

that debate on H.R. 5005, an act to establish the Department of Homeland Security, and for other purposes, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KENNEDY) necessarily absent.

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

The yeas and nays resulted—yeas 83, nays 16, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—83

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

NAYS—16

Akaka	Feingold	Reid
Boxer	Harkin	Sarbanes
Byrd	Jeffords	Stabenow
Corzine	Levin	Torricelli
Dodd	Murray	
Durbin	Reed	

NOT VOTING—1

Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 83; the nays are 16. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:29 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CORZINE).

HOMELAND SECURITY ACT OF
2002—Continued

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, what is the pending business?

The PRESIDING OFFICER. We are postclosure on H.R. 5005.

Mr. BAUCUS. Mr. President, I ask unanimous consent that I may soon make a unanimous consent request

that the time be charged against the pending measure.

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

DISASTER RELIEF

Mr. BAUCUS. Mr. President, soon, I am going to ask unanimous consent to take up the emergency disaster relief bill that the Senate passed earlier with over 79 votes on September 10, 2002.

The only difference between my consent request today and that amendment is today's bill reimburses the \$752 million of section 32 funds that were used to pay for the livestock compensation program earlier this year. This all really stems from the agricultural disaster our country has been facing for the last year and, frankly, in preceding years.

In 1996, not too many years ago—that is the year before the drought began in Montana—our producers earned \$847 million from wheat sales. In 2001, 4 years later into the drought—we have had a series of droughts in Montana—producers made just \$317 million from wheat sales, a 62-percent decline.

That 62-percent decline in sales is through absolutely no fault of Montana wheat producers. These farmers haven't been cooking the books. This is not an Enron matter or a WorldCom matter. They have not been taking exorbitant bonuses at the expense of their shareholders. They have been farmers and ranchers working the soil and doing their very best, in many cases, just to survive. They are dedicated, honest, plain folks, raising livestock for our country and the world, raising agricultural and grain products to try to make ends meet. They need our help.

The drought is no longer touching only isolated pockets of our country; it has become an epidemic that is affecting a majority of our Nation.

According to the U.S. Department of Agriculture, 49 percent of our Nation's counties were declared an agricultural disaster in 2001; 78 percent of our counties were declared a disaster in 2002; 38 percent of those counties were declared a disaster in both 2001 and 2002.

So it is in many parts of the country. In fact, a map I displayed in this body earlier showed that the western half of the United States basically is experiencing drought conditions, and the eastern United States as well. Now, there are also pockets. In Montana, for example, there are some counties where farmers are devastated and other counties where they harvested a bit of a crop.

In any event, if you are a farmer who has lost his crop continuously and you are having a very difficult time making ends meet, I say you deserve our help.

According to the New York Times, on May 3 of this year:

In eastern Montana, more than a thousand wheat farmers have called it quits rather than try to coax another crop out of ground that has received less rain in the last 12 months than many deserts get in a year.

It is anticipated that another 1,300 wheat producers will call it quits this year if disaster assistance is not provided.

Continuing, Mr. President, that same New York Times article—this is an eastern newspaper, not Montana:

Those people, small businesses and rural communities have been devastated by an unpredictable and uncontrollable national phenomenon.

On September 3, 2002, the Wall Street Journal also printed an article:

The United States may be looking at the most expensive drought in its history inflicting economic damage far beyond the farm belt.

Producers every day hope, plead, ask that Congress help them a little bit.

I could go on at great length. I am not going to go on at great length except to say many times we have brought up this measure. It passed the Senate by a large margin both times, and the other body has said no, basically because the White House has said no. That is a fact. Nobody denies that fact. I will ask again today; we still do have time today or tomorrow, however long we are here, to help our farmers. This is a disaster payment; it is an emergency disaster payment. This is what America does. If we have hurricanes, we provide disaster assistance. If we have floods, we provide disaster assistance. We have other natural disaster phenomena in this country, and the Government provides assistance to help the people get back on their feet. That is all we are asking.

If we pass this legislation today, the other body can take it up and pass it, and the President can sign it. It is that simple.

As we near the end of this session and approach the holiday season, the very least we can do is provide disaster assistance to our farmers and ranchers, many of whom are either going out of business or about to go out of business because of an agricultural disaster, in most cases, drought and in some parts of our country it is flooding.

I see our distinguished majority leader on the floor. I am quite certain he wants to speak on this matter as well. It is a huge issue in many parts of our country. It is very much hoped we can take disaster assistance up and pass it at this time. I yield now to my colleague from South Dakota.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I commend the distinguished Senator from Montana. He has been at this now for over a year. The very first conversation I had about drought assistance was with Senator BAUCUS over a year ago. I believe it was in connection with the economic stimulus package of a year ago. It has been 278 days since the Senate acted. So he has been at it for over a year. We, as a Senate, have been at it now for 278 days.

I must say, we can go all the way back to a year ago when Senator BAUCUS made the case that if you want

economic stimulus in our part of the country, there is no better economic stimulus than to provide some drought assistance.

I would use the word economic salvation. This is more than stimulus in our part of the country. This is salvation. This is the only way we can provide some salvation to ranchers and farmers who otherwise will not be here a year from now. We have done everything we know how to do. We have passed amendments. We have passed legislation in various forms. We have offered the House an opportunity to negotiate with us. We have suggested to the White House: Act alone. It does not matter, use whatever vehicle you will, but get it done.

How in the name of economic stimulus can we ignore a large part of our geographic population, a large part geographically of our country? If these people are without this assistance, the rural communities associated with these people simply cannot survive.

I thank the Senator from Montana for his leadership and for again coming to the floor to remind our colleagues of the import of this question, of the urgency that we get something done before we leave. This may be the last day. We may not be in session after today. If we do not do it today, we will not do it. What kind of a message does that send to rural America, to farmers and ranchers who have been waiting now 278 days for the Congress to complete its work?

We voted, as he said, overwhelmingly—overwhelmingly, Republicans and Democrats. I would hope we were not doing that just for a political cover because this is far more important than political cover. This is economic survival. This will provide the only salvation to the farmers and ranchers who are desperately looking to Washington for help. Let's do it right. Let's provide this assistance. Let's agree with this request. Let's get this assistance to them quickly. Let's save them before it is too late. I hope we will do that this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, there are many Senators who wish to speak on this because it is so important. I ask unanimous consent that I be able to yield to other Senators without losing my right to the floor.

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

Mr. BAUCUS. Mr. President, I yield to my good friend from Minnesota.

Mr. DAYTON. Mr. President, I thank the distinguished senior Senator from Montana for his leadership on this matter. As the majority leader said, the Senator has been superb in his leadership on this for now over a year and has been speaking out not only on behalf of Montana farmers but on behalf of thousands of Minnesota farmers who have also been devastated over the last 2 years and have not seen \$1 of disaster aid provided to our State.

The message is: If you are a pharmaceutical company and you have that kind of political clout, you will be taken care of by the Congress. If you are a company that has run away from this Nation to hide your tax obligation, you get a special consideration stuck in the bill that came over from the House of Representatives which we just voted on this morning. If you are a farmer in Minnesota, however, Montana, or elsewhere and you have been devastated by conditions beyond your control, the Congress is going to turn its back on you, the administration is going to turn its back on you.

As the Senator pointed out, this Senate has not turned its back on farmers on disaster aid. The 2002 farm bill—and I served with the Senator from Montana on the Senate Agriculture Committee—had agriculture disaster assistance in that measure, but, again, the House and the administration turned a cold shoulder and had no funding whatsoever, and the conference report came back after many days of negotiation with the House unyielding and the administration unyielding in their position of not providing disaster assistance.

The farmers in my State of Minnesota have lost over three quarters of a billion dollars in crop devastation in the last 2 years—three-quarters of a billion dollars in 2 years, and not \$1 back from the Federal Government. That is why people lose their faith and trust in Government because we do the wrong things for the wrong people and we do not do the right things for the right people. By “we,” I mean the collective bodies, because this Senator and the majority of the Senate have said again and again: We want to stand with those farmers who are suffering the greatest losses, who are being wiped out.

Over half the crops in my region have been wiped out over each of the last 2 years.

I say let's stand with the farmers. I stand proudly with the Senator from Montana. I thank him for his leadership. Let's make one last plea to this body and the House and the administration to do what is right and do what is urgently needed on behalf of farmers in my State and elsewhere in this country.

I thank the Chair, and I thank the Senator from Montana for yielding to me.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I now yield as much time as he consumes to the Senator from North Dakota, an ardent fighter on behalf of agriculture, I might add.

Mr. DORGAN. Mr. President, I thank the Senator from Montana for bringing this issue before the Senate again and again.

It is interesting what people consider a priority in this Congress. We have voted on this issue of drought relief and disaster assistance for farmers in

the Senate. Seventy-nine Members of the Senate voted to do something. We passed legislation for \$5.9 billion. Let me tell you why we did that.

This map shows what happened to a major part of the country. A major part of our country suffered a devastating drought. In my State, we had that extreme drought in the southwestern corner. We also had extreme moisture and therefore flooding in the northeastern corner.

Let me show a picture of two farmers in the same State. This farmer is standing on his land that looks like a moonscape. Put seeds in that ground and nothing grows. Is that a disaster? It is if you put all your hopes, dreams, and capital into the ground. We had literally a moonscape. No pasture, no crops in these areas.

In the same State, flooded land. Drought and flooding. No crop.

Now, when family farmers suffer this circumstance, they cannot make it from one year to the next. One of my colleagues said we really ought to name droughts. We do name hurricanes. If a hurricane came through tomorrow and it took a portion of the country and flattened it, immediately airplanes would leave Washington, DC, FEMA would be on the airplane, other governmental offices would be on the plane, and they would be rushing there. Why? Because Hurricane Andrew, Emma, or Hurricane Myrtle hit land. We would all understand this was a disaster. All of the mechanisms of the Federal Government racheting up to try to deal with disasters would be on the way to help.

But this gripping, relentless drought that occurred in our country, with flooding in some other parts, is something that happens over time. So there are enough people in Congress—including the President of the United States—who decided we do not want to do anything; we want to block this. We passed disaster assistance by 79 votes in the Senate. Bipartisan. The Speaker of the House and the President say, We do not want it, we will not do it.

My colleague from Minnesota made an appropriate point. What did they have time to do? As to the question of whose side are you on, at least part of the answer this morning is we are on the side of corporations who want to renounce their citizenship and move offshore to stop paying taxes to the United States Government, or at least minimize those taxes. We would like to become citizens of Bermuda, some corporations say. So this morning the vote in the Senate was to say, at least by the majority, regrettably, we would like to help those companies. The Senate already voted to say if you want to renounce your American citizenship, you ought not be getting American contracts with the Federal Government.

In the homeland security bill they have stuck in a little piece that says let's make it easier for corporations that renounce their citizenship to get

these contracts. That was a priority. It was a priority, for those corporations that renounce their citizenship, to help them out. We had the time and the will by some in Congress to help them out.

It is interesting, exactly the same people who do not want to lift a finger to help family farmers are saying we would like to help out these poor corporations that renounce their citizenship.

Mr. BAUCUS. Will the Senator yield?

Mr. DORGAN. I yield the floor.

Mr. BAUCUS. How many family farmers in North Dakota are able to move offshore to Bermuda and not pay income taxes? How many would you guess could do this?

Mr. DORGAN. The answer is zero. But the answer would be zero if every farmer had the opportunity to do it. Do you know why? Because our farmers are Americans. They do not want to move anywhere. They do not want to become citizens of Bermuda. They do not want to avoid paying income taxes. They would love to pay income taxes for a change. They would like an opportunity to have an income to pay income tax.

There is no income with a moonscape farm or when your crop is under water. Our farmers would not move to Bermuda for tax purposes.

Mr. BAUCUS. And that means they do not have to pay income tax.

Mr. DORGAN. Yes. They consider that unpatriotic.

The question is, why does Congress have time to help those corporations that renounce their citizenship but it does not have time to pass a piece of legislation that deals with disaster?

The point the Senator from Minnesota made is an important point. They have the opportunity and the will, apparently, to help drug companies but not family farmers.

It was Tom Paxon a couple of decades ago, when Congress gave some financial assistance to Poland, who wrote a song that said, "I'm changing my name to Poland."

Well, the question is, What is important to the Congress? Do you have to change your name to get some help? My farmers are named Johnson, Olson, Christianson, Larson. And they are out there and they put everything they have in the ground in North Dakota. They do it on a hope and a prayer that somehow it will rain enough, not rain too much, the insects will not come, the disease will not come, and they raise a crop and take it out of the ground and take it to the elevator for some money. That is a hope beyond hope with a natural disaster.

We have a responsibility, if we care about rural America, care about family farmers and care about the special culture they provide for this country and contribution they make to this country, we have a responsibility to help in tough times. That is what we ought to do, to extend a helping hand to say, we would like to help you during these tough times.

Yet, I regret, in answer to the question, Whose side are you on, too many decided to block this. They blocked it at the White House, blocked it at the speaker's office in the other body. The Senator from Montana has been on the floor before—again and again and again. I am proud to have been here with him to say this is a priority for us. This is not a giveaway. It is not something that is not desperately needed. This is a responsibility as Americans to say to others in this country when they need help, here is a helping hand.

I am proud to have served in both the House of Representatives and the Senate. In every circumstance on every occasion where someone in this country has been injured, hurt, or disadvantaged by fires and floods and earthquakes and tornados and so many natural disasters, I am proud to say I have voted to provide disaster assistance to them because I believe that is the best of what we should do in this country.

I will never, ever vote against that kind of assistance to people who are down and out and need help. That is why I would have expected this Congress and this President to join us, 79 Members of the Senate, Republicans and Democrats, to provide disaster help now when it is needed.

I regret we may now, in the waning hours, leave this session with an objection to the unanimous consent request, after it has already passed the Senate by 79 votes and after the House is somewhere scattered across America—done with their business, they will have left this Congress and left undone a significant piece of legislation that should have been saying to America's family farmers, beset by disaster, that this country cares about you and this country wants to help you in a time of need.

Again, let me say thanks to the Senator from Montana for his effort today. I fully support him.

Mr. BAUCUS. I thank the Senator. I notice my colleagues are coming over. This is an important matter, and we have an opportunity and we owe it to our people to get this legislation passed.

I yield to my friend from Michigan, Senator STABENOW.

Ms. STABENOW. Mr. President, I thank my friend from Montana who has been such a leader on this issue. We have all joined on the floor time and time again to talk about the need for emergency assistance, for disaster assistance in our States. As a member of the Senate Agriculture Committee, I stand with my colleagues to indicate that Michigan has been under a disaster from flooding, from drought, from changing temperatures. We had our cherry growers this past year find extraordinarily high temperatures in April, only to see freezes just a few weeks later. This has stopped the ability for practically any cherries to end up on the trees this year. It is incredible, the fact that they have essentially

been wiped out, not including what has happened the last 2 years for our grape growers, what has consistently been the battle for our apple growers, what we have seen from dry beans in Michigan, asparagus.

I could go on and on. We have had harmed numerous crops in Michigan. We have seen consistent emergencies come as a result of weather.

This is not only an issue for our family farmers but for the business community as well. When we do not have the cherries on the trees, our processors do not have any business. We are seeing processing plants that are cutting back or closing. This is a ripple effect throughout the economy in Michigan. I am sure in other States, as well.

This is truly a disaster. As my colleagues have said, if this were a hurricane, if this were a tornado, if this were another circumstance, we would all be joined together to help communities that find themselves in a disaster situation because of no fault of their own. This is no less a disaster. It is no less a situation out of the control of our farmers and all of those involved in agriculture.

I thank the Senator from Montana again and stand, as I have throughout this process, with the Senator. This is our last opportunity to do this and to indicate to our family farmers, to agriculture across this country, that we understand what you are going through; that we support you and we will provide the same assistance we would for any other disaster and emergency that might occur.

I strongly hope we will be able to prevail in getting some action today.

Mr. BAUCUS. I might ask a question of the Senator. Did the Senator by any chance vote for disaster assistance to aid other parts of the country, such as, say, New York City?

Ms. STABENOW. Absolutely. As our leader has just indicated, we are consistently coming together on a bipartisan basis to support important efforts. I was proud to stand with all my colleagues in the time of need of New York and New Jersey and all those who were affected after 9/11. We consistently have requests from FEMA that come forward, to which it is necessary that we respond, and we do that and we step up together. Honestly, for the life of me, I do not understand why, when it comes to our farmers, we do not have the same bipartisan support nor the same support from the administration. It is deeply concerning.

I very much hope as we come to the end of the session that we could come together and stand up for those who fight hard every day against the elements. They are in a tough job. They cannot control whether it rains or shines. Yet they are putting food on our tables, as well as around the world, and providing for a very important part of our economy. I hope we stand up for them at this time.

Mr. BAUCUS. Mr. President, I yield to the Senator from South Dakota.

Mr. JOHNSON. Mr. President, I thank Senator BAUCUS of Montana; Senators DORGAN and CONRAD of North Dakota; Senator STABENOW of Michigan; my colleague, TOM DASCHLE of South Dakota; and others who have risen on the floor to talk about the urgent need for disaster relief to the agricultural sector of our economy. It seems extraordinary to me that at a time when we have passed disaster relief for earthquakes in California, hurricanes in Florida or New York or whatever—whenever there is a natural disaster that has occurred, our country has come together. Our colleague, BEN NELSON of Nebraska, suggests perhaps we ought to give names to these droughts. If it was Drought Hugo or Drought Andrew, perhaps there would be a different perception at the White House.

I was profoundly disappointed this summer when President Bush traveled all the way to Mount Rushmore, in fact, to announce to the agricultural sector that there would be no relief other than what meager amount there might be available in the farm bill. That was never designed to address natural disasters. We have always dealt with disasters in the agricultural sector or any other sector of the economy on an individual basis. Some years we have them, some we do not. There is no slush fund in the farm bill designed to be utilized for a disaster relief. It is simply not put together that way.

Yet we know we could do a full \$6 billion level of drought relief and do it in a fiscally responsible fashion because, in fact, the farm bill, over the course of this next year, is going to be using less countercyclical payments, and those payments will not be required, and that will come to around a \$6 billion savings. It is not a technical offset, we know that, but it is a fiscally responsible way we can go about doing this.

But to single out agriculture for the first time ever in this unprecedented way strikes me as an extraordinarily bad precedent. Republican and Democratic administrations alike in the past have supported disaster relief when disasters occur. It is not like we seek relief every time we have a little shortage of rain or a little problem of one kind or another. That is the nature of agriculture. But what we have here is a devastating circumstance that has damaged agriculture in a significant way in some 37 different States, at least, across the country. Yet we have an administration for the first time ever saying we will help tornado victims, we will help hurricane victims, will help earthquake victims, but if you are in the agricultural sector, forget about it. We are not going to be there for you. That is a precedent that is of profound consequence to the agricultural sector all across our country.

In South Dakota, the State university tells us the loss to the economy is already in excess of \$2 billion in our small State. Obviously this ripples up and down every Main Street of every

community. Those who are the least capitalized, the younger producers, are the first to be forced off the land at a time when we have a demographic problem as it is in terms of keeping our young people and young leaders in our rural communities. It has an enormous impact. We will be feeling the effects for years and years to come. Even if we were to have this disaster relief, as Senator BAUCUS well knows, this would not make people whole. This would not make it as though the disaster had not occurred. This would simply get people by through the winter so they can know whether they have to continue to disperse their herds or whether they would continue to farm at all—they would have that knowledge. They would be in the hope next year things would turn better.

As it is, we have had a 2001 and 2002 drought, 2 years back to back. On top of that, we have unfair trade policy, concentration in the agricultural sector, and all kinds of conditions at work to lower the price that our producers get in too many cases and it simply gangs up on our producers to the point where income is falling off a radical level this year—down at least 23 percent this year; last year it wasn't good. What we are going to find is a depopulation of this part of the country.

If we were seeking something unique and special for the agricultural sector that no other sector gets, it would be one thing, but what we are looking for is equity, fairness. I ask my good friend, the Senator from Montana, who has played such a lead role in helping to raise this issue, is there any logic, is there any equity in singling out the agricultural sector to be devoid of any kind of disaster relief as opposed to any other sector that faces a natural disaster in America? Why should agriculture be the one sector that is told to drop dead when you have a natural disaster in your region?

Mr. BAUCUS. I thank my friend. Frankly, I was going to ask him roughly the same question; namely, what possible reason could the administration have, the other side of the body have, for saying no? What possible reason? Can you even think of a reason? The only one I can think of is, perhaps, that it costs money. That cannot be a reason when we spend so much money in so many areas where there is no disaster, no emergency. This is black and white. This is so easy. As the Senator has so articulately said, in so many instances it is the American way to help parts of the country that suffer natural disasters, America is there. America has a big heart. We are there. We are Americans. We work together to help other Americans who suffer disasters.

The Senator has mentioned earthquakes. We know of the devastating earthquakes, say in California and we were there. We know of the devastating hurricanes in Florida or on the eastern coast, and we have been there. We know of other floods and we have been there. All of us together have been

there. As the Senator said, it has been nonpartisan, it has just been America.

But for some reason, and I cannot fathom what the reason is, the White House said no to this disaster; said no. The other body, on the other side, said no. The only possible reason I can think of, as the Senator has suggested, for some reason they think they can get away from it because farmers and ranchers are kind of stoic. They are good people. They do not raise the rafters. They don't take to the streets. They are good, solid people.

I think the Senator from Minnesota made a good point earlier. He said, and frankly this is very poignant, it is ironic: When our beloved late departed colleague, Senator Wellstone, often said, there are other people—there are law firms, lobbyists, who can represent big companies in Washington, DC. But he, Senator Wellstone, was there to represent the people who don't have big lobbyists and well-heeled people. He, Senator Wellstone, is there to represent the people. That is our job. It is the job of both sides of the aisle, to represent the people. It is the job of both ends of Pennsylvania Avenue to represent the people.

Now we have our nation's farmers and ranchers, down and out—there are not better, more decent, hard-working, wonderful, people in America than our farmers and our ranchers. They don't complain. They work really hard. They do their very best. Yet the administration and the other body is turning their backs to them.

It reminds me sometimes of New York. The current occupant of the Chair from New Jersey certainly knows this phenomenon. Certainly, when an administration or Congress says no to something New York wants, the headlines are: Drop dead. The administration says drop dead.

Clearly this administration, the other party, to our farmers and ranchers has said: Drop dead.

The Senator made another excellent point; namely, the farm bill is not designed to take care of natural disasters. You must have a crop to participate in the Farm Bill. There is no slush fund, the Senator said, in the farm bill.

The farm bill is irrelevant to this phenomenon, this disaster, we are facing. For the life of me, I cannot understand. Maybe drought is just a "silent killer," as some of our colleagues mentioned earlier. It is not on the front pages. It is the silent killer in different parts of the country. You do not see it coming slowly, but it just as pernicious and devastating, if not more so.

Mr. JOHNSON. Mr. President, I thank my colleague for his insight because I think he is exactly right. While the damage is as great as with any other disaster, it takes a matter of days and weeks and months for this to occur, as opposed to the headline-grabbing earthquake or tornado or hurricane that may take a day or two and grab headlines.

I invite my colleagues from the House who have refused to even hold

hearings on this issue, much less have a vote of any kind on disaster relief, and I invite the administration to come to my part of the country to look at what has happened to those fields, to those farms, and to those ranches. The liquidation of herds has already taken place. The equity built up for generations has been lost over the course of this last year. Again, we find a stone wall relative to disaster relief for agriculture.

I applaud the leadership of my colleague from Montana, and my colleague from South Dakota, Senator DASCHLE, and Senators DORGAN, CONRAD, NELSON, and others who have done so much to highlight the equity and the common sense of this action. It is my hope that before we leave this place, we can in fact see to it that our rural parts of America get the same kind of attention, the same kind of concern, and the same kind of compassion that every other part of America and every other sector gets when they have unmitigated disasters facing them.

I yield my time.

Mr. BAUCUS. Mr. President, I have the floor. Before I yield time to the Senator from North Dakota, I see the distinguished minority leader. I ask if he can wait for a short while so the Senator from North Dakota can give his statement, if that is OK with the Senator from Mississippi.

Mr. LOTT. Mr. President, I would be glad to withhold. I hope it doesn't take too long.

Mr. BAUCUS. I am giving him in a little nudge.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from Montana. I thank the Republican leader. I appreciate that.

As you can imagine, this is deadly serious for the people I represent. This picture says it all. This is what southwestern North Dakota looks like. It looks like a moonscape. Nothing grew this year. It is the most devastating drought that many have faced since the 1930s. Many would say it is an even more devastating drought than we had in the 1930s because absolutely nothing grew this year. It is a devastation.

One of the newspapers in our State published this headline: "Disaster Aid Just Common Sense." This is my hometown newspaper. They said: Look, this is a circumstance that demands a response. Always before, we have given disaster assistance to every other part of the country in every other circumstance, but not here.

The President of the United States says take the aid out of the farm bill. There is no disaster aid in the farm bill. That was specifically precluded. But the farm bill can provide the funding because the savings from the farm bill will directly provide the amount of money necessary for disaster assistance.

Here is the circumstance we face, according to the USDA. Net farm income

is going to go down 21 percent even though prices are higher. Even though farm program payments will be lower, farm income is going to plunge. It is going to plunge because of natural disasters in every part of the country. Obviously, it is very acute in the Midwest—especially Montana, North Dakota, and Minnesota.

I end by reminding colleagues of what Senator Wellstone, who so tragically died, said in his last days. He was fighting for disaster aid. He said: "Politics delays aid for northwest Minnesota farmers."

Senator Wellstone may be prophetic in what he said because he was afraid that politics would kill the disaster assistance that is so desperately needed.

In my State, literally hundreds, and perhaps thousands, of farm families will be forced off the land if we don't do what we have always done in the past; that is, provide disaster assistance—a disaster package that can be fully offset and fully funded by savings out of the farm bill. Because of these natural disasters, and because we have had drought and floods, production is less and prices are higher. That means payments are less from the farm bill. That money could be used to pay for disaster assistance that is so desperately needed.

I plead with my colleagues. I plead with them. Let us do now what we have always done in the past. When any part of the country suffered a disaster, we helped. We should do no less now.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3099, the bill to provide emergency disaster assistance to agricultural producers, that the bill be read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements thereon be printed in the RECORD.

Mr. President, before I ask the Chair to put that question, let me just say that I plead with my good friend, the minority leader—soon to become the majority leader—from Mississippi. I know he is about to object. But I urge him to not object at this point.

Maybe there is a way to work something out here. I say that because this is not a political gesture. As the Senator well knows, Mississippi farmers are hurt for various reasons. As a final good-faith, bipartisan way to work something out with the White House, if he can possibly figure it out—I don't want to put the Senator on the spot. Believe me. I don't. I am only putting it this way because this could be the last day we are in session, and we still have an opportunity here. I wonder if the Senator might not object. As the Senator from North Dakota pointed out very well, there really is no cost to this because the farm bill costs will be about this amount less because of the way the farm bill works; namely, with

the drought we have less production and higher prices and much less in government payments made to farmers, it works out to be very close to the amount of disaster assistance to farmers and ranchers who suffer from a natural disaster.

I know it is a long shot. I am still going to make the request. We haven't given up around here trying to help our people.

Mr. LOTT. Mr. President, reserving the right to object, I have no doubt about the seriousness of the sponsors of this effort. Also, I am sure the administration and the Congress are going to continue to look at this to find ways to be of assistance in every way that is possible and that is needed.

There are a couple of serious problems with this, though. First of all, we do not really know what the cost will be. We are being told it wouldn't cost anything because it would come out of the agriculture bill. I thought I heard another Senator say you can't take it out of the agriculture bill that we passed because it is prohibited. I am not sure exactly how that would work.

Second, this bill came straight to the floor. It didn't come through the committee. I have a lot of faith, even though I disagree sometimes with the leadership on the Agriculture Committee. My colleague from Mississippi, Senator COCHRAN, is certainly sensitive to agricultural disasters. He will be the chairman of the Agriculture Committee next year. We will have a chance to revisit this. But no committee considered it; it was just brought straight to the floor.

For those reasons and others, and the fact that the House will not have an opportunity to fully consider it, or even take it up at this late date, I would have to object. So I do object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I am gravely disappointed that there is objection.

Our farmers cannot wait, frankly, until next year. It looks like they are going to have to wait now. Those who are still farming, those who are still raising livestock are going to have to somehow dig deeper, if you pardon the pun, to make a living, scratching off the land.

I am baffled. I am totally baffled. This case is so clear. With all due respect to my colleague from Mississippi, he made two inconsistent points. I heard no real reason, just an objection, as is any Senator's right under the rules of the Senate.

But, nevertheless, we have spoken. And I will fight this in January; that is, we will figure out some way to help our farmers and ranchers who are suffering from these disasters, just as other people around the country get aid when they experience disasters.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I thank you for this opportunity to speak today regarding the importance of disaster relief yet this year.

Now, in just the last few minutes it became fairly clear this is now going to have to carry over. And I respectfully disagree with the Republican leader that this should be carried over. I do understand the rules and will have to abide by them, but I think it is important to point out that while the legislation may wait, the people who need these funds for their very survival are not going to be able to wait. They are going to sell off their land. Many are selling their herds right now. They will not wait because they can't wait. We will have to wait for this legislation and do the best we can.

But I would like to quickly thank Senator BAUCUS and certainly Senator DASCHLE for their tireless efforts to provide drought assistance. And I certainly associate myself with the comments made by Senator CONRAD from North Dakota, who I think very eloquently laid out the numbers and what the implications are relative to the need for this disaster relief in his State.

Nebraska isn't much different. Much of our land looks like a moonscape because the pastures have had inadequate precipitation for a number of months and, in many cases, years, and they do not come back quickly. Without water, without snow, without the precipitation required, the grass simply will not grow.

This body has twice passed drought assistance—twice. We first passed it as drought relief. Then we passed it as part of the Interior appropriations process. We tried to include it in the farm bill.

Yet as we come to the conclusion of this 107th Congress, the House has failed to act. We must try one more time to get the point across so that, as the year turns from 2002 to 2003, there will still be a recollection that just because the year has changed, the conditions have not changed; they continue, unfortunately.

We are here not to make a point, although a point must, in fact, be made, but to get the necessary drought assistance for our farmers and ranchers in those areas of our country that are experiencing a continuing drought, a multiyear drought, that is devastating to their economic well-being today and threatens to be even more devastating in the days ahead.

Some are worried, apparently, about the cost. I, too, as a fiscal conservative, am worried about the cost. But I must ask, what would we do if it was a different kind of natural disaster, let's say a hurricane or a flood or an earthquake, some other kind of disaster?

It is not that the people in this body are not worried about the cost; it is that when we have emergencies, we respond to those emergencies without looking for offsets because we recognize emergencies are special situations.

They cannot be simply provided for within the current budget or in a future budget.

On disaster relief, the Congressional Budget Office has said Government spending is down, almost enough to pay for this disaster relief, because of this year's high commodity prices. Why cannot we see our way clear, in some manner, before the end of the year, or right after the beginning of the new year, to put disaster relief on the continuing resolution or be the first order of business in the next Congress?

If some believe this drought is really not as damaging as other natural disasters, I invite them to come to Nebraska and visit with our farmers and our ranchers and take a look at the landscape and begin to understand that if our farmers and ranchers are unable to make it financially, the lenders will require them to sell their land, to sell their herds, to go into bankruptcy.

This damaging drought is not only a problem for farmers and ranchers, but it devastates main street Nebraska, main street North Dakota, the main street in any community that depends primarily for its existence on successful agriculture. If you talk to the merchants in these small communities, they will tell you what is happening to their business. They are going under. They are not making it. They are worried about not only next year but making it this year. Because if you don't have money coming from agriculture, these communities are going to wither, and they are not going to be able to make it.

So I only suggest, half in jest, that we begin to label droughts, because if this was "Drought Andrew" or "Drought Margaret," it would have some identity that could attract emergency aid for a disaster. We make a mistake in not having these droughts named after an individual, as we do with hurricanes, because then these natural disasters, these natural events, that occur over a continuing period of time might have a substance that could attract the attention of those who are today saying: Well, let's put it off until next year.

I can assure you, if we had another type of disaster today, it is very unlikely it would be put over until next year. If we had had a hurricane last month or the month before, I can absolutely assure you, it would not have been put over until next year.

I don't think it can be any more clear to me that America's farmers and ranchers need this effort in our Senate to go forward. We need the House to pass disaster relief. I have seen so much of the damage firsthand. I have been across the State. I see the reports. This summer I was on a dryland farm that has had crops—some good, some bad—for 70 years. During the Dust Bowl years that farm produced a crop. This year there is no crop—for the first time in 70 years, and perhaps long before that, certainly in the recollection

of the owners of that farm. They can only go back 70 years. But they know there has never been a year until this year where they have not had a crop.

A family farmer in my hometown of McCook, NE, Dale Dueland, whom I have known since the days he crawled across his family's floor—he is not going to like me saying that, but I remember when he was that little boy in that farmhouse, and today he is a man with children, and with a successful farming operation, except for the drought. It is not simply because of prices but because it does not matter what the price is if you do not have a crop.

He does not have a crop. He said he would have a zero yield on his 900 acres of dryland corn. It would not matter if corn went to \$5; if you don't have anything to sell because of a disaster of this kind, you are not going to be able to make it. His poor crop performance is not the result of poor planning or poor farming or nondrought-related weather. This is the result of a natural disaster that has been going on in some cases for over 2 years.

For much of my State, this is, in fact, a no-yield year or, at best, a low-yield year.

Al Davis from Hyannis, NE, told me that "each day places another nail in the coffin of many individual ranchers in Nebraska and on the Great Plains. Many ranchers have already thrown in the towel and are liquidating portions of their herds," which will have an impact not only today but tomorrow, the next year, and the next year, because rebuilding herds is not a singular event that occurs in a short timeframe. It takes years to build a herd. It takes only days to liquidate a herd.

Annette Dubas, who owns a ranch and farm in western Nance County in Nebraska, told me that after the third year in a row of drought conditions, some farmers in her area have already been forced out while others have been working two jobs just to be able to keep their farm going. That is neither a happy situation nor is that a good thought about what the future is going to hold. They are going to have to be able to sell or they are going to have to be able to have a crop or they are simply going to go out of business.

These are not big time corporate farms. Nebraska law bans corporate farming. These are family farmers who are being driven out of business for the first time in generations. These farms have been in their families for many generations; in some cases, 100 years or more. Farmers and ranchers have not only been let down by Mother Nature, they have been let down by those in the Senate and House who have blocked efforts to provide disaster relief despite its severity and despite CBO's savings indications.

We can't keep denying relief to those in need. Maybe the procedure is that it be put over for another couple months. But it must be one of the first things, if not the first thing, that this Senate

and the House take up after the beginning of the year in the new Congress. We cannot allow the House to remain idle on the issue. We need the White House to support this bill, and we cannot allow objections from those few who don't understand that this drought is no different than a flood or a hurricane or an earthquake to stop us from providing relief. We must, in fact, recognize the savings from the farm bill are there. And if need be, we need to get it as part of this drought assistance.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I want to say, before the Senator from Nebraska leaves the floor, that the statement made by the Senator from Nebraska, former Governor, should be a primer for someone trying to lay out a case. He laid out a case as well as I have ever heard. He talked about the State itself, about individual people. It is compelling.

Nevada, of course, does not have large agricultural interests. We have some agricultural interests. But the Senator from Nebraska has done as good a job as I have ever heard in presenting a case.

I hope the people of Nebraska know what an advocate they have in the Senator from Nebraska. When students study how to lay out a case, whether it is for farm aid or whether it is for anything else, reviewing the statement of the Senator from Nebraska makes the case in point.

Mr. NELSON of Nebraska. Mr. President, I thank my friend from Nevada. The challenge we have in Nebraska is laid out by the fact that this is about the present but also the future. The future will be dim if we are not able to take care of the problems that have developed in the past and continue today. It is about young people, the future of the State, and the future food needs for the people of this country. Everybody will be continually adversely affected if we don't remedy this situation as soon as possible. If it can't be before January 7 of this coming year, it would still be early enough.

The PRESIDING OFFICER. The Senator from Michigan.

BAY MILLS INDIAN COMMUNITY LAND CLAIM
SETTLEMENT ACT

Ms. STABENOW. Mr. President, I rise today to discuss another bill, a very important bill to communities in Michigan, a bill I introduced earlier this year, S. 2986, the Bay Mills Indian Community Land Claim Settlement Act. I also, on a personal note, thank Patty Bouch of my staff for her excellent work on this issue. She has been diligently focused for a number of months now in working with all those interested in this issue.

S. 2986 provides for congressional approval of a land claim settlement agreement reached earlier this year by the State of Michigan, Governor Engler, and the Bay Mills Indian com-

munity of Brimley, MI. The agreement settles the tribe's longstanding claim to over 110 acres of land that was once deeded to the Governor of the State to hold in trust for the ancestral bands of the Bay Mills Indian community.

This land, now called Charlotte Beach, MI, was later sold for unpaid taxes and without the knowledge of the bands or consent of the State. In agreeing to extinguish the historical land claim in the area, the Bay Mills Indian community will be granted alternative lands in the State as outlined in the settlement agreement. These alternative lands are located in Port Huron, MI, and would become part of the reservation of the Bay Mills Indian community.

Furthermore, the legislation directs the Secretary of the Interior to take these alternative lands into trust as land obtained in a settlement of a land claim under the Indian Gaming Regulatory Act. The Senate Committee on Indian Affairs held a hearing on S. 2986 on October 10 of this year. I am very appreciative of Chairman INOUE's willingness to hold the hearing, particularly that week, in light of the fact that the Iraq resolution was being debated at that time on the floor. It was a very serious week with much happening. I am grateful for his willingness to hold the hearing and to work with me on this issue as we have moved through the process.

The hearing afforded me and House colleagues in attendance and my constituents a forum to explain the merits and the need for the legislation. I appreciate the fact my House colleagues, Congressman BART STUPAK and Congressman DAVE BONIOR, were in attendance. They testified in support of S. 2986 as it directly affects their current congressional districts.

Before the committee, Congressman STUPAK discussed his past efforts to remedy this land claim for the Charlotte Beach landowners in his district. He has worked on the issue for the last 8 years. He has been trying to resolve it. He believes that S. 2986 will grant the clear property title to the landowners in Charlotte Beach, MI who have inadvertently been involved in an issue greater than themselves.

The settlement of this land claim will also greatly benefit a community in Michigan. Port Huron, MI is a community that is in great need of new economic development and jobs. The citizens of Port Huron can look directly across the waters at a casino in Canada—right across the bridge. There is a large bridge that goes from Port Huron to Sarnia. They watch every day as people drive across that bridge, citizens of Michigan and the United States taking their dollars to Canada where there are more jobs now as a result of that establishment.

On the other side we have a community desperately in need of jobs. This community has wrestled with economic development and what to do. In June of 2001, they had a referendum

and the voters of that community, after thoughtful discussion and debate, voted by a 55 to 45 percent margin to show their support for potential gaming activities in their community.

This was done, as in any community, with thoughtfulness about what the alternatives are. I know they are very frustrated at the fact that they can look at job loss, economic loss right across the river from them.

Should my legislation pass this Congress, Port Huron could be the last U.S.-Canadian border crossing in my State to have gaming, which would provide some desperately needed economic development and job creation for a community where the unemployment rate exceeds both the State and the national unemployment rate.

Unemployment in Port Huron is nearly 12 percent and the community desperately needs new economic development and jobs. They have a plan now. Community leaders have come together and developed a plan that will work for them. It will create jobs in the building and construction industry, and it will create long-term jobs in the service industry as it relates to this project. They are urgently asking us to pass this legislation. They are ready to go to work and get it done. They ask that we pass this now in the final day of the session. It is very important to them that this be passed this year and not next year.

Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of S. 2986 and the Senate proceed to the immediate consideration of the bill; that the bill be read the third time, passed; and that the motion to reconsider be laid upon the table, without any intervening action or debate.

Mr. REID. Mr. President, reserving the right to object, first, let me say to my dear friend, the junior Senator from Michigan, I don't oppose Indian gaming. I am responsible for writing the Indian Gaming Act. It was done many years ago. I am still a member of the Indian Affairs Committee. I haven't liked the way the law has gone with the Indian Gaming Act, but I follow what the courts have decreed.

I think there have been some very good things happening in the country in Indian gaming. They have been taken advantage of on a number of occasions, but that is the way it is in a lot of different businesses. I don't oppose Indian gaming, I repeat. While I had some concerns initially, they basically have been met, and I have had some very good relations with Indian gaming operators and operations across the country.

I oppose this legislation that my friend from Michigan has asked be passed by voice vote today. I oppose it for a number of reasons, not the least of which is that the legislation would undermine the gaming compacts that were approved by the Michigan State Legislature after years of careful and deliberate negotiations.

Senator STABENOW's bill would circumvent the terms negotiated in all 11 tribal-State compacts, including the compact to which Bay Mills is a party, which prohibits off-reservation gaming in the absence of a revenue-sharing agreement involving all of Michigan's Federally recognized tribes.

Additionally, in recent gaming compacts, the tribes involved all agreed to limit themselves to one gaming site for each tribe; yet this legislation would allow Bay Mills, which already has two gaming facilities, to open still another facility hundreds of miles from its reservation and in direct competition with the tribes in the lower peninsula.

Secondly, allowing a tribe to settle a land claim and receive trust land hundreds of miles from their reservation for the express purpose of establishing a gaming facility sets a very dangerous precedent.

This pursuit of off-reservation gaming operations should continue to follow the procedures outlined in the Indian Gaming Regulatory Act, Public Law 100-497, which authorizes tribal gaming operations on off-reservation "after-acquired lands" where the land to be acquired has no relationship to the land upon which the claim was based.

Let me say that the first gaming compact ever approved with an Indian tribe in the history of the country was done in Nevada. So it is not as if Nevada is here opposing this request. The first compact ever approved in the country was in Nevada. That is still an ongoing operation and a very successful one.

The proposed casino would be located just north of Detroit on a major link to Ontario that is in the lower corner of the lower peninsula. Bay Mills is located in the upper peninsula. The legislation is fundamentally flawed because it allows Bay Mills to establish gaming facilities under the guise of settling a land claim.

The land claim is simply—and everybody knows this—an excuse to take land into trust for off-reservation gaming.

I object.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. WYDEN. 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. WYDEN. Mr. President, I ask unanimous consent that I be permitted to speak for up to 15 minutes and that the time be charged postcloture.

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

HEALTH CARE THAT WORKS FOR ALL AMERICANS ACT

Mr. WYDEN. Mr. President, recently I introduced with Senator HATCH

health care legislation, the Health Care that Works for All Americans Act. I come to the floor today because I think many Senators are frustrated about the inability to make more progress on the health care issue in this session of the Senate. I want to take a few minutes and talk about what I think the key principles are for this country to make headway with respect to health care.

The three principles that I believe are central on this health care issue are, first and foremost, to make sure the public is involved from the ground floor. Again and again, what we have seen is health care legislation proposed that is attacked by special interest groups, and then it goes nowhere. The public gets understandably confused about the discussion, and the bill dies.

Under the Wyden-Hatch legislation, the public would get the first crack at looking at the key issues, which are: What are the essential services that people feel strongly about? How much would they cost? And who would pay for them?

The second feature of our legislation is that it establishes a process to ensure that Congress actually votes for meaningful and comprehensive health reform. The last time Congress took a crack at this, almost a decade ago, there were not even votes in Congress on the legislation.

The third principle we ought to zero in on with respect to health care for the future is that it has to be bipartisan. The Wyden-Hatch legislation is literally the first bipartisan effort in comprehensive health reform in a decade.

I come to the Chamber today to say those three principles—involving the public at the outset, ensuring there will be an actual vote by the Congress on comprehensive legislation, and that the bill be bipartisan—ought to be the core of the Senate's effort to reform the health care system.

Today I wish to take a couple of minutes to talk about a central part of our legislation, and that is what to do about rising health care costs in America.

Rising costs in American health care are a runaway train, and the American people have literally been tied to the track. Again and again, small businesses come up to us and say they have been subjected to 15-, 20-, 25-percent rate hikes year after year. This is all before the demographic tsunami comes in 2010 and 2011 when we will have millions of baby boomers, and right now millions of working families, some with insurance, some without, that cannot afford doctor visits and disease treatments and the drugs they need. So certainly at the center of any effort to reform health care has to be putting the brakes on those rising costs that are literally a runaway train in our society.

There are going to be tough choices. If resources are limited, we have to make some tough calls about how to

allocate those resources and to focus on some of the ethical and moral questions that are inherent in rising costs. The tough moral and ethical considerations that will be necessary to contain them are stark realities, but they have to be faced if this country's health care system is going to work for all.

My colleague from Utah, Senator HATCH, and I have proposed in our legislation, the Health Care that Works for All Americans Act, a specific plan so that citizens can face those realities and fashion a better health care system.

Under our proposal, the American people will have a chance—a chance they have not had in 57 years since health care reform was tackled by Harry Truman in the 81st Congress—the American people will have a chance, before the special interest groups have at it, to talk about the kind of health care system they believe makes sense for them.

Our legislation has two major components: A public participation process at the outset over a relatively short period of time, and a guaranteed vote in both Houses of the Congress on the people's recommendations.

When it comes to health care costs, there is a lot for the public to examine. We are now spending 15 percent of our gross domestic product on health care. The last time it was looked at, the country spent more than \$1.4 trillion on medical care, a 10-percent increase from the previous year.

If you divide \$1.4 trillion by the number of people in this country, it comes to almost \$5,000 for every man, woman, and child. Tens of millions of our citizens, in addition, slip through the cracks every day, even as our Nation pours more and more money into health care.

We are going to have to take a look at where the money is going. A study that has now been published on the Web site of the journal Health Affairs attributes spending increases primarily to higher hospital costs and prescription drugs. Hospitals are raising prices to make up for declining insurance, Medicaid and Medicare reimbursement, and the money they lose treating patients with no insurance at all. Moreover, a backlash against the tight hospitalization controls of managed care has clearly contributed to rising costs.

There are a host of relentless forces converging on American health care. Technological innovations seem to be coming at us from every area, and each miracle cure comes with a high cost. More and more health information is available through the Internet through sites such as WebMD and health.gov. It shows up on the ticker on all the 24-hour news channels, and each new discovery drives up the demand for care. If CNN runs a story on a medical breakthrough at 9:30 in the morning, it seems that an hour or so later we will be getting calls at our offices asking if Medicare or Medicaid or various insurance plans will pick up that coverage.

We have an extraordinary appetite for health care, for new treatments, but sometimes when we order these, we are not sure we are getting what is medically effective. We are not sure we are getting services that are worth the money. And most importantly, there is no way to measure it.

This is all compounded by the baby boomer explosion. Already, elderly people make up 15 percent of the population and spend 40 percent of our health care dollars. Folks are not just getting older, they are living longer. Those additional lives and the care that is necessary is going to require more funding. Life expectancy has risen more in the last 50 years than it did in the preceding 5,000. In the last months of their longer lives, Americans are spending more money than ever on health care. But money does not always give the best results for a suffering individual.

As a direct result of health spending increases in 2001, the Health Affair Study that I noted said health insurance costs have risen sharply, but at the same time coverage is getting harder and harder for many to get. The costs have gone up two ways. The first is with simple premium increases. Insurance companies are asking purchasers to pay more for the policies. The second way is through something called buydown. Employers who subsidize insurance reduce available benefits and ask employees to pay a higher share of the subsidized premium. Employees often get lower wages, even as they pay more for health insurance, with no guarantee their insurance will meet their needs. When you combine that significant hike in premiums—12 percent has been one assessment by the Kaiser Foundation—with a 3-percent increase in the number of cases of the buydown, the total cost of insurance has risen about 15 percent this year.

Nationally, businesses are still paying three-quarters or more of employees' premium costs, but it is harder and harder for companies and individuals to absorb those cost increases year after year. Fully 60 percent of those who have no insurance work for small businesses. For the self-employed or for those who have to buy their own insurance, premium increases at this point have priced many plans out of reach.

If someone is listening today and saying, "The health care system works fine for me," let's also reflect on the fact that while it may work for you, it is not working for tens of millions of others. The fact is, every single day in America those who have no coverage, those who are going without, in effect, get subsidized by those who do have coverage.

If an individual listens today and says, "I am in pretty good shape; things are going well for me," I only point out for the millions who do not have coverage right now, those people are subsidized by those who think everything is fine.

The fact is, it is just not right to leave millions of Americans in this

country with a feeling of helplessness and a sense that when they go to bed at night they can see that train, that runaway train of health care costs I have mentioned bearing down on them.

The legislation Senator HATCH and I have proposed gives Americans the power to put the brakes on rising costs. It offers regular citizens the opportunity to make tough choices about spiraling medical bills. We will be addressing, if our bill can pass, the tough questions of health care directly related to our families: The question of what kind of care do people believe is most essential; how much are people willing to pay; how do you contain the costs without sacrificing quality of care; what about the government or private business being required to pay part of the cost.

My bottom line is pretty simple. It is time, finally, after 57 years of trying the same thing—writing bills in Washington, DC, only to have them attacked by special interests—it is time to try something different, and that is to give the people of this country a chance to make the judgment on calls with respect to what kind of health services they want, how much those services are going to cost, and who is going to pay. The alternative is to continue to spend more and more on a system that, while scientifically prodigious, is flawed in many of the administrative ways in which it is carried out.

At a time when America is becoming a nation of health care haves and have-nots, this country can do better. We have many of our providers and businesses already making tough choices as they try to deal with growing costs. I know scores of small businesses in Oregon and across this country who are dying to offer their people good coverage, and they have had difficulty offering it without effective policies to contain those rising costs.

Senator HATCH and I believe with a different approach it will be possible to reign in the costs, but it all has to begin—and begin in a fashion that has not been tried for 57 years—with the American people being given the opportunity to make some of the tough calls. The fact is, the options in the cost containment area do involve hard calls. The Kaiser Commission, for example, on the uninsured, on Medicaid, recently laid out a number of cost containment measures currently employed by our public health programs. They range from some that I think are progressive to some that I think would make the problems that we have today in health care even more serious.

According to Kaiser, the main way public health programs are cutting costs is by cutting payments to providers. Private insurers then follow suit, paying less to providers for each patient seen and for each procedure performed or for each bed the hospital provides. Then, in effect, the Robin Hood approach kicks in in a dramatic way with those who do get payments,

in effect, giving services to those who lack it. But when the cutbacks get severe, when the reimbursements continue to go down as we have seen in so many facilities, those providers, those health care facilities that have a great sense of community and caring, just cannot offer the services anymore. Instead of or even in addition to cutting provider payments, some insurers and public health programs are cutting back on what services they will cover, reducing the availability of some services. Unfortunately, services are often cut with no regard to their overall effectiveness—only for their cost.

Many types of health care programs are asking patients to pay more at the time of service—higher copayments. Higher copayments are also becoming a regular feature at the pharmacy, as prescription drugs are one of the biggest reasons behind rising costs. Options include those higher copays, requiring more prior authorization for prescriptions, requiring or covering only generics, or even limiting the number of covered prescriptions per month.

I want to pause to note a couple of issues here—first, that prescription drugs are on the table in the Wyden-Hatch legislation, just as long-term care and Medicare and Medicaid and private insurance are. Senator HATCH and I are placing no limits on what the American people can discuss and decide to change. And second, efforts to cut rising drug costs are perfect example of the range of choices that folks will face in this national discussion. Some of the choices for cutting costs seem good and fair. Some seem punitive and unfair. Senator HATCH and I just believe that Americans have enough sense to tell the difference.

People participating in the health care discussion prescribed in our bill will take a look at some of the toughest cost-cutters being employed today. In the case of private insurance, companies refuse to cover pre-existing conditions. They deny policies to people whose care is likely to be expensive. In the case of public insurance, States make last-ditch efforts to cut costs by limiting the number of people to whom coverage is available.

All across America today, mothers will tell their children that you don't always get everything you want in this life. That's the stark reality people are going to have to face when it comes to reforming the health care system. The key will be to find solutions that do the best job of splitting the difference, cutting costs and providing essential, effective health care services.

Cost containment is not enough. Our health care dollars must buy quality care, that not only treats disease but also prevents it whenever possible. That's the best cost containment. Failing that, care that manages diseases to slow or prevent their progression may be the next best thing. Disease management is a growing component of health care today. Instead of allowing

months to go by between doctor visits, patients with chronic illnesses meet or speak regularly with nurses or other health care providers to monitor their specific condition. Doctors have concerns about their patients being treated or advised by others, and all the kinks aren't worked out of this system yet. But the result, in many cases, is a reduction in the number of expensive complications and hospital stays.

I want to see Americans educated about disease management, preventive care, and every other option available for reforming health care. That's why the Wyden-Hatch Act calls for the publication of a Citizens' Guide to the Health Care System. A panel that's a cross-section of Americans using and running the health care system today will produce it. It will be designed so folks can be fully informed when the public participation portion of the process begins.

To me, some of these cost containment methods seem fairer than others; some seem more sensible than others. The American people should have the change to decide—because what's being done now isn't working. Benefits are usually considered in terms of cost-benefit, which basically measures how much money you save for every dollar you spend. Another way of looking at procedures and practices is their cost-effectiveness, which is how much good you do with every dollar.

Let me explain why I believe it is folly to continue to address questions of health care and health coverage as purely economic considerations. The problem is, and families know this, it doesn't all boil down to money. You're not just dealing with a bottom line. You're talking about maintaining people's health and about the basic care they have a right to expect. Sometimes you're literally talking about life and death. It's time America started recognizing its ethical and moral responsibilities with respect to health care, and acting on them.

This is not the seismic shift it sounds to be. Just as individual insurers and state health administrators are making choices about how to contain costs, American citizens are making moral choices around their kitchen tables every day. People already have to answer questions like, it okay to put off the colorectal screening my insurance won't cover because I really need to pay for my mother's prescription medicines? If we pay for Jennifer's broken arm, does Bobby have to wait a year to get braces?

Doctors and hospitals are already making ethical choices about what care to get and give, or how much cost the hospital is willing to absorb before cutting services. The question that must be answered is still the same: do Americans want these choices made as they are now, in a back-door way? Or do they want a chance to discuss these issues at the front door, decide on them as a community, and then ask Congress to deliver a health care system based on the country's values?

A better way to make decisions is to look at what we are and are not able to do on a societal level, instead of deciding what we are and are not able to do for a give patient at a given time. If that sounds tough, it is. But Mr. President, I'm here to urge that America tackle these issues head on and turn them to the advantage of as many people as possible. That's far better plan than letting back-door decisions suck away more funds and resources and deny people decent care.

It's time to look at questions on a broader scale. Is \$315,000 of public money better spent on one liver transplant and follow-up care for a 70-year old man with cirrhosis, or on 3,000 preventive well-baby visits costing about \$100 each? Does a woman with known risk factors for breast cancer have a right to a mammogram every year even if I have to help pay for it?

Because these choices are so tough, a variety of think tanks and great minds have tackled these issues, including Arthur Kaplan at the University of Pennsylvania, Daniel Callahan at the Hastings Center and others. I admire their thoughtful work. Their conclusions and study have provided valuable direction on these issues.

I believe that at the end of the day, only the citizens of this country can make the fundamental choices that affect their health and their well-being—and health and well-being of the society in which they live.

Researchers shows that Americans believe that there are certain basic rights when it comes to health care and no one should be forced to go without. If it's been confirmed that the American people feel that way, the key is to find out what the basics are and go from there. This country won't get anywhere on health care reform until we do.

Let me explain a little further. Most Americans operate on the idea that they should have the latest tests and treatments on demand. That's possible—if America spends more of its dollars on health care and other budget items like educations take the hit. But spending more doesn't necessarily buy better health care. More and more people are being let without even the essential health care services, let alone the latest drugs and procedures.

Let me be clear. I'm not talking about keeping people from spending their own money on whatever kind of health care they want. If someone wants to rebuild himself limb by limb and has the money to pay for it, I say go for it. But when it comes to the health care system as a whole, we can't just spend money for the sake of spending money. Health care dollars must be used in better ways, or the people of this country must decide that it's okay to keep spending and keep leaving people out.

I don't believe that's the way America wants it to work. As Marcia Angell wrote in the New York Times, there are some essential services in which we

all agree the public has stake, and health care should be one of them. For example, no one I know thinks of our country as a place where it's okay for babies to go untreated because Mom and Dad are in financial straits.

Postponing care sometimes places more strain on the health care system. If a baby doesn't get treated at the beginning of an ear infection, he may have to be treated as it goes further along, probably in the emergency room at a much higher cost than if he'd had a pediatrician to see in the first place. If he's not treated, and ends up with hearing damage, the costs will skyrocket not only in the health care system, but also in the educational system to meet his special needs.

More than a decade ago, the people in my home State of Oregon realized the interconnectedness of everyone in the health care system. Folks realized that no amount of money would ever be enough to pay for all the health care Oregonians wanted, and that too many people were doing without health care at all. So the people of my state took on the tough task of sitting down and deciding what the basics were, what health care no one should have to do without.

That may sound like an easy task; if you could just sit and make a list of all the things you'd like health care coverage to pay for, you would be able to do that without much trouble. But there's a flip side. The question Oregonians faced over and over again was, okay: if we want this fundamental service covered, what do we have to give up? What can't we afford to cover for anyone, if we want everyone to have at least some help? Those questions sometimes translated into heart-breaking real-life situations, where people using public health care couldn't get the latest and greatest innovations on demand. But lives were saved because people using public health care were able to get the basic when they needed them. That tradeoff, for the most part, made the tough choices worthwhile.

Now, Senator HATCH and I are not asking America to come up with a list of 880 health procedures in order of importance. But we are looking for a general idea of people's priorities—so that Congress can act on them when it's time for health care reform.

I believe there are some priorities our people already agree on. I think they agree that 18,000 Americans shouldn't have to die every year just because they can't get health insurance and health care. I believe 280 million people will agree they'd rather cover the cost of preventive services than get stuck with the much higher costs of preventable diseases that go unchecked. I think with some serious discussion, they can agree on some basic concepts of how and where our limited health care dollars should be spent to help the most people. I believe 280 million people can agree on a lot more than you think.

Some might say Americans aren't going to want to talk about this, that the idea of not paying for someone's liver transplant to take care of babies isn't fit talk for the public. But I believe Americans have a right to this discussion. These choices are going to get made, one way or the other, and I want them made in the open with the input of the people I'm here to represent. The stakes are just too high not to include the American people. And I believe they're up to the task.

To help Americans understand what's at stake, and make informed decisions, the dissemination of information will be key. I believe the Citizens' Health Guide will be a real eye-opener for most people—for instance, when they find out this: Medicare Part A will pay for prescription drugs when a patient is in the hospital. Part B will pay nothing for those same drugs on an outpatient basis. Some doctors are sticking patients in the hospital to the tune of thousands of dollars just to get their medicine to them. That money can't be spent, then, on preventive services or any other more beneficial health care concerns. Don't you think when people see the connection, they will insist on making a change?

Health care works like an ecosystem in this country. The consequence of every decision, and every reform effort, snakes through the system as a whole. Addressing health care properly, that, means addressing it as a system entire. Ad hoc is not going to work.

Just as a good doctor wouldn't prescribe a medicine that would treat one symptom but leave the disease to run rampant, it's time to stop with the piecemeal reforms that put a Band-Aid on the sucking chest wound of the health care system. To be most effective, you can't just make decisions on broken bones one day, organ transplants the next and something else the next day like they don't have any effect on each other. This country needs a way to consider the moral and ethical choices already being made that affect not just one person or one family, but the entire health care system. As hard as it's going to be, it must be done. The Wyden-Hatch bill provides a path to do that.

Yes, there are economic choices to be made about health care in this country. The runaway train of rising costs must be stopped somehow. And there are moral questions underlying every economic decision. The Wyden-Hatch proposal is built around the idea that these questions are simply too important to duck any longer. People deserve the chance to discuss their own moral and ethical priorities when it comes to health care, and to decide what's best for them and for our society as a whole. Only then can Congress deliver health care reform that truly works for all.

That's why our bill, the Health Care that Works for All Americans Act, centers on that public participation portion, and then guarantees the people a vote in both houses of Congress.

Perhaps the people of this country will choose one or more cost-containment measures being used today. Perhaps in examining their own ethics, they'll come up with new ideas. What Senator HATCH and I want to guarantee is that their voices will be heard—and that this Congress will act, with a mandatory vote in both houses—to make the people's vision for health care come to pass. I believe that if Congress chooses to put the people in charge, Americans will choose to fight rising costs, make tough moral choices, and direct this country toward better health care for everyone.

That is the point at which we have reached. That is why it is not right to leave so many underserved in so many communities without adequate health care.

I urge, finally, that as we leave and reflect on what is needed to reform the health care system in the next session, that the three principles in the Wyden-Hatch legislation of involving the money, forcing a vote in the Congress on the reforms that come from the people, and making it bipartisan guide our work in the next session.

I yield the floor.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that all time, postcloture, be considered expired except for the following: 60 minutes under the control of Senator BYRD, 70 minutes under the control of Senator LIEBERMAN, 70 minutes under the control of Senator THOMPSON or their designees; that 20 minutes of Senator THOMPSON's time be under the control of Senator SPECTER; that 15 minutes of the time of Senator LIEBERMAN be under the control of Senator DODD; 15 minutes be under the control of Senator SARBANES; 10 minutes under the control of Senator CARPER; and 10 minutes under the control of Senator CLINTON; leaving Senator LIEBERMAN, I believe, 20 minutes.

Again, it will be 70 minutes under the control of Senator LIEBERMAN; Senator DODD would have 15 minutes, Senator SARBANES 15 minutes, Senator CARPER 10 minutes, Senator CLINTON 10 minutes, leaving Senator LIEBERMAN 15 minutes, with Senator DASCHLE having the final 5 minutes to close the debate.

That upon the use or yielding back of all time, the bill be read the third time, and the Senate proceed to vote on passage of the bill; provided further that the 10 minutes prior to the vote be controlled by the two leaders, with the majority leader controlling the final 5 minutes, without further intervening action or debate.

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

Mr. REID. Mr. President, if I could further ask the Chair to consider this unanimous consent request.

I ask unanimous consent that upon the adoption of the conference report to accompany H.R. 3210, the terrorism risk insurance bill, the Senate then proceed to the consideration of Cal-

endar No. 762, H.J. Res. 124, the continuing resolution; that no amendments or motion be in order to the joint resolution; that there be up to 3 hours for debate, with the time equally divided and controlled between the chairman, Senator BYRD, and the ranking member, Senator STEVENS, of the Appropriations Committee, or their designees; that upon the use or yielding back of time, with no intervening action or debate, the joint resolution be read a third time and the Senate vote on passage of the joint resolution.

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

Mr. REID. Mr. President, the only thing I would ask is I hope, because I did move quite hurriedly here, that the time, the 70 minutes that Senator LIEBERMAN has adds up to 70 minutes. I am quite sure that it does.

The PRESIDING OFFICER. It does.

Mr. REID. I appreciate everyone's cooperation. I ask unanimous consent that the time I have just enunciated not start running until 4 o'clock so people have time to get over here. But at 4 o'clock, I ask that the time I have outlined here would begin to run and that anyone who has the floor at 4 o'clock, they would have to yield to one of these individuals who control the time at that hour.

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

The Senator from Nevada.

Mr. ENSIGN. Mr. President, I ask unanimous consent that I be allowed to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. The Senator might speak for up to 8 minutes.

HONORING THE GENEROSITY OF ANDRE AGASSI

Mr. ENSIGN. Mr. President, when I was first considering a run for office almost 10 years ago, I found a quote from Chaplain Lloyd John Ogilvie to be especially inspirational in helping me make my decision. Chaplain Ogilvie once said:

You may only make a small difference, but that does not relieve you of the responsibility to make that difference.

I want to tell you today about a constituent of mine who continues to raise the standard for how much difference one person can make.

The world knows this man as a top-ranked tennis star whose personality and success of the court have made him an American favorite. In Las Vegas, however, he's admired for his generosity and dedication to making a difference in the lives of our children.

Andre Agassi was born and raised in Las Vegas. Although he started playing tennis as a toddler, he won his first professional title in 1987. He has won at each of the four major professional tennis tournaments, and he holds a gold medal from the 1996 Olympics. As much as Las Vegans love to watch their "son" winning on the court, our hearts hold a special place for his devotion to underprivileged, abused, and at-risk children in Las Vegas.

You see, a top-ranked tennis player who has won as many tournaments as

Andre has accumulated a good amount of wealth. Throw in a few lucrative endorsement deals, and you have someone who could live extremely comfortably for the rest of his life. He could become his own island with very few cares in the world. Unfortunately, many successful people do just that.

Andre Agassi, on the other hand, created the Andre Agassi Charitable Foundation. Its Board of Directors is impressive and is led by another son of Las Vegas, Andre's best friend and president of Agassi Enterprises, Perry Rogers. I can't think of many other organizations that have made the impact that this one has. Its goal is simple:

To assist those underprivileged, abused and abandoned children who may be deprived of basic options in life. The foundation funds a combination of emotional, physical and academic programs designed to enhance a child's character, self-esteem and career possibilities.

Among the programs funded by the Andre Agassi Charitable Foundation are the Agassi Center for Education and the Andre Agassi Cottage for Medically Fragile Children at Clark County's public shelter for abused and neglected children. The Agassi Boys and Girls Club, which sees over 2,000 members during the year and features a tennis team and a basketball program, provides a safe after-school facility and a wonderful learning environment.

The Foundation, through the Assistance League of Las Vegas, provides the means for new clothes for well over 2,000 destitute and homeless children; helps to send 20 physically challenged or disadvantaged children to camp for a week each summer; and introduces fourth and fifth graders to symphonic music.

There are many more programs funded by the Andre Agassi Charitable Foundation, but I want to tell you about the Andre Agassi College Preparatory Academy, known in Las Vegas as Agassi Prep, and located in the heart of an at-risk community.

Agassi Prep is a charter school that focuses on technology, college preparation, cultural activities, and expanded involvement in community affairs. It also seeks to enhance character, respect, motivation, and self-discipline.

While HUD and the State of Nevada contributed significantly to the school, the core funding came from Andre Agassi's Foundation. The school's principal, Wayne Tanaka, is a distinguished educator who, in line with the goals of the Foundation, will truly impact the students who are fortunate enough to benefit from Andre Agassi's generosity and dedication.

I also want to share with you the reach of Andre Agassi's deep-seated concern for Las Vegas' at-risk children.

Since 1995, the Foundation has held the Grand Slam for Children concert benefits. The yearly event continues to draw some of the biggest names in entertainment, hundreds of volunteers, and crowds of almost 10,000. As someone who looks forward to this event

every year, I can assure you—there is no better show on earth. This year's benefit featured Elton John, Martina McBride, Carlos Santana, Robin Williams, Babyface, and Rod Stewart. And that's just the entertainment.

A live and silent auction before the show included sports items from Shaquille O'Neal, Wayne Gretzky, Greg Maddux, Muhammed Ali, and tennis lessons from Agassi and his wife, Stefanie Graf. I share these names with you because they are a testament to the respect that Andre Agassi and his Foundation have earned from so many different people.

When I tell you that Andre Agassi continues to raise the standard for how much difference one person can make, I mean it literally. Since its inception in 1995, the Foundation has raised \$23.6 million to help at-risk children. That includes \$5.6 million from this year's Grand Slam for Children—\$1.4 million more than last year.

That's \$23.6 million over 7 years, with every penny going to assist children. All administrative and overhead costs are funded through contributions made by Andre Agassi or Agassi Enterprises, Inc. When you step back and think about the enormous impact that this man has had in Las Vegas, it is incredible.

I share the story of Andre Agassi's impact on Las Vegas with the hope that it will challenge and inspire other successful people to make their own difference in this world. We all have a responsibility to leave this world a better place, even if—as Chaplain Ogilvie stated—we make only a "small difference."

Words are not enough to thank Andre for the way he has changed the lives of so many children. But Andre, your acts of loving kindness will touch not just the children you help today. They will make a difference for generations to come. Thank you for making a difference in our community and for setting an example for us all.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Might I inquire of the business before the Senate?

The PRESIDING OFFICER. There are 2 minutes remaining on general debate.

Mr. BURNS. I ask unanimous consent that the time I use be a part of the Thompson amendment of the homeland security bill.

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

HOMELAND SECURITY

Mr. BURNS. Mr. President, I rise today after talking with staff and going through what we are going to do with homeland security. This legislation provides the framework of the largest reorganization of Government in many, many years; in fact, going all the way back to the Depression days in the 1930s. But it is done because we are facing one of the greatest security challenges that this country has faced in its 26-year history from an enemy

that identifies with no specific nation, an enemy that has shown us that fear is really something that erodes our freedoms—and we learn how fragile they are and how fragile our economy is.

Is it a perfect piece of legislation to leave the Congress and go downtown to be signed by the President? It is legislation that he has wanted and it has taken us too long to pass.

There are parts of this piece of legislation that concern most of us. We have been around here long enough to know that once we pass a piece of legislation—no matter what the subject might be—we find that the administrative rule writers interpret it differently than we do. Sometimes the net result is not exactly how we envisioned it, and maybe not even how the President envisioned it.

There are sections in here which I am very concerned about. I think as legislators in this body we must pay attention to how the administrative rules are written and how some of the Departments are moved into one called Homeland Security.

DROUGHT ASSISTANCE

I was interested a while ago in the statement on the floor about drought assistance to our farmers. No State has been hit harder than my State of Montana. No one can argue that there is a need. In fact, we have worked for over a year and a half with our colleagues here in the Senate, in the House of Representatives, and with the administration to get relief to our farmers and ranchers. We have been unsuccessful to date for a variety of reasons.

There is drought assistance already in the appropriations process that this Senate this year did not get passed—some \$500 billion in rounded figures. But it wasn't allowed to move because of the debate on forest health.

Maybe this is the wrong place to talk about forest health. Nonetheless, I could see no logic at all in every night turning on the television, looking at the news, and watching America's forests go up in flames, and then denying the money and the change in policy—a change in policy that would have allowed us to prevent or at least take away some of the possibilities for such catastrophic fires as we have experienced in the last 2 years.

We were denied that—commonsense things, the relatively minor commonsense things that we have to do to our forests in order to make them healthy and productive and beautiful, as America envisions its national forests.

I am reluctant to raise false hopes for our farmers right now and say this is going to be done in the closing hours of the 107th Congress—unless it is done in January, or whenever we take up the appropriations bills. We have 11 more of them to pass. I imagine we will again try to develop some drought assistance for those States that have been hit hard this year by drought, and to help my farmers who are in the fifth year of drought in that part of the country.

We see a little bit of posturing going on here on the floor today. I do not like it. That wasn't the reason I was going to stand up here and talk in the first place. Nonetheless, I had to discuss this topic.

I notice that my friend from Kansas has come to the floor, and he has a problem, too, in Kansas. I think his State was probably the hardest hit this year of any State.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Kansas.

Mr. ROBERTS. Madam President, would the distinguished Senator from Montana yield for a question?

Mr. BURNS. I will.

Mr. ROBERTS. The Senator really alerted me to this. And I apologize for not watching on our closed-circuit television. Apparently some of our distinguished colleagues across the aisle are thinking about resurrecting the \$6 billion emergency disaster relief package and putting it on the continuing resolution. Is that the case?

Mr. BURNS. That was the case, plus I think there have been a couple of suggestions made by our colleagues across the aisle. That is part of it. With the House being gone and not coming back, it would seem that this would be an exercise that could not be successful.

Mr. ROBERTS. Madam President, I would like to ask if the Senator would yield for another question.

Mr. BURNS. I will yield.

Mr. ROBERTS. How on Earth do you take a \$6 billion disaster relief bill, which I happened to vote for, that was part of the Interior appropriations bill, as I recall—and, as I recall, the majority leadership filled the legislative tree and basically prevented this Senator from introducing an alternative to the \$6 billion package that this Senator thought might stand a chance of approval from the administration, might stand a chance in regard to the hurdle that any disaster bill faces to get through the House Agriculture Committee.

I am going to be very candid. There were certain farm groups and certain commodity organizations that did not want to consider any disaster legislation for fear of opening up the farm bill and having something happen to their payment limits. So you had the leadership of the House Agriculture Committee saying no. You had the administration saying no in regard to further expenditures over and above the \$180 billion we spent on a 10-year farm bill. You had the emergency assistance bill—not on Agriculture appropriations but on Interior appropriations.

Then, all of a sudden, we couldn't get any action on the Interior appropriations bill because there was a controversy in regard to forest management. Is that not the case?

I know the Senator worked very hard, because of the State he represents, in regard to forest management as part of that Interior appropriations bill. But the disaster relief money was attached to the Interior ap-

propriations bill, and then we couldn't move it. We couldn't get any action on this floor.

Is that about correct?

Mr. BURNS. Madam President, the Senator is correct. I am ranking member on that Interior Appropriations Committee. There was money to replenish the U.S. Forest Service for the moneys they had expended on fire-fighting. That was also in there and needed, and would have passed. But we got into a situation on forest health, and the other side would not budge on some very commonsense recommendations to the Forest Service on how we go about cleaning up our forests. I am sorry it happened that way.

I would say to my Agriculture leaders, to my farmers, and to the farmers in Kansas who, by the way, are not really interested in inside baseball here in Washington, DC—a 17-square-mile logic-free environment—they are interested in not only what the farm legislation that we passed late last spring would do for them but also how we deal with disasters. None of those issues were covered.

But the Senator from Kansas is right on. We have all voted for disaster assistance until we have just run our little fingers to the bone only to find it blocked by other legislation or parliamentary procedures.

Mr. ROBERTS. Madam President, I would like to ask the Senator to yield for several additional questions. I am a little confused about this.

Mr. BURNS. I yield.

Mr. ROBERTS. I have a bone to pick. I want to see if the Senator from Montana shares the same bone.

Let us go back to the original problem of why in the Great Plains and the great States of Montana, Wyoming—and move over into South Dakota, Nebraska, Kansas, which, yes, this year was the hardest hit State. Many other States incurred bad weather and disaster conditions. But why did this happen? The Good Lord was not willing. The Good Lord sometimes doesn't have the creeks rise too much, or there is too much water in terms of the creeks. From time to time we have disaster bills. They tend to come during even-numbered years, by the way.

We have made a lot of progress in crop insurance. There has been crop insurance reform. But when you have a total disaster, and you lose your grain crop throughout the grain-producing areas, you would think you would have a disaster bill.

Now, let me back up. I know one Senator from Kansas—this Senator from Kansas—who said, as we go through the consideration of the new farm bill, \$180 billion—make that \$200 billion really over 10 years because the budget was 10 years long—that you would at least think there would be some provision in there for a farmer who had no crops, no crops to harvest. The Senator knows that. You have gone through that up in Montana, how many years—1, 2, 3, 4, 5 years maybe?

Now, what did the new farm bill, I would ask the Senator, have? We had four different components, four different payments, four different ways to invest in agriculture.

We changed the old farm bill, which was a direct income supplement, to a price support farm bill, and there were four ways your farmers could be helped. No. 1, we increased the loan a tad. We decided the loan rate would become an income protection device but—guess what—the prices over the loan rate do not do you any good.

Then you had something called a loan deficiency payment. That means if the price were below the loan rate, you would get that amount. Well—guess what—the price is above the loan rate, so you don't get the loan deficiency payment.

Then you also had a target price deficiency payment. It is a little confusing, all this gobbledygook, with all the agricultural acronyms and everything to do with farm bills.

But—guess what—the price was above the target price, so he did not get or the farmer did not get or she did not get or that person did not get any help from the target price deficiency payment. So we are zero for three.

Then we had a direct payment.

Now, in the wisdom of the farm bill conference, of which this member did not serve—I am not going to get into that, as to how that ratio came down, and who was prevented from being on the conference, and who was not; I could, but I will not—but in the wisdom of the conference, they said: We are going to keep a direct payment just to make sure that if these other things don't work, and the farmer still wouldn't have a crop, the price is increased. We are going to have a direct payment. That was 6 cents a bushel in regard to wheat. And the corresponding numbers were true in regard to corn and other crops—6 cents.

Why do I mention that? Because all the way through this, both you and I said—Senator COCHRAN said, most of us on this side said—don't go down this road with this new farm bill and apply it to the 2002 crop year because any farm bill is too complex to really figure out, with all the fishhooks and all the saddle burrs, to try to get it in place for 2002.

What we would have had under the old farm bill—much maligned by the other side, constantly, day after day after day, for 4 or 5 years—the Freedom to Farm Act was a direct payment called an AMTA payment. Then we were going to double that because of the problems we were having. That was 60 cents a bushel. Now, there is a big difference between 6 cents and 60 cents.

I have given this speech to my farmers. Why do I give it to my farmers? Because they are desperate. We had the worst drought since the 1930s. It may have been hotter in some years, and it may have been dryer in some years, but it has never been hotter and dryer in the same year. So they lost all their

crops. Now, we were able to get some livestock assistance, but disaster assistance, as compared to the old farm bill, which would have provided them 60 cents a bushel, it did not happen.

So all the critics on our side of the aisle, and some on the other side, who say, well, we have a new farm bill, we are going to give the farmer four mailboxes to open—the loan rate; nope, nothing there. The loan deficiency payment; nope, nothing there. Are we going to have the target price deficiency payment? No, nothing there. We are going to have a direct payment—6 cents, as compared to the 60 cents we would have had if we applied the new farm bill to 2003.

Now, that is my bone to pick because my farmers are hurting. And now after having a \$6 billion emergency disaster bill that I voted for, in regards to the Interior Appropriations Committee, we have those with the temerity and chutzpah who will come to the continuing resolution and say, we are going to do it now, unless we shut down Government?

You know the administration is not going to support that. You know the House has already left town. You know the House Agriculture Committee, representing certain interests in agriculture, does not want to mess with the payment limitations. This is a horse going nowhere—nowhere.

The handling of this has been highly political. The election is over. There are some who wanted an issue and not a bill. They got the issue. And I guess the result in South Dakota proved that. OK, it is over. But why you bring up this particular effort for disaster assistance during this particular time is beyond me. It is not going anywhere. People crawl out of train wrecks faster than this bill will ever get passed and signed and provide real relief. And the farmers are not interested in this.

The Senator pointed out a long time ago, our farmers are not interested in politics or agriculture gobbledygook or legislative parliamentary gobbledygook as well.

I urge my colleagues who are thinking about this, don't do this. Now, when can we do this? We can do it in the omnibus bill.

We had some indication from the administration they will be a little bit more forward thinking. I don't want to leave them out of my tirade here. I am not happy with this administration. I tried to explain that wheat country was in a dire situation, that the farm bill didn't work. And it was sort of: Oh, well, you know. And we are saving money we are not spending on the farm bill, so I think we could score it. But there is no way they are going to do that.

So I just don't see why we are going through this exercise. And it has obviously got me mighty exercised because my farmers are hurting. Land values are starting to decline. Their lenders have already told them they hit their cap.

We have farmers who are mortgaging their place and their equipment in order to stay in business, and we sit here and introduce an emergency disaster relief bill to the tune of \$6 billion that is not going anywhere. That is not right, especially in a lame duck session.

So I would ask the Senator, finally, a question. You are going to work with me, I know. I just talked to the majority leader about this, and I will talk to the minority leader about this. He is a good man. He has been on the Agriculture Committee on the House side. He has been the driving force in regards to the Agriculture Committee and the farm program policy in this session.

Let's get it done in the omnibus bill when we have a chance to get it done. If we need offsets, we will find offsets. Otherwise, we are putting at great risk a lot of farmers in this part of the country on the Great Plains. Quite frankly, other people, other farmers, other farm groups, other commodity groups apparently don't care—apparently don't care. Well, by golly, I care. I know the Senator from Montana cares. So let's don't go down this road.

What is going to happen is, you are going to have to vote against a \$6 billion bill in a lame duck session of Congress, when the election is over, with no hope of actually getting the thing done. Farmers are damned tired of that, and so am I.

So my question is, to the distinguished Senator from Montana, let's work together with the plan we have already put together during the omnibus bill.

I just talked to the chairman-to-be of the Appropriations Committee, Senator STEVENS, and he said, yes, he will work with us. The administration said they will work with us. And we can get some real help to farmers at the appropriate time.

So would the Senator work with me in that regard? That is the question.

Mr. BURNS. Madam President, I would be glad to work with him. But I am sure glad we didn't get him stirred up where he is really excited about this issue. No one gets exercised more than the good Senator from Kansas.

That is the common-sense way to approach it. There is no question about it. I would like to see it happen that way.

I just wish that we could do something on forest health. I think there is a chance of doing that this time.

HOMELAND SECURITY

Madam President, before I relinquish the floor, though, I just want to express my concerns again about homeland security, and in some areas.

As you know, we have spent the last 3 years trying to pass a privacy bill. We have worked with Senator HOLLINGS, the chairman of the Commerce Committee, and also working with the Judiciary Committee. I would hope we can now do a privacy bill coming up in the next Congress.

I notice the Senator from New York is on the floor, and I am looking forward to working with her on the E-911 caucus because we know we have a lot of work to do on spectrum and spectrum management and how we apply our emergency first responders in the days to come because of this challenge we have before us. So I will be watching very closely as the administration rules are written on this piece of legislation. There it is right there. I can't even pack it back to the office. I probably couldn't understand most of what I read in there, if I did. But, nonetheless, those are the issues I think are very important.

Americans value their freedom. They value the privileges of living in this country, but they also value something else; that is, their personal privacy. A database or anything else that could be done in this is a great mistake. Whenever we start doing R&D on technologies that would allow us to invade the privacy of an individual citizen, whether it be in wireless communications or in the Internet or the firewalls we might burn, and before that technology is transferred into the agency that is in charge of gathering intelligence, there should be a firewall in there.

I hope whenever they write the administrative rules they will be sensitive to that and will allow congressional oversight before that technology is transferred. It is very sensitive.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

HOMELAND SECURITY

Mrs. CLINTON. Madam President, I want to associate myself with the remarks of the Senator from Montana about the importance of the implementation of the Homeland Security Department, particularly as it affects the privacy issues that will be raised going forward. Further, I would like to add a few other cautionary notes to the legislative record as we are about to, in a few hours, vote on this Department.

My friend from Montana raises some of the important issues, and there are indeed others as well that we will have to be vigilant about and hopefully involved in going forward.

Mr. BURNS. Will the Senator yield so I could correct a terrible mistake I just made?

Mrs. CLINTON. Certainly, I am happy to yield.

Mr. BURNS. I think I identified her as the Senator from Arkansas when I should have said the Senator from New York.

Mrs. CLINTON. I appreciate that correction.

Mr. BURNS. I would like to correct it, if I could.

Mrs. CLINTON. I thank the Senator. I appreciate that.

Mr. BURNS. I thank the Senator for yielding.

Mrs. CLINTON. I must confess I thought he was referring to the Senator from Arkansas who perhaps was in the Chamber.

As I said, I appreciate the Senator's yellow, flashing lights about some of the issues we are about to contend with going forward in the Homeland Security Department. In the months following September 11, which are really the time period that has brought us to this day, we knew as a Nation we had to take some additional steps, some unprecedented steps to protect ourselves. I believe we have attempted to do so certainly with respect to our men and women in military uniform.

I am very proud of the support we have given to our armed forces. I am proud to represent the 10th Mountain Division in upstate New York. When I go there, when I speak with the young officers and enlisted men who come to see me or when I go to Fort Drum to see them, I feel confident I can look them in the eye and tell them we are doing all we know to do to make sure they are ready, well equipped, and compensated appropriately. They are trained to the best of their abilities, and we are doing all as a Nation we can to support them.

I do not have that same level of confidence when I go to my firehouses, my police stations, my emergency rooms throughout New York. I cannot look into the eyes of our firefighters, our police officers, our emergency responders and tell them we have done all we need to do to make sure they are as well prepared, well trained, and safe in their defense here in the homeland.

So are we safer today than we were on the morning of September 11, 2001? The answer is only marginally. Because somewhere along the way, we have not kept that laser-like focus we needed to match our will and our resources and to get those resources to the front lines at home as we have around the world.

The people who we are going to count on to make our homeland safer are the ones who will pick up the phone when we dial 911. They will respond to the call. They will leave the firehouse and the police station. They will leave the emergency room. They will be there in order to protect us.

The votes we cast this afternoon for the creation of a Homeland Security Department are just that. They are votes to create a Department here in Washington.

My hope is the approval of this bill will set into motion a necessary reorganization process that will ultimately result in improved coordination, information sharing, and a stronger, safer America.

But we have to be absolutely clear to the American people about what it is we are voting for. This bill has to do with structural reorganization. There are many things in this bill we absolutely need to make us safer. Unfortunately, there are many things in this bill that have absolutely nothing to do with our security.

I am concerned that Americans will believe, because we have passed this bill, our Nation is safer. But when we

pass it and when Americans read about it or see coverage about it on television, they need to know this measure does not increase patrols or technology along our northern borders. It does not give our firefighters, police officers, and emergency personnel the resources, training, and equipment they desperately need. It does not increase security measures at our ports, our railroads, our public transportation systems. It does not increase our capability of detecting biological, chemical, radiological, and nuclear weapons.

What this bill does is fall short on many important measures. We had the opportunity to do this right, to do more than create a Department. The Senate's original bill coming out of the Governmental Affairs Committee under Senator LIEBERMAN's leadership, on a bipartisan vote, would have included critical measures that would make our country safer today. In the end, we failed to act on those critical measures.

There is a lot in this bill that secures the future for special interests at the expense of the security of the American people. I believe those who are using this legislation as a vehicle for their own particular commercial or special interest have done this country a grave disservice.

That is why Congress cannot stop with this vote. As the distinguished Senator from Montana said: We have to watch this process with vigilance. We have to be involved in the rulemaking. We have to ask the hard questions about resources. We have to continue to fight to make sure every substantive measure we need to enhance our security gets passed in the next Congress.

Let's start with the obvious. Let's support our first responders. They are the ones who are our front line soldiers at home. We need to do what we have been asked to do by mayors and police and fire commissioners. They have asked us for direct funding that they can best utilize to make sure those firehouses stay open, those hazardous material suits and equipment are bought and available. That is why I still believe we should pass legislation I introduced last November that would provide direct funding to local communities—the Homeland Security Block Grant Act.

We also know the recent report by former Senators Hart and Rudman, the terrorism panel's report, clearly states we are not doing enough to support our first responders. That report expressed grave concern that 650,000 local and State police officers still operate without close U.S. intelligence information to combat terrorists.

We have not done enough to help local and state officials detect and respond to biological attacks. The report expressed concerns that our firefighters and local law enforcement agencies still—more than a year later—do not have the proper equipment to respond to a chemical or biological attack. And they don't even have the

communications systems that will let them talk to each other—police departments, fire departments—across municipal and county lines in an emergency.

Madam President, I was also greatly disappointed that the SAFER Act, which would have allowed our Nation to hire 25,000 more firefighters over the next couple years, was completely eliminated from the bill. This is the time to do more for our first responders, not less.

We also have to act immediately to secure our Nation's nuclear power infrastructure. While the homeland security bill creates a new Department, it does not adequately address the real threat of terrorist capabilities and desires to destroy our nuclear powerplants. Last year, Senators JEFFORDS, REID, and I introduced the Nuclear Security Act. We moved that act through the committee. It is unfortunate the bill does not address nuclear security, particularly with respect to our nuclear powerplants. We clearly have a problem there, as we do with radiological attacks from a so-called dirty bomb.

Every day that goes by without us having those resources available in local communities around our country to respond is a day I cannot look into the eyes of my constituents and say, yes, we are safer today than we were.

We have all gone over the many provisions in the bill that have absolutely nothing to do with security. I regret deeply that they were included in this bill, and the impact of them will be known for years to come.

Madam President, this bill, which does some good by helping us better focus here in Washington, does not do nearly enough of what needs to be done out in our country. I am particularly concerned that New York does not have a specific coordinator as the bill provides for Washington, DC. We know from every intelligence report that New York City is still a high-risk area.

This bill has much that perhaps can make us safer, but nothing that will immediately do so; and it does not address the most serious issues with respect to the resources that are needed.

There is an article in this day's Washington Post about how the fact that we have not funded the war on terrorism here at home means that money—even if it passes in January—will not get to the people who need it the most for quite some number of months.

This is, unfortunately, a day where we have adopted a piecemeal approach to homeland security without the resources and the comprehensive strategy that many experts have recommended. I hope we will come back in January and address the gaps in our homeland defense strategy going forward.

I yield the floor.

The PRESIDING OFFICER. Who yields time to the Senator from Idaho?

Mr. CRAIG. Madam President, I yield myself time from Senator THOMPSON's time.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Madam President, I came to the floor for two purposes this afternoon. I will briefly speak about H.R. 5005, our homeland security legislation, which will become law in a reasonable time, possibly today, to suggest I am really not going to play the political game that has been played with this bill for the last 2 months, and that is being caught up again in the rhetoric of the hour—that somehow you don't need to structurally change the way Government thinks, that you can spend billions of dollars ahead of time to get it done.

You do need to change the way Government thinks. You do need to change the culture of the Federal bureaucracy. You do need to coordinate. That is what we are doing because, clearly, to anyone on this floor, or anyone in any of the committees that have spent the last several years analyzing what happened prior to 9/11, and following 9/11, it became very clear our agencies did not connect, they did not coordinate, they did not communicate, and the culture of the day—and probably a prevailing attitude—was somehow what happened would not happen here, didn't allow us to come to attention.

Well, we are now at attention. We have already spent billions of dollars getting there—both in the fine city of New York, which was tragically hit, and across this country. My State of Idaho alone—a State of 1.2 million people—for its first responders is going to get a couple million dollars more this year. That is significant money for beginning the process of coordinating and training and communicating, right hand to left hand, local responders to State responders to Federal responders.

There is a long way to go, but to suggest that the step we are taking today is unnecessary, or for 2 months did not prevail and, therefore, the bill is no good, shame on those who want to play the politics of the moment, because the politics of the moment is this country has decided to make a major step in the right direction.

I will tell you that I can pick the bill apart and say there are bits and pieces in there I don't like. I agree, in part, with the Senator from New York and the Senator from Montana that it will take due diligence, that we should not suspect that what we pass today goes on autopilot. My guess is we will be back next year making refinements in it. I am not quite confident that it protects the privacy of the citizens of our country in our pursuit for security in a fashion I would want to see happen.

I am glad we gave the President the flexibility not to be tied up in the bureaucracy of the public employees unions, but to give them an ample opportunity to express their concern; but in the end, in a national crisis, to give the chief executive of our country the latitude he or she should have and must have to make this system work. That is what we finally won the day over.

I am sorry the other side lost that fight, but the country won, and the legislation we bring today is a significant and appropriate step forward. I will probably be here on the floor within a couple of months offering some amendments, and my guess is my colleagues from both sides of the aisle will be doing the same. But to demagog our way into a new form of Government in the context of homeland security, shame on us.

The politics of that day is over. The reality of what we must do is now at hand and this Senate is stepping forward, as it should, to get the job done.

I said I came to the floor to talk about a couple of other issues. I have been watching from my office the great politics of agricultural drought disaster. What I heard on the floor was in itself a bit of a disaster. For one full month, we had a bill on the floor with drought assistance in it. When the bill was controlled by the other side, which had the majority, I innocently came to the floor and said, hey, why don't we add an amendment on forest health? Why don't we get to the business of thinning and cleaning the seven or eight million acres of land that is desperately in need of our caretakership and our stewardship that, by every estimation, is a tinderbox waiting to explode, like the seven million acres that burned this year across our public forest lands, that burned up 2,800 homes and cost us 25 lives.

But for one full month, the other side refused to vote on it. Why? Because of the November 5 election. They didn't want to put their people at risk, or what they thought was risk, to vote for a good piece of legislation that would have passed the Interior bill and would have put forth the drought legislation and the money that was talked about on the floor.

What I witnessed over the last hour is raw politics that won't get done. The Senator from Kansas came down a bit exercised a few moments ago, and he had every right to say, shame on them, it is politics, it won't happen—and it won't happen. What will happen is we are going to come back to a new Congress on the 7th of January called the 108th Congress. We are going to swear in some new Senators and convene, and we are going to have a new organizational resolution; we are going to have chairmen. And already, at that moment on the 8th, 9th, 10th, and beyond, we are going to move, I believe, 11 appropriation bills that didn't get cared for this year, that somehow, on their watch, didn't happen. In those, we are going to take care of drought and a lot of other things that should have been done a long time ago. Sure, we have anxious farmers. They have every reason to be anxious. But now to blame us and bog up the works and put our Government in a stall at this moment, all in the name of agricultural politics, is, in itself, wrong. I have farmers who have suffered from drought. I want to help them, and we will help them. We

will help them in January. Why do we come to the Chamber today and play the politics of the game that will not happen? I think we all know. It makes for good rhetoric and probably a few headlines back home. But it will not accomplish the mission at hand, and the mission at hand is to solve our agricultural drought problems, and to do so in a responsible, meaningful way that actually produces policy so the farmer can go to the farm service office and say: I have a problem and here is my loss. And that farm service officer can say: And here is the program, and here is how we can help you.

That is not going to occur probably until we legislate it in January and it becomes law sometime in early February. Then, I say to my colleagues on the other side, pick up the phone and call your farmer and say: Go to the farm service office, take your records and your losses, and they will calculate what you deserve based on the program at hand. That is how one delivers a message home. That is how one solves a problem that exists.

What has happened in this Chamber is the last moments of the last hour of the last day of the 107th, is that somehow a great amount of politics got played out. Some of it worked and some of it did not work, and we just heard some of it that will not work.

We are about to vote, though, on homeland security, and in the end, over the course of the next 3 to 4 years, it will work because it must work. We must be able in a real way, in a material way, to say to our friends and neighbors and civilian populations at home that the world is a safer place, and we made it safer by the ability to craft a government a good deal more sensitive to the reality of our current circumstances, to change the culture of the CIA, the FBI, the Border Patrol, and the INS in a way that creates a level of communication that knows what the right hand and the left hand are doing in concert. Yes, allows us a level of training and expertise at the very local of levels so when that first responder goes out on the line, they have every bit the skill and the equipment necessary to determine if they and/or the population they serve are at risk because of a potential terrorist act.

That is our charge. We do not do it overnight. It should have been done 2 months ago. The politics of the day would not have allowed that, but November 5 changed that, and that is why we are here and why we will pass this bill today in its whole form, and it will go to the President's desk for his signature.

Then, frankly, the hard work begins. If I were the administrator selected to craft a homeland security agency out of the bureaucracies that will fight down to their very last bureaucratic breath to hang on to some authority, I would say it is a monstrous task. But we will be here helping that administrator along because we know it is so

necessary for our country to have an agency that can respond to a new threat to this Nation and to freedom-loving people all around the world.

I hope out of the frustration of the day and the rhetoric that has occurred that, in the end, we will pass legislation and get on with the business at hand, but I thought it was incumbent upon myself to come to the Chamber to talk briefly about the idea that a drought has occurred, not just on farmlands across this country, but in the reality of the politics right here. And that drought is, we only have so much we are going to get done, and we better return come January and finish the work that should have been done months ago. This side is up to it, and I trust my colleagues on the other side will join us in a fair and bipartisan way to make that happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. I yield myself 10 minutes.

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

Mr. CARPER. Madam President, I am pleased to see that the Senate is finally ready to pass legislation creating a Department of Homeland Security. My colleagues and I on the Governmental Affairs Committee, under Senator LIEBERMAN's leadership, began this process more than a year ago. When we first started out, I must admit that I had some reservations about making such dramatic changes to the way the Federal Government is organized. The hearings Senator LIEBERMAN chaired during the first half of this year, however, showed me how truly ill prepared we really are to face the threat of terrorism. That is why I supported the original version of Senator LIEBERMAN's homeland security bill when it came before the Governmental Affairs Committee on May 22, 2002, some time before President Bush released his proposed reorganization plan. I supported it again on July 24 after we incorporated a number of the President's recommendations into our original draft.

I believe we need to create a strong Department of Homeland Security that brings together under one roof the various Federal agencies charged with preventing and responding to terrorist attacks. I am a little disappointed, however, that we appear ready to do so in a way that disregards a good deal of the hard work that went into the bipartisan bill we reported out of Governmental Affairs.

Among other things, the bill before us today abandons a compromise arrived at in committee on information sharing and the Freedom of Information Act and includes INS restructuring language that is different from anything included in the President's proposal, the House-passed bill or anything that we have debated here in the Senate. It also includes some controversial provisions we have never

seen before that seemingly appeared overnight. In the 108th Congress, we can and should have a debate on tort reform. We can and should have a debate on the safety of childhood vaccines. What we should not have done is hastily slip brand new provisions into this critically important bill without debate at the behest of special interests. There are three changes, however, that are of the most concern to me.

First, there is the new personnel language. This bill gives the Secretary of Homeland Security and the Director of the Office of Personnel Management (OPM) almost total authority to rewrite Federal civil service laws for Department of Homeland Security employees related to hiring and firing, job classification, pay, rules for labor-management relations, performance appraisal and employee appeals to the Merit Systems Protection Board. Thinking that the Secretary and OPM could not possibly know what kind of personnel system was needed at the new Department before they were able to start putting it together, our committee maintained current law and asked the Secretary to report on his or her progress in setting the Department up at least every 6 months and to ask Congress for specific changes in civil service protections to meet specific Department needs.

As a former Governor who had to reorganize parts of his own State's government, I can appreciate President Bush's desire to have as much flexibility as possible when creating something as large, complex and important as a Department of Homeland Security. However, I do not believe it's necessary to give him or his new Secretary the power to unilaterally change or waive workplace rules over the objections of Department employees and Congress. That is why I supported the compromise put forward by Senators NELSON, BREAUX, and CHAFEE before we adjourned for the election. That language would have left the most important civil service protections related to union rights and employee appeals untouched and set up a system of binding arbitration so that the Secretary and OPM would have to work out any personnel system they draft with the employees who will be required to work under it. I wish that the personnel language in this bill was closer to that contained in Nelson-Breaux-Chafee bipartisan compromise.

The second issue that is of concern to me in this bill is the language on collective bargaining rights. It says that the President can only use the authority he currently has to remove employees' collective bargaining rights on employees transferred into the new Department if their agency's mission materially changes and their duties involve intelligence, counterintelligence, or investigative work directly related to a terrorism investigation. It gives him broad authority to waive this test, however, and to use his authority regardless of whether or not the mission

of the relevant agency has changed. Our committee-passed bill would have required the administration to go through the Federal Labor Relations Authority to remove employees' collective bargaining rights. I was comfortable with that provision, but even more so with the Nelson-Breaux-Chafee compromise on this issue, which includes the same restrictions on the President's authority included in this bill but which gives Department employees the assurances that their collective bargaining rights will not be taken away arbitrarily simply because they are working in something called the Department of Homeland Security. I wish this bill offered future employees of the Department of Homeland Security as much assurance that their rights would be protected.

My greatest disappointment with this bill is the glaring omission of any meaningful provisions to improve the security of our Nation's railroads. It is inexplicable that we stand ready to create a Department of Homeland Security that does nothing to protect the millions of Americans who travel by rail every day. After the tragedy of September 11, this Congress and the President moved quickly to stabilize and secure our aviation system and to create the Transportation Security Administration with the mission of protecting all transportation modes.

The Congress followed suit with the Maritime Transportation Security Act of 2002 to protect our ports and maritime industry, which successfully passed in the Senate last week. And now it seems that the Over-the-Road Bus Security legislation is poised to pass this body. Yet in all these efforts, we have done little to protect rail from terrorist attacks and security threats, creating an Achilles heel in our Nation's efforts to secure our transportation system. For all of our commendable focus and attention on preventing future attacks against the aviation industry, it is unconscionable that we would not work to ensure that the roughly 25 million intercity passengers and many millions more that commute aboard our trains are as safe as the ones in our skies.

How can we ignore the FBI warnings made a few weeks ago that al-Qaida is considering directly targeting U.S. passenger trains and that operatives may try to destroy key rail bridges and sections of track to cause derailments? How could the Senate have voted to appropriate \$2 million to remove jars of formaldehyde and alcohol from the Smithsonian's buildings here on the Mall because of their threat to the Capitol and yet leave the rail tunnel traveling under the Senate and House office buildings and the Supreme Court unprotected from terrorist attack? How can we end the 107th Congress having approved increased and strengthened security programs for every single transportation mode except rail, a mode we know that al-Qaida may currently be targeting?

In creating the Department of Homeland Security, we had the chance to address this omission. We could have included provisions to secure the nation's critical rail infrastructure and facilities and augment the mission of the Transportation Security Administration. Recognizing the obvious need for greater rail security early on, Senators HOLLINGS, MCCAIN and others worked within the Commerce Committee to produce a bipartisan rail security bill to protect Amtrak and our vital rail infrastructure from attack or sabotage. This bill, S. 1550, was supported by the Bush Administration and reported unanimously out of the committee.

They understood the important role that Amtrak played immediately following the tragic events of September 11, when, with the aviation system shut down and our highways clogged or closed, Amtrak kept people safely moving in the northeast and across the country. They know it is essential that we provide Amtrak with the means to harden their physical assets and protect the safety and security of the traveling public if we want to ensure that Amtrak can serve the nation in the future as it did after September 11. They realized that more people use Amtrak's Pennsylvania Station in one day than use all of New York's three airports combined. They recognized that, like our other modes, our rail network is essential to the mobility, defense, and economic vitality of our nation. Yet their efforts have been blocked in this body and our railroads remain largely unprotected.

Following the Commerce Committee's good work and seeing the logical role for rail security within the new Department, I offered, and the Committee voted to accept, a rail security amendment to Senator LIEBERMAN's homeland security bill during the our markup in July. My amendment authorized funds through the Secretary of Homeland Security for critical security and safety needs across Amtrak's national network. Totaling \$1.2 billion, my amendment authorized funds to assist the diligent efforts already being made by Amtrak's police force and other law enforcement agencies, giving them the tools to focus on real threats beyond the harmless rail fans police were chasing away as described in an article on the front page of the Washington Post last week. The amendment included: \$375 million to finance systemwide security and safety enhancements. These funds would have been used to immediately address serious security risks by protecting infrastructure, stations, and facilities across the entire Amtrak system. Amtrak's top priorities to be addressed with these funds include:

No. 1, securing tunnels, bridges, interlockings, towers, and yard and station facilities with surveillance equipment, perimeter fencing, security lighting, bomb detection equipment and bomb resistant trashcans for stations, vehicle barriers and other measures.

No. 2, investing in passenger information systems to allow the creation of watch lists and passenger manifests for tracking purposes and data sharing between Amtrak Police Department and the FBI. Currently, Amtrak does not have the realtime ability to track who is onboard its trains.

No. 3, communications and command/control upgrades to track and locate trains enroute, to ensure adequate radio coverage across the Amtrak system, and to provide automated data for incident response and crisis management;

\$778 million for life-safety and security improvements to the Amtrak tunnels in New York, Baltimore and Washington. The life-safety problems with the tunnels on the northeast corridor are well documented and require immediate action. The tunnels in New York, 1910, Baltimore, 1872, and Washington 1904 are nearing, or are over 100 year olds and constitute safety hazards due to problems with emergency exits and ventilation. Of specific concern, is a possible terrorist action involving these tunnels, which have limited evacuation capacity, antiquated stairwells, and poor lighting. The results could be catastrophic. The funds will enhance life safety features within the tunnels, including:

No. 1, Washington, \$40 million: upgraded emergency access and egress, improved ventilation and communications. This tunnel sees 50 Amtrak/VRE trains a day and 2 million passengers annually. Additionally, these tunnels pass directly under the Supreme Court and House and Senate Office Buildings.

No. 2, Baltimore, \$60 million: New fire standpipes; improved lighting and communications, egress improvements; and a preliminary design study of tunnel replacement options. This tunnel sees 125 Amtrak/MARC trains a day.

No. 3, New York, \$678 million, 6 tunnels: upgraded ventilation, access, and egress through new stairways and shafts; structural rehabilitation for tunnel access, and improved lighting and signage. The 6 New York Amtrak tunnels provide access to Penn station for Amtrak, New Jersey Transit and the Long Island Railroad. They are gateway to New York and the heart of the Northeast Corridor. Work on the tunnels has already begun with \$220 million from the Long Island Railroad and the FRA, through \$100 million from FY '02 DOD supplemental Appropriations Act. Funds authorized in this amendment would complete work on 3 of the 4 rebuilt ventilation and escapes shafts, dramatically improving the safety of passengers should an emergency occur in the tunnels;

\$55 million for wrecked equipment repair to ensure Amtrak adequate fleet capacity in the event of a national security emergency. At the time of my amendment, 96 damaged and wrecked cars and five locomotives, or nearly one out of every fifteen Amtrak cars, were sitting idle, out of service, and awaiting repair. Without these cars,

Amtrak is in serious danger of being able to provide adequate equipment to service its current routes, let alone offer additional service should there be another national emergency. With these funds, Amtrak could have repaired about half of these, and have some equipment up and running again within 90 days. In our effort to strength the security of the homeland, that we must provide Amtrak with the equipment it needs to serve the existing routes and to handle increased traffic should another security crisis occur.

After the Governmental Affairs markup and the inclusion of this amendment to the Lieberman substitute, I worked with Senators HOLLINGS and MCCAIN to create a bipartisan rail security package based on the previous Committee work and my amendment that would authorize needed resources while ensuring proper oversight and accountability. We agreed to work together to add this package to the homeland security legislation, in whatever form it took. I believe that Senator MCCAIN spoke briefly about his commitment to enhancing the security of our railroads on the floor last week, and I want to thank him for working with us to create a sound security proposal. I know that he and Senator HOLLINGS share my disappointment that we have not been able to get this package included in the current homeland security bill. Though we were unable to achieve success today, we are committed to doing so next year, and I urge my colleagues to join this effort. Until we have passed a rail security package, we cannot honestly say that we have secured our national transportation system.

In conclusion, today we missed a tremendous opportunity to truly secure our entire transportation network. Surely, we all agree that doing so is one of the Federal government's chief responsibilities. Debates about the future of Amtrak should not stand in the way of this effort. The fact is that, today, several thousands of riders are on Amtrak trains and hundreds of thousands more use Amtrak's tracks for their daily commute to work. Securing these facilities and these services is not an issue that can wait. As the intelligence community has already warned, the risks to America's railroads are real and exist as we speak. We have a responsibility to act to protect our people and our nation. We must pass rail security legislation as soon as possible.

Mr. KOHL. Madam President, I rise to discuss two provisions of the Homeland Security bill, those substantially transferring the Bureau of Alcohol, Tobacco and Firearms, "ATF," to the Department of Justice and modifying and improving our explosives laws.

A driving force behind the President's blueprint for the reorganized Government is the need for the various agencies and bureaus charged with enforcing Federal law to work more cooperatively and effectively in defending

the country against terrorism. The President's plan shifted several agencies charged with different aspects of Federal law enforcement to the proposed Department of Homeland Security, including the Secret Service and the Bureau of Customs, both formerly housed in the Department of the Treasury.

Unfortunately, this realignment of Treasury's law enforcement agencies left out one vitally important bureau, one that has as its primary mission the enforcement of the explosives and firearms laws. The ATF has been the cornerstone of the Federal law enforcement functions at Treasury for decades, but now under the President's plan, it would be left as the only major law enforcement presence in the entire Department.

The Department of the Treasury is entrusted with responsibilities primarily in the area of monetary policy such as budgets, taxes, and currency production and circulation. In contrast, the ATF's mission consists of enforcing the firearms, arson, and explosives laws as well as the criminal and regulatory functions of the alcohol and tobacco laws. Clearly, these two missions do not jibe.

ATF serves an important role not only in the enforcement of the criminal laws regarding firearms, explosives, alcohol and tobacco, but also in waging the war on terrorism. We only need to remember the litany of terrorist bombings from the first attack on the World Trade Centers to Beirut in 1982, the East Africa embassies, the U.S.S. *Cole*, Khobar Towers, and Oklahoma City, among others, to understand the importance of the ATF's expertise in explosives and firearms on the war on terrorism. Indeed, in the last 20 years, the vast majority of terrorist attacks with Americans as targets have used explosives or firearms. Any effort to strengthen our homeland security that does not take note of this fact is a half measure.

This bill understands ATF's importance in the war on terrorism by moving it to the Department of Justice where it can coordinate its efforts more easily with the FBI, DEA, and the other premier Federal law enforcement agencies. In addition, the bill authorizes the ATF for the first time as the Bureau of Alcohol, Tobacco, Firearms and Explosives, ATFE, and refocuses its mission. It will no longer be responsible for collecting alcohol and tobacco fees, but instead will focus entirely on the criminal enforcement of the explosives, firearms, arson, and tobacco and alcohol smuggling laws.

The amendment makes clear that along with the transfer of enforcement of the explosives, firearms, and arson laws, the new ATFE will have jurisdiction over the criminal statutes in title 18 of the United States Code as they relate to tobacco or alcohol laws. These few criminal statutes are the extent of ATFE's jurisdiction over alcohol and tobacco. All alcohol and tobacco rev-

enue collection and related regulatory functions performed by the current ATF will remain under the jurisdiction of the Tax and Trade Bureau of the Treasury Department.

The renaming of the Bureau is more than simply symbolic. The addition of the "E" to the name of the Bureau demonstrates the importance of explosives in their mission. To coordinate better law enforcement training in explosives, we created the Explosives Training and Research Facility at Fort AP Hill, VA, where Federal, State and local law enforcement agents from around the country will be trained to investigate bombings.

We trust that the Attorney General and the Department of Justice in conjunction with the Department of the Treasury will make ATFE's transition as efficient as possible. Moving a large law enforcement agency is not easily done. For that reason, the Homeland Security bill permits a sufficient time frame for the transitions to occur both to the new Department of Homeland Security as well as the ATFE's transition to the Department of Justice. It is our intent that the ATFE be permitted as much time to complete its transition as the other bureaus and agencies being shifted to the Department of Homeland Security.

At the Department of Justice, the ATFE will have primary responsibility for the enforcement of the firearm, arson and explosives laws as well as criminal alcohol and tobacco laws. In that role, the ATFE will be able to work cooperatively with the FBI and the DEA in enforcing the criminal law while at the same time taking the lead when the case under investigation is primarily within their jurisdiction. According to recent news reports, the FBI and the ATF do not always have the best of relations. In fact, despite a long-standing memorandum of understanding between the two agencies allocating responsibilities, there is still a fair amount of competition between the two when it comes to areas where their respective jurisdiction overlaps. Now, with the ATFE working under the same leadership as the FBI, the Attorney General will be able to sort out these differences and maximize the cooperation between the two agencies. More cooperation will lead to a better focus on the war on terrorism.

The establishment of the ATFE at the Department of Justice gives the Government a dynamic weapon in the war on terrorism and in the every day battle against violent crime involving explosives, firearms and arson. We look forward to the ATFE joining the Department of Justice and its other law enforcement agencies. We also look forward to the ATFE maximizing its capabilities in enforcing the explosives, firearms, and arson laws and fighting the war on terrorism.

In addition to transferring ATF to the Department of Justice, this measure contains a subtitle that modifies our explosives laws. This provision is

an amended version of S. 1956, the Safe Explosives Act, which was introduced earlier this year by Sen. ORRIN HATCH and me and H.R. 4864, the Anti-Terrorism Explosives Act, which was introduced earlier this year by Chairman SENSENBRENNER.

The Senate Judiciary Committee unanimously approved the measure this summer. I want to explain some of the provisions in this title of the bill and provide a more detailed section by section analysis of it.

Following the September 11 terrorist attacks on the World Trade Center and the Pentagon, we have had a growing sense that Congress needs to close numerous gaps in Federal law to help prevent future disasters. The current explosives laws are effective, but the Safe Explosives Act closes some loopholes and significantly improves its administration.

The Safe Explosives Act effects two major changes in our explosives laws: first, it creates a systematic method of enforcing our laws regarding who can and cannot purchase and possess explosives; and second, it makes some commonsense additions to the list of people who are barred from purchasing and possessing explosives.

Creating a systematic method for enforcing our laws makes sense in the current environment. Most Americans would be stunned to learn that in some States it is easier to get enough explosives to take down a house than it is to buy a gun, get a driver's license, or even obtain a fishing license. Currently, it is too easy for would-be terrorists and criminals to obtain explosive materials. Although permits are required for interstate purchases of explosives, there are no current uniform national limitations on the purchase of explosives within a single state by a resident of that State. As a result, a patchwork quilt of State regulations covers the intrastate purchase of explosive materials. In some States, anyone can walk into a hardware store and buy plastique explosives or a box of dynamite. No background check is conducted, and no effort is made to check whether the purchaser knows how to properly use this deadly material. In at least 16 States, there are little to no restrictions on the intrastate purchase of explosives.

By addressing the intrastate sale and possession of explosives, the Safe Explosives Act would help close one such loophole that allows potential terrorists and criminals easy access to explosive materials. Let me elaborate. As I said, under current law anyone who is involved in interstate shipment, purchase, or possession of explosives must have a Federal permit. This legislation creates the same requirement for intrastate purchases. It calls for two types of permits for these intrastate purchasers: user permits and limited user permits. The user permit lasts for 3 years and allows unlimited explosives purchases. The limited user permit also expires after 3 years, but only allows

six purchases per year. We created this two-tier system so that low-volume users would not be burdened by regulations. The limited permit, like the user permit, imposes commonsense rules such as a background check, monitoring of explosives purchases, secure storage, and report of sale or theft of explosives. However, the Safe Explosives Act does not subject the limited user to the record keeping requirements currently required for full permit holders.

In addition to closing the intrastate loophole, this measure expands slightly the class of people who are barred from purchasing or possessing explosives. Current federal law prohibits certain categories of people from purchasing and possessing explosives. However, some important categories, such as people in the United States on a tourist visa, are not included in current federal explosives law. The committee feels that in addition to being barred from obtaining a firearm, these people should also be prohibited from purchasing and possessing explosive materials.

Overall, this measure strikes a reasonable balance between stopping dangerous people from getting explosives and helping legitimate users obtain and possess explosives. Most large commercial users already have explosives permits because they engage in interstate explosives transport. These users would not be significantly affected by our legislation. The low-volume users will be able to quickly and cheaply get a limited permit. And high-volume intrastate purchasers who are running businesses that require explosives should easily be able to get an unlimited user permit. Also, the measure will not affect those who use black or smokeless powder for recreation, as the legislation does not change current regulations on those particular materials.

Our goal is simple. We must take all possible steps to keep deadly explosives out of the hands of dangerous individuals seeking to threaten our livelihood and security. The Safe Explosives Act is critical legislation, supported by the administration. It is designed solely to the interest of public safety. It will significantly enhance our efforts to limit the proliferation of explosives to would be terrorists and criminals. It will close a loophole that could potentially cause mass destruction of property and life.

Let me thank the many people who assisted us in drafting these provisions. Senators HATCH and LEAHY and Chairman SENSENBRENNER were vital, as were Senators BAUCUS and GRASSLEY. The staff and leadership of the Department of Treasury, the Department of Justice and the ATF were invaluable. We all worked together cooperatively and in close collaboration, and I believe that the finished product reflects the professionalism and dedication of the staff of those agencies. They are all to be congratulated.

I ask unanimous consent that a section-by-section analysis of the measure be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS OF TITLE XI,
SUBTITLE C

Section 1121—Short title

The short title of this bill is the "Safe Explosives Act."

Section 1122—Permits for purchasers of explosives

First, the following terms referenced in the bill are defined: permittee, alien, and responsible person.

Second, this section would require all purchasers of explosives to obtain a permit from the Treasury's Bureau of Alcohol, Tobacco, and Firearms (ATF), a process that includes a background check, thereby reducing the availability of explosives to terrorists, felons, and others prohibited by law from possessing explosives. Although permits are now required for interstate purchases, there are no current Federal limitations on the purchase of explosives within a single state by a resident of that state.

The new permit requirement would significantly enhance the government's ability to prevent the misuse and unsafe storage of explosives. As part of the permit application and renewal process, ATF would conduct background checks on all individuals wishing to acquire or possess explosives materials. Applicants would also be required to submit photographs and fingerprints along with their applications, to ensure that a thorough background check can be completed. Fingerprints are not necessary to conduct a background check, however it significantly reduces the work and amount of time for the positive identification of applicants, and therefore will greatly reduce the application turnaround time and workload for ATF.

In the case of a corporation, partnership or association, the applicant would be required to submit fingerprints and photographs of responsible persons, meaning those individuals who possess the power to direct the management and policies of the corporation, partnership or association pertaining to explosive materials. Consistent with ATF's current policy, this section does not require corporate applicants for explosives licenses to list every single corporate director or officer as a "responsible person" on its application for a license or permit. Those officials within the corporation who have no power to direct the management and policies of the applicant with respect to explosive materials need not be listed on the application. For example, in a large corporation that uses explosives in just one of many business activities, there may be many corporate officials who have no responsibilities or authority in connection with the explosives aspects of the company's business. These officials would not be listed as "responsible persons" on the application, and would not need to submit fingerprints or photographs to ATF. Furthermore, if corporate bylaws provide that certain high-level corporate officials do not have the power or authority to direct the management and policies of the corporation with respect to explosive materials, then such officials will not be considered to be responsible persons.

We encourage the Secretary to strive for balanced enforcement. In so doing, the Secretary should avoid imposing unnecessary burdens on applicants for explosives licenses and permits. There is no reason to require background checks for corporate officials who have no responsibilities or authority in

connection with the explosives aspect of a company's business. By the same token, companies have an obligation to be forthright with the ATF, and we expect them to err on the side of overinclusiveness in deciding who may be a responsible person.

This section will also require applicants to list the names of all employees who will have possession of the explosive materials, so that the ATF can verify that these individuals are not prohibited from receiving or possessing explosives. In order to prevent an overload of employee background checks all at once for the ATF, current licenses and permits will remain valid until that license or permit is revoked, expires, or until a timely application for renewal is acted upon. Under current law, it is too easy for would-be terrorists and criminals to obtain access to explosive materials by obtaining jobs (such as driving trucks) with explosives licenses. These expanded requirements would also apply to entities seeking to obtain a license to sell explosives.

It is the Committee's intention that ATF should work closely with the regulated industry to develop guidance as to which employees are considered to be in "possession" of explosive materials in the course of their employment. Applicants for explosives licenses or permits are not required to list every single employee of the business. Instead they are only required to list employees who are expected to possess explosive materials as part of their duties.

In developing these standards, ATF should be guided by the case law interpreting the term "possession" under the Gun Control Act of 1968, GCA, as amended. It is well established that possession under the GCA may be demonstrated through either actual or constructive possession. Actual possession exists when a person is in immediate possession or control of an object, and includes instances where a person knowingly has direct physical control over the object at a given time. Thus, employees who physically handle explosive materials would clearly be in possession of those materials. This would include, among others, employees who handle explosive materials, as defined by the law as part of a production process; employees who handle explosive materials in order to ship, transport, or sell them; and employees who actually use the explosive materials. All of these employees, as well as any other employees who actually possess explosive materials as part of their duties, must be listed on the application for a license or permit.

Where direct physical contact is lacking, a person may nonetheless have constructive possession where he or she knowingly has the power and the intention at a given time to exercise dominion and control over the explosives, either directly or through others. Accordingly, this section would require applicants for licenses or permits to list all employees who will have constructive possession of explosive materials as part of their duties. For example, an employee who drives a truck with an explosives load is in constructive possession of the explosives even though he may not physically handle them. This individual has dominion and control over the explosives while he transports them; furthermore, he could easily divert them from their intended destination. Such an individual should be subject to the background check requirements of the amended law. Similarly, a supervisor at a construction site who keeps the keys for the building in which the explosives are stored, and directs the use of explosives by other employees, would be in constructive possession of those explosives.

Finally, this section recognizes the distinction between small individual users of explosives and large commercial users by creating

a new "limited permit" for those infrequent purchasers. The limited permit allows a purchaser to make no more than six purchases of explosives within a 12-month period, and the permit is only valid for purchases within the purchaser's state of residence. While limited permit holder must pass the background check like all other permit applicants, they are not subject to spot inspections imposed on full permit holders. To ensure that holders of limited permits are not violating law by acquiring explosive materials more than six times a year, this section requires anyone selling explosives to a limited permit holder to report the sale to the ATF. This allows the ATF to monitor misuse by limited permit holders, and investigate suspicious volume purchases by such individuals, while allowing infrequent users to access more than enough for their needs. Holders of limited permits would also be required to report their distribution of excess stocks of explosives to other permittees or licensees.

All permittees, limited or otherwise, are subject to inspection by the ATF to ensure that the explosives are being properly stored. In the interest of minimizing the turnaround time for approval of licenses and permits, and in order to avoid overburdening ATF with an onrush of inspections immediately after this act takes effect, the bill gives ATF the discretion to defer immediate inspection of license and permit applicants at the time of application. However, because of concern for public safety, a provision requires ATF to inspect both permittees and licensees within three years of issuing a license or permit. Specifically, ATF must inspect limited permittees prior to a third consecutive renewal, and licensees or user permittees prior to the first renewal. It also increases the amount of time ATF has to approve or deny an application to 90 days. This will allow ATF ample time to conduct thorough background checks, especially important immediately following enactment of the bill when there will likely be a surge in applications. These provisions were put in the bill at the request of the House.

This section also includes an important measure that ensures privacy for employees or potential employees of a company that applying for a user permit that are subject to a background check. The provision requires the Secretary of the Treasury to notify the employer as to whether or not an employee passes the background check. However, should an individual not pass the employer will not be told the reason why. Rather, the employee will be notified as to the reason(s) for not passing.

Section 1123—Persons prohibited from receiving or possessing explosive materials

This proposal expands the list of those people who are prohibited from purchasing or possessing explosives to include: mental incompetents, aliens other than lawful permanent resident aliens, people dishonorably discharged from the military, and Americans who have renounced their citizenship. The addition of such categories to the list of prohibited persons recognizes the potential for terrorists or other criminals to use explosives to carry out their attacks and brings the explosives law in line with most categories of prohibited people in the Gun Control Act.

Congress has already determined that the possession of firearms by the above categories of people is dangerous to society. In order to combat terrorism and other violent crime, it is essential that Federal law prohibit the receipt or possession of explosive materials by such individuals already deemed too dangerous to possess firearms. The language relating to non-immigrant aliens differs slightly from that in the Gun

Control Act, as technical changes have been made to improve the clarity of the provision.

Section 1124—Requirement to provide samples of explosive materials and ammonium nitrate

This section would enhance the ATF's ability to solve cases involving explosives by requiring Federally licensed explosives manufacturers and importers and persons who manufacture or import ammonium nitrate to provide to ATF, upon request, with samples of, or chemical information on, the products they manufacture or import. The ATF fulfills a critical investigative role in the solving of crimes or acts of terrorism committed by explosives. Such information is essential to ATF's ability to prevent and solve bombings and to trace explosive materials that are used in terrorist activities and other violent crimes by matching residue with the manufacturers' samples. Also, the ability to evaluate such samples as well as information on the chemical composition of these products will allow the ATF to familiarize themselves with products that may be diverted to criminal misuse.

Section 1125—Destruction of property of institutions receiving federal financial assistance

This section expands ATF's authority to investigate destruction of property by fire or explosion if the property receives federal assistance.

Section 1126—Relief from disabilities

This section allows for a person who is prohibited from the above mentioned explosive material possession, purchase, etc. to apply to the Attorney General for relief from disabilities. The Attorney General may grant that relief if the circumstances regarding the disability are such that the applicant is not likely to be dangerous to the public if allowed to work with the above mentioned explosive materials, and that it would not be contrary to the best interest of the public.

Section 1127—Theft reporting requirement

According to this section, all licensees and permittees are required to report the known theft of explosive materials from that user no later than 24 hours after the discovery of theft. Failure to do so can result in a fine not more than \$10,000, or imprisonment not more than 5 years, or both. It is essential that ATF investigate theft of explosives in order to prevent accidental or criminal misuse.

Sec. 1128—Authorization of appropriations

This section authorizes the appropriation to carry out the provisions of the bill.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. I yield myself 5 minutes from the time of Senator THOMPSON and 5 minutes from the time of the leader.

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

Ms. COLLINS. Madam President, this legislation to create a new Department of Homeland Security will result in the most significant transformation of the executive branch in over 50 years and is of fundamental importance to our national security. I believe that Congress has the responsibility to establish a new Department of Homeland Security this year, before we adjourn for we know that those wishing to do our nation harm will not wait for us to act.

The longer we delay, the longer we leave vulnerabilities in place, the longer we consciously rely upon a fragmented system to guard our homeland. While creating a new department in

and of itself will not be sufficient to safeguard our homeland, it will bring much needed focus and coordination to the task.

In the year since the terrorist attack, much has been done to make our nation more secure. Congress has approved billions of dollars to secure our borders, protect critical infrastructure, train and equip first responders, and better detect and respond to biological or chemical attacks. Our brave men and women in uniform have fought valiantly in the war against terrorism and have secured important victories in Afghanistan.

The creation of the Department of the Homeland Security is the next step in our efforts to secure our nation against another terrorist attack. The task before us is daunting. This sweeping reorganization dwarfs any corporate merger. It involves some 170,000 employees and a budget of nearly \$40 billion.

Despite the magnitude and challenge of the task, there should be no doubt about the need for this new cabinet department. Currently, as many as 100 Federal agencies are responsible for homeland security, but not one has homeland security as its primary mission. When that many entities are responsible, nobody is really accountable, and turf battles and bureaucratic disputes are inevitable.

If we are to overcome these problems and create a workable national security structure, then we must unite the current patchwork of governmental entities into a new Department of Homeland Security. The new agency will work to secure U.S. borders, ports, and critical infrastructure. It will synthesize and analyze intelligence from multiple sources, lessening the possibility of intelligence communication breakdowns. And it will coordinate security activities now undertaken separately by agencies like the Customs Service, the Federal Emergency Management Agency, and the Immigration and Naturalization Service so that the resulting effort will be greater than the sum of its parts. The new Department for Homeland Security will help to remedy many of the current organizational weaknesses and to protect us against future attacks.

As a member of the Senate Governmental Affairs Committee, which held extensive hearings on the reorganization, I had the opportunity to consider carefully myriad ideas and concepts about the creation of the Department. We heard testimony from Governor Ridge, from Director Mueller of the FBI, from Director Tenet of the CIA, and from numerous other experts. They all shed light on the problems that have impaired our ability to defend our homeland, and on the threats that we now face and that will inevitably challenge us in the future.

While strongly supporting the creation of the Department, I believe that we also must protect the traditional roles of institutions and agencies that

are important to America's economic and social fabric. In particular, the Coast Guard's traditional functions—such as search and rescue and marine resource protection—must be maintained.

Since the attacks of September 11, the Coast Guard's focus has shifted to homeland security. The Coast Guard plays an essential role in homeland security, and I believe that it should play a leading role in the new Department. If, however, the current resource allocation is maintained, and the Coast Guard continues to assume new responsibilities, its traditional missions may be jeopardized.

Prior to September 11, port security accounted for approximately 2 percent of the Coast Guard's resources. Immediately following the terrorist attacks, the Coast Guard deployed 59 percent of its resources to port safety and security missions. As a result, many of the aircraft and vessels used for search and rescue were far removed from their optimal locations for search and rescue. Even after the immediate impact of September 11 attacks subsided, its impact on the resources of the Coast Guard remained. Indeed, the Coast Guard continues to devote fewer hours to its traditional functions than it did before 9/11.

Because of the Coast Guard's importance to coastal areas throughout our Nation, any reduction in its traditional functions is of great concern. Last year alone, the Coast Guard performed over 39,000 search and rescue missions and saved more than 4,000 lives. On a typical day, the Coast Guard saves 10 lives, interdicts 14 illegal immigrants, inspects and repairs 135 buoys, and helps more than 2,500 commercial ships navigate into and out of U.S. ports. In short, the Coast Guard's traditional missions are of vital importance and must be preserved.

Let me take a minute to talk about the Coast Guard's importance in my home State of Maine. Each year, the Coast Guard performs about 300 search and rescue missions in my State. These missions are literally a matter of life and death. Just a few weeks ago, the Coast Guard saved two Maine fishermen from their burning boat off the coast of Massachusetts after a 12 hour search.

Since October 1999, fourteen fishermen have lost their lives off the coast of Maine. Commercial fishing is one of the most dangerous of occupations. How many more fisherman or recreational boaters would have died or been injured if the nearest Coast Guard cutter were not in port? How many more will lose their lives if the local Coast Guard stations must devote the majority of their time to homeland security alone? I agree that the Coast Guard must perform homeland security functions. But it is critically important that it not do so at the expense of its traditional missions.

Senator STEVENS and I addressed these concerns during the Govern-

mental Affairs Committee's mark-up of the original homeland security bill. We offered a successful amendment to preserve the traditional functions of the Coast Guard.

The compromise bill ensures that the Coast Guard's non-homeland security functions will be maintained after its transfer into the new Department, and also provides for flexibility to ensure our national security. As our amendment provided, the compromise homeland security bill has the Commandant of the Coast Guard report directly to the Secretary of Homeland Security, thus ensuring direct access for the Commandant's views. The protections for the Coast Guard will help safeguard our coastal communities' economies, way of life, and loved ones, while Americans, wherever they live, can rest assured that the Coast Guard will perform its necessary and vital homeland security functions.

Similarly, I am pleased that the compromise bill incorporates a provision that Senator LEVIN and I proposed to create a Special Assistant position in the Secretary's office to promote public/private partnerships and to ensure that the business community has a place to go to ask questions, voice concerns, and provide feedback. It is important to bear in mind that our homeland security and economic security are closely linked, and that the failure of one jeopardizes the other. Our economic vitality makes us strong and capable of defending our nation against external and internal threats.

The issue of personnel and management flexibility, unfortunately, became the most controversial issue in this homeland security debate. The creation of the new Department will transfer approximately 170,000 current Government employees who are covered by a large number of different work rules, personnel systems, and labor agreements from other departments and agencies. Given the pressing importance of the new Department, and the vital functions it will perform, we need to grant the new Secretary appropriate but not unlimited authority to create a flexible, unified new personnel system that meets the Department's unique demands.

This legislation strikes the right balance. Initially, the Administration sought power for the Secretary to unilaterally modify all of the civil service laws which I opposed. The administration compromised and will have flexibility in only those areas it deemed vital to the Department's efficient functioning.

Also, I would note that there are many safeguards to prevent abuse of this authority that we are granting the Department, including a requirement I authored requiring that any changes made to the appeals rights of the Department's employees be made only to "further the fair, efficient and expeditious resolution" of workers' appeals. Additionally, any changes made will now be subject to mediation, unlike

the Administration's initial proposal, which only called for notification.

As we create a new Department of Homeland Security, it is critically important that we remember those on the front lines of any emergency: our police, our firefighters, our EMS personnel. I am disappointed that the compromise bill fails to include important amendments that I offered with Senators FEINGOLD and CARPER, and that were adopted both in committee and on the Senate floor.

The compromise bill includes an Office for State and Local Government Coordination, but it lacks the provisions needed to ensure that the new Department coordinates and communicates adequately and efficiently with state and local first responders. Senators FEINGOLD, CARPER and I would have placed a Department liaison in each State, thereby enhancing the Department's ability to work effectively with first responders, who perform such a critical role in our homeland defense. In my role as chairman of the Governmental Affairs Committee, I plan next year to revisit this issue to ensure that the new Department and our first responders can work efficiently together not at cross purposes when emergencies arise.

The new Department of Homeland Security is an essential component of our response to current and future threats. As the brutal attacks of September 11th demonstrated, distance from our enemies and the barrier of oceans no longer suffice to protect our nation. The bill that we are considering today is an important step in making our homeland more secure.

I reserve any unused time for Senator THOMPSON.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Connecticut.

Mr. DODD. I will yield myself 15 minutes off the majority side. I would like to be notified by the Chair when 5 minutes have expired. I would like to separate the remarks: 5 minutes spent on the homeland security issue, and then 10 minutes on terrorism insurance, of which I will be yielding some brief time to colleagues who want to be heard on that matter. Senator SARBANES, the chairman of the Banking Committee, will be coming to the floor at which time he will also have 15 minutes to talk about terrorism insurance or other matters he may want to raise, in which case we will try to have our remarks appear continuously, if we can, regarding terrorism insurance.

On the issue of homeland security, I am going to vote for this bill in the end when we are called upon, in several hours, to do so.

First of all, let me commend my colleague from Connecticut, who has been the manager of this bill along with Senator THOMPSON of Tennessee for the last number of weeks and months since this bill has been part of the debate in the Senate.

I want to commend JOE LIEBERMAN. My colleagues should know—and I am

sure they remember this—he introduced this legislation in October of last year. The committee marked up that bill, I think, with just Democratic votes out of the Government Affairs Committee to bring a homeland security bill to this Chamber.

I am delighted to hear that we now have strong bipartisan support for this effort. But let us be clear about the history. The history is that JOE LIEBERMAN offered this idea to this body. It was his committee under his leadership that marked up that bill and sent it to the floor on a partisan vote, unfortunately. We are now going to vote on it.

I will vote for passage of the bill before the Senate today, but I will do so with deep reservations. I believe that the bill before us does far too little to adequately protect average Americans from the dangers posed by terrorists. And regrettably, it does far too much to protect special interests favored by the majority party in the other body. That having been said, I believe that, on the whole, the bill will make America marginally more secure and I would rather err on the side of improving security than on the side of inaction. I will to look for every opportunity to make improvements in Department of Homeland Security in the months ahead.

This bill does take a step in the right direction by creating a unified department that can focus on security. Effectively reorganizing parts of the federal government can improve our security. The bill will allow the Department of Homeland Security to coordinate activities that have previously been conducted by two dozen separate agencies. This bill will allow the Administration to consolidate layers of government and if the Administration does this well, it should improve the way our government collects and shares information. By eliminating redundancy and conflicts within the government, the new department can make it easier to identify and respond quickly to threats as they emerge.

Further, if the Administration wisely uses the authority granted to it in this bill, it should be able to improve security at our borders. This bill authorizes the administration to completely revamp our immigration and naturalization services. If the Administration uses this authority to truly modernize immigration services, it will be able to avoid problems like those we have all read about cases where the immigration and naturalization services issued student visas improperly because of computer errors, poor record-keeping, and lax analysis of information.

Still, despite these and several other constructive provisions, this bill could have done more to strengthen homeland security. For example, it could have done more to foster better coordination and to better prepare local communities to respond to emergencies that may occur. I offered an amendment that would have authorized the Department of Homeland Security to establish a grant program to help local

fire departments address the chronic understaffing problems that plague so many local departments. The International Association of Firefighters and the International Associate Fire Chiefs have estimated that we need at least 75,000 additional firefighters in this country just to meet pre-9/11 staffing needs. Since 9/11, firefighter labor shortages have become even more of a problem across the country. Senator WARNER and I recognized the full extent of the problem of firefighter understaffing shortly after September 11, 2001, and we wrote legislation to help solve the problem. The amendment I offered was based on the bill that Senator WARNER and I wrote. The amendment also built on the FIRE Act, which Senator DEWINE and I authored in 2000. The FIRE Act, which became law thanks in large part to the effort of Senators WARNER and LEVIN, has provided more than \$400 million to train and equip tens of thousands of firefighters around the country. Understaffing has become such a problem, that according to the International Association of Firefighters, nearly ⅓ of all fire departments cannot meet minimum safety standards.

I also attempted to offer a second amendment to provide equitable pay for federal law enforcement officers. This amendment would have ensured that the federal government could retain highly-qualified and experienced law-enforcement professionals. All over the country, federal law enforcement officers are retiring from the federal service because they can make more money working in the private sector or for state and local governments. In New York, San Francisco, and Los Angeles, where living expenses are high, the FBI reported that 65% of its agents have been on the job for less than 5 years. This statistic reflects the fact that experienced officers would rather leave the Federal service than accept transfers to these expensive cities where they cannot provide adequately for their families.

Don't get me wrong, all of the men and women who serve as Federal law enforcement officers do an outstanding job. But I also believe that experience is an invaluable asset and I think we need to make sure that the talent that comes with experience is available to the Federal government. Our Federal law enforcement services should be more than just a training ground—our law enforcement officers should be among the most experienced and highly skilled in the world so that they can provide the high degree of protection that the American people so rightly deserve.

The bill before us would have been far better if it had more fully addressed the critically important needs of firefighters and federal law-enforcement officers. Sadly, however, their needs are all but ignored in this legislation. I intend to seek any and every opportunity in future to remedy this shortcoming. A homeland security bill that largely ignores the needs of these dedicated civil servants can only be considered a partial success.

Instead of focusing on the interests of the American people and those of firefighters and law officers, the bill before us contains numerous special interest provisions that help large corporations and do nothing to ensure the safety of the American public. In fact, I believe that some of the provisions in this bill could potentially cause harm to the public.

One provision of particular concern will bar parents from seeking legal redress from pharmaceutical companies whose drugs may have caused autism in their children. Parents would be barred from pursuing complaints through the courts and instead would be forced into the Federal Vaccine Injury Compensation Program, which limits damages to \$250,000. I have supported reasonable tort reform in the past, but this provision changes the rules in the middle of the game for people who are already before the courts. Under this provision, pending lawsuits that have absolutely nothing to do with homeland security will likely be dismissed and parents who claim their children have become autistic due to corporate malfeasance will be denied their day in court.

The homeland security bill before us also guts an amendment offered by Senator Wellstone, which would have prohibited the government from contracting with companies that have moved their headquarters overseas to avoid taxes in the United States. Under the current bill, the Secretary of Homeland Security has broad authority to contract with these corporate expatriates. This provision is a welcome relief to those companies that would dodge their patriotic duty at a time of war by relocating to foreign shores.

I am concerned about another provision in the bill that exempts the new Department's advisory committees from the open meetings requirements of the Federal Advisory Committee Act (FACA). Agencies throughout government use advisory committees that function under open meetings rules and the open meetings law is careful to protect discussions and documents that involve sensitive information. The law currently applies to the Department of Defense, the Department of Justice, the State Department, the National Security Agency, and others. In my view, the administration has failed to make the case for exempting the Homeland Security Department from the requirement that records for committee meetings should make available to the public.

Another blatantly unnecessary and misguided element of the bill would create a very narrow university-based homeland security research center program. Based on the criteria outlined in the bill, the research center that would be created is described so narrowly that it appears that only a handful of universities—including Texas A&M University—might qualify to host the center. This provision amounts to Congress intervening to pick winners and

losers in the field of science. The Democratic amendment would have eliminated the list of highly specific criteria that appears to direct the science center program to particular universities. This bill would have been better if that amendment had succeeded.

I invite anyone who may be interested to call up the Web site at the White House to get an idea about what the homeland security bill looks like. This is what it looks like. It is 35 pages long. This is the bill the White House submitted as the homeland security bill. That is what you will get if you call up the Web site. What we are actually going to vote on is this. The bill I just showed you is 35 pages long. The bill we are going to vote on is 484 pages long. Once the House leadership got their hands on this bill, it grew by 450 pages. Most of the extraneous material has nothing to do with homeland security. It has a lot to do with special interests, but not homeland security. When you call up that White House Web site and you ask for the bill, you are going to get the short version, but we are going to vote on this monstrosity of 484 pages.

I am told that the White House and others are going to clean this up in the coming Congress. They have a major job to do.

There are provisions in this bill that have no bearing and no relationship whatsoever to homeland security that were stuck in here in an act of arrogance by the leadership in the other body. They assumed they could put anything they wanted in here and then send it over and we would have to support it. Most of us know that these matters have no business being in this bill.

There are a number of provisions, of course, in the bill that Senator LIEBERMAN authored that are included here and therefore deserving of support.

That is the quandary in which we find ourselves. There are good pieces here that truly deal with the necessity of bringing agencies of Government together so we can respond more effectively and efficiently to terrorists—a matter we have to confront. But it is a tragedy they have taken language and then added to it all of these other provisions in these 484 pages.

There are some things that are left out as well. I want to commend my colleague from Maine, Senator COLLINS, as did our colleague from New York, Senator CLINTON, for talking about the absence of dealing with first responders. It seems unfair, to put it mildly, that we are not dealing here with the police, firefighter, and emergency medical services personnel. We're not giving them the kind of support and backing that will be necessary if we are struck with another terrorist attack.

I am hopeful as we reconvene the 108th Congress in January that we will be getting on with the business of doing what we can to see to it that

those provisions to help first responders are going to become the law of the land.

There have been provisions passed already that deal with homeland security, but, unfortunately, the President decided to sequester those funds.

For those who may not understand what sequester is, that is tantamount to a veto—about \$150 million—sitting down there just waiting for the President's signature which would become available to deal with homeland security.

But again, there are good provisions in the original Lieberman proposal and many of those provisions remain intact. For those reasons, despite the fact that the bill includes a lot of things that do not deserve to be in here, and on the commitments we have received from the Republican leadership as well as the White House to scrub this legislation and get rid of a lot of these things that have been added on here, I will support this bill.

But when you call up that Web site, you might ask them where the other 450 pages are which you won't get.

In closing, I would have preferred to lend my support to a more focused, more effective, homeland security bill. I tried to improve this bill, but at the end of the day this is the best we could do given the opposition we faced. I presume that this is not the last opportunity Congress will have to address homeland security. In the months ahead, I will continue to fight for improvements to the department we are creating. I will continue to fight for cops, not corporations; firefighters, not firms. America's security from terrorism depends on the men and women who wake up every morning, put on uniforms from state and local agencies across the country, and place themselves at risk for our nation. We owe them—and the Americans they are sworn to protect—more than this bill provides. But to do nothing would be to provide even less, and that is not wise under the present circumstances. This bill is a start toward a more rational and effective approach to strengthening security for all Americans here at home. For that reason I will support this homeland security bill.

THE TERRORISM RISK INSURANCE ACT

Madam President, I rise today in support of the conference report on the Terrorism Risk Insurance Act of 2002. This conference report represents a truly bipartisan, bicameral compromise. The Senate overwhelmingly supported the underlying legislation, which I introduced, along with Senators SARBANES, REID, and SCHUMER, in June of this year by a vote of 84-14.

This conference report closely mirrors the Senate-passed bill, and in many regards has been improved by negotiations with the House.

Late last week, the House passed this conference report by voice vote. It is my fervent hope that the Senate will move shortly to support it as well.

In the 14 months since September 11, 2001, Congress has taken many impor-

tant steps to protect our Nation from the new threat of terrorism. Most of these measures have focused on protecting our Nation's physical security—such as our new anti-terrorism laws, airport security legislation, and other initiatives to shore up our "homeland defense."

But we cannot, and must not, fail to respond to the effects that the new threat of terrorism are having on our Nation's economic security.

The goal of the September 11 terrorists was not simply to cause an enormous loss of life—it was also to derail America's economy; to undermine the consumer and investor confidence that serves as the cornerstone of our free enterprise system.

It is, therefore, by no means an overstatement to say that a robust American economy, and continued American prosperity, are as vital to defeating the aims of terrorists as is protecting American lives.

As a result of the September 11 attacks, during the past year, several critical sectors of the economy—real estate, commercial lending, aviation, construction, and others—have experienced significant disruptions because of the difficulty in finding terrorism insurance. By some estimates, this has cost American workers thousands of jobs and cost our economy tens of billions of dollars in economic growth activities—at a time our economy can surely use responsible economic stimulus.

The bottom line is that the insurance which protects America's buildings, businesses, homes, and workers from terrorist acts is no longer readily available or affordable. The impact on our economy of the shortage and expense of terrorism insurance has been detrimental.

According to the Real Estate Roundtable, over \$15 billion worth of new real estate projects across the country have been stalled or canceled because of a continuing scarcity of terrorism insurance during the past year.

The Risk Insurance Management Society, RIMS, recently released a survey which revealed that 71 percent of its membership found it very difficult or impossible to obtain adequate terrorism insurance. Also, 84 percent felt that their companies were inadequately covered against a future terrorist attack, while nearly 70 percent had no terrorism coverage whatsoever.

Rating agencies like Moody's have downgraded the credit ratings of nearly \$5 billion in commercial mortgage backed securities because terrorism insurance could not be obtained on the underlying properties.

It has estimated that the lack of terrorism insurance has caused construction workers to potentially lose up to 300,000 jobs because projects couldn't get financing without such insurance. According to Edward Sullivan, President of the Building and Construction Trades, AFL-CIO, "The unavailability of terrorism risk insurance is hurting

the construction industry by making the cost and risk of undertaking new building projects prohibitive. Building projects are being delayed or canceled for fear that they may be future terrorist targets. Lenders are refusing to go forward with previously planned projects where terrorism insurance coverage is no longer available. As a result, construction workers are losing job opportunities."

Just last week, a survey conducted by the New York City Comptroller cited the "dramatic" increases in commercial insurance premiums coupled with a "significant decline" in the availability of insurance since the September 11 attacks. The comptroller has urged the passage of federal legislation—such as that contained in this conference report.

Without Federal action, the General Accounting Office has warned that another terrorist attack would seriously impact America's economy by exposing businesses and property owners to potentially enormous losses—losses that could wipe out those businesses as well as the businesses that insure them.

No one wants to think about another terrorist attack. However, our free market system, in order to function efficiently, has to factor the risk of such an attack into its economic thinking.

The fact is, experts are estimating that, should another attack comparable to the September 11 attacks take place, only about 20 percent of the losses would be covered. This exposes our economy—and our entire country to a significant—and in the opinion of many, an unacceptable level of vulnerability.

We are here today to address this vulnerability. The passage of this conference report will go a long way toward calming our nervous insurance marketplace, and allow American businesses to continue to invest, and expand—in short, to continue business as usual.

This conference report makes sense because it calls upon the Federal Government to act only as an insurer of last resort. The private insurance industry will maintain front-line responsibility to do what it does best: calculate risk, assess premiums, and pay claims to policyholders.

The insurance industry is paying off the losses from the September 11 attacks, estimated to be roughly \$30 billion—\$40 billion. And the industry has made clear that despite this unprecedented loss, it remains strong and solvent.

Insurance isn't something we think about every day, yet it is vital to the overall health of our economy. By protecting people and property, goods and services in every sector of America's \$10 trillion economy, insurance provides the stability and certainty required to keep our economic engine humming. Every prospective homeowner needs insurance to obtain a mortgage from a bank. Similarly, industries as diverse as commercial real

estate, shipping, construction, manufacturing, and even "mom and pop" retailers require insurance to obtain credit, loans, and investments necessary for their normal business operations.

So although insurance isn't something we can touch and feel, its availability is as vital to rebuilding our economy in the aftermath of September 11 as bricks and beams will be to rebuilding lower Manhattan.

But the private insurance market cannot at this time bear the full risks of future attacks. As part of our defense against terrorism, and specifically to maintain the strength of America's economy, our government must share, at least temporarily, some of the risk associated with damage from terrorist acts.

And that's what the Terrorism Risk Insurance Act of 2002 does—by establishing a temporary Federal program under which the government would share the risk of future terrorist attacks with the insurance industry for up to three years.

In order to protect the American taxpayer, federal cost-sharing would become available only if total losses from terrorist attacks exceed \$10 billion in the first year of the program. Insurers and policyholders would retain responsibility for the initial \$10 billion in losses. This industry retention increases gradually throughout the life of the program.

For losses between \$10 billion and \$100 billion, the government would assume responsibility for 90 percent of the costs. Should losses top \$100 billion, Congress would determine the appropriate mechanism for ensuring payment.

For payments made by the federal government for insured losses during the course of a year, the Treasury Secretary will recoup the difference between total industry costs and \$10 billion. The recoupment will be accomplished through a surcharge on policyholders.

In order to insure that insurance consumers are both adequately informed and able to take full advantage of this program, several key consumer protections are included. Insurance companies are prohibited from discriminating amongst consumers in their offering of terrorism coverage. This conference report, like the Senate-passed bill, requires that insurers offer terrorism coverage in all of their property and casualty policies during the first 2 years of the program.

Additionally, at the time that policies are offered, purchased, or renewed, insurers must provide a clear and conspicuous disclosure of the premiums charged for terrorism insurance. Insurance consumers may not be charged for coverage that is not explicitly disclosed.

Lastly, nothing in this legislation prohibits state insurance regulators from retaining full authority to disapprove any rates or forms that violate state laws.

Simply put, our bill would ensure that the federal government would provide a temporary backstop to bring stability to a part of the economy that was seriously destabilized on September 11, 2001 against future terrorist attacks. This is the only way to bring full confidence back into the insurance markets that are so vital to our Nation's overall economic health.

This conference agreement is based on three important principles. First, it makes the American taxpayer the insurer of last resort. The insurance industry maintains front-line responsibility to do what it does best: calculate risk, assess premiums, and pay claims to policyholders.

Second, it promotes competition in the current insurance marketplace. Competition is the best way to ensure that the private market assumes the entire responsibility for insuring against the risk of terrorism, without any direct government role, as soon as possible.

Third, it ensures that all consumers and businesses can continue to purchase affordable coverage for terrorist acts.

Some say such a plan would be an unwarranted "bailout" of the insurance industry. Far from it. Not only will this measure be temporary, but any money the Federal Government spends through the program will go to victims of terrorism, not insurance companies. This conference report is needed to protect insurance consumers—consumers who need and deserve the stability promoted by this conference report.

America will win this war on terrorism. But to do so, our economic front must remain strong. Preserving the availability of terrorism insurance will act as "homeland defense" for our economy.

We must remember, on September 11 the terrorists did not target just the World Trade Center and Pentagon—they targeted our entire Nation. And we must have a national response. This conference report is part of that response.

Madam President, I would like to particularly thank, of course, the chairman of the Banking Committee, Senator SARBANES, for his leadership and support.

I would also like to thank the President of the United States. We would not be passing terrorism insurance were it not for the efforts of the White House that weighed very significantly in trying to bring this bill to closure and fruition.

This bill has been around for a long time—since October of last year. We have dealt at a number of levels with the physical security of our Nation since 9/11. But our Nation's security is complete without dealing with our economic security, and this terrorism insurance conference report is designed to do just that.

As a result of the efforts of Senator SARBANES, of Senator CORZINE, and of my colleague, Senator SCHUMER from

New York, Senator JACK REED of Rhode Island as well as others who have worked on this legislation.

Additionally, I would like to thank Congressman MIKE OXLEY of Ohio, chairman of the House Financial Services Committee, and JOHN LAFALCE, the ranking member for their efforts on this front as well.

I thank the Members who worked so diligently on this legislation. We spent a great deal of time on liability issues. In the end, we were able to strike a fair compromise. It is truly a bipartisan bill. It is bicameral in that both Chambers have been involved in the structure of this language. At lot of hours were spent—until the wee hours of the morning on one particular night until 5 a.m. working with the House and Senate staff to work out the differences and come to a final agreement on a conference report.

I know there are those in the other Chamber and some here who would have liked this bill to become the vehicle for tort reform. But the reality is we needed to deal with terrorism insurance and this legislation does just that.

Again, I thank the President of the United States. I have been critical of the President on numerous occasions. He deserves commendation here. But for his efforts and his staff to pull this together, we would not be talking about a final product. I am very grateful to him and to my colleagues and staff for their work.

I would like to particularly thank Alex Sternhell of my staff who worked tirelessly on this product for the past year to try to get us to a point where we can pass terrorism insurance.

Again, I thank those who have contributed so much to this conference report.

Senator SARBANES, Chairman of the Banking Committee, has played an invaluable role. Other conferees, Senators SCHUMER and JACK REED, were critical to reaching consensus on this important legislation. Senators CORZINE, CLINTON, and BEN NELSON also make important contributions.

I would also like to acknowledge the hard work of Senators DASCHLE and REID, who tirelessly shepherded this bill through the legislative process. I would like to thank my colleagues in the House, MIKE OXLEY and JOHN LAFALCE.

Also, Treasury Secretary Paul O'Neill and Undersecretary Peter Fisher and other members of the Treasury Department—Pat Cave, Laura Cox, Ed DeMarco, Mario Ugoletti—who put in long hours in order to ensure that the mechanics of the Federal backstop created in this conference report are sound.

And lastly, I would like to thank the staffs of the Senate and House who played a critical role in this conference report:

Sarah Kline, Aaron Klein, Didem Nasanci, Polly Trottenberg of the Senate Banking Committee.

Terry Hains, Robert Gordon, Charles Symington, Michael Paese, and

Lawranne Stewart of The House Financial Services Committee.

I would also like to recognize two members of the Legislative Counsel's office Laura Ayoud and Paul Callen, who have performed their duties so capably and in a nonpartisan fashion that is so important to the legislative process.

This conference report is about economic security. As important as our physical security is, our economic security is critically important. This conference report is an important piece of ensuring our nation's economic security. I look forward to the coming hours and days when the President will sign this bill into law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I understand I have 15 minutes on this bill.

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. Does the Senator also seek to speak on this bill?

Mr. SPECTER. Madam President, if I may respond, I will seek recognition. I will be glad to wait until the Senator from Maryland concludes. I do intend to seek recognition to speak on the homeland security bill.

Mr. SARBANES. Will the Senator allow us to use up the time that we have on this bill—I have 15 minutes and Senator DODD has 5 left—so we can complete the consideration of that?

Mr. SPECTER. I would be agreeable to that. If I might propound a unanimous consent that, at the conclusion of the 20 minutes referred to by the Senator from Maryland, I be recognized for 20 minutes which I have on homeland security.

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

Mr. SPECTER. I thank the Chair. And I thank my colleague from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, let me try to parcel out the time here.

The Senator needs 3 minutes, as I understand it.

Mr. SCHUMER. Yes.

Mr. SARBANES. And the Senator from New Jersey needs 3 minutes. And the Senator from Rhode Island?

Mr. REED. Three minutes.

Mr. SARBANES. That is 9 minutes. And the Senator from Nebraska, 3 minutes?

Mr. NELSON of Nebraska. Yes.

Mr. SARBANES. Madam President, I yield 3 minutes each to Senators SCHUMER, CORZINE, REED, and NELSON of Nebraska, and reserve the other 3 minutes for myself. And then Senator DODD, I think, still has just under 5 minutes.

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

Mr. SARBANES. I will use my time at the end.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Thank you, Madam President.

I thank my chairman of the Banking Committee for yielding. I want to make a few brief points both on terrorism insurance and on homeland security.

HOMELAND SECURITY

First, on homeland security, briefly, I will vote for the bill. I think it is a far-from-perfect measure. In fact, reorganizing the Government does not really do most of the job we need to do. It will not make the computers at the INS put those on a terrorist watch list on that list. It will not make the Coast Guard patrol out to 200 miles.

We are going to have to spend some dollars. And we are going to have to do some work within the agencies after we reorganize them.

So it is a first step. It is better than nothing, but I hope and pray that this Nation will understand that if we just do this on homeland security, and nothing else, we are woefully unprepared. When we come back in January, it ought to be our highest priority.

TERRORISM INSURANCE

Madam President, on terrorism insurance, I, first, thank my colleagues from Maryland, Connecticut, New Jersey, Rhode Island, Nebraska, and everyone else who worked so long and hard on this legislation. This is vital to our cities and our country.

Right now, there are hundreds of thousands of construction jobs not filled because there is no terrorism insurance. There are billions of dollars worth of construction projects not being undertaken because we do not have terrorism insurance. And there are higher costs for even those who can get terrorism insurance, putting a large crimp in the economy.

Right now, when our economy is swishy soft, this insurance bill is the shot in the arm the economy needs. Thankfully, at this last hour, after the perils-of-Pauline voyage that took over a year, this bill is about to pass this Chamber, be put on the President's desk, and be signed into law.

It comes none too soon because we desperately need it. We need to allow our companies to know that if, God forbid, there is a second terrorist incident—we hope and pray there isn't—the Government will be there as a backup.

To some of the ideologues who have opposed this bill, I would suggest to them that the Government has always been behind insurance in times of war. We have always had that. And this new terrorism is a time of war.

To those who say, well, let the market take over, we never did that under huge and new circumstances out of the control of individuals, without any predictive ability. So insurance companies have no knowledge of what they face.

We are going to have to do more. We are going to have to deal with life insurance. We are going to have to deal with workers' compensation insurance. All of these things, in this brave, new

post-9/11 world, need some Government help and Government involvement or the economy will come to a standstill.

So I want to say, thank God we passed this bill. My city and State, many of the larger cities and States throughout the country, desperately need it. We hope it will move to the President's desk quickly and be signed into law and remove a major roadblock on the path to recovery that this country needs.

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

Mr. SCHUMER. Thank you, Madam President. Again, I thank the Senator from Maryland for his generous yielding of time.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, I thank Chairman SARBANES for yielding me time. But also I thank and commend my colleagues who worked so diligently on this important legislation: Senators Schumer, Corzine, and Nelson of Nebraska, and particularly Senator DODD. Senator DODD really led the charge on this important effort, and together with his electoral reform legislation, he has made major contributions in this session. I commend him and thank him for his leadership.

This is a vitally important issue. After September 11, the reaction of the insurance industry to the potential of terrorist attack was contraction coverage. Premiums went up, coverage has shrunk, and many organizations, particularly many properties, could not secure insurance. That inhibited economic growth, and that inhibition continues to weigh on our economy.

This legislation, we hope, and I hope, will go a long way to start reviving activity, particularly construction activity and real estate activity. But the effects of this legislation go beyond simply the property market and the real estate market.

One of the interesting aspects of the 9/11 attacks was the fact that workers' compensation insurance was put at risk because, as you realize, workers' compensation, under law, must cover practically all injuries to workers. And if there is a terrorist event in a particular locale, it is likely that hundreds, perhaps even thousands, of workers could be injured. Those liabilities fall on very few companies. Without reinsurance, those companies cannot operate.

In my home State of Rhode Island, there is one workers' compensation insurance company which is actually a quasi-governmental entity. It is supported by the State. If that company failed, literally the State of Rhode Island would be on the hook to provide the resources to pay workers' compensation claims. It would be a great blow to my State.

This legislation also provides help and reinsurance for workers' compensation claims. So it is legislation whose effect, and beneficial effect, will go throughout our entire economy. It

will help, I hope, to stimulate economic activity. And it certainly will give, I hope, business men and women the confidence to, once again, undertake real estate projects, undertake economic activity, and do those things which are so essential for our continued economic prosperity.

Once again, this has been a long and arduous process. It has taken months. It has been the result of great effort and great diligence and great patience by my colleagues, again, particularly by Senator DODD.

I am pleased we are passing it this evening. I hope the President will sign it quickly. I hope we can get on to other legislation that will assist our economy in a material way, in a positive way.

I thank the Senators, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

HOMELAND SECURITY

Mr. CORZINE. Madam President, I, too, want to speak to the terrorism insurance legislation, but I also would like to make a brief comment with regard to homeland security.

I will be voting to support the creation of the Department of Homeland Security. Like many of my colleagues, this was a close call. Unfortunately, there were far too many adds to what was presented to us in this 484-page document, things that were really special interests, not the people's interests. They have been enumerated with regard to pharmaceuticals, colleges and universities, et cetera. It is unfortunate. And there are many details that are left out with regard to chemical plant security, nuclear powerplants, railroads, other issues that I think are vital.

Finally, we really have not dealt with the appropriations process to make sure that our first responders, the people who really are fighting the war on terrorism day to day have the resources to do their job. It is not even dealt with in this 484-page effort, and it is a serious shortcoming. It will move the ball down the field, but we are not where we should be. We have a lot of work to do. It is unfortunate that we have done it, in my view, in a half-hearted way here.

TERRORISM INSURANCE

Madam President, with regard to terrorism insurance, this is about the economy. It really is quite simple. This was never about the insurance industry. This was about making sure that investments would go forward in the construction, commercial real estate field. It was about making sure there was not a tax on the consumer, on everything from whether you went to a football game, or any kind of process you needed to have terrorism insurance to make sure that our economy is working efficiently. This was missing since September 11. And it is absolutely essential that we got to this compromise.

I cannot tell you, cannot tell my colleagues, how proud I am to have seen

the tremendous work that both Senators SARBANES and DODD performed to try to get a compromise.

The holdup on this was never about the need to push forward to protect our economy, to support our industry. This was about tort reform, issues that really were relevant to protecting the economic security of the American people. Their tenacity, their effectiveness in negotiating compromise has led to a great result. I can only say congratulations to them, to the others who helped bring it about. The President was certainly at the forefront.

I hope my colleagues will support the terrorism insurance legislation. I am very appreciative of the help of my senior colleagues.

The PRESIDING OFFICER. The Senator from Nebraska.

TERRORISM INSURANCE

Mr. NELSON of Nebraska. I thank my esteemed colleague from Maryland for the opportunity to rise today in strong support of the conference report to S. 2600. I commend Senator DODD and all those who have worked to bring this together after having passed it earlier. It is now a great opportunity for us to come back and pass it in its final form.

It is about the economy; it is not simply about insurance. The economic impact of the events of September 11 have had a continuing devastating impact on our commercial real estate market, mortgage lenders, the construction industry, the investment community, and other segments of our economy. Many of these areas have yet to recover and do not look for recovery for a long time.

Fundamentally, this is a jobs bill. It is just one small step Congress can take to help stimulate our weak economy by providing this Federal backstop—not a bailout—for catastrophic losses resulting from acts of terrorism in the future.

It is estimated that the property damage alone from the attack on the World Trade Center is about \$50 billion. While the carriers involved in this loss have indicated they could cover these losses while maintaining their solvency, we can only speculate as to where and when the next attack might come and the nature and extent of the damages. Without this backup, all insurers providing this coverage, if they do provide it, will only risk not being able to respond to the next loss.

The underlying premise of insurance is the ability of the insurer to assess the nature and the extent of the loss, applying actuarial principles, the historical approach to determine the likelihood of loss, and then calculating the premiums necessary to build reserves sufficient to cover that loss. Clearly, under these circumstances, without a historical perspective, there is no way for insurers to realistically underwrite for the risk of terrorist attack.

Who among us knows where or when the next event might occur, what the nature of the attack might be, and

what type and extent of loss might be sustained? Will it be primarily property damage? Will it be massive loss of life in a concentrated area such as we had with the World Trade Center? Will it be a chemical or biological agent released or will it be a dirty bomb? These are the questions to which we don't know the answers.

The fact is, we cannot make those decisions without knowing what the opportunity will be for the next terrorist attack. We all hope there won't be one, but insurance is against that kind of loss that you don't necessarily expect but you anticipate could in fact happen. The long-term effect on our industry would be devastating.

I hope we will all rise today in support of this important legislation. I thank the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I am pleased that we will shortly, I assume, be passing this legislation, although I understand we have to go through a cloture vote prior to reaching the legislation itself. I wanted to underscore that this represents an extraordinary effort on the part of many people. I particularly recognize the leadership my able colleague from Connecticut, Senator DODD, provided on this issue. We have been working at this now for about a year. So it has been a long time coming. It is fair to say that we would never have reached this point without Senator DODD's commitment to this issue and his tireless efforts with respect to this legislation.

I also thank the majority leader, Senator DASCHLE, who was consistently trying to get terrorism insurance legislation, despite efforts by many to turn it into something over and above that.

Senators SCHUMER and REED, our colleagues on the conference committee, made significant efforts to move the bill forward. And also Senator CORZINE, although he wasn't on the conference committee, was very closely involved in developing this legislation. Of course, Chairman OXLEY and Congressman LAFALCE, our colleagues in the House, were obviously instrumental in moving the legislation through the other body.

I also want to take a moment to underscore the outstanding work done by staff on this legislation. We come to the floor and, of course, Members are deeply involved. And I particularly underscore Senator DODD's efforts in this regard. But there are staff who back us all up.

I particularly want to recognize from the Banking Committee staff Sarah Kline, Aaron Klein, and Alex Sternhell, who worked literally day and night on this matter. Also Steve Harris, Marty Gruenberg and Steve Kroll, and the staff of our conferees: Didem Nisançi from Senator REED's office, and Polly Trottenberg from Senator SCHUMER's office; and while he was not a conferee,

Senator CORZINE's staffer, Roger Hollingsworth, also participated throughout.

I also want to recognize the hard work and the professionalism that our legislative counsels brought to this process: Laura Ayoud from the Senate legislative counsel's office, who is just an outstanding professional and renders great service to this body, and Paul Callen from the House legislative counsel's office. Laura Ayoud stayed up all night working on this legislation. I simply want to underscore that.

We have had strong support for this legislation from the administration. The President has indicated that he will sign it. The administration was instrumental in dealing with some of the objections that were actually raised more with respect to items that are not in the legislation rather than items that are in it. In the course of this, we have developed a piece of legislation which I believe will address the challenge that confronts us.

We have had troubling reports about the availability of terrorism insurance, and the impact of that upon the economy.

Since the tragic attacks of September 11th, many property and casualty insurers are excluding coverage of losses from acts of terrorism from the policies they write. In those cases where terrorism insurance is available, it is often unaffordable, and very limited in the scope and amount of coverage. The Banking Committee explored this issue in two days of hearings shortly after the attacks, in which we heard from Treasury Secretary O'Neill, CEA Chairman R. Glenn Hubbard, insurance regulators, business and insurance leaders, and outside experts. The testimony of these witnesses helped to define the scope of the problem in the insurance marketplace and to shape our thinking on the appropriate solution.

The fact that so many properties are uninsured or underinsured against the risk of terrorism could have a negative effect on our economy and our recovery if there were to be another terrorist attack. In the event of another attack, many properties would have to absorb any losses themselves, without the support of insurance. As a result, the GOA has observed, "another terrorist attack similar to that experienced on September 11th could have significant economic effects on the marketplace and the public at large."

But even in the absence of another attack, the lack of insurance can hinder economic activity. The GAO has found example of "large projects canceling or experiencing delays . . . with a lack of terrorism coverage being cited as a principal contributing factor."

Most industry observers are of the opinion that, given time, the insurance industry will develop the capacity and the experience that will allow them to underwrite the terrorist risk. However, those conditions do not appear to exist

today. In the interim experts believe that a Federal reinsurance backstop of limited duration would give the insurance markets the necessary time to stabilize.

The conference report before us establishes a temporary, three-year backstop under which the Federal Government will share the risk of loss from future terrorist attacks with the insurance industry. The program is triggered when the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General, certifies that an event meets the definition of an act of terrorism provided in the legislation.

The Terrorism Insurance Program requires that insurers pay a share of losses before Federal assistance becomes available. Each insuree that suffers losses in a terrorist attack will be responsible for paying out a certain amount in claims—an insurer deductible—based on a percentage of that insurer's direct earned premiums from the previous calendar year. Beyond their deductibles, insurance companies will continue to have 'skin in the game,' as they will be liable for a copayment for additional losses. For losses above an insurer's deductible, the Federal government will cover 90 percent while the insurer will pay 10 percent.

These provisions are intended to create partnership between insurers and the Federal Government in the event that losses occur. By requiring companies both to cover initial losses and to continue to share in additional losses, this program provides the coverage and the certainty of the Federal backstop while also providing incentives to promote a healthy private market. And while no system is perfect, the legislation grants the Treasury Secretary certain powers, such as the ability to audit and inspect claims, that are necessary to protect the government against unscrupulous behavior. It is our intent that insurers do not alter their behavior in an attempt to procure more value from this program than they would otherwise receive from the course of their natural business practices.

In addition to limiting the exposure of individual insurance companies, the legislation also includes certain mechanisms to limit the exposure of the Federal Government, first by requiring the insurance marketplace as a whole to absorb a prescribed amount of any terrorism losses—\$10 billion for year 1; \$12.5 billion for year 2; and \$15 billion for year 3—and second, by capping total losses covered by the program at \$100 billion per year. Any Federal payments made before the prescribed insurance marketplace retention is reached must be recouped by the Secretary of the Treasury through a policyholder surcharge.

One of the guiding principles of this bill is that, to the extent possible, state insurance law should not be overridden. To that end, the bill respects

the role of the state insurance commissioners as the appropriate regulators of policy terms and rates. Each state commissioner currently has the responsibility to ensure that insurance rates are not inadequate, unfairly discriminatory, or excessive, and this legislation does not change that responsibility.

At the same time, in order to ensure that the Federal program will work as intended, certain Federal requirements are needed to ensure that consumers of terrorism insurance will benefit from this program.

For example, insurance companies will be prohibited from discriminating amongst their policyholders by picking and choosing which ones to cover for terrorism. The bill requires that insurance companies must offer terrorism coverage in all of their property and casualty policies during the first two years of the program. The Secretary has discretion to extend their important requirement to the third year of the program.

In addition, insurers must provide policyholders with clear and conspicuous disclosure of the premium charged for terrorism coverage and the existence of a sizeable Federal backstop. This disclosure is intended to enhance the competitiveness of the marketplace by allowing consumers to comparison-shop for the best rate on terrorism insurance. In addition, the disclosure is intended to make policyholders aware that the Federal Government will be sharing the costs of terrorism losses with their insurers, to help the policyholders assess the appropriateness of the premium being offered.

Moreover, the bill ensures that the State regulators and the Federal Government will have access to the information needed to assess the impact of this program on insurance consumers. The Secretary is required to compile annually information on the terrorism risk premiums being charged by insurers.

This is a limited bill in duration. Of course, the objective is that by the end of that time, the insurance market will have come fully back into play and that these matters can be dealt with in a more traditional way.

But as the Senator from Connecticut has pointed out frequently, as we have addressed the issue over the course of this last year, we face extraordinary circumstances created by the risk of terrorism. This legislation represents a reasonable and rational response to this challenge.

I urge my colleagues to support this legislation.

The PRESIDING OFFICER. The Senator has used 2 minutes.

The Senator from Connecticut.

Mr. DODD. I have 2 minutes remaining?

The PRESIDING OFFICER. Two and a half minutes remaining.

Mr. DODD. Madam President, let me again thank my colleagues for their

work. I mentioned MIKE OXLEY of Ohio, chairman of the House Banking Committee, and JOHN LAFALCE. JOHN LAFALCE and I were elected to Congress together back in the 1970s. He has made a decision to retire from his service in the Congress. I thank him for a remarkable record of public service over the more than 2½ decades.

I also thank some of the White House staff in addition to our own staff here. I include all the names in the remarks I have already submitted. I want to thank Nick Calio and Matt Kirk of the White House legislative operations. I commend them for their efforts.

They helped to broker this final agreement. You need to have people at the executive branch who are willing to try to put pieces together. They are two very professional staff people. The President is fortunate to have them working with him. I know that in the process of doing so, they disappointed some. I know how they strongly agreed with some of the people they disappointed on substantive matters but believe they are serving their President and the country well in coming to a final conclusion that is fair to all. I thank them for their professionalism and straightforwardness in dealing with these difficult matters.

I thank Senator DASCHLE and Senator LOTT for their leadership as well. Both leaders have done a very fine job.

Mark Childress of Senator DASCHLE's staff was tremendously helpful on this legislation. Senator SARBANES is absolutely correct that we don't often give those staff members who put in countless hours on matters like this the credit they deserve. But were it not for Mark and Senator DASCHLE's other staff members working with Alex Sternhell of my office, and Senator SARBANES' staff, we would not have been able to achieve this result.

This conference report is about economic security. As important as our physical security is, our economic security is critically important. This conference report is an important piece of ensuring our nation's economic security. I look forward to the coming hours and days when the President will sign this bill into law.

I yield the floor.

Mr. SPECTER. Madam President, I have sought recognition to comment about the legislation on homeland security, which I believe the Senate is about to pass. It has been accurately characterized as historic legislation. It reorganizes the Government of the United States of America to meet the threat of terrorism.

On September 11, 2001, this country sustained a devastating loss, a loss deeply emblazoned on the minds of all Americans. With the attacks on the World Trade Center, the attack on the Pentagon, and the plane that went down in Somerset County, PA, it was obvious that we faced a very extraordinary threat.

We should have taken action against al-Qaida long before September 11.

There were many warning signals available. Osama bin Laden was well known for his jihad against the West, against our values, against our civilization. Osama bin Laden was indicted for killing Americans in Mogadishu in 1993. Osama bin Laden was indicted for blowing up the U.S. embassies in Africa in 1998. He was known to have been involved with al-Qaida and the terrorism against the destroyer Cole, and he had made his announcement of his worldwide jihad.

But the United States has historically been reluctant to take preemptive action. We did little in responding to the attacks on the embassies of August 20, 1998. When we sent a missile to Afghanistan, it went to an empty factory. When we put a missile in a factory in the Sudan, it may or may not have been a factory with chemical weapons. But then, with the events of 9/11, it became apparent that we had to respond, and we had to respond very dramatically and emphatically.

Senator LIEBERMAN and I introduced legislation on October 11, 2001—exactly 1 month after the 9/11 attack. It was apparent to many of us at that time that we needed to have an office of homeland defense and a Secretary with power to deal with the many agencies that would be involved. First and foremost among those agencies, in my view, was the coordination of activities among our intelligence agencies.

When I was chairman of the Intelligence Committee in the 104th Congress, I introduced legislation in 1996 to bring all of the intelligence agencies under one umbrella, under the Director of Central Intelligence. That had been the spot that was supposed to coordinate all of the intelligence activities.

But the fact of the matter was that the Director of the CIA did not have that authority because there were too many independent agencies—the Defense Intelligence Agency, the National Security Agency, the counterintelligence of the FBI, intelligence units in the State Department, and intelligence units spread throughout the Government—and there were fierce battles on turf, and the coordination was not undertaken.

As a result of not having all of the intelligence agencies under one umbrella, the United States paid a very heavy price. It is my view that had all of the dots been on the board, had there been coordination at all of these intelligence agencies under one umbrella, we might well have prevented September 11.

After the fact, we learned that in July there was a very important FBI report coming out of Phoenix, AZ, about a suspicious man taking flight training, and he had a big picture of Osama bin Laden in his living quarters. That memorandum was buried somewhere in the FBI headquarters. We found out after the fact that the CIA had information on two al-Qaida agents at Kuala Lumpur. The CIA did not tell the FBI or the Immigration

and Naturalization Service that those agents came into the United States, and they were two of the suicide bombers on 9/11.

There was information about a man named Zacarias Moussaoui. The FBI field office in Minneapolis made an effort to get a warrant under the Foreign Intelligence Surveillance Act. They never got the warrant. They were using the wrong standard. They were using a standard of probable cause of 51 percent. The FBI agent testified that the U.S. attorney in Minneapolis thought he had to have a 75- to 80-percent probability.

The fact is that, under the law, *Gates v. Illinois*, an opinion by Justice Rehnquist—now the Chief Justice, then an Associate Justice on the Court—says that probable cause is judged by the totality of the circumstances and suspicion, and had the warrant been obtained under the Foreign Intelligence Surveillance Act, the computer of Zacarias Moussaoui was a virtual treasure trove of information.

Then a man named Murad, a Pakistani, a member of al-Qaida, gave a statement in 1995 that al-Qaida had plans in 1995 to load explosives on an airplane and fly them into the White House or into the CIA. Then you had the experience with the trade towers themselves, attacked in 1993 by al-Qaida's agents. They had made an effort to blow up one of the towers to try to topple into the other tower to destroy them both. It was known that they were very unhappy about their failure.

So the risks were present, but there was not coordination. We didn't bring all of those dots onto one screen. When FBI Director Mueller testified before the Judiciary Committee in early June, I asked him about all of these facts and concluded that there was a veritable blueprint had all of these dots been put together. That is what we have an opportunity to do now with homeland security, under the direction of the Secretary of Homeland Security.

I had submitted an amendment, which would have given the Secretary greater authority than is present in the existing bill. The Secretary of Homeland Defense, under the existing legislation, may request that the agencies coordinate, but the Secretary does not have the authority to direct, and I believe that is a significant failing in this bill.

When the House of Representatives passed a homeland security bill last Wednesday and, in effect, left town, sending a bill to the Senate, it was pretty much a matter of take it or leave it. If I had pressed my amendment to do what I thought was a very important improvement, to give the Secretary authority to direct all of these agencies, the bill would have had to go back to conference, and the Members of the House of Representatives had dispersed. They are present only in pro forma session. They can take some technical amendments without recon-

vening, but to press a substantive amendment would have sent the matter back for a conference, and it would have delayed the matter perhaps as long as April of next year.

I had a long discussion on this matter with homeland security adviser, former Governor Tom Ridge, and pressed the point. Then I discussed the matter with Vice President CHENEY and sought some sort of a commitment that the administration would look favorably upon this kind of an amendment when we reconvened. The Vice President said he could not speak for the President. I talked to President Bush, who urged me not to press the amendment, and I told him I would not because I did not want to tie up the bill. I did not want to put on a substantive amendment that would have required a conference.

Early in the 108th Congress, I will refile that amendment to give the Secretary of Homeland Security the authority to direct these agencies because I am still concerned about their turf battles. Turf battles in Washington, DC are endemic and epidemic. It is too serious a matter to engage in turf battles any longer. Now is the time where we have to use all of our resources to prevent another attack.

We have made very significant advances on a number of lines—on the Border Patrol, the Immigration and Naturalization Service. We put up \$3 billion last year on serums to deal with smallpox and anthrax, such as Cipro. That came through the Subcommittee on Labor, Health, Human Services, and Education. Senator HARKIN, then the chairman, and I, ranking member, took the lead in putting up that money. All of these precautions in building up the hospital infrastructure and giving assistance to the fire departments is vital. Having coordination with Federal, State, and local authorities is vital, but if we have to respond to an attack, if we do not prevent an attack, then we will be in very bad shape. That is why I do believe our efforts have to be directed to preventing another attack.

I discussed also with the administration, with Governor Ridge, Vice President CHENEY, and President Bush the labor-management relations issue. I believe we could have worked out an accommodation which would have been satisfactory to all parties.

When we had the amendment offered by the Senator from Nebraska, Mr. NELSON, cosponsored by Senator CHAFEE and Senator BREAUX, there was initial confusion as to whether the two paragraphs of the Breaux amendment, which incorporated the so-called Morella amendment from the House bill, was in place of, substituted for, or in addition to.

In a colloquy with the distinguished Senator from Connecticut, we established the amendment was in addition to and did not remove the President's national security authority to take steps if national security was endan-

gered. That model could have been applied to the other five chapters on flexibility.

The Subcommittee on Labor, Health, Human Services, and Education will schedule hearings promptly when we reconvene the 108th Congress to go into these issues, to have a thorough airing, have people from the Office of Personnel Management come in and explain what they need; to have labor representatives come in and explain what they have in mind, in order to work out an accommodation which is satisfactory for all parties to maintain a high level of morale.

We also have to be concerned about provisions in this bill which could have the effect of trampling on civil liberties and constitutional rights. There is no doubt about the danger posed by al-Qaida, but there is similarly no doubt that we cannot give up our civil liberties and our constitutional rights in our efforts to combat al-Qaida. If we do that, if we give up our civil liberties, al-Qaida would have, in effect, won.

There is an ongoing responsibility for oversight, and that responsibility will fall on the shoulders of the Governmental Affairs Committee and the Judiciary Committee to see to it that the detention of aliens is based upon some reason; to see to it that if American citizens are tried in a military court that there is an observance of constitutional rights. There is grave concern in America that we be protected from another terrorist attack, but there is also grave concern that we be careful in the preservation of our civil liberties.

Madam President, how much of my 20 minutes remains?

The PRESIDING OFFICER. Six minutes and 26 seconds.

Mr. SPECTER. Madam President, I notice the Senator from Connecticut has come to the Chamber. In his absence, I had commented that the Senator from Connecticut, Senator LIEBERMAN, and I, had introduced homeland security back on October 11, 2001.

There was resistance in many quarters to having a Department of Homeland Security. Governor Ridge, at that time, and I had discussed the matter. I have worked very closely with Tom Ridge for many years—12 years in the Congress and two terms as Pennsylvania's distinguished Governor. Governor Ridge said he was sure the people would not say no to the President; he could walk down the hall, and he could solve the problems.

I had a view, having been chairman of the Intelligence Committee and knowing what goes on in the CIA, that it was not going to be that easy; that the man in charge of homeland security really needed some muscle.

Having worked on the Judiciary Committee chairing the oversight committee on the FBI, I knew the problems there. I knew the turf battles, and I thought the adviser in charge of homeland security needed some muscle.

Senator LIEBERMAN and I constructed that bill, when we had hearings. We re-introduced an updated version last May, and it has had a number of developments. I do believe it is going to be necessary to revisit some provisions. I mentioned two—the authority of the Secretary to direct the intelligence agencies to consolidate under one umbrella, and a refinement of some of the provisions on labor-management relations.

Then the House of Representatives passed a bill on Wednesday and sent it to the Senate on Thursday. Senator LIEBERMAN offered an amendment to strike which was voted upon earlier today.

I agreed with a great deal of what Senator LIEBERMAN had to say. I felt it necessary to vote against Senator LIEBERMAN's amendment because that would have called for a conference, the

appointment of conferees, and great delay. It could have been delayed until April.

We have been asked a lot of questions about this. Yesterday in Pennsylvania in a number of meetings, a number of people asked me about it. I told them about the old statement: You never want to see legislation or sausage made. If you saw what the House of Representatives did, the bill they sent over here and some of its provisions gave sausage a bad name. But we are going to work through it. We are going to pass the bill.

It is not unusual for the Congress, for the Senate to be confronted with a bill which has a lot of clunkers, which has a lot of problems, a lot of major disadvantages. Then we have to make a public policy determination as to whether the advantages outweigh the disadvantages.

In my judgment, it is not even a close call at this point. We have to have a Department of Homeland Security to protect America.

Again, I compliment my colleague from Connecticut. I compliment the Senator from Tennessee, Mr. THOMPSON, for the tremendous job he has done on the bill, and the Senator from Texas, Mr. GRAMM, and his swan song. It is a tough legislative battle, but before the stroke of midnight, I believe we will have moved ahead. I am told by the White House that the President intends to sign this bill early next week. He is not going to let any grass grow under anybody's feet. We are going to do our best to protect America and try to prevent another terrorist attack.

I yield the floor.

NOTICE

Incomplete record of Senate proceedings.

Today's Senate proceedings will be continued in the next issue of the Record.