

fixed terrestrial service in the 12.2-2.7 GHz band only from an applicant that "will employ terrestrial service technology under the license that has been successfully demonstrated with operational equipment that the application has furnished for testing pursuant to section 1012 of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. §1110) and certifies in its application that it has authority to use such terrestrial service technology under the license." See proposed bill at §3 (b)(1)(B)(i). This bill will also require a license to build out the system covered by the license within five years of the grant of the license. See proposed bill at §3 (c).

These requirements will ensure that the FCC issues licenses promptly and in a fair and constitutional manner to qualified applicants (i.e., any party that demonstrates its own technology can share spectrum with satellites would be eligible for a license). This bill will finally enable consumers to enjoy an important new competitive service that is so long overdue.

Seldom does one bill protect private property rights, increase competition, and provide more service options for the public. I am happy to report that this bill accomplishes all three. I commend you for authoring this important legislation and ask that you call upon me if any can be of any assistance to help secure its passage.

Yours truly,

NANCIE G. MARZULLA.

Mr. BURNS. Mr. President, today I rise with my colleague from Louisiana, Sen. LANDRIEU, to introduce the "Emergency Communications and Competition Act of 2002" or "ECCA."

This bill will build upon previous legislation I authored, the LOCAL TV Act, to help ensure that all local TV stations, not just those in the largest markets are available to consumers. As a former broadcaster, I know Montana has some of the smallest of the Nations' 210 television markets, from 169th-ranked Missoula all the way down to 210th-ranked Glendive.

Today, the satellite operators provide local channels in 52 markets. I'm not crossing my fingers that they will get to Glendive anytime soon. That's why we need this legislation. It will enable the rapid deployment of the new Multichannel Video Programming and Data Distribution Service, MVDDS, which the Federal Communications Commission authorized earlier this year.

I commend the FCC for authorizing this new service, it not only promises to bring local channels to all markets, regardless of size, but it will also provide broadband Internet access to rural Americans who have no such access today. I expect that the low cost of this wireless technology will translate into low prices for consumers. This is precisely the kind of innovative new technology we should encourage and promote.

I am most concerned, however, that unless we pass this legislation, we may never see the deployment of this new service. The FCC has determined that licenses for this new service should be auctioned. I appreciate the FCC's effort to help generate new revenues for the Federal Treasury, but we must never

let that consideration override good public policy judgments. The public interest is best served when the spectrum is licensed promptly to applicants that are ready to deploy service.

While auctions make sense in many instances, this is not always the case. Two years ago, Congress passed the ORBIT Act, legislation I authored which, in part, exempted from auctions "spectrum used for the provision of international or global satellite communications services."

We are now confronted with a case of first impression in which the FCC has determined to issue licenses to both terrestrial and satellite applicants that share the same spectrum. Previously this was thought to be technologically impossible, as I mentioned, the FCC has now determined that the terrestrial-based MVDDS can share with satellites. In my judgment, the same Federal resource must be licensed in the same manner to all applicants, regardless of the technology they will employ. To do otherwise is to pick industry winners and losers. This bill corrects this problem.

#### AMENDMENT SUBMITTED AND PROPOSED

SA 4516. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4517. Mr. ENZI (for himself, Mr. GRASSLEY, Mr. HAGEL, and Mr. FEINGOLD) proposed an amendment to amendment SA 4480 proposed by Mr. BYRD (for himself, Mr. BURNS, Mr. STEVENS, Mr. REID, Mr. DOMENICI, Mrs. MURRAY, Mr. CRAIG, Mr. WYDEN, Mr. KYL, Mr. BAUCUS, and Mr. CAMPBELL) to the amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

SA 4518. Mr. CRAIG (for himself, Mr. DOMENICI, and Mr. MURKOWSKI) proposed an amendment to amendment SA 4480 proposed by Mr. BYRD (for himself, Mr. BURNS, Mr. STEVENS, Mr. REID, Mr. DOMENICI, Mrs. MURRAY, Mr. CRAIG, Mr. WYDEN, Mr. KYL, Mr. BAUCUS, and Mr. CAMPBELL) to the amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4519. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4520. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4521. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4522. Mr. DODD (for himself and Mr. LIEBERMAN) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4523. Mr. REID (for Mrs. BOXER) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4524. Mr. BURNS (for Mr. BENNETT) proposed an amendment to amendment SA 4472

proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4525. Mr. REID (for Mr. CLELAND (for himself, Mr. THOMPSON, Mr. AKAKA, and Mr. GRAHAM)) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4526. Mr. REID proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4527. Mr. BURNS (for Mr. STEVENS) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4528. Mr. REID proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4529. Mr. BURNS (for Mr. THOMAS) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4530. Mr. WARNER (for himself and Mr. THOMPSON) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4531. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which as ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 4516.** Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related Agencies for the fiscal year ending September 30, 2003 and for other purposes; which was ordered to lie on the table.

On page 14, beginning on line 11 strike "\$42,682,000, to remain available until expended;" and insert "\$42,882,000, to remain available until expended, of which \$200,000 shall be made available for the Caddo Lake Ramsar Wetland Science Center, Texas, and;"

On page 25, line 7, strike "\$238,205,000" and insert "\$238,005,000".

On page 25, line 12, after "Act," insert "of which \$4,800,000 is for the Big Thicket National Preserve, Texas; and;"

**SA 4517.** Mr. ENZI (for himself, Mr. GRASSLEY, Mr. HAGEL, and Mr. FEINGOLD) proposed an amendment to amendment SA 4480 proposed by Mr. BYRD (for himself, Mr. BURNS, Mr. STEVENS, Mr. REID, Mr. DOMENICI, Mrs. MURRAY, Mr. CRAIG, Mr. WYDEN, Mr. KYL, Mr. BAUCUS, and Mr. CAMPBELL) to the amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

At the end of the amendment, add the following:

#### SEC. 3. PAYMENT LIMITATIONS.

Section 1001 of the Food Security of 1985 (7 U.S.C. 1308) is amended—

(1) in subsection (b), by striking "\$40,000" each place it appears and inserting "\$17,500";

(2) in subsection (c), by striking "\$65,000" each place it appears and inserting "\$32,500"; and

(3) by striking subsection (d) and inserting the following:

“(d) LIMITATIONS ON MARKETING LOAN GAINS, LOAN DEFICIENCY PAYMENTS, AND COMMODITY CERTIFICATE TRANSACTIONS.—

“(1) LOAN COMMODITIES.—The total amount of the following gains and payments that a person may receive during any crop year may not exceed \$90,000:

“(A)(i) Any gain realized by a producer from repaying a marketing assistance loan for 1 or more loan commodities under subtitle B of title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7931 et seq.) at a lower level than the original loan rate established for the loan commodity under that subtitle.

“(ii) In the case of settlement of a marketing assistance loan for 1 or more loan commodities under that subtitle by forfeiture, the amount by which the loan amount exceeds the repayment amount for the loan if the loan had been settled by repayment instead of forfeiture.

“(B) Any loan deficiency payments received for 1 or more loan commodities under that subtitle.

“(C) Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation for 1 or more loan commodities, as determined by the Secretary, including the use of a certificate for the settlement of a marketing assistance loan made under that subtitle.

“(2) OTHER COMMODITIES.—The total amount of the following gains and payments that a person may receive during any crop year may not exceed \$90,000:

“(A)(i) Any gain realized by a producer from repaying a marketing assistance loan for peanuts, wool, mohair, or honey under subtitle B or C of title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7931 et seq.) at a lower level than the original loan rate established for the commodity under those subtitles.

“(ii) In the case of settlement of a marketing assistance loan for peanuts, wool, mohair, or honey under those subtitles by forfeiture, the amount by which the loan amount exceeds the repayment amount for the loan if the loan had been settled by repayment instead of forfeiture.

“(B) Any loan deficiency payments received for peanuts, wool, mohair, and honey under those subtitles.

“(C) Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation for peanuts, wool, mohair, and honey, as determined by the Secretary, including the use of a certificate for the settlement of a marketing assistance loan made under those subtitles.

“(f) SINGLE FARMING OPERATION.—Notwithstanding subsections (b) through (e), if an individual participates only in a single farming operation and receives, directly or indirectly, any payment or gain covered by this section through the operation, the total amount of payments or gains (as applicable) covered by this section that the individual may receive during any crop year may not exceed twice the dollar amount prescribed in this section.”.

**SA 4518.** Mr. CRAIG (for himself, Mr. DOMENICI, and Mr. MURKOWSKI) proposed an amendment to SA 4480 proposed by Mr. BYRD (for himself, Mr. BURNS, Mr. STEVENS, Mr. REID, Mr. DOMENICI, Mrs. MURRAY, Mr. CRAIG, Mr. WYDEN, Mr. KYL, Mr. BAUCUS, and Mr. CAMPBELL) to the amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related

agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

**SEC. \_\_\_\_ . EMERGENCY HAZARDOUS FUELS REDUCTION PLAN.**

(a) IN GENERAL.—Subject to subsection (c) and notwithstanding the National Environmental Policy Act of 1969, the Secretaries of Agriculture and the Interior shall conduct immediately and to completion, projects consistent with the Implementation Plan for the 10-year Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, May 2002 developed pursuant to the Conference Report to the Department of the Interior and Related Agencies Appropriations Act, 2001 (House Report 106-646) to reduce hazardous fuels within any areas of federal land under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior that are outside of Congressionally designated Wilderness Areas and that the appropriate Secretary determines qualifies as a fire risk condition class three area. Any project carried out under this section shall be consistent with the applicable forest plan, resource management plan, or other applicable agency plans.

(b) PRIORITY.—In implementing project under this section, the Secretaries of Agriculture and the Interior shall give highest priority to—

- (1) wildland urban interface areas;
- (2) municipal watersheds;
- (3) forested or rangeland areas affected by disease, insect activity, or wind throw; or
- (4) areas susceptible to a reburn.

(c) LIMITATIONS.—In implementing this section, the Secretaries of Agriculture and the Interior shall treat an aggregate area of not more than 10 million acres of federal land, maintain not less than 10 of the largest trees per acre in any treatment area authorized under this section. The Secretaries shall construct no new, permanent roads in RARE II Roadless Areas \* \* \*

(d) PROCESS.—The Secretaries of Agriculture and the Interior shall jointly develop—

(1) notwithstanding the Federal Advisory Committee Act, a collaborative process with interested parties consistent with the Implementation Plan described in subsection (a) for the selection of projects carried out under this section consistent with subsection (b); and

(2) in cooperation with the Secretary of Commerce, expedited consultation procedures for threatened or endangered species.

(e) ADMINISTRATIVE PROCESS.—

(1) REVIEWS.—Projects conducted under this section shall not be subject to—

(A) administrative review by the Department of the Interior Office of Hearings and Appeals; or

(B) the Forest Service appeals process and regulations.

(2) REGULATIONS.—

(A) IN GENERAL.—The Secretaries of Agriculture and the Interior, as appropriate, may promulgate such regulations as are necessary to implement this section.

(f) JUDICIAL REVIEW.—

(1) PROCESS REVIEW.—The processes developed under subsection (d) shall not be subject to judicial review.

(2) REVIEW OF PROJECTS.—Judicial review of a project implemented under this section shall—

(A) be filed in the Federal District Court for which the Federal lands are located within 7 days after legal notice of the decision to conduct a project under this section is made to the public in a manner as determined by the appropriate Secretary;

(B) be completed not later than 360 days from the date such request for review is filed

with the appropriate court unless the District Court determines that a longer time is needed to satisfy the Constitution;

(C) not provide for the issuance of a temporary restraining order or a preliminary injunction; and

(D) be limited to a determination as to whether the selection of the project, based on a review of the record, was arbitrary and capricious.

(g) RELATION TO OTHER LAWS.—The authorities provided to the Secretaries of Agriculture and the Interior in this section are in addition to the authorities provided in any other provision of law, including section 706 of Public Law 107-206 with respect to Beaver Park Area and the Norbeck Wildlife Preserve within the Black Hills National Forest.

**SEC. \_\_\_\_ . QUINCY LIBRARY INITIATIVE.**

(a) Congress reaffirms its original intent that the Herger-Feinstein Quincy Library Group Forest Recovery Act of 1998 be implemented. Congress finds that delays and obstacles to implementation of the Act have occurred as a result of the Sierra Nevada Forest Plan Amendment decision January 2001.

(b) Congress hereby extends the expiration of the Act by five years.

**SA 4519.** Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 65, line 7, strike “Program,” and insert “Program (of which \$2,500,000 is for the acquisition of Waywayanda Lake in Kent, New York).”.

**SA 4520.** Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

**SEC. 328. (a) CONVEYANCE OF CERTAIN LAND AT BLUEGRASS ARMY DEPOT, KENTUCKY, AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to Madison County, Kentucky (in this section referred to as the “County”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 3 acres at the Bluegrass Army Depot, Richmond, Kentucky, and including the building known as Quarters 29.

(b) CONDITION OF CONVEYANCE.—The Secretary may not make the conveyance of property authorized by subsection (a) unless the County agrees to utilize the property for historical preservation and education purposes.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the property conveyed under subsection (a) has ceased to be utilized for the purposes specified in subsection (b), all right, title, and interest in and to the property shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination under this subsection shall be made on the record after an opportunity for a hearing.

(d) ADMINISTRATIVE EXPENSES.—The Secretary shall apply section 2695 of title 10,

United States Code, to the conveyance authorized by subsection (a).

(e) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(f) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SA 4521.** Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 19, between lines 19 and 20, insert the following:

**WEST NILE VIRUS**

For a grant program under which the Secretary of the Interior, acting through the Director of the U.S. Fish and Wildlife Service, shall provide to States grants to carry out, in coordination with a State plan of mosquito abatement, activities to prevent or control West Nile virus, in an amount proportionate to the number of people with medically documented cases of West Nile Virus in a State but not more than \$3,000,000 for any 1 State, \$20,000,000, to remain available until expended: *Provided*, That the entire amount shall be available only to the extent that the President submits to Congress an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.): *Provided further*, That the entire amount is designated by Congress as an emergency requirement under sections 251(b)(2)(A) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A), 902(e)).

**SA 4522.** Mr. DODD (for himself and Mr. LIEBERMAN) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 64, between lines 15 and 16, insert the following:

**SEC. 1 . FEDERAL RECOGNITION.**

(a) **IN GENERAL.**—Notwithstanding any other provision of this Act, and subject to the availability of funds and subsections (b) and (c), the Bureau of Indian Affairs may not use more than \$1,900,000 of the funds made available by this Act to carry out functions and activities associated with the Branch of Acknowledgment and Research.

(b) **LIMITATIONS.**—None of the funds made available under this Act shall be used to approve or deny a petition from any person or entity for recognition as a federally-recognized Indian tribe or tribal nation (referred to in this section as a "petition") until such date as the Secretary of the Interior (referred to in this section as the "Secretary") certifies to Congress that the administrative procedures described in subsection (c) have been implemented with respect to consideration of any petition submitted to the Secretary.

(c) **PROCEDURES.**—The administrative procedures described in subsection (b) are that—

(1) in addition to notices provided under any other provision of law, not later than 30 days after the date of receipt of a petition, the Secretary shall provide written notification of the petition to—

(A) the Governor and attorney general of—

(i) the State in which the petitioner is located as of that date; or

(ii) each State in which the petitioner has been located historically, if that State is different from the State in which the petitioner is located as of that date;

(B) the chief executive officers of each county and municipality located in the geographic area historically occupied by the petitioner; and

(C) any Indian tribe and any other petitioner that, as determined by the Secretary—

(i) has a relationship with the petitioner (including a historical relationship); or

(ii) may otherwise be considered to have a potential interest in the acknowledgement determination;

(2) the Secretary—

(A) shall consider all relevant evidence submitted by a petitioner or any other interested party, including neighboring municipalities that possess information bearing on the merits of a petition;

(B) on request by an interested party, may conduct a formal hearing at which all interested parties may present evidence, call witnesses, cross-examine witnesses, or rebut evidence presented by other parties during the hearing; and

(C) shall include a transcript of a hearing described in subparagraph (B) in the administrative record of the hearing on which the Secretary may rely in considering a petition;

(3) the Secretary shall—

(A) ensure that the evidence presented in consideration of a petition is sufficient to demonstrate that the petitioner meets each of the 7 mandatory criteria for recognition contained in section 83.7 of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act); and

(B) consider a criterion to be met if the Secretary determines that it is more likely than not that evidence presented demonstrates the satisfaction of the criterion; and

(4) the Secretary shall publish in the Federal Register, and provide to each person to which notice is provided under paragraph (1), a complete and detailed explanation of the final decision of the Secretary regarding a documented petition under this Act that includes express findings of fact and law with respect to each of the criteria described in paragraph (3).

**SA 4523.** Mr. REID (for Mrs. BOXER) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

At the appropriate place, add the following:

**SEC. . SOUTHERN CALIFORNIA OFFSHORE OIL LEASES.**

(a) **Congress Finds That—**

(1) There are 36 undeveloped oil leases on the land in the Southern California planning area of the Outer Continental Shelf that have been under review for an exceptionally long period of time, some going back over thirty years, and have yet to be approved for development pursuant to the Outer Continental Shelf Lands Act;

(2) The oil companies that hold these 36 leases have expressed an interest in retiring these leases in exchange for equitable compensation and are engaged in settlement negotiations with the Department of the Interior regarding the retirement of these leases; and

(3) It would be a waste of taxpayer dollars to continue the process for approval or permitting of these 36 leases when both the lessees and the Department of the Interior have said they expect there will be an agreement to retire these leases.

(b) It is the sense of the Senate that no funds should be spent to approve any exploration, development, or production plan for, or application for a permit to drill on the 36 undeveloped leases while the lessees are discussing a potential retirement of these leases with the Department of the Interior.

**SA 4524.** Mr. BURNS (for Mr. BENNETT) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 65, line 7, strike "Program," and insert "Program (of which \$2,000,000 is for the Castle Rock Phase 2 project, \$1,600,000 is for the Chalk Creek (Blonquist) project, and none is for the Range Creek #3 project, Utah)."

**SA 4525.** Mr. REID (for Mr. CLELAND (for himself, Mr. THOMPSON, Mr. AKAKA, and Mr. GRAHAM)) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 64, between lines 15 and 16, insert the following:

**SEC. 1 . SENSE OF THE SENATE CONCERNING ADEQUATE FUNDING FOR THE NATIONAL PARK SERVICE.**

(a) **FINDINGS.**—Congress finds that—

(1) the National Park Service is responsible for the preservation and management of the natural and cultural resources of the National Park System for the enjoyment, education, and inspiration of the present and future generations;

(2) the National Park Service is the caretaker of some of the most valued natural, cultural, and historical resources of the United States;

(3) the National Park System provides countless opportunities for the citizens of the United States to enjoy the benefits of the heritage of the United States;

(4) the National Park Service is struggling to accommodate an increasing number of visitors while maintaining the National Park System; and

(5) in an effort to support the purposes of the National Park System, in recent years Congress has, with respect to units of the National Park System, substantially increased the amount of funding available for operations, maintenance, and capital projects.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that Congress should—

(1) to the maximum extent practicable, continue efforts to increase operational funding for the National Park System; and

(2) seek to eliminate the deferred maintenance backlog by fiscal year 2007.

**SA 4526.** Mr. REID proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 64, between lines 15 and 16, insert the following:

**SEC. 1. CONVEYANCE OF LAND TO THE CITY OF MESQUITE, NEVADA.**

Section 3(f)(2)(B) of Public Law 99-548 (100 Stat. 3061; 113 Stat. 1501A-168) is amended by striking "(iv) Sec. 8." and inserting the following:

"(iv) Sec. 7.

"(v) Sec. 8.".

**SA 4527.** Mr. BURNS (for Mr. STEVENS) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

At the appropriate place in the bill insert the following:

Section 401(e)(4)(B) of Public Law 105-83 is amended after (Not more than) by striking "5 percent" and inserting "15 percent".

**SA 4528.** Mr. REID proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 2, line 14, strike "of which" and insert "of which not more than \$750,000 shall be made available for permitting of geothermal energy applications and the processing of wind-energy rights-of-way in the State of Nevada and \$750,000 shall be made available for hiring additional personnel to perform realty work in the State of Nevada; of which".

**SA 4529.** Mr. BURNS (for Mr. THOMAS) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 21, line 24, Insert the following after the semicolon: "of which \$750,000 is to conduct an independent and comprehensive management, operational, performance, and financial review of Yellowstone National Park;".

**SA 4530.** Mr. WARNER (for himself and Mr. THOMPSON) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, between lines 9 and 10, insert the following:

**Subtitle C—Risk Sharing and Indemnification for Contractors Supplying Anti-Terrorism Technology and Services**

**SEC. 521. APPLICABILITY OF EXISTING INDEMNIFICATION AUTHORITY.**

(a) **REQUIREMENT FOR REVISED GUIDANCE.**—The President shall issue guidance regarding

the discretionary authority for the indemnification of contractors and subcontractors under Public Law 85-804 (50 U.S.C. 1431 et seq.) that—

(1) clarifies that, in addition to the other procurements for which the indemnification authority may be exercised, the indemnification authority may be exercised for any procurement of an anti-terrorism technology or an anti-terrorism service by an agency of the Federal Government engaged in homeland security activities that is to be used for the purpose of preventing, detecting, identifying, or otherwise deterring acts of terrorism; and

(2) includes within the scope of the discretionary indemnification authority procurements made by State or local governments through contracts entered into by the head of an agency of the Federal Government under section 522, but only with respect to amounts of losses or damages not fully covered by private liability insurance and State- or local government-provided indemnification.

(b) **CONSIDERATIONS.**—In revising the guidance under subsection (a), the President shall consider the following issues:

(1) Whether to include within the scope of the losses or damages indemnification coverage authorized by the guidance issued under subsection (a)(1) economic damages not fully covered by private liability insurance.

(2) Whether an indemnification provision included in a contract or subcontract under authority provided under the revised guidance issued under subsection (a) should be negotiated prior to the commencement of the performance of the contract.

(3) To what extent information technology used to prevent, detect, identify, or otherwise deter acts of terrorism should be covered within the scope of the discretionary indemnification authority provided under the revised guidance issued under subsection (a).

(c) **FORM OF GUIDANCE.**—The revised guidance under subsection (a) may be provided as a revision of Executive Order No. 10789 or otherwise.

**SEC. 522. PROCUREMENTS BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL CONTRACTS.**

(a) **ESTABLISHMENT OF PROCEDURES.**—An official of the United States designated by the President shall establish procedures in accordance with subsection (b) under which States and units of local government may procure through contracts entered into by the head of an agency of the Federal Government anti-terrorism technologies and anti-terrorism services for the purpose of preventing, detecting, identifying, or otherwise deterring acts of terrorism.

(b) **REQUIRED PROCEDURES.**—The procedures under subsection (a) shall implement the following requirements and authorities:

(1) **SUBMISSIONS BY STATES.**—Each State desiring to participate in a procurement of anti-terrorism technologies or anti-terrorism services for such purpose through a contract entered into by the head of an agency of the Federal Government shall submit to the designated official, in such form and manner and at such times as that official prescribes, the following:

(A) **REQUEST.**—A request consisting of an enumeration of the technologies or services, respectively, that are desired by the State and units of local government within the State.

(B) **PAYMENT.**—Advance payment for each requested technology or service in an amount determined by the designated official based on estimated or actual costs of the technology or service and administrative costs incurred by the designated official.

(2) **PERMITTED CATALOG TECHNOLOGIES AND SERVICES.**—A State may include in a request

submitted under paragraph (1) only a technology or service listed in the catalog produced under subsection (d).

(3) **COORDINATION OF LOCAL REQUESTS WITHIN STATE.**—The Governor of a State (or the Mayor of the District of Columbia) may establish such procedures as the Governor (or the Mayor of the District of Columbia) considers appropriate for administering and coordinating requests for anti-terrorism technologies or anti-terrorism services from units of local government within the State.

(4) **SHIPMENT AND TRANSPORTATION COSTS.**—A State requesting anti-terrorism technologies or anti-terrorism services shall be responsible for arranging and paying for any shipment or transportation costs necessary to deliver the technologies or services, respectively, to the State and localities within the State.

(c) **REIMBURSEMENT OF ADMINISTRATIVE COSTS.**—In the case of a procurement made by a State or unit of local government under the procedures established under this section, the official designated by the President under that paragraph shall require the State or unit of local government to reimburse the official for the administrative costs incurred by the Federal Government for such procurement.

(d) **CATALOG OF TECHNOLOGIES AND SERVICES.**—The official designated by the President under subsection (a) shall produce and maintain a catalog of anti-terrorism technologies and anti-terrorism services suitable for procurement by States and units of local government under the procedures established pursuant to this subsection.

**SEC. 523. DEFINITIONS.**

In this subtitle:

(1) **ANTI-TERRORISM TECHNOLOGY AND SERVICE.**—The terms "anti-terrorism technology" and "anti-terrorism service" mean any product, equipment, or device, including information technology, and any service, system integration, or other kind of service (including a support service), respectively, that is related to technology and is designed, developed, modified, or procured for the purpose of preventing, detecting, identifying, or otherwise deterring acts of terrorism.

(2) **ACT OF TERRORISM.**—The term "act of terrorism" means a calculated attack or threat of attack against any person, property, or infrastructure to inculcate fear, or to intimidate or coerce a government, the civilian population, or any segment thereof, in the pursuit of political, religious, or ideological objectives.

(3) **INFORMATION TECHNOLOGY.**—The term "information technology" has the meaning such term in section 11101(6) of title 40, United States Code.

(4) **STATE.**—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(5) **UNIT OF LOCAL GOVERNMENT.**—The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State; an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior; or any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia or the Trust Territory of the Pacific Islands.

**SEC. 524. TIME FOR IMPLEMENTATION.**

The revision of guidance required by section 521, together with the promulgation of regulations necessary for the implementation of the revised guidance, and the promulgation of the procedures, together with the production of the catalog of anti-terrorism

technologies and services, required by section 522 shall be completed not later than 120 days after the date of the enactment of this Act.

**SA 4531.** Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 127, between lines 2 and 3, insert the following:

**SEC. 3. PROHIBITION OF USE OF FUNDS FOR OIL OR GAS PERMITTING OR LEASING IN THE FINGER LAKES NATIONAL FOREST, NEW YORK.**

None of the funds made available by this Act may be used to prepare or issue a permit or lease for the exploration, development, or production of oil or gas in the Finger Lakes National Forest, New York.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on September 10, 2002, at 9:30 a.m., on the status of aviation security 1 year after September 11.

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

**COMMITTEE ON FINANCE**

Mr. REID. Mr. President, I ask unanimous consent that the Senate Committee on Finance be authorized to meet during the session of the Senate on Tuesday, September 10, 2002, to consider favorably reporting H.R. 5063, the Armed Forces Tax Fairness Act of 2002.

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

**COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on "Successful Implementation of Title I: State and Community Perspectives" during the session of the Senate on Tuesday, September 10, 2002, at 10 a.m., in SD-430.

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

**COMMITTEE ON THE JUDICIARY**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "THE USA PATRIOT Act in Practice: Shedding Light on the FISA Process" on Tuesday, September 10, 2002, in Dirksen Room 226 at 9:30 a.m.

Witness List: Mr. David Kris, Associate Deputy Attorney General, Department of Justice, Washington, DC; Professor William C. Banks, Professor of Law, Syracuse University, Syracuse, NY; Mr. Kenneth C. Bass III, Senior Counsel, Sterne, Kessler, Goldstein,

Fox, and First Counsel for Intelligence Policy, Department of Justice 1977-1981, and Adjunct Professor of Law, Georgetown University Law Center, Washington, DC; and Dr. Morton Halperin, Director, Open Society Institute-Washington Office, Washington, DC.

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

**COMMITTEE ON VETERANS' AFFAIRS**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, September 10, 2002, for a joint hearing with the House of Representatives' Committee on Veterans Affairs, to hear the legislative presentation of The American Legion. The hearing will take place in room 345 of the Cannon House Office Building at 10 a.m.

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

**SELECT COMMITTEE ON INTELLIGENCE**

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, September 10, 2002, at 2:30 p.m., to hold a closed hearing on intelligence matters.

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

**PRIVILEGES OF THE FLOOR**

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Bjorn Sjue, an intern in my office, be allowed to be on the floor during the duration of the debate on this amendment.

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

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Alex Busansky, a detailee to my office from the Department of Justice, be allowed privileges of the floor for the duration of today's homeland security measure.

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Bob Kerr, a fellow, be allowed floor privileges during the debate on homeland security.

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

**FLIGHT 93 NATIONAL MEMORIAL ACT**

Mr. REID. Mr. President, I ask unanimous consent that the Energy and Natural Resources Committee be discharged from consideration of H.R. 3917 and the Senate now proceed to its consideration.

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

The clerk will report the bill by title. The assistant legislative clerk read as follows:

A bill (H.R. 3917) to authorize a national memorial to commemorate the passengers

and crew of Flight 93, who, on September 11, 2001, courageously gave their lives thereby thwarting a planned attack on our Nation's Capital, and for other purposes.

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

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid on the table, and that any statements relating thereto be printed in the RECORD as if read, with no intervening action or debate.

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

The bill (H.R. 3917) was read the third time and passed.

Mr. REID. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 2136, and the Senate now proceed to its consideration.

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

The clerk will state the bill by title. The legislative clerk read as follows:

A bill (S. 2136) to establish a memorial in the State of Pennsylvania to honor the passengers and crew members of Flight 93, who, on September 11, 2001, gave their lives to prevent a planned attack on the Capitol of the United States.

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

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements thereon be printed in the RECORD.

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

The bill (S. 2136) was passed, as follows:

**S. 2136**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Flight 93 National Memorial Act".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) on September 11, 2001, passengers and crewmembers of United Airlines Flight 93 courageously gave their lives to prevent a planned attack on the Capitol of the United States;

(2) thousands of people have visited the crash site since September 11, 2001, drawn by the heroic action and sacrifice of the passengers and crewmembers aboard Flight 93;

(3) many people in the United States are concerned about the future disposition of the crash site, including—

(A) grieving families of the passengers and crewmembers;

(B) the people of the region where the crash site is located; and

(C) citizens throughout the United States;

(4) many of those people are involved in the formation of the Flight 93 Task Force, a broad, inclusive organization established to provide a voice for all parties interested in and concerned about the crash site;

(5) the crash site commemorates Flight 93 and is a profound symbol of American patriotism and spontaneous leadership by citizens of the United States;

(6) a memorial of the crash site should—

(A) recognize the victims of the crash in an appropriate manner; and