSEN  
COL. ROBERT B. NELLER  
COL. JOHN M. PAXTON, JR.  
COL. EDWARD G. USHER III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

MAJ. GEN. RICHARD L. KELLY

##### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be rear admiral

REAR ADM. (LH) MARK M. HAZARA

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

##### To be rear admiral (lower half)

CAPT. DAVID J. VENLET

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be vice admiral

REAR ADM. RICHARD J. NAUGHTON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be vice admiral

VICE ADM. JAMES W. METZGER

AIR FORCE NOMINATIONS BEGINNING AMY J. ALTEMUS AND ENDING THOMAS F. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 27, 2002.

AIR FORCE NOMINATIONS BEGINNING JORGE ACEVEDO AND ENDING KEITH W. ZUEGEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 6, 2002.

ARMY NOMINATION OF SHAWN E. CONNORS.

ARMY NOMINATION OF JAMES E. AGNEW.

ARMY NOMINATIONS BEGINNING MICHAEL J. HAMILTON AND ENDING JAMES W. YOUKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 22, 2002.

ARMY NOMINATIONS BEGINNING ROBERT T. AARHUS, JR. AND ENDING SCOTT C. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 22, 2002.

MARINE CORPS NOMINATION OF JEFFREY A. KNUDSON.

NAVY NOMINATION OF GEORGE B. PARISI.

NAVY NOMINATIONS BEGINNING PETER C. BONDY AND ENDING THEODORE G. PACLEB, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 22, 2002.



# Daily Digest

## HIGHLIGHTS

Senate agreed to the Conference Report on S. 1372, Export-Import Bank Reauthorization Act, clearing the measure for the President.

Senate passed H.R. 4775, Supplemental Appropriations Act.

The House passed H.R. 2143, to make the repeal of the estate tax permanent.

## Senate

### Chamber Action

*Routine Proceedings, pages S5107–S5244*

**Measures Introduced:** Seven bills and one resolution were introduced, as follows: S. 2593–2599, and S. Con. Res. 119. **Page S5205**

#### Measures Passed:

**Supplemental Appropriations Act:** By 71 yeas to 22 nays (Vote No. 145), Senate passed H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, after taking action on the following amendments proposed thereto:

**Pages S5113–29, S5132–58, S5159–95**

#### Adopted:

By 75 yeas to 19 nays (Vote No. 140), Warner Modified Amendment No. 3597, to add the American Servicemembers' Protection Act of 2002, to protect United States military personnel and other elected and appointed officials of the United States Government against potential criminal prosecution by an international tribunal court to which the United States is not a party; and to allow the United States to render assistance to international efforts to bring to justice Saddam Hussein and other foreign nationals accused of genocide, war crimes or crimes against humanity. **Pages S5138–47**

By 79 yeas to 14 nays (Vote No. 142), Frist (for Helms) Modified Amendment No. 3725, to increase the amount provided for the Child Survival and Health Programs Fund, and to impose conditions. **Pages S5160–62**

Reid (for Leahy/McConnell) Modified Amendment No. 3676, of a technical nature. **Pages S5172–73**

Reid (for Leahy/McConnell) Amendment No. 3677, of a technical nature. **Pages S5172–73**

Reid (for Leahy/McConnell) Amendment No. 3678, of a technical nature. **Pages S5172–73**

Reid (for Leahy/McConnell) Amendment No. 3679, of a technical nature. **Pages S5172–73**

Reid (for Leahy/McConnell) Modified Amendment No. 3680, of a technical nature. **Pages S5172–73**

Reid (for Leahy/McConnell) Amendment No. 3696, of a technical nature. **Pages S5172–73**

Reid (for Leahy/McConnell) Amendment No. 3697, of a technical nature. **Pages S5172–73**

Reid (for Leahy/McConnell) Amendment No. 3698, of a technical nature. **Pages S5172–73**

Reid (for Leahy/McConnell) Amendment No. 3715, of a technical nature. **Pages S5172–73**

Stevens (for Hutchison) Amendment No. 3559, to make a technical correction. **Pages S5174–77**

Stevens (for Nelson (FL)) Amendment No. 3568, to express the sense of the Senate regarding the reorganization of the Federal Bureau of Investigation to conduct counter terrorism activities. **Pages S5174–77**

Stevens (for Biden) Amendment No. 3591, to make funds available for the preservation of commercial manufacturing capability for defense grade nitrocellulose. **Pages S5174–77**

Stevens (for McConnell) Amendment No. 3593, to transfer, and merge, Economic Support Fund assistance for Israel with funds appropriated by this Act for "Nonproliferation, Anti-Terrorism, Demining and Related Programs" for activities relating to combating international terrorism. **Pages S5174–77**

Stevens (for Clinton) Amendment No. 3598, to provide that the local educational agency serving New York City distribute funds in fiscal year 2002 that are in excess of the fiscal year 2001 allocation on an equal per-pupil basis consistent with section 1113(c) of the Elementary and Secondary Education Act of 1965. **Pages S5174–77**

Stevens (for Torricelli) Amendment No. 3602, to require the Federal Aviation Administration to report to Congress on the air traffic controller staffing shortage at Newark International Airport.

**Pages S5174–77**

Stevens (for Bunning) Amendment No. 3607, to redirect previously appropriated funds for safe and reliable water services to residents in Kentucky.

**Pages S5174–77**

Stevens (for Wyden/Smith (OR)) Modified Amendment No. 3614, to provide \$500,000 to carry out a West Coast groundfish fishing capacity reduction program.

**Pages S5174–77**

Stevens (for Daschle) Amendment No. 3615, to require the Secretary of Agriculture to report to Congress on the management of the Black Hills National Forest.

**Pages S5174–77**

Stevens (for Byrd) Amendment No. 3616, to express the Sense of the Senate regarding avian influenza.

**Pages S5174–77**

Stevens (for Wellstone) Modified Amendment No. 3624, to express the sense of the Senate regarding the provision of surplus non-fat dry milk to combat HIV/AIDS, with a special focus on HIV-positive mothers and children.

**Pages S5174–77**

Stevens (for Kyl/Feinstein) Amendment No. 3631, to require the transfer of funds to cover an increase in pay for Border Patrol agents and immigration inspectors and to make certain requirements with respect to the Chimera system and the expenditure of information technology funds by the Immigration and Naturalization Service.

**Pages S5174–77**

Stevens (for Kyl/Feinstein) Amendment No. 3632, to make available funds for the Center for Identification Technology Research at the West Virginia University for the purpose of developing interoperability standards and an application profile for technology neutral, portable, and data independent biometrics.

**Pages S5174–77**

Stevens (for Sessions) Amendment No. 3653, to make available funds to the National Forum Foundation to implement the TRANSFORM Program to obtain available space on commercial ships for the shipment of humanitarian assistance to needy foreign countries.

**Pages S5174–77**

Stevens (for McConnell) Modified Amendment No. 3656, to provide a substitute for section 503 (relating to a contract for the construction of a facility for the disposition of depleted uranium hexafluoride on the site of the gaseous diffusion plant at Paducah, Kentucky, and a similar facility on the site of the gaseous diffusion plant at Portsmouth, Ohio).

**Pages S5174–77**

Stevens (for Kohl) Amendment No. 3657, to provide for international food assistance.

**Pages S5174–77**

Stevens (for Harkin) Amendment No. 3658, to enhance support for international food assistance programs.

**Pages S5174–77**

Stevens Amendment No. 3665, concerning unemployment tax collection.

**Pages S5174–77**

Stevens Amendment No. 3666, to reallocate previously appropriated funds.

**Pages S5174–77**

Stevens Amendment No. 3667, of a technical nature.

**Pages S5174–77**

Stevens (for Kerry/Cleland) Amendment No. 3669, to provide that amounts appropriated for the National Veterans Business Development Corporation in Public Law 107–77 shall remain available until expended.

**Pages S5174–77**

Stevens (for Kohl) Amendment No. 3682, to allow the closing of certain accounts relating to the Food Safety and Inspection Service.

**Pages S5174–77**

Stevens Amendment No. 3702, concerning mail delivery in Alaska.

**Pages S5174–77**

Leahy/Feinstein Amendment No. 3716, to require a report setting forth a strategy for meeting the security needs of Afghanistan.

**Pages S5174–77**

Hutchinson Modified Amendment No. 3754, to restore funding provided for the DEA.

**Pages S5174–77**

Stevens (for Craig) Modified Amendment No. 3766, to provide a complete substitute.

**Pages S5174–77**

Reid (for Stabenow) Modified Amendment No. 3585 to provide that certain funds appropriated for the United States Customs Bureau Service be used to reimburse State and local law enforcement agencies that have provided Federal assistance to personnel along the Northern Border.

**Pages S5180–81**

Reid (for Specter) Modified Amendment No. 3596, to provide funds to the Johns Hopkins School of Medicine for activities associated with an in-home study of self-administered high frequency chest oscillation therapy for patients with chronic obstructive pulmonary disease.

**Pages S5180–81**

Reid (for Collins) Modified Amendment No. 3613, to provide for the transition of the naval base on Schoodic Peninsula, Maine, to utilization as a research and education center for Acadia National Park.

**Pages S5180–81**

Byrd/Stevens Modified Amendment No. 3627, to provide funds to repair, restore, and clean-up Corps' projects and facilities and dredge navigation channels, restore and clean out area streams, provide emergency streambank protection, restore other crucial public infrastructure, document flood impacts and undertake other flood recovery efforts deemed necessary and advisable by the Army Chief of Engineers.

**Pages S5180–81**

Reid (for Byrd) Modified Amendment No. 3691, to provide an additional amount for Emergency Relief Highways. **Pages S5180–81**

Reid (for Leahy) Amendment No. 3733, to set aside funds for certain National Guard activities. **Pages S5180–81**

Reid (for Graham) Modified Amendment No. 3747, to provide funds for additional Deputy United States Marshals and associated support staff for protection of the judicial process in response to the terrorist attacks of September 11, 2001 to be deployed to the Federal districts with critical courtroom and prisoner security needs. **Pages S5180–81**

Rejected:

McCain/Feingold Amendment No. 3703, to strike the amount provided for the design of a storage facility for the Smithsonian Institution. (By 67 yeas to 29 nays (Vote No. 136), Senate tabled the amendment.) **Pages S5120–23**

McCain Amendment No. 3635, to strike the amount provided for the National Defense Center of Excellence for Research in Ocean Sciences. (By 65 yeas to 31 nays (Vote No. 137), Senate tabled the amendment.) **Pages S5123–29, S5132–33**

McCain Amendment No. 3704, to strike the appropriation for Agricultural Research Service buildings and facilities. (By 72 yeas to 24 nays (Vote No. 138), Senate tabled the amendment.) **Pages S5133–37**

Dodd Modified Amendment No. 3787 (to Amendment No. 3597), to allow the United States to render assistance to international efforts to bring to justice Saddam Hussein and other foreign nationals accused of genocide, war crimes or crimes against humanity. (By 55 yeas to 40 nays (Vote No. 139), Senate tabled the amendment.) **Pages S5138–44**

Nickles Amendment No. 3588, to restore the discretion of the President to agree with Congressionally-designated emergency spending. (By 58 yeas to 36 nays (Vote No. 143), Senate tabled the amendment.) **Pages S5166–71**

Withdrawn:

Graham/DeWine Amendment No. 3569, to provide authority regarding the availability of funds for the Department of Defense for counterterrorism activities in Colombia. **Pages S5162–66**

During consideration of this measure, Senate also took the following action:

By 87 yeas to 10 nays (Vote No. 135), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the bill. **Page S5118**

The Chair sustained a point of order that Daschle Amendment No. 3764, to extend budget enforcement, was not germane post-cloture, and the amendment thus fell. **Pages S5113–20**

By 46 yeas to 49 nays (Vote No. 141), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 205 of H. Con. Res. 290, the Fiscal Year 2001 Concurrent Resolution on the Budget with respect to Durbin Amendment No. 3729, to increase the amount of supplemental appropriations for the Child Survival and Health Programs Fund. Subsequently, a point of order that the amendment was in violation of section 205 of H. Con. Res. 290, the Fiscal Year 2001 Concurrent Resolution on the Budget, since the amendment provides for an emergency designation on non-defense spending, was sustained, and the emergency designation was removed. **Pages S5147–58, S5159–60**

The Chair sustained a point of order that Durbin Amendment No. 3729, to increase the amount of supplemental appropriations for the Child Survival and Health Programs Fund, was in violation of section 302(F) of the Congressional Budget Act of 1974, since the amendment provides spending in excess of the relevant subcommittees 302(B) allocation, and the amendment thus fell. **Page S5160**

By 69 yeas to 25 nays (Vote No. 144), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to waive section 205 of H. Con. Res. 290, the Fiscal Year 2001 Concurrent Resolution on the Budget with respect to the bill (H.R. 4775). Subsequently, a point of order that the bill was in violation of section 205 of H. Con. Res. 290, the Fiscal Year 2001 Concurrent Resolution on the Budget, since the bill provides for emergency designations on non-defense spending, failed. **Page S5171**

The Chair sustained a point of order that Reid (for Reed) Amendment No. 3595, to provide funds to enhance security for public transportation operations, was not germane, and the amendment thus fell. **Pages S5178–79**

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Byrd, Inouye, Hollings, Leahy, Harkin, Mikulski, Reid, Kohl, Murray, Dorgan, Feinstein, Durbin, Johnson, Landrieu, Reed, Stevens, Cochran, Specter, Domenici, Bond, McConnell, Burns, Shelby, Gregg, Bennett, Campbell, Craig, Hutchison, and DeWine. **Page S5194**

**Export-Import Bank Reauthorization Act—Conference Report:** By unanimous-consent, Senate agreed to the conference report on S. 1372, to reauthorize the Export-Import Bank of the United States, clearing the measure for the President. **Pages S5129–33**

**Hate Crimes Bill—Agreement:** A unanimous-consent agreement was reached providing for consideration of S. 625, to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, at 11 a.m., on Friday, June 7, 2002.

Page S5195

**Messages From the President:** Senate received the following messages from the President of the United States:

Transmitting, pursuant to law, the Ninth Biennial Report of the Interagency Arctic Research Policy Committee from February 1, 2000 through January 31, 2002; to the Committee on Governmental Affairs. (PM-89)

Page S5204

Transmitting, pursuant to law, the report of the Corporation for Public Broadcasting for calendar year 2001; to the Committee on Commerce, Science, and Transportation. (PM-90)

Pages S5204-05

**Nominations Confirmed:** Senate confirmed the following nominations:

3 Army nominations in the rank of general.

9 Marine Corps nominations in the rank of general.

4 Navy nominations in the rank of admiral.

Routine lists in the Air Force, Army, Marine Corps, Navy.

Pages S5243, S5244

**Nominations Received:** Senate received the following nominations:

Deborah Doyle McWhinney, of California, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 2004.

Alejandro Modesto Sanchez, of Florida, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2002.

Alejandro Modesto Sanchez, of Florida, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2006. (Re-appointment)

Andrew Saul, of New York, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2004.

Gordon Whiting, of New York, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2006.

Peter J. Hurtgen, of Maryland, to be Federal Mediation and Conciliation Director.

William H. Campbell, of Maryland, to be an Assistant Secretary of Veterans Affairs (Management).

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**Messages From the House:**

Page S5205

**Measures Referred:**

Page S5205

**Measures Read First Time:**

Page S5205

**Additional Cosponsors:**

Pages S5205-07

**Statements on Introduced Bills/Resolutions:**

Pages S5207-14

**Additional Statements:**

Pages S5201-04

**Amendments Submitted:**

Pages S5214-42

**Authority for Committees to Meet:** Pages S5242-43

**Privilege of the Floor:**

Page S4243

**Record Votes:** Eleven record votes were taken today. (Total—145)

Pages S5118, S5122-23, S5132-33, S5137, S5144, S5147  
S5160, S5162, S5171, S5194

**Adjournment:** Senate met at 9:30 a.m., and adjourned at 12:42 a.m., on Friday, June 7, 2002, until 11 a.m., on the same day. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S5244).

## Committee Meetings

(Committees not listed did not meet)

### APPROPRIATIONS—FOREST SERVICE

*Committee on Appropriations:* Subcommittee on Interior concluded hearings on proposed budget estimates for fiscal year 2003 for the Forest Service, after receiving testimony from Dale N. Bosworth, Chief, and Hank Kashdan, Director, Program Development and Budget, both of the Forest Service, Department of Agriculture.

### APPROPRIATIONS—LABOR

*Committee on Appropriations:* Subcommittee on Labor, Health and Human Services, and Education concluded hearings on proposed budget estimates for fiscal year 2003 for the Department of Labor, after receiving testimony from Elaine L. Chao, Secretary of Labor.

### TRIBAL COMMUNITY CAPITAL INVESTMENT

*Committee on Banking, Housing, and Urban Affairs:* Subcommittee on Financial Institutions concluded oversight hearings to examine capital investments in tribal communities, focusing on expanding tribal land home ownership, overcoming barriers to capital access on tribal lands, and related findings of the Native American Lending Study, after receiving testimony from Rodger J. Boyd, Special Assistant to the Director of the Community Development Financial Institutions Fund, Department of the Treasury; Franklin D. Raines, Fannie Mae, Washington, D.C.; J.D. Colbert, North American Native Bankers Association, Alexandria, Virginia; William V. Fischer, American State Bank, of Pierre, Pierre, South Dakota; Michael B. Jandreau, Lower Brule Sioux Tribe,

Lower Brule, South Dakota; and Elsie Meeks, First Nations Oweesta Corporation, Kyle, South Dakota.

### WATER AND POWER REVISIONS

*Committee on Energy and Natural Resources:* Subcommittee on Water and Power concluded hearings on S. 1310/H.R. 1870, to provide for the sale of certain real property in the Newlands Project, Nevada, to the city of Fallon, Nevada, S. 1385/H.R. 2115, to authorize the Secretary of the Interior, pursuant to the provisions of the Reclamation Wastewater and Groundwater Study and Facilities Act to participate in the design, planning, and construction of the Lakehaven water reclamation project for the reclamation and reuse of water, S. 1824/H.R.2828, to authorize payments to certain Klamath Project water distribution entities for amounts assessed by the entities for operation and maintenance of the Project's irrigation works for 2001, to authorize funds to such entities of amounts collected by the Bureau of Reclamation for reserved works for 2001, S. 1883, to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, S. 1999, to reauthorize the Mni Wiconi Rural Water Supply Project, S. 2475, to amend the Central Utah Project Completion Act to clarify the responsibilities of the Secretary of the Interior with respect to the Central Utah Project, to redirect unexpended budget authority for the Central Utah Project for wastewater treatment and reuse and other purposes, to provide for prepayment of repayment contracts for municipal and industrial water delivery facilities, and to eliminate a deadline for such prepayment, and H.R. 706, to direct the Secretary of the Interior to convey certain properties in the vicinity of the Elephant Butte Reservoir and the Caballo Reservoir, New Mexico, after receiving testimony from Senator Bennett; Representative Walden; Bennett W. Raley, Assistant Secretary for Water and Science, and Mark A. Limbaugh, Director, External and Intergovernmental Affairs, Bureau of Reclamation, both of the Department of the Interior; Dan Keppen, Klamath Water Users Association, Klamath Falls, Oregon; Jeff Oveson, Grande Ronde Model Watershed Program, La Grande, Oregon, on behalf of the Wallowa Lake Dam Rehabilitation and Water Management Plan; John Steele, Oglala Sioux Tribe, Pine Ridge, South Dakota, on behalf of the West River/Lyman-Jones Inc., the Rosebud Sioux Tribe, and the Lower Brule Sioux Tribe; Don A. Christiansen, Central Utah Water Conservancy District, Orem; and Jerry Stagner, State National Bank, El Paso, Texas, on behalf of the Elephant Butte Caballo Association.

### CLEAN WATER ACT REVISIONS

*Committee on Environment and Public Works:* Subcommittee on Clean Air, Wetlands, and Climate Change concluded hearings to examine the impacts of the revisions to the Clean Water Act regulatory definitions of "fill material" and "discharge of fill material", after receiving testimony from George S. Dunlop, Deputy Assistant Secretary of the Army for Policy and Legislation, Office of the Assistant Secretary of the Army for Civil Works; Benjamin H. Grumbles, Deputy Assistant Administrator, Office of Water, Environmental Protection Agency; Michael Callaghan, West Virginia Department of Environmental Protection, Charleston; Joan Mulhern, Earthjustice Legal Defense Fund, Washington, D.C.; J. Bruce Wallace, University of Georgia Department of Entomology, Athens; Mike Whitt, Mingo County Redevelopment Authority, Williamson, West Virginia; and Kevin Richardson, Just Within Reach Foundation, Lexington, Kentucky.

### RUSSIA AND CHINA NONPROLIFERATION AND EXPORT CONTROLS

*Committee on Governmental Affairs:* Subcommittee on International Security, Proliferation and Federal Services concluded hearings to examine how well Russia and China are complying with nonproliferation agreements and enforcing multilateral export control agreements, after receiving testimony from John S. Wolf, Assistant Secretary of State for Nonproliferation; Matthew S. Borman, Deputy Assistant Secretary of Commerce for Export Administration, Bureau of Industry and Security; Leonard S. Spector, Monterey Institute of International Studies Center for Nonproliferation Studies, Monterey, California; David Albright, Institute for Science and International Security, Washington, D.C.; Gary Milhollin, University of Wisconsin Law School, Madison, on behalf of the Wisconsin Project for Nuclear Arms Control.

### INDIVIDUALS WITH DISABILITIES EDUCATION ACT

*Committee on Health, Education, Labor, and Pensions:* Committee concluded hearings to examine the implementation of the Individuals with Disabilities Education Act, focusing on accountability from the Federal government, and a collaboration between institutions of higher education, local schools, and school faculties for teacher preparation programs, after receiving testimony from Lawrence C. Gloeckler, New York State Education Department, Office of Vocational and Educational Services for Individuals with Disabilities, Albany; David W. Gordon, Elk Grove Unified School District, Elk Grove, California; Stan F. Shaw, University of Connecticut

Special Education Program, Storrs; Arlene Mayerson, Disability Rights Education and Defense Fund, Inc., Berkeley, California; and Marisa C. Brown, Vienna, Virginia.

#### COUNTERTERRORISM

*Committee on the Judiciary:* Committee concluded oversight hearings on counterterrorism and national security activities in the Department of Justice, including the FBI's response to evidence of terrorist activity in the U.S. prior to September 11, and certain related aspects of the FBI's new reorganization plan, after receiving testimony from Robert S. Mueller III, Director, and Coleen M. Rowley, Special Agent and Minneapolis Chief Division Counsel, both of the Federal Bureau of Investigation, and Glenn A. Fine, Inspector General, all of the Department of Justice.

#### BUSINESS MEETING

*Committee on Veterans' Affairs:* Committee ordered favorably reported the following bills:

S. 2043, to amend title 38, United States Code, to extend by five years the period for the provision by the Secretary of Veterans Affairs of noninstitutional extended care services and required nursing home care, with an amendment in the nature of a substitute;

S. 2132, to amend title 38, United States Code, to provide for the establishment of medical emergency preparedness centers in the Veterans Health Administration, to provide for the enhancement of the medical research activities of the Department of Veterans Affairs, with an amendment in the nature of a substitute;

S. 2074, to increase, effective as of December 1, 2002, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; and

S. 2237, to amend title 38, United States Code, to enhance compensation for veterans with hearing loss, with an amendment in the nature of a substitute.



# House of Representatives

## *Chamber Action*

**Measures Introduced:** 24 public bills, H.R. 4877–4900; and 5 resolutions, H.J. Res. 96, H. Con. Res. 414, and H. Res. 436–438, were introduced. **Pages H3291–92**

**Reports Filed:** Reports were filed as follows:

H.R. 1979, to amend title 49, United States Code, to provide assistance for the construction of certain air traffic control towers, amended (H. Rept. 107–496). **Pages H3290–91**

**Speaker Pro Tempore:** Read a letter from the Speaker wherein he designated Representative LaHood to act as Speaker pro tempore for today. **Page H3231**

**Guest Chaplain:** The prayer was offered by the guest Chaplain, Rabbi Dov Hazden, the Ner Tomid K Kosher Supervision Organization of Staten Island, New York. **Page H3231**

**Motion to Adjourn:** Rejected the Kucinich motion to adjourn by a yea-and-nay vote of 37 yeas to 363 nays, Roll No. 213. **Pages H3231–32**

**ABM Treaty Resolution:** Representative Kucinich rose to a point of privilege under Rule IX to offer a resolution that states in part that the President is not authorized to withdraw unilaterally from treaties in general, and the Anti-Ballistic Missile treaty in particular, without the consent of Congress. Chairman Hyde raised a point of order against the resolution stating that it did not constitute a question of privilege. The Chair then sustained the Hyde point of order and ruled that the resolution did not constitute a question of privilege of the House under rule IX. Representative Kucinich appealed the ruling of the Chair and, subsequently, the House agreed to the Hyde motion to table the appeal of the ruling of the Chair by a recorded vote of 254 yeas to 169 noes, Roll No. 214. **Pages H3232–38**

**Permanent Repeal of the Estate Tax:** The House passed H.R. 2143, to make the repeal of the estate tax permanent by a recorded vote of 256 yeas to 171 noes, Roll No. 219. **Pages H3249–76**

Rejected the Stenholm motion to recommit the bill to the Committee on Ways and Means with instructions to report it back forthwith with an amendment that makes tax reductions contingent on certification by the Director of the Office of Management and Budget that the social security trust funds will not be raided during any year of the 10 year budget estimating period by a recorded vote of 205 yeas to 223 noes, Roll No. 218. **Pages H3274–76**

Rejected the Pomeroy substitute that sought to increase the estate tax exclusion to \$3 million effective January 2003 by a yea-and-nay vote of 197 yeas to 231 noes, Roll No. 217. **Pages H3262–74**

H. Res. 435, the rule that provided for consideration for the bill was agreed to by a yea-and-nay vote of 227 yeas to 195 nays, Roll No. 216. Earlier, agreed to order the previous question by a yea-and-nay vote of 223 yeas to 201 nays, Roll No. 215. **Pages H3238–49**

**Legislative Program:** The Chief Deputy Majority Whip announced the Legislative Program for the week of June 10. **Pages H3276–77**

**Meeting Hour—Monday, June 10:** Agreed that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday, June 10. **Page H3277**

**Meeting Hour—Tuesday, June 11:** Agreed that when the House adjourns on Monday, June 10, it adjourn to meet at 12:30 p.m. on Tuesday, June 11 for morning hour debate. **Page H3277**

**Calendar Wednesday:** Agreed to dispense with the Calendar Wednesday business of Wednesday, June 12. **Page H3277**

**Presidential Messages:** Read the following messages from the President:

**Arctic Research Policy:** Message wherein he transmitted the Ninth Biennial Report of the Interagency Arctic Research Policy Committee (February 1, 2000 to January 31, 2002)—referred to the Committee on Science; and **Page H3277**

**Corporation for Public Broadcasting:** Message wherein he transmitted the report of the Corporation for Public Broadcasting for calendar year 2001—referred to the Committee on Energy and Commerce. **Page H3283**

**Quorum Calls—Votes:** Three yea-and-nay votes and four recorded votes developed during the proceedings of the House today and appear on pages H3231–32, H3237–38, H3248, H3248–49, H3273–74, H3275–76, and H3276. There were no quorum calls.

**Adjournment:** The House met at 10 a.m. and adjourned at 6:57 p.m.

## *Committee Meetings*

### BLACK HILLS NATIONAL FOREST—PUBLIC SAFETY CONCERNS

**Committee on Agriculture:** Subcommittee on Department Operations, Oversight, Nutrition and Forestry

held a hearing on Public Safety Concerns and Forest Management Hurdles in the Black Hills National Forest. Testimony was heard from Mark E. Rey, Under Secretary, Natural Resources and the Environment, USDA; John Twiss, Forest Supervisor, Black Hills National Forest, Custer, South Dakota; and a public witness.

#### **“ARE YASSER ARAFAT AND THE PALESTINIAN AUTHORITY CREDIBLE PARTNERS FOR PEACE?”**

*Committee on Armed Services:* Special Oversight Panel on Terrorism held a hearing on the question “Are Yasser Arafat and the Palestinian Authority Credible Partners for Peace?” Testimony was heard from public witnesses.

#### **SPECIAL EDUCATION REFERRAL AND IDENTIFICATION PROCESS REFORM**

*Committee on Education and the Workforce:* Subcommittee on Education held a hearing on “Learning Disabilities and Early Intervention Strategies: How to Reform the Special Education Referral and Identification Process.” Testimony was heard from Robert Pasternack, Assistant Secretary, Special Education and Rehabilitative Services, Department of Education; G. Reid Lyon, Research Psychologist and Chief, Child Development and Behavior Branch, National Institute of Child Health and Human Development, NIH, Department of Health and Human Services; former Representative William F. Goodling of Pennsylvania; and a public witness.

#### **NIH—INVESTING IN RESEARCH**

*Committee on Energy and Commerce:* Subcommittee on Health held a hearing entitled “The National Institutes of Health: Investing in Research to Prevent and Cure Disease.” Testimony was heard from the following officials of NIH, Department of Health and Human Services: Claude Lenfant, M.D., Director, National Heart, Lung, and Blood Institute; and Audrey S. Penn, M.D., Acting Director, National Institute of Neurological Disorders and Stroke; Edward Sanchez, Commissioner, Department of Health, State of Texas; and public witnesses.

#### **DOE’S FREEDOMCAR**

*Committee on Energy and Commerce:* Subcommittee on Oversight and Investigations held a hearing entitled “DOE’s FreedomCAR: Hurdles, Benchmarks for Progress, and Role in Energy Policy.” Testimony was heard from Jim Wells, Director, Natural Resources and Environment, GAO; David K. Garman, Assistant Secretary, Energy Efficiency and Renewable Energy, Department of Energy; and public witnesses.

#### **FINANCIAL SERVICES REGULATORY RELIEF ACT**

*Committee on Financial Services:* Ordered reported, as amended, H.R. 3951, Financial Services Regulatory Relief Act of 2002.

#### **FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT**

*Committee on Government Reform:* Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations held a hearing on “The Federal Financial Management Improvement Act of 1996: Are Agencies Meeting the Challenge?” Testimony was heard from Sally E. Thompson, Director, Financial Management and Assurance, GAO; Lloyd A. Blanchard, Chief Operating Officer, SBA; Donna R. McLean, Assistant Secretary, Budget and Programs and Chief Financial Officer, Department of Transportation; and Karen C. Alderman, Executive Director, Joint Financial Management Improvement Program.

#### **ASSESSMENT—CUBA BROADCASTING—VOICE OF FREEDOM**

*Committee on International Relations:* Subcommittee on International Operations and Human Rights held a hearing on An Assessment of Cuba Broadcasting—The Voice of Freedom. Testimony was heard from the following officials of the Department of State: Dan Fisk, Deputy Assistant Secretary, Bureau of Western Hemisphere Affairs; and Adolfo Franco, Assistant Administrator, Bureau for Latin American and the Caribbean, AID; the following officials of the Broadcasting Board of Governors: Brian Conniff, Director, Office of the International Broadcasting Bureau; and Salvador Lew, Director, Office of Cuba Broadcasting; and public witnesses.

#### **SOUTH ASIA—CURRENT CRISIS**

*Committee on International Relations:* Subcommittee on the Middle East and South Asia held a hearing on The Current Crisis in South Asia. Testimony was heard from public witnesses.

#### **MISCELLANEOUS MEASURES**

*Committee on Resources:* Subcommittee on National Parks, Recreation and Public Lands held a hearing on the following bills: H.R. 3815, Presidential Historic Site Study Act; H.R. 4141, Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002; and H.R. 4620, America’s Wilderness Protection Act. Testimony was heard from Representatives Ross and Otter; the following officials of the Department of the Interior: Nina Hatfield, Deputy Director, and Larry Finfer, Assistant Director, Communications, both with the Bureau of

Land Management; Abigail Kimbell, Associate Deputy Chief, National Forest System, USDA; and public witnesses.

#### SMALL BUSINESS—COST OF REGULATIONS

*Committee on Small Business:* Subcommittee on Regulatory Reform and Oversight and the Subcommittee on Workforce, Empowerment, and Government Programs held a joint hearing on The Cost of Regulations to Small Business. Testimony was heard from John D. Graham, Administrator, Office of Information and Regulatory Affairs, OMB; former Representative David McIntosh of Indiana; and public witnesses.

#### RECENT DERAILEMENTS AND RAILROAD SAFETY

*Committee on Transportation and Infrastructure:* Subcommittee on Railroads held a hearing on Recent Derailments and Railroad Safety. Testimony was heard from Allan Rutter, Administrator, Federal Railroad Administration, Department of Transportation; Marian Blakey, Chairman, National Transportation Safety Board; Stephen Strachan, Vice President and Chief Transportation Officer, National Railroad Passenger Corporation (Amtrak); and public witnesses.

#### VA CLAIMS PROCESSING TASK FORCE'S RECOMMENDATIONS

*Committee on Veterans' Affairs:* Subcommittee on Benefits held a hearing on the status of the VA's implementation of the VA Claims Processing Task Force's recommendations, and the potential for a greater VA/Veterans Service Organization "partnership." Testimony was heard from Daniel L. Cooper, Under Secretary, Benefits, Veterans Benefits Administra-

tion, Department of Veterans Affairs; and representatives of veterans organizations.

#### CORPORATE INVERSIONS

*Committee on Ways and Means:* Held a hearing on Corporate Inversions. Testimony was heard from Pamela F. Olson, Acting Assistant Secretary, Tax Policy, Department of the Treasury.

### *Joint Meetings*

#### 9/11 INTELLIGENCE INVESTIGATION

*Joint Hearing:* Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence met in closed session to consider events surrounding September 11, 2001.

Committees will meet again on Tuesday, June 11.

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#### COMMITTEE MEETINGS FOR FRIDAY, JUNE 7, 2002

*(Committee meetings are open unless otherwise indicated)*

##### Senate

No meetings/hearings scheduled.

##### House

*Committee on Government Reform,* Subcommittee on Technology and Procurement Policy, hearing entitled "Meeting the Homeland Security Mission: Assessing Barriers to and Technology Solutions for Robust Information Sharing," 10 a.m., 2154 Rayburn.

##### Joint Meetings

*Joint Economic Committee:* to hold hearings to examine employment-unemployment situation for May, 9:30 a.m., 1334 Longworth Building.

*Next Meeting of the SENATE*

11 a.m., Friday, June 7

Senate Chamber

Program for Friday: Senate will consider S. 625, Hate Crimes bill.

*Next Meeting of the HOUSE OF REPRESENTATIVES*

2 p.m., Monday, June 10

House Chamber

Program for Monday: Pro Forma session.



## Congressional Record

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