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## Senate

The Senate met at 10 a.m. and was called to order by the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Bishop Eddie Long, of the New Birth Missionary Baptist Church, Decatur, GA.

### PRAYER

The guest Chaplain, Bishop Eddie Long, offered the following prayer:

Father we bless You and we honor You for the unconditional love You show to us. We bless You for the mercy You have bestowed upon us and for the overflowing grace given us each day. Father, allow us this day to have the courage of David as we face those who wish to destroy our moral fabric.

O Lord, bless this Senate to have the patience of Your servant, Job, as they carve out a rational solution to eradicating the harshness of terrorism. We ask You to move now throughout these hallowed walls and use these men and women to rid our world of the evil scourge of terrorism. We pray now for the President of these United States. Give him wisdom and understanding. Let him have the endurance of a lion as he bears the ultimate weight of providing for our national security; grace him with the tenderness of a lamb as he nurtures our Nation from the wounds inflicted by the barbaric. We also pray for the commanders and the soldiers who may be sent into harm's way.

We also pray, Father, for the families of those who lost their lives as a result of the horrific acts which took place on September 11. Lord, we further our prayer for those who were wounded on that day and for the souls of those who exited this life. We pray Your grace on the rescue workers who have not ceased their efforts to bring normalcy back to our Nation. It is our prayer, Lord, that as we, the United States, seek Your face, You will truly hear

from heaven and that You will comfort us in Your miraculous way; that You will wipe the tears from this Nation's eyes and that You surely will heal our land. We offer this prayer up to You, understanding we are hard-pressed on every side but not crushed, perplexed but not in despair; persecuted but not abandoned; struck down but not destroyed.

In Jesus' name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable HILLARY RODHAM CLINTON led the Pledge of Allegiance as follows:

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, October 4, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mrs. CLINTON thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

### SCHEDULE

Mr. REID. Madam President, this morning the Senate will resume consideration of the motion to proceed on the aviation security bill. There is every hope that sometime today we can begin consideration of that bill.

As I mentioned yesterday, there has been significant progress made on a number of different issues, not the least of which is the tremendous work done by the Judiciary Committee. Senator HATCH, working under the chairmanship of Senator LEAHY until about 3 this morning, I understand, completed their overall work in reaching an agreement on the antiterrorism legislation. It is very important that has been accomplished. It has taken tremendous time of that committee. They have worked literally night and day.

My former press secretary's husband works on that committee. I had the good fortune of being able to go to a long-scheduled dinner with him last Saturday. He had to change clothes in the car. He had been working all night Friday and Saturday. The staffs work very hard.

In spite of that and all the work they have done, the Judiciary Committee today is going to meet and report out an appeals judge from the State of New York, a district court judge from Mississippi, up to 15 U.S. attorneys, one Assistant Attorney General, and the Director of the U.S. Marshal's Service. They are going to have a hearing today dealing with a circuit court judge from Louisiana, two judges from Oklahoma, a district court judge from Kentucky, a district court judge from Nebraska. I am very happy to say that a professor from the University of Nevada-Las Vegas Law School is going to be, I hope, reported out of that committee soon. There will be a hearing on him today, Jay Bybee, to be Assistant Attorney General for the Office of Legal Counsel.

Next week they have already scheduled a long awaited hearing on John

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



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Walters to be the Director of the Office of National Drug Policy Control. They are going to have a hearing on October 16 on Tom Sansometti, and then on October 18 they are going to have a hearing on another circuit judge and 5 district court judges.

I say this because the Judiciary Committee is overwhelmed with work, and in spite of that we are moving at a very rapid pace. When Senator LEAHY became chairman of the Judiciary Committee, there had not been any judges reported out. That had been 6 months this year. We have done this much work already this year, which I think is significant.

During the first year of President Clinton's Presidency, it is my recollection—I do not have that before me—we had three circuit court judges during that entire year. We are going to surpass that this year quite easily.

This morning at 8, Senator BYRD called a meeting. Of course with him was the ranking member of the Appropriations Committee. He met with the 13 subcommittee chairs and the ranking members to talk about how we would move forward on appropriations bills. We now have the numbers, and we are going to move forward as rapidly as possible.

We still have five bills that have not received Senate action. Seven of them have received Senate action and we are waiting to complete a conference with the House. Under Senate rules, the only way we can move to other matters is by unanimous consent.

I have been in consultation with the majority leader, and as a result of the work done by the Judiciary Committee in arriving at final numbers, it is now appropriate we do things today other than be in morning business. We have work in the Senate that needs to be done and that can be done, in spite of the fact there is a motion to proceed on this aviation security bill, which is so important.

#### UNANIMOUS CONSENT REQUEST— H.R. 2506

Mr. REID. I ask unanimous consent that the Senate now proceed to Calendar No. 147, H.R. 2506, the foreign operations appropriations bill.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, reserving the right to object, I admonish the body that we are ready to go forward and, as the distinguished assistant majority leader points out, we ought to be using the time available to conduct other business, if we cannot go forward with the airline security bill. I have been talking with Senator MCCAIN to coordinate this effort. While the managers' amendment is yet to be finalized, we have other amendments. It seems to me we could get some kind of agreement with respect to relevant amendments and consider these measures. It would not be time wasted.

This procedure of moving to another bill puts airport security in limbo. We are not having votes tomorrow or Monday, and certainly not on the weekend.

Reagan National is up and running again, and we have shuttles going to New York and Boston and otherwise, but the holdup in ensuring the security of our airports is now on the part of the Senate.

Mr. REID. I say to the chairman of the Commerce Committee, who has worked so hard on this issue and is our leader on this issue, the Senator is right. Once we get agreement to be able to proceed to this bill, which we wanted to do yesterday, of course, we could do that. In the meantime, whether it is an hour, 2 hours, or 3 hours, whatever Senator LEAHY could do would be time well spent.

Once there is any agreement that has been reached by the Senator from South Carolina with the minority, we would be happy to immediately move off of that.

The point we are making, I say to my friend from South Carolina, there is no need we be in morning business all day. We have things to do. The Senator can be assured that once there is any agreement on this vital legislation, airport security, we will get off of this. I have spoken with Senator LEAHY. He agrees. The Senator does not have to worry; We want to keep full focus on this legislation.

Mr. HOLLINGS. I thank the distinguished leader.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. THOMAS. I object to the unanimous consent request.

Mr. REID. Madam President, I am very disappointed. We need to move forward on this legislation. We had an objection yesterday on airport security. Now we have one on this appropriations bill. We have worked so well these past 3 weeks together. We need to continue. That is the reason I went through the list of work we are doing on the judges. We are working as hard as we can. We have been consulting with the majority leader and assistant minority leader on how to move forward. We are doing our level best to do that.

I am very disappointed there has been an objection by the minority to moving forward on an unfinished appropriations bill. It is too bad. I would, of course, ask we go to the Agriculture appropriations bill, but there would be the same objection, so that is a waste of the Senate's time. That is too bad.

The President has reached out to the majority in the Senate. We have done our best to work with the President. I am very disappointed. I am confident the President would like us to move forward on these appropriations bills. I think the President himself knows how hard we are working on these nominations. As I said, if you compare what we have done to the early years of the Clinton administration, we are doing just fine.

Madam President, this is not payback time for the fact that we didn't get many of our judges approved. This is not payback time. We are working through the process as quickly as we can. These judges have been nominated in an appropriate fashion. A lot of them were late getting here, but we are moving through them as quickly as we can. I think it is unfortunate we cannot move forward on these appropriations bills.

#### RESERVATION OF LEADER TIME

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

#### AVIATION SECURITY ACT—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the motion to proceed to S. 1447, which the clerk will report.

The assistant legislative clerk read as follows:

A motion to proceed to consideration of S. 1447, a bill to improve the aviation security, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

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

Mr. THOMAS. Certainly.

Mr. REID. It is my understanding the minority is having a party conference. If I could ask my friend, for the next hour or so perhaps we should go into morning business. Any objection to that?

Mr. THOMAS. No objection.

#### MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent until the hour of 11:30 today we be in a period of morning business with Senators allowed to speak therein for a period of up to 10 minutes each.

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

#### PRIORITIZING

Mr. THOMAS. Madam President, I say to my friend from Nevada, all Members are anxious to move forward with this airport security bill. Unfortunately, the impediment basically has been the threat to bring up amendments that are unrelated. This ought to be held to moving that. There will be a conference going on designed to come to an agreement with regard to this bill. Hopefully, we will be back on the floor with it today.

I am pleased to hear the Judiciary Committee is finally moving on the judges. We have a total of 6 that have been confirmed. There are 107 vacancies; that is a 12½-percent vacancy. The total of nominees not yet dealt

with is almost 50, 49. We certainly have an obligation to move forward on that issue.

I hope as we are working through all the items that are of such priority that we can set some priorities and take those that obviously are most important, those that deal with terrorism, those that deal with security. They have to be the highest priority. Those that deal with the economy have to be priorities. And of course we have to do our normal duties. I have been talking about this for several weeks. We have not moved very quickly.

Hopefully we will be able to come back to this bill very soon today.

I yield the floor and suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KERRY. Madam President, we are in morning business; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. KERRY. I ask unanimous consent I be permitted to proceed for such time as I may consume.

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

#### NATIONAL SECURITY

Mr. KERRY. Madam President, as one of the original authors and cosponsors of the Aviation Security Act, I take a moment to underscore where the Senate finds itself at this moment, which I find distressing and deeply frustrating and less than an adequate response to the compelling requests made by the President of the United States a few days ago in a joint session of Congress. Only a few days ago, the Senate came together with the House to listen to the President describe a war, to describe the most compelling circumstances this Nation has faced certainly since Pearl Harbor, and perhaps in its history in the context of the nature of the attack on New York City and the Pentagon.

There is a danger in raising the level of rhetoric and not meeting it with the actions that the American public understand are required of a nation facing urgent circumstances. It is extraordinary to me that the Senate is in gridlock. That is where we are, essentially, stopped cold in our capacity, not just to do the Airport Security Act and let the Senate vote its will, whatever that may be—I don't know what the outcome will be—but let the democratic process of the Senate work. Rather than trying to hold it up completely, to subject it to some kind of prenegotiation that appears to be im-

possible when we even have meetings canceled and there is no negotiating going on.

We tried to go forward on the foreign ops bill. I cannot think of a bill, second to the Department of Defense authorization we just passed a few days ago, that is more important in the context of the circumstances in which we find ourselves. But we are not even permitted to proceed forward with that because, essentially, once again politics and ideology are rearing their heads with a stubbornness that suggests that a few Members of the Senate are unwilling to allow the entire Senate to work its will. What an incredible display at a time when the world is watching the greatest deliberative body, and the greatest nation on the face of this planet with its democracy, try to work effectively to respond to these needs. What is even more incredible to me is that common sense tells us what the realities are with respect to airport security and, I might add, rail security in this country.

We woke up this morning to the news that an airliner apparently has exploded and gone down over the Black Sea, a Russian airliner. We do not know yet to a certainty that it is terrorism, but we do know the early indicators of an eye witness report from the pilot in another aircraft is that he saw it explode and saw it disintegrate and go down into the sea. And Russian President Putin has said it appears as if there is some act of terrorism.

Leaving that aside, we have promised the American people we are going to provide them, not with a level of security, not with some sort of half-breed sense that we have arrived at a notion of what is acceptable, but we are going to provide the best security, the fullest level of security we are capable of imagining, that is well within the reach of this country and well within our capacity to afford.

I might add, what we are suggesting we want to provide to Americans, in terms of security, they have already suggested they are willing to pay for several times over. This is not a question of cost. It is not a question of our inability to afford this. It is a question of politics, ideology.

We have some in the Senate who do not like the idea that there might be more Federal employees, that there might be more people who might join a union even, that there might be more people who somehow might not have their political point of view but who nevertheless might perform an important function for our country. When I was in the military, what I learned about, sort of a hierarchy and about authority and about training and management, is that there is a brilliant effectiveness to the chain of command and to the manner in which a Federal entity is organized or a law enforcement entity is organized.

I do not think anybody in this body would suggest we ought to be contracting out the responsibilities of the

Border Patrol, or contracting out the responsibilities of the Immigration and Naturalization Service, or contracting out the security of the Capitol, the security of the White House, or the security of a number of other efforts. But they are prepared to contract out to the lowest bidder, with unskilled workers, the security of Americans flying, notwithstanding everything we have learned. That is just unacceptable. It is unacceptable.

I hear all kinds of excuses being made: There are transition problems; you might have contractors quit in the meantime. First of all, at a time of high unemployment and rising unemployment, I think common sense would tell us most of those contractors would leap at the opportunity to have a better-paid job and to get more training and they will stick on the job because they will be part of an important security corps of the United States of America and they would want to be part of that. And, incidentally, they would want to be part of it because they would then have the possibility of having benefits they do not get today, which is one of the reasons we have employees, notwithstanding all of their best efforts and all of their best intentions, who are, many of them, simply not fully enough trained or prepared to do the job they are being asked to do. It is not their fault, but it is the nature of the pay scale.

If you were to compare the difference between the civilian nuclear industry and the military nuclear industry—i.e., the U.S. Navy on ships—we have not had major incidents on ships of the U.S. Navy. We have had Navy ships running nuclear reactors, and highly successfully, for years now: Submarines, aircraft carriers, cruisers, and others. But the military has an unlimited human personnel capacity for redundancy, for certitude in the human checks, and therefore is capable of providing a kind of safety net that you cannot provide in the private sector because the private sector is always thinking about the shareholders, the return on investment, the cashflow, and the capacity to do it. So you do not get that kind of redundancy often unless it is required.

The same thing is true of the checking of the security process of people boarding aircraft. Moreover, we have now learned that this is something more than just a job, significantly more than just a job. It is part of the national security framework of our country. It is the way in which we will prevent a plane from being used as a bomb or a plane from simply being blown up, or passengers from being terrorized in some form or another. Passengers deserve the greatest sense of safety in traveling.

For those who are concerned about the economy, there is not one of us who has not been visited in the last weeks by members of the auto rental industry, restaurant industry, travel industry, hotels, and countless mayors

who are concerned about the flow of tourist traffic to their cities. We need to get Americans to believe in the level of safety that their Government is providing for them.

It is extraordinary to me. We have been through this period of time where government has been so denigrated. We have had a long debate in this Senate with people arguing so forcefully the adage: It is not the Government's money, it is your money and you deserve a refund. But at the same time, you know, they are incapable of doing without the very people who have put on displays of courage that have been absolutely extraordinary over these last week. That was government people, paid by government money, who ran into those buildings to save lives in New York. It has been government people paid by government money who have saved so many people in the course of these weeks. It has been government people paid by government money who organized and managed people who have been homeless, people who searched for their loved ones, people who needed some kind of comfort. It has been a government display, if you will, of the effectiveness of money well spent when we invest it properly.

The same thing is true of airport security. I want to just highlight the differences between what is being proposed by those of us who think we need to have a Federal structure versus what the administration has currently offered. With respect to turnover, we raise the wages. We raise the wages to a level that would put the employees on a Federal civil pay scale. That means you will attract more qualified people and you will have a right to be able to raise the standards and raise the demands of performance, which is precisely what the American people want.

Under the administration's current proposal, they will only increase the wages and benefits if the legislation specifically mandates a living wage and health benefits for the employees. So there is no demand that the wages be raised. They want to leave it to the lowest bid process unless somehow there is a specific statement to the contrary.

With respect to training, we create a stepped scale based on management responsibilities and seniority so there is an incentive within the structure for people to assume management responsibilities, to become supervisors and to actually supervise with something more than 3 months on the job. Currently the turnover rate at Atlanta airport, Hartsfield Airport in Atlanta, is 400 percent. The turnover in New York, Boston, and Los Angeles ranges between 100 percent and 200 percent, 300 percent—extraordinary turnover rates.

You can't expect somebody to be on the job at low pay and be able to provide the kind of skill necessary to read the x-ray machine properly, to profile a person, to see suspect activity, or even to make the kind of personal searches necessary when that is needed.

Under the administration's current offer, the wage scale and the management decisions are left to the low bid contractor. Secretary Mineta was in front of our committee just the other day. I asked him specifically: Mr. Secretary, isn't it true that all of these companies are basically in a position where they take on the lowest bid, and it is a bid process that encourages low bids so that they can survive? He said yes. Jane Garvey said yes. That is precisely what the current proposal will continue.

It is simply impossible to build more rail, or gain the kind of efficiency, or gain the kind of accountability and manage this process effectively if we are not prepared to have a Federal civil service structure for these employees.

I might add that while the Europeans have a slightly amalgamated system, they have wage laws and they have labor laws that we do not have that guarantee the kind of pay structures and accountability structures which we are seeking in our approach.

While there is a distinction, it is really a distinction without a difference because in the end they have achieved the kind of Federal vision and the kind of employee quality which they have been able to attract as a consequence of the ingredients they put together.

For instance, Belgium has an hourly pay of \$14 to \$15, they have health benefits, and they have a turnover rate of less than 4 percent. The Netherlands: \$7.50 an hour; England \$8 an hour; in France, they receive an extra month's pay for each 12 months of work, and less than a 50-percent turnover rate plus health benefits.

We are looking at an extraordinary difference between what European countries are able to do as they face these kinds of terrorism, and they have much stricter standards than we have for a longer period of time.

It is imperative that we in the Senate get about the business of responding properly to the demands we face with respect to the security of our airports.

It seems to me that the transitional issues are easy to work out. It is certainly, first of all, normal to assume that those people who are under contract now will still be under contract. If they breach it, I think the full wrath of the Government and the American people would be ready to come down on them, not to mention the lawsuits for breach of contract, and not to mention the loss of jobs for all the employees.

Those transitional problems that are being conjured up simply don't hold up to scrutiny. The American public knows that if we had a Federal civil service corps which we could put under homeland defense, or where we could put it under the Defense Department, if the Department of Transportation is uncomfortable with it, what better an area for the security of our airports?

There is no distinction between providing security for our borders with the

Border Patrol on the ground and providing security for our air traffic and for those people who fly through the air across those borders. It is the same concept. I think most people in the country understand that.

I hope the Senate is going to quickly get enough business of paying attention to this issue and resolving it today. It has been 3 weeks now. One would have thought this would have been one of the first things we would have done almost by edict and that it would have initially been on the table.

We have seen the extraordinary process of sort of back and forth going on now as to whether or not we ought to do it. I don't think this enters into the realm of politics. I don't think security has a label of Democrat or Republican on it. It has a common sense label.

What is the best way to guarantee that you are going to have security in an airport? If you have a whole bunch of different companies, each of which bid, even if you have the Federal standards, even if you have Federal supervision, they are hired by private sector entities. They belong in one airport to one group and in another airport to another group. You don't get the esprit de corps. You don't get the horizontal and vertical accountability and management that you get by having the civil service standard. That is why we have an INS. That is why we have a Border Patrol. That is why we have an ATF. That is why we have all of these other entities that are either State or Federal law enforcement entities, because they guarantee the capacity of the chain of command, they guarantee accountability, they guarantee the training, and they guarantee ultimately that we will give the American people the security they need.

I want to add one other thing. It is not on this bill. I think we have to pass this bill rapidly. There is a whole different group within the Senate who, because of their opposition to trains, Amtrak, ports and so forth, somehow have a cloudy view of what we may need to do to provide security for our rails. But there is absolutely no distinction whatsoever between those who get on an airplane and travel and those who get on a train and travel. In point of fact, there are more people in a tunnel at one time on two trains passing in that tunnel than there are on several 747s in the sky at the same moment—thousands of people. We have already seen what a fire in a tunnel can do in Baltimore. We have tunnels up and down the east coast. We have bridges. All of these, if we are indeed facing the kind of long-term threat that people have talked about—and we believe we are—need to have adequate security.

I was recently abroad, and I got on a train. I went through the exact same security procedures to get on that train as I do in an airport under the strictest examination—interview, examination of ID, and thorough inspection and screening of your bags. You

can walk down to Union Station, go to any train station in America, and pile on with a bag. You can get off at any station and leave your bag on the train. Nobody will know the difference.

We have an absolute responsibility in the Senate to be rapid in resolving this question of train security just as we are trying to resolve this question of airline security.

A lot of these ideas have been around for a long time. We have always had the ugly head of bureaucracy raising its objections for one reason or another against common sense. We are not even looking for the amount of money that almost every poll in the country has said the American people are prepared to spend. Ask anybody. Ask any of the families in New York, or in Washington, or any part of this country who suffered a loss on September 11, what they would be willing to pay on any ticket to guarantee that they knew their loved ones were safe. We are talking about a few dollars per ticket to be able to guarantee that we have the strongest capacity and never again have an incident in the air, certainly because we weren't prepared to do what was necessary.

There is no more urgent business before the Senate today. I hope the Senate will quickly restore itself as it was in the last few weeks to be able to discard ideology, discard politics, and discard sort of the baggage of past years to be able to find the unity and the common sense that have guided us these days and which have made the Nation proud. We need to do what provides the greatest level of security in our country, and that means a Federal system of screeners, and most of those people responsible for access to our aircraft and other forms of travel.

I yield the floor.

#### MILLIKEN JOINS HALL OF FAME FOR TEXTILES

Mr. HELMS. Madam President, on September 10, Roger Milliken, a distinguished American, was inducted as a charter member of the Textile Hall of Fame in Lowell, MA.

Roger Milliken has long been a leader in the textile industry and his induction as a charter member of the Textile Hall of Fame was well-deserved. But Roger Milliken is far more than an outstanding American industry leader. He is a true patriot, and his love of country constantly manifests itself in countless ways.

Roger Milliken's genuine commitment to the health of the American economy is unfailing and unyielding. It is typical of his nature and his fidelity to his country that he used the occasion of his induction into the Textile Hall of Fame to sound a warning about the continuing erosion of the U.S. manufacturing base—and the hollowing-out of the U.S. economy—by the displacement of solid manufacturing jobs in America to low-wage paying countries all over the world.

You see, Roger Milliken has steadfastly supported keeping American manufacturing strong but too often, his wise counsel has gone unheeded by the so-called "trade experts."

But make no mistake, in the name of globalization, our trade policy is, in fact, encouraging overproduction, as subsidized foreign industries flood the global market and bring prices in this country below the cost of domestic production.

The economic threat has been eating away at our manufacturing base slowly but surely. In this year alone, the malignancy will result in the loss of 1 million American manufacturing jobs. In the U.S. textile industry, more than 600,000 jobs have been lost since NAFTA and the Uruguay Round's Agreement on Textiles and Clothing became effective in 1995.

Sadly, precious little attention is being paid to the real victims of this trade policy: the small towns and medium-sized cities throughout America devastated by plant closings and job losses. The textile and apparel industry in the South is only one part of the tragedy. The same can be said of the auto industry, the steel industry, and even the high-tech semiconductor industry in California.

Roger Milliken's eloquent statement on behalf of American manufacturing rings clear, and it merits the attention of the Senate. I therefore ask that excerpts from the Milliken statement—entitled "The Wealth of Nations: U.S. Manufacturing in Serious Trouble" be printed in the RECORD.

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

#### THE WEALTH OF NATIONS: U.S. MANUFACTURING IN SERIOUS TROUBLE

(By Roger Milliken)

Today almost all of the manufacturing industries in the United States are in serious trouble. I would like to take this time and this place to light a fire of debate on the serious consequences of that statement on the future of our country. . . .

Thanks to Thomas Edison's invention of the electric light, our industry learned in World War I that textile machinery could run at night as well as during 12-hour daytime-only shifts.

At the end of that war, we found ourselves with 18 million spindles in place north of the Mason-Dixon line and 18 million spindles south of the Mason-Dixon line, all of which could be run around the clock. Our production capacity had been doubled.

Seventy years later, 1990, after a long period of fair competition, we found ourselves with 18 million modernized, surviving spindles in the South and 800,000 in the North, producing more products and higher quality than the 36 million spindles after World War I.

Today we are told that during that period the U.S. went from an agrarian economy to an industrial economy and that we are now similarly transitioning to an information-based economy.

As I see it, the main thing wrong with that comparison is that in the first transition our country did not lose either the farms or the products of those farms. In fact, agricultural production increased as new technologies

were introduced. Today, our country continues to produce a surplus of agricultural goods.

During the current transition, the U.S. is losing both its manufacturing plants and the products manufactured in them, as well as the jobs they provide—thus putting at risk our leadership position as the strongest manufacturing economy in the world.

#### GLOBALIZATION'S FATAL FLAWS

Our founding fathers, specifically Alexander Hamilton, understood the importance of manufacturing. The second act of the First Congress imposed tariffs on manufactured goods from abroad. This encouraged our new nation, and its people, to develop our own manufacturing base rather than merely exporting low-value raw materials to our former colonial masters and importing back from them the high value-added finished goods. . . .

Now as our country stands alone as the world's last remaining superpower, we in textiles and almost all of U.S. manufacturing find ourselves at risk of losing what our forefathers fought so hard to create. This is neither necessary nor wise.

. . . At the current rate, we may end this decade with as few as seven economically viable manufacturing industries remaining in America.

A recent survey of manufacturing revealed that 36 of our 44 existing manufacturing industries had an adverse balance of trade and had cut substantial numbers of jobs this year. The hemorrhage continues.

All U.S. manufacturing employment is shrinking at a pace which will eliminate 1 million high-paying, middle-class jobs this year alone. This is four times what we lost in the year 2000. Actual employment levels in our vitally important manufacturing sector have already fallen to levels last seen in 1963.

We are in an era of so-called globalization, and everyone talks about the new economy. We have been lured into thinking that the negative aspects of these trends are both unstoppable and inexorable.

Isn't it our leaders' responsibility to ensure that this country and its people survive this period strong and prosperous?

A fatal flaw of the current idea of globalization is the lack of recognition that subsidized global production creates a strong incentive to create overproduction that outstrips global demand.

A further flaw is the lack of recognition that in emerging economies the people and manufacturing production workers are not paid enough to buy what they make. Instead, the fruits of their labor are subsidized and shipped to the United States, which serves as the market of first and last resort.

In the process, our standard of living is undermined, and both political and economic instability is increased. . . .

Mounting consumer debt helped fuel the boom of the 1990s. Despite strong productivity growth, the 80 percent of our country's wage earners and their families who work for others have not seen an increase in their real income over the past 20 years.

As increase in purchasing power stagnated because of the massive shifts of good, well-paying jobs to low-cost emerging economies, we continued our growth of consumer spending, but we did it on credit. Consequently, the American consumers have been spending more than their earnings at the expense of savings. The result is that we are consuming a billion dollars more in manufactured goods each day than we produce. These facts are a prescription for social, political and economic unrest.

Our manufacturing base is being eroded as dollars are diverted from wealth creation to wealth consumption. If economic history has

any lesson for us, it is that a nation's well-being is determined by what it produces, not by how much it consumes.

#### ALTAR OF FREE AND UNFETTERED TRADE

While technologies always present new opportunities and challenges, globalism is not a new idea. It was born around the time of Columbus, and most of world politics has been about how to control it ever since. Past and present administrations in Washington seem to think globalization is something new for which the lessons of history are irrelevant.

George Santayana is quoted as saying, "Those who can't remember the past are condemned to repeat it."

A Spanish leader in 1675 bragged about Spain's trade deficit, asserting "all the world's manufacturing serves her and she serves nobody." However, when its gold and silver ran out, Spain found that its industrial development had withered; it had only debts to show for its orgy of manufactured imports and consumption. That Spanish empire collapsed, and those countries who had expanded their manufacturing capabilities by selling to Spain were the new world powers.

Thus it also was with the later demise of the Dutch empire and subsequently the great British Empire, "upon which the sun never set."

Beguiled by the siren songs of banking, insurance, shipping and services, they ultimately surrendered their world pre-eminence as nations. The Spanish, Dutch and British had all neglected their nations' manufacturing bases.

Could this happen to the U.S.A.? Or more to the point, is it happening?

I believe the process is already under way, and if we continue sacrificing our manufacturing base on the altar of free and unfettered trade, we will go the way of others.

I believe it is happening because our leaders in Washington remain unconcerned about our near three trillion dollars of accumulated debt flowing from the dramatic growth of our adverse balance of trade. In the span of the last dozen years, we have gone from being the world's largest creditor nation to being its largest debtor nation. And no end and no limits are in sight. . . .

Lester Thurow, of MIT fame, in his book "The Future of Capitalism" (1996) said: "If there is one rule of international economics, it is that no country can run a large trade deficit forever. Trade deficits need to be financed, and it is simply impossible to borrow enough to keep up with the compound interest. Yet all the world trade, especially that on the Pacific Rim, depends upon most of this world being able to run trade surpluses with the United States that will allow them to pay for their trade deficits with Japan. When the lending to America stops, and it will stop, what happens to current world trade flows?"

#### BANKRUPTING RACE TO THE BOTTOM

I believe that in a world where the American standard of living, as well as power, is being daily challenged, our political leaders in Washington must defend the economic base upon which Americans depend for their security and their livelihoods.

Our leaders cannot expect to keep the public trust if they abdicate their responsibilities to the electorate by making decisions to placate bankers and Wall Street-pressured corporate managers who exhibit diminishing national concerns.

Everyone forgets that when Adam Smith called his seminal work on economics "The Wealth of Nations," he was arguing against the notion that trade was the source of national wealth when, to the contrary, he was arguing that domestic manufacturing was the true source of national wealth.

In his hierarchy of economic activity, agriculture came first because of the need to feed the people; a strong domestic manufacturing base was second as the core of national growth; trade was rated third in importance, and was to be used only to acquire resources or luxuries not available at home.

Smith understood that those nations who focus on trade to the neglect of domestic manufacturing industry may be enriching themselves but may also be doing the country great harm.

"The beginning of wisdom on trade, and indeed all economic policy, is to understand that the purposes of a national economy are to enrich all its people, to strengthen its families, its communities and thereby stabilize society. The economy should serve us, not the other way around."

My friend the late Sir James Goldsmith understood this imperative. He also understood that the U.S. economy—and the world economy itself—cannot be returned to a sustainable course unless we redress the recent massive global imbalances between consumption and growing overproduction. He recognized that only one basic approach to globalization could accomplish this goal.

He proposed that the United States make clear to its trading partners, and its own multinational companies, that if their products are to be sold in the United States, they must be made substantially in the United States.

As Sir James argued: "America should use its matchless market power to ensure that foreign and American corporations become good corporate citizens of the United States. They should bring us their capital and their technologies and invest in the U.S.A. This would require them to hire workers in the U.S., pay American wages, pay U.S. taxes, preserve the environment, ensure human rights, and compete on the level playing field that does exist among the 50 states. . . ."

They should be reminded that since the American market is by far the most important in the world, entry is not a right, but a privilege. In other words, there should be a price and a reward for doing business in the United States—making meaningful, long-term contributions to America's continued security and prosperity, and preserving the global environment.

Only then can we make sure we are engaging our people in a race to the top, in living standards; economic stability; quality of life; and personal security—not in a bankrupting race to the bottom. . . .

#### ORDER OF BUSINESS

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

Mr. REID. Madam President, just for purposes of making an announcement, there have been a number of Senators who have contacted Senator DASCHLE and myself asking about next week's schedule. We will have a Tuesday morning vote. So everyone should understand that.

The PRESIDING OFFICER. The Senator from Illinois.

#### THE AVIATION SECURITY BILL

Mr. DURBIN. First, Madam President, I ask unanimous consent to be added as a cosponsor of S. 1447, the Aviation Security Act.

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

#### AFTER SEPTEMBER 11

Mr. DURBIN. Madam President, since September 11 there has been such a flood of emotions in America over the events of that day. I think all of us have been transformed by the experience and transformed by some of our fellow Americans and what they have said and what they have done.

Some of the things that have been written are extraordinary. In just one moment, I am going to submit for the RECORD one that I think is exceptional, a piece from the BusinessWeek magazine of October 1, 2001, by a writer named Bruce Nussbaum entitled, "Real Masters Of The Universe." I will not read the entire article, but I will submit it for the RECORD. I would like to quote a few sentences from it. He said some things with which I agree and I think help to put our experience into some perspective:

A subtle shift in the American zeitgeist took place on Sept. 11. It's hard to define, and it may not last. But on the day of the World Trade Center cataclysm, the country changed. Big, beefy working-class guys became heroes once again, replacing the tele-genic financial analysts and techno-billionaires who once had held the Nation in thrall. Uniforms and public service became "in." Real sacrifice and real courage were on graphic display.

Maybe it was the class reversals that were so revealing. Men and women making 40 grand a year working for the city responding—risking their own lives—to save investment bankers and traders making 10 times that amount. And dying by the hundreds for their effort. The image of self-sacrifice by civil servants in uniform was simply breathtaking.

For Americans conditioned in the '90s to think of oneself first, to be rich above all else, to accumulate all the good material things, to take safety and security for granted, this was a new reality. So was the contrast of genuine bravery to the faux values of reality TV shows such as Survivor.

He concludes:

Tragedy has the power to transform us. But rarely is the transformation permanent. People and societies revert back to the norm. But what is the "norm" for America? Where are this nation's true values? Have we stripped too much away in recent years in order to make us lean and mean for the race to riches? It is hard to look at the images of the World Trade Center rescue again and again. At least once, however, we should look at what the rescuers are teaching us, about what matters—and who.

Madam President, I ask unanimous consent this article be printed in the RECORD.

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

[From Business Week, Oct. 1, 2001]

REAL MASTERS OF THE UNIVERSE  
(By Bruce Nussbaum)

A subtle shift in the American zeitgeist took place on Sept. 11. It's hard to define, and it may not last. But on the day of the World Trade Center cataclysm, the country changed. Big, beefy working-class guys became heroes once again, replacing the tele-genic financial analysts and techno-billionaires who once had held the nation in thrall. Uniforms and public service became "in." Real sacrifice and real courage were on graphic display.



Maybe it was the class reversals that were so revealing. Men and women making 40 grand a year working for the city responding—risking their own lives—to save investment bankers and traders making 10 times that amount. And dying by the hundreds for the effort. The image of self-sacrifice by civil servants in uniform was simply breathtaking.

For Americans conditioned in the '90s to think of oneself first, to be rich above all else, to accumulate all the good material things, to take safety and security for granted, this was a new reality. So was the contrast of genuine bravery to the faux values of reality TV shows such as *Survivor*.

#### SEA OF FLAGS

Noteworthy, too, was America's quick return to family, community, church, and patriotism in the aftermath of the tragedy. People became polite and generous to one another without prodding. On that day and the days that followed, they told their wives and husbands and children and parents and significant others they loved them. And the flags, the sea of flags that appeared out of nowhere and spread everywhere, worn by business-suited managers and eyebrow-pierced, tattooed teenagers. As if by magic, city taxicabs, building canopies, and nearly every truck in sight were flying flags.

The offerings of food, money, and blood were overwhelming. The generosity was unsurpassed in our memories. But the manner in which perfect strangers went out of their way to help one another in all kinds of situations was most amazing. To the surprise of its residents, New York became a small-town community. The day-to-day antagonisms among the citizenry melted away.

The rush to church, synagogue, and, yes, mosque was equally unusual. People returned to their religious ceremonies and congregations in huge numbers for support and guidance. The overflow at the doors demonstrated that many who had not visited in years showed up to participate in the familiar and comforting liturgies of their childhoods. They joined with their neighbors in mourning.

#### LESSONS TAUGHT

It was, for a moment, an old America peeking out from behind the new, me-now America. We saw a glimpse of a country of shared values, not competing interest groups; of common cause, not hateful opposition. There were a few exceptions: Jerry Falwell declaring we brought the death and destruction down on ourselves because of homosexuality, abortion, and the American Civil Liberties Union. A silly, stupid comment to be dismissed in light of the comity of the day—but an extremist remark nonetheless made in the name of God. How sad.

Tragedy has the power to transform us. But rarely is the transformation permanent. People and societies revert back to the norm. But what is the "norm" for America? Where are this nation's true values? Have we stripped too much away in recent years in order to make us lean and mean for the race to riches? It is hard to look at the images of the World Trade Center rescue again and again. At least once, however, we should look at what the rescuers are teaching us, about what matters—and who.

Mr. DURBIN. I recall a few days after this tragedy making a telephone call to a friend of mine, a very successful business executive in Chicago, just to ask him how things were going. He said to me on the phone what this article said. He said: The roaring nineties are over. We are going into a new era.

As this article says, he believes it is an era that focuses on a lot of other

things, whether it is family, community, and church, values that all of us hold dear, and certainly a new respect for this great Nation, which has been symbolized by the sea of flags that you see in every community across Illinois and across the Nation.

It is a time of testing for this country, and we will rise to that challenge, I am certain. We will count our friends.

Madam President, I would like to also make a part of the RECORD—I will ask for consent in a moment—one of the most amazing speeches that I have read. It is a speech by someone who is not an American but who commented on our experience and then pledged his alliance, his friendship, and his solidarity to help us in our effort. I refer to British Prime Minister Tony Blair, who gave an exceptional speech on solidarity with the United States in our war on terrorism. But it was much more than that. It was a call to united international action to work for democracy, prosperity, and freedom.

Out of this tragedy, Prime Minister Blair sees an opportunity to remake our world and to reflect the values we hold dear. His inspiring call is for a progressive vision of the future where the world community, as a community, works for economic growth and social justice, and to end regional conflicts. We, in the United States, have been too caught up in dealing with our immediate crisis, from time to time, to see that this is, as Prime Minister Blair says, "a moment to seize."

Madam President, I ask unanimous consent that Prime Minister Blair's entire speech be printed in the RECORD.

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

#### SPEECH BY BRITISH PRIME MINISTER TONY BLAIR

In retrospect, the Millennium marked only a moment in time. It was the events of September 11 that marked a turning point in history, where we confront the dangers of the future and assess the choices facing humankind.

It was a tragedy. An act of evil. From this nation, goes our deepest sympathy and prayers for the victims and our profound solidarity with the American people.

We were with you at the first. We will stay with you to the last.

Just two weeks ago, in New York, after the church service I met some of the families of the British victims.

It was in many ways a very British occasion. Tea and biscuits. It was raining outside. Around the edge of the room, strangers making small talk, trying to be normal people in an abnormal situation.

And as you crossed the room, you felt the longing and sadness; hands clutching photos of sons and daughters, wives and husbands; imploring you to believe them when they said there was still an outside chance of their loved ones being found alive, when you knew in truth that all hope was gone.

And then a middle-aged mother looks you in the eyes and tells you her only son has died, and asks you: why?

I tell you: you do not feel like the most powerful person in the country at times like that.

Because there is no answer. There is no justification for their pain. Their son did

nothing wrong. The woman, seven months pregnant, whose child will never know its father, did nothing wrong.

They don't want revenge. They want something better in memory of their loved ones.

I believe their memorial can and should be greater than simply the punishment of the guilty. It is that out of the shadow of this evil, should emerge lasting good: destruction of the machinery of terrorism wherever it is found; hope amongst all nations of a new beginning where we seek to resolve differences in a calm and ordered way; greater understanding between nations and between faiths; and above all justice and prosperity for the poor and dispossessed, so that people everywhere can see the chance of a better future through the hard work and creative power of the free citizen, not the violence and savagery of the fanatic.

I know that here in Britain people are anxious, even a little frightened. I understand that. People know we must act but they worry what might follow.

They worry about the economy and talk of recession.

And, of course there are dangers; it is a new situation. But the fundamentals of the US, British and European economies are strong.

Every reasonable measure of internal security is being undertaken.

Our way of life is a great deal stronger and will last a great deal longer than the actions of fanatics, small in number and now facing a unified world against them.

People should have confidence.

This is a battle with only one outcome: our victory not theirs.

What happened on 11 September was without parallel in the bloody history of terrorism.

Within a few hours, up to 7000 people were annihilated, the commercial centre of New York was reduced to rubble and in Washington and Pennsylvania further death and horror on an unimaginable scale. Let no one say this was a blow for Islam when the blood of innocent Muslims was shed along with those of the Christian, Jewish and other faiths around the world.

We know those responsible. In Afghanistan are scores of training camps for the export of terror. Chief amongst the sponsors and organisers is Usama Bin Laden.

He is supported, shielded and given succour by the Taliban regime.

Two days before the 11 September attacks, Masood, the leader of the opposition Northern Alliance, was assassinated by two suicide bombers. Both were linked to Bin Laden. Some may call that coincidence. I call it payment—payment in the currency these people deal in: blood.

Be in no doubt: Bin Laden and his people organised this atrocity. The Taliban aid and abet him. He will not desist from further acts of terror. They will not stop helping him.

Whatever the dangers of the action we take, the dangers of inaction are far, far greater.

Look for a moment at the Taliban regime. It is undemocratic. That goes without saying.

There is no sport allowed, or television or photography. No art or culture is permitted. All other faiths, all other interpretations of Islam are ruthlessly suppressed. Those who practice their faith are imprisoned. Women are treated in a way almost too revolting to be credible. First driven out of university; girls not allowed to go to school; no legal rights; unable to go out of doors without a man. Those that disobey are stoned.

There is now no contact permitted with western agencies, even those delivering food. The people live in abject poverty. It is a regime founded on fear and funded on the

drugs trade. The biggest drugs hoard in the world is in Afghanistan, controlled by the Taliban. Ninety per cent of the heroin on British streets originates in Afghanistan.

The arms the Taliban are buying today are paid for with the lives of young British people buying their drugs on British streets.

That is another part of their regime that we should seek to destroy.

So what do we do?

Don't overreact some say. We aren't.

We haven't lashed out. No missiles on the first night just for effect.

Don't kill innocent people. We are not the ones who waged war on the innocent. We seek the guilty.

Look for a diplomatic solution. There is no diplomacy with Bin Laden or the Taliban regime.

State an ultimatum and get their response. We stated the ultimatum; they haven't responded.

Understand the causes of terror. Yes, we should try, but let there be no moral ambiguity about this: nothing could ever justify the events of 11 September, and it is to turn justice on its head to pretend it could.

The action we take will be proportionate; targeted; we will do all we humanly can to avoid civilian casualties. But understand what we are dealing with. Listen to the calls of those passengers on the planes. Think of the children on them, told they were going to die.

Think of the cruelty beyond our comprehension as amongst the screams and the anguish of the innocent, those hijackers drove at full throttle planes laden with fuel into buildings where tens of thousands worked.

They have no moral inhibition on the slaughter of the innocent. If they could have murdered not 7,000 but 70,000 does anyone doubt they would have done so and rejoiced in it?

There is no compromise possible with such people, no meeting of minds, no point of understanding with such terror.

Just a choice: defeat it or be defeated by it. And defeat it we must.

Any action taken will be against the terrorist network of Bin Laden.

As for the Taliban, they can surrender the terrorists; or face the consequences and again in any action the aim will be to eliminate their military hardware, cut off their finances, disrupt their supplies, target their troops, not civilians. We will put a trap around the regime.

I say to the Taliban: surrender the terrorists; or surrender power. It's your choice.

We will take action at every level, national and international, in the UN, in G8, in the EU, in NATO, in every regional grouping in the world, to strike at international terrorism wherever it exists.

For the first time, the UN security council has imposed mandatory obligations on all UN members to cut off terrorist financing and end safe havens for terrorists.

Those that finance terror, those who launder their money, those that cover their tracks are every bit as guilty as the fanatic who commits the final act.

Here in this country and in other nations round the world, laws will be changed, not to deny basic liberties but to prevent their abuse and protect the most basic liberty of all: freedom from terror. New extradition laws will be introduced; new rules to ensure asylum is not a front for terrorist entry. This country is proud of its tradition in giving asylum to those fleeing tyranny. We will always do so. But we have a duty to protect the system from abuse.

It must be overhauled radically so that from now on, those who abide by the rules get help and those that don't, can no longer

play the system to gain unfair advantage over others.

Round the world, 11 September is bringing Governments and people to reflect, consider and change. And in this process, amidst all the talk of war and action, there is another dimension appearing.

There is a coming together. The power of community is asserting itself. We are realising how fragile are our frontiers in the face of the world's new challenges.

Today conflicts rarely stay within national boundaries.

Today a tremor in one financial market is repeated in the markets of the world.

Today confidence is global; either its presence or its absence.

Today the threat is chaos; because for people with work to do, family life to balance, mortgages to pay, careers to further, pensions to provide, the yearning is for order and stability and if it doesn't exist elsewhere, it is unlikely to exist here.

I have long believed this interdependence defines the new world we live in.

People say: we are only acting because it's the USA that was attacked. Double standards, they say. But when Milosevic embarked on the ethnic cleansing of Muslims in Kosovo, we acted.

The sceptics said it was pointless, we'd make matters worse, we'd make Milosevic stronger and look what happened, we won, the refugees went home, the policies of ethnic cleansing were reversed and one of the great dictators of the last century, will see justice in this century.

And I tell you if Rwanda happened again today as it did in 1993, when a million people were slaughtered in cold blood, we would have a moral duty to act there also. We were there in Sierra Leone when a murderous group of gangsters threatened its democratically elected Government and people.

And we as a country should, and I as Prime Minister do, give thanks for the brilliance, dedication and sheer professionalism of the British Armed Forces.

We can't do it all. Neither can the Americans.

But the power of the international community could, together, if it chose to.

It could, with our help, sort out the blight that is the continuing conflict in the Democratic Republic of the Congo, where three million people have died through war or famine in the last decade.

A Partnership for Africa, between the developed and developing world based around the New African Initiative, is there to be done if we find the will.

On our side: provide more aid, untied to trade; write off debt; help with good governance and infrastructure; training to the soldiers, with UN blessing, in conflict resolution; encouraging investment; and access to our markets so that we practise the free trade we are so fond of preaching.

But it's a deal: on the African side: true democracy, no more excuses for dictatorship, abuses of human rights; no tolerance of bad governance, from the endemic corruption of some states, to the activities of Mr Mugabe's henchmen in Zimbabwe. Proper commercial, legal and financial systems.

The will, with our help, to broker agreements for peace and provide troops to police them.

The state of Africa is a scar on the conscience of the world. But if the world as a community focused on it, we could heal it. And if we don't, it will become deeper and angrier.

We could defeat climate change if we chose to. Kyoto is right. We will implement it and call upon all other nations to do so.

But it's only a start. With imagination, we could use or find the technologies that cre-

ate energy without destroying our planet; we could provide work and trade without deformation.

If humankind was able, finally, to make industrial progress without the factory conditions of the 19th Century; surely we have the wit and will to develop economically without despoiling the very environment we depend upon. And if we wanted to, we could breathe new life into the Middle East Peace Process and we must.

The state of Israel must be given recognition by all; freed from terror; know that it is accepted as part of the future of the Middle East not its very existence under threat. The Palestinians must have justice, the chance to prosper and in their own land, as equal partners with Israel in that future.

We know that. It is the only way, just as we know in our own peace process, in Northern Ireland, there will be no unification of Ireland except by consent—and there will be no return to the days of unionist or Protestant supremacy because those days have no place in the modern world. So the unionists must accept justice and equality for nationalists.

The Republicans must show they have given up violence—not just a ceasefire but weapons put beyond use. And not only the Republicans, but those people who call themselves Loyalists, but who by acts of terrorism, sully the name of the United Kingdom.

We know this also. The values we believe in should shine through what we do in Afghanistan.

To the Afghan people we make this commitment. The conflict will not be the end. We will not walk away, as the outside world has done so many times before.

If the Taliban regime changes, we will work with you to make sure its successor is one that is broad-based, that unites all ethnic groups, and that offers some way out of the miserable poverty that is your present existence.

And, more than ever now, with every bit as much thought and planning, we will assemble a humanitarian coalition alongside the military coalition so that inside and outside Afghanistan, the refugees, millions on the move even before September 11, are given shelter, food and help during the winter months.

The world community must show as much its capacity for compassion as for force.

The critics will say: but how can the world be a community? Nations act in their own self-interest. Of course they do. But what is the lesson of the financial markets, climate change, international terrorism, nuclear proliferation or world trade? It is that our self-interest and our mutual interests are today inextricably woven together.

This is the politics of globalisation.

I realise why people protest against globalisation.

We watch aspects of it with trepidation. We feel powerless, as if we were now pushed to and fro by forces far beyond our control.

But there's a risk that political leaders, faced with street demonstrations, pander to the argument rather than answer it. The demonstrators are right to say there's injustice, poverty, environmental degradation.

But globalisation is a fact and, by and large, it is driven by people.

Not just in finance, but in communication, in technology, increasingly in culture, in recreation. In the world of the internet, information technology and TV, there will be globalisation. And in trade, the problem is not there's too much of it; on the contrary there's too little of it.

The issue is not how to stop globalisation.

The issue is how we use the power of community to combine it with justice. If



globalisation works only for the benefit of the few, then it will fail and will deserve to fail.

But if we follow the principles that have served us so well at home—that power, wealth and opportunity must be in the hands of the many, not the few—if we make that our guiding light for the global economy, then it will be a force for good and an international movement that we should take pride in leading.

Because the alternative to globalisation is isolation.

Confronted by this reality, round the world, nations are instinctively drawing together. In Quebec, all the countries of North and South America deciding to make one huge free trade area, rivalling Europe.

In Asia. In Europe, the most integrated grouping of all, we are now 15 nations. Another 12 countries negotiating to join, and more beyond that.

A new relationship between Russia and Europe is beginning.

And will not India and China, each with three times as many citizens as the whole of the EU put together, once their economies have developed sufficiently as they will do, not reconfigure entirely the geopolitics of the world and in our lifetime?

That is why, with 60 per cent of our trade dependent on Europe, three million jobs tied up with Europe, much of our political weight engaged in Europe, it would be a fundamental denial of our true national interest to turn our backs on Europe.

We will never let that happen.

For 50 years, Britain has, uncharacteristically, followed not led in Europe. At each and every step.

There are debates central to our future coming up: how we reform European economic policy; how we take forward European defence; how we fight organised crime and terrorism.

Britain needs its voice strong in Europe and bluntly Europe needs a strong Britain, rock solid in our alliance with the USA, yet determined to play its full part in shaping Europe's destiny.

We should only be part of the single currency if the economic conditions are met. They are not window-dressing for a political decision. They are fundamental. But if they are met, we should join, and if met in this parliament, we should have the courage of our argument, to ask the British people for their consent in this Parliament.

Europe is not a threat to Britain. Europe is an opportunity.

It is in taking the best of the Anglo-Saxon and European models of development that Britain's hope of a prosperous future lies. The American spirit of enterprise; the European spirit of solidarity. We have, here also, an opportunity. Not just to build bridges politically, but economically.

What is the answer to the current crisis? Not isolationism but the world coming together with America as a community.

What is the answer to Britain's relations with Europe? Not opting out, but being leading members of a community in which, in alliance with others, we gain strength.

What is the answer to Britain's future? Not each person for themselves, but working together as a community to ensure that everyone, not just the privileged few get the chance to succeed.

This is an extraordinary moment for progressive politics.

Our values are the right ones for this age: the power of community, solidarity, the collective ability to further the individual's interests.

People ask me if I think ideology is dead. My answer is:

In the sense of rigid forms of economic and social theory, yes.

The 20th century killed those ideologies and their passing causes little regret. But, in the sense of a governing idea in politics, based on values, no. The governing idea of modern social democracy is community. Founded on the principles of social justice. That people should rise according to merit not birth; that the test of any decent society is not the contentment of the wealthy and strong, but the commitment to the poor and weak.

But values aren't enough. The mantle of leadership comes at a price: the courage to learn and change; to show how values that stand for all ages, can be applied in a way relevant to each age.

Our politics only succeed when the realism is as clear as the idealism.

This party's strength today comes from the journey of change and learning we have made.

We learnt that however much we strive for peace, we need strong defence capability where a peaceful approach fails.

We learnt that equality is about equal worth, not equal outcomes.

Today our idea of society is shaped around mutual responsibility; a deal, an agreement between citizens not a one-way gift, from the well-off to the dependent.

Our economic and social policy today owes as much to the liberal social democratic tradition of Lloyd George, Keynes and Beveridge as to the socialist principles of the 1945 Government.

Just over a decade ago, people asked if Labour could ever win again. Today they ask the same question of the Opposition. Painful though that journey of change has been, it has been worth it, every stage of the way.

On this journey, the values have never changed. The aims haven't. Our aims would be instantly recognisable to every Labour leader from Keir Hardie onwards. But the means do change.

The journey hasn't ended. It never ends. The next stage for New Labour is not backwards; it is renewing ourselves again. Just after the election, an old colleague of mine said: "Come on Tony, now we've won again, can't we drop all this New Labour and do what we believe in?"

I said: "It's worse than you think. I really do believe in it."

We didn't revolutionise British economic policy—Bank of England independence, tough spending rules—for some managerial reason or as a clever wheeze to steal Tory clothes.

We did it because the victims of economic incompetence—15 per cent interest rates, 3m unemployed—are hard-working families. They are the ones—and even more so, now—with tough times ahead—that the economy should be run for, not speculators, or currency dealers or senior executives whose pay packets don't seem to bear any resemblance to the performance of their companies.

Economic competence is the pre-condition of social justice.

We have legislated for fairness at work, like the minimum wage which people struggled a century for. But we won't give up the essential flexibility of our economy or our commitment to enterprise.

Why? Because in a world leaving behind mass production, where technology revolutionises not just companies but whole industries, almost overnight, enterprise creates the jobs people depend on.

We have boosted pensions, child benefit, family incomes. We will do more. But our number one priority for spending is and will remain education.

Why? Because in the new markets countries like Britain can only create wealth by brain power not low wages and sweatshop labour.

We have cut youth unemployment by 75 per cent.

By more than any government before us. But we refuse to pay benefit to those who refuse to work. Why? Because the welfare that works is welfare that helps people to help themselves.

The graffiti, the vandalism, the burnt out cars, the street corner drug dealers, the teenage mugger just graduating from the minor school of crime: we're not old fashioned or right-wing to take action against this social menace.

We're standing up for the people we represent, who play by the rules and have a right to expect others to do the same.

And especially at this time let us say: we celebrate the diversity in our country, get strength from the cultures and races that go to make up Britain today; and racist abuse and racist attacks have no place in the Britain we believe in.

All these policies are linked by a common thread of principle.

Now with this second term, our duty is not to sit back and bask in it. It is across the board, in competition policy, enterprise, pensions, criminal justice, the civil service and of course public services, to go still further in the journey of change. All for the same reason: to allow us to deliver social justice in the modern world.

Public services are the power of community in action.

They are social justice made real. The child with a good education flourishes. The child given a poor education lives with it for the rest of their life. How much talent and ability and potential do we waste? How many children never know not just the earning power of a good education but the joy of art and culture and the stretching of imagination and horizons which true education brings? Poor education is a personal tragedy and national scandal.

Yet even now, with all the progress of recent years, a quarter of 11-year-olds fail their basic tests and almost a half of 16 year olds don't get five decent GCSEs.

The NHS meant that for succeeding generations, anxiety was lifted from their shoulders. For millions who get superb treatment still, the NHS remains the ultimate symbol of social justice.

But for every patient waiting in pain, that can't get treatment for cancer or a heart condition or in desperation ends up paying for their operation, that patient's suffering is the ultimate social injustice.

And the demands on the system are ever greater. Children need to be better and better educated.

People live longer. There is a vast array of new treatment available.

And expectations are higher. This is a consumer age. People don't take what they're given. They demand more.

We're not alone in this. All round the world governments are struggling with the same problems.

So what is the solution? Yes, public services need more money. We are putting in the largest ever increases in NHS, education and transport spending in the next few years; and on the police too. We will keep to those spending plans. And I say in all honesty to the country: if we want that to continue and the choice is between investment and tax cuts, then investment must come first.

There is a simple truth we all know. For decades there has been chronic under-investment in British public services. Our historic mission is to put that right; and the historic shift represented by the election of June 7 was that investment to provide quality public services for all comprehensively defeated short-term tax cuts for the few.

We need better pay and conditions for the staff; better incentives for recruitment; and

for retention. We're getting them and recruitment is rising.

This year, for the first time in nearly a decade, public sector pay will rise faster than private sector pay.

And we are the only major government in Europe this year to be increasing public spending on health and education as a percentage of our national income.

This Party believes in public services; believes in the ethos of public service; and believes in the dedication the vast majority of public servants show; and the proof of it is that we're spending more, hiring more and paying more than ever before.

Public servants don't do it for money or glory. They do it because they find fulfilment in a child well taught or a patient well cared-for; or a community made safer and we salute them for it.

All that is true. But this is also true.

That often they work in systems and structures that are hopelessly old fashioned or even worse, work against the very goals they aim for.

There are schools, with exactly the same social intake. One does well; the other badly.

There are hospitals with exactly the same patient mix. One performs well; the other badly.

Without reform, more money and pay won't succeed.

First, we need a national framework of accountability, inspection; and minimum standards of delivery.

Second, within that framework, we need to free up local leaders to be able to innovate, develop and be creative.

Third, there should be far greater flexibility in the terms and conditions of employment of public servants.

Fourth, there has to be choice for the user of public services and the ability, where provision of the service fails, to have an alternative provider.

If schools want to develop or specialise in a particular area; or hire classroom assistants or computer professionals as well as teachers, let them. If in a Primary Care Trust, doctors can provide minor surgery or physiotherapists see patients otherwise referred to a consultant, let them.

There are too many old demarcations, especially between nurses, doctors and consultants; too little use of the potential of new technology; too much bureaucracy, too many outdated practices, too great an adherence to the way we've always done it rather than the way public servants would like to do it if they got the time to think and the freedom to act.

It's not reform that is the enemy of public services. It's the status quo.

Part of that reform programme is partnership with the private or voluntary sector.

Let's get one thing clear. Nobody is talking about privatising the NHS or schools.

Nobody believes the private sector is a panacea.

There are great examples of public service and poor examples. There are excellent private sector companies and poor ones. There are areas where the private sector has worked well; and areas where, as with parts of the railways, it's been a disaster.

Where the private sector is used, it should not make a profit simply by cutting the wages and conditions of its staff.

But where the private sector can help lever in vital capital investment, where it helps raise standards, where it improves the public service as a public service, then to set up some dogmatic barrier to using it, is to let down the very people who most need our public services to improve.

This programme of reform is huge: in the NHS, education, including student finance,—we have to find a better way to combine

state funding and student contributions criminal justice; and transport.

I regard it as being as important for the country as Clause IV's reform was for the Party, and obviously far more important for the lives of the people we serve.

And it is a vital test for the modern Labour Party

If people lose faith in public services, be under no illusion as to what will happen.

There is a different approach waiting in the wings. Cut public spending drastically; let those that can afford to, buy their own services; and those that can't, will depend on a demoralised, sink public service. That would be a denial of social justice on a massive scale.

It would be contrary to the very basis of community.

So this is a battle of values. Let's have that battle but not amongst ourselves. The real fight is between those who believe in strong public services and those who don't.

That's the fight worth having.

In all of this, at home and abroad, the same beliefs throughout: that we are a community of people, whose self-interest and mutual interest at crucial points merge, and that it is through a sense of justice that community is born and nurtured.

And what does this concept of justice consist of?

Fairness, people all of equal worth, of course. But also reason and tolerance. Justice has no favourites; not amongst nations, peoples or faiths.

When we act to bring to account those that committed the atrocity of September 11, we do so, not out of bloodlust.

We do so because it is just. We do not act against Islam. The true followers of Islam are our brothers and sisters in this struggle. Bin Laden is no more obedient to the proper teaching of the Koran than those Crusaders of the 12th century who pillaged and murdered, represented the teaching of the Gospel.

It is time the west confronted its ignorance of Islam. Jews, Muslims and Christians are all children of Abraham.

This is the moment to bring the faiths closer together in understanding of our common values and heritage, a source of unity and strength.

It is time also for parts of Islam to confront prejudice against America and not only Islam but parts of western societies too.

America has its faults as a society, as we have ours.

But I think of the Union of America born out of the defeat of slavery.

I think of its Constitution, with its inalienable rights granted to every citizen still a model for the world.

I think of a black man, born in poverty, who became chief of their armed forces and is now secretary of state Colin Powell and I wonder frankly whether such a thing could have happened here.

I think of the Statue of Liberty and how many refugees, migrants and the impoverished passed its light and felt that if not for them, for their children, a new world could indeed be theirs.

I think of a country where people who do well, don't have questions asked about their accent, their class, their beginnings but have admiration for what they have done and the success they've achieved.

I think of those New Yorkers I met, still in shock, but resolute; the fire fighters and police, mourning their comrades but still head held high.

I think of all this and I reflect: yes, America has its faults, but it is a free country, a democracy, it is our ally and some of the reaction to September 11 betrays a hatred of America that shames those that feel it.

So I believe this is a fight for freedom. And I want to make it a fight for justice too. Justice not only to punish the guilty. But justice to bring those same values of democracy and freedom to people round the world.

And I mean: freedom, not only in the narrow sense of personal liberty but in the broader sense of each individual having the economic and social freedom to develop their potential to the full. That is what community means, founded on the equal worth of all.

The starving, the wretched, the dispossessed, the ignorant, those living in want and squalor from the deserts of Northern Africa to the slums of Gaza, to the mountain ranges of Afghanistan: they too are our cause.

This is a moment to seize. The Kaleidoscope has been shaken. The pieces are in flux. Soon they will settle again. Before they do, let us re-order this world around us.

Today, humankind has the science and technology to destroy itself or to provide prosperity to all. Yet science can't make that choice for us. Only the moral power of a world acting as a community, can.

"By the strength of our common endeavour we achieve more together than we can alone".

For those people who lost their lives on September 11 and those that mourn them; now is the time for the strength to build that community. Let that be their memorial.

#### ACTIVATING GUARD AND RESERVE UNITS

Mr. DURBIN. Madam President, one of the other things I did just a few days ago—and I hope my colleagues will consider doing the same—was to visit some of the Guard and Reserve units that are being activated.

When I asked for the opportunity to go to Scott Air Force Base in Belleville, just to spend a few moments with the men and women of the 126th Air Guard Refueling Wing, I wasn't certain whether they would consider this a colossal waste of time to have to have some political figure come and drop by. Exactly the opposite happened.

It was an important experience for me, and I also think for many of them, just to come by, have a few kind words, and to really thank them for the sacrifice they have shown for this country.

This is an Air Guard unit that has been activated many times. It was originally based at O'Hare and now is at Scott Air Force Base. They refuel planes and are very important to any military effort of the United States. There were about 340 members of this unit, men and women, who have joined the military, understanding their lives would be on the line. To go through the crowd there and meet each one of them, to talk for a few moments about their hometowns and their families, baseball, and so many other things that are just part of American life, was so refreshing and encouraging and, in a way, inspiring—spending that time with them and General Kessler, who is their commanding officer at Scott Air Force Base.

Theirs is a unit that has been activated, in part. And I am sure others will be as well. The 182nd Airlift Wing

in Peoria is also a unit that is likely to be mobilized—the 183rd Air National Guard Fighter Wing in Springfield, the 954th Air Reserve Support Unit out of Scott Air Force Base, the 182nd Air National Guard Security Forces, the 126th Air National Guard Security Forces, and the 183 National Guard Security Forces out of Springfield.

The one thing they raised to me—and I think at least bears some comment in this Chamber—was their concern about their families once they left. That is a natural feeling. It is one we ought to remind ourselves of, that we have passed laws to protect these men and women in uniform who are activated so that they can return to their jobs without any loss of status, and also to help them in some financial circumstances.

But beyond the laws, and beyond the Federal commitment, beyond the political speeches, I hope that every community across the United States will offer a helping hand to the families of those in the Guard and Reserve who are now called on to serve our country, as well as the active-duty men and women who are in harm's way at this moment in service to our Nation.

Many times, as I went around Illinois, people would say: Senator, what can I do? I have given blood. I have sent my check in. The President has said to embrace my family. I did it; I do it every day. Is there anything more I can do? Think about the families of the men and women in uniform in your community who just may need a helping hand or a word of encouragement of perhaps a little more. That is something every one of us should do.

#### TRANSPORTATION SECURITY

Mr. DURBIN. I would like to address this issue of aviation security, which has been addressed on the floor by my colleague from Massachusetts, Senator KERRY. I note that Senator TORRICELLI is also in the Chamber. We were in a meeting yesterday to discuss security transportation security, not just aviation security. There are many of us served by Amtrak who believe that George Warrington, the CEO of Amtrak, has given us fair notice that he needs additional resources to make certain that Amtrak continues to be one of the safest ways to travel in America.

I believe there are over 600 Amtrak stations across this country. They are putting in place the kind of security we want, to make certain that no terrorist will see a target of opportunity in the metroliners or Amtrak trains that crisscross America.

I am happy, as I have noted at the beginning of my statement, to be a cosponsor of S. 1447 on aviation security. There are many provisions that I think are excellent. I am happy to join Senator HOLLINGS and so many others, on a bipartisan basis, to support the bill. But we would be remiss to believe that passing a bill on aviation security takes care of our obligation, our re-

sponsibility. Beyond that, we have to look to the traveling public and other vulnerabilities.

I agree with my colleagues who also have Amtrak service that we need to give to Amtrak the resources and the authority to make certain they can upgrade their security and take a look at a lot of their vulnerable infrastructure.

In this Chamber yesterday, Senator TORRICELLI talked about some of the tunnels. George Warrington of Amtrak has brought this to my attention. Many of these tunnels date back to the Civil War in their construction.

They do not have adequate safety in the tunnels so that if anything occurred, the people on the train would be in a very perilous situation. As these trains pass in the tunnels, literally hundreds if not thousands of passengers are trusting that we are doing everything we should do for the security of their transportation. I don't think we are doing enough. In fact, I believe we should include in this aviation security bill the authorization for Amtrak to receive additional funds for security.

I am troubled—I have to say this with some regret—that a lot of my colleagues in the Senate who have had a very negative view of Amtrak as a governmental function are translating that into a reluctance to address these security and safety measures. I am not one of them. If we take a look at the annual expenditure for transportation at the Federal level, we spend roughly \$33 billion a year on highways, \$12 billion a year on airports—before the crisis—and about \$500 million a year on Amtrak. Anyone in the State of Illinois and in many States across the Nation knows that if we are going to have a balanced transportation system, we need all three. We need aviation, good highway transportation and mass transit, and a national rail passenger corporation such as Amtrak.

It is no surprise to me, as I have been on the trains more often since September 11 than before, that more and more Americans are turning there.

We have an obligation to protect them, not to wait until there is an accident or something worse. I hope my colleagues will reconsider their opposition to Amtrak security authorization and appropriations. We should do it, and we should do it now without question.

Our commitment should be to every American to make their transportation as safe as humanly possible.

Let me address the aviation security issue for a minute. Yesterday, in my office I had representatives of the three major international corporations involved in aviation airport screening and security. They told me an interesting story. For those who may not be aware, until this moment in time, we have given to the airlines the responsibility to contract out the security and screening stations at the airports. We have found, as we have looked into it, that going to the lowest bidder in some

circumstances meant that you didn't have an employee who was adequately compensated or trained.

I will quickly add that in my hometown of Springfield, IL, and many airports I have visited, the people working the screening equipment are doing an extraordinarily good job. Any one of us who has been through an airport at any time in the past few years knows that too often you have found at those security stations employees who were not taking it seriously.

Examine the analysis from the GAO, and it turns out that the turnover in some of the airports is 100 percent a year, 200 percent a year and, in the worst case, over 400 percent a year. The employees come and go if they are given an opportunity to take a job at Cinnabon or anywhere else in the airport. They are quickly gone from the screening stations. We have not taken this responsibility seriously, nor have the airlines.

Now we face a new day. The private contractors who came to me yesterday said that it is a different world altogether overseas. In fact, one of them noted the fact that in Israel it is a private company that handles the security at the airport with certification by the Government and supervision by the Government, as is the case in many European capitals. I don't know if we can safely move in our own minds from what we see today with these same companies to a model using those companies in a different context.

When I asked Secretary Mineta last week to describe for me how this might work, the details were still forthcoming. That left me a little bit cold. Many of my colleagues share the belief that the safest way to address this, as we do in the bill, is to say that we will federalize the security and safety at airports. This bill goes beyond the screening station and talks about the responsibility under this bill. Let me quote from it on the security operations:

The administrator shall establish and enforce rules to improve the fiscal security of air traffic control facilities, parked aircraft, aircraft servicing equipment, aircraft supplies, automobile parking facilities, access and transition areas at airports served by other means of ground or water transportation.

The important thing is that this bill goes far beyond the screening stations at the airports. I believe if we are going to maintain safety at airports and on our airplanes, it has to be a secure environment. That means we are not only conscious and sensitive to what passengers bring onto airplanes but every single person who has contact with an airplane. A caterer, a clean-up crew, refueling personnel, someone who is a mechanic coming on board, or baggage handlers, all of them have to be supervised to make certain that those airplanes are secure. This bill does it. It does it through federalization.

I think we should view the safety of our airports and airplanes as matters

of national security. After September 11, we can do no less.

I hope we enact this legislation and do it very quickly so that we can have in place a system that will help to restore confidence in the flying public.

I am happy to report in my own personal experience more and more people are returning to airports. I am glad that is the case.

#### FIGHTING TERRORISM

Mr. DURBIN. As a member of the Judiciary and Intelligence Committees, we have had a number of requests from the administration for new authority to collect information to fight terrorism. You will find that the vast majority of requests by the administration will be honored in the bill we will consider this week or next.

We will say to FBI and the CIA, other law enforcement agencies: Here are new tools for you to fight terrorism.

We should give to it them because we need to provide them what is necessary to protect our Nation. Certainly we need to keep our laws up to pace with the changes in technology so that when communications are moving by e-mail or through the use of cell telephones, we give to law enforcement the authority and the opportunity to make certain they have access to them.

I am concerned, as are many on the Judiciary Committee, that it isn't just a question of the new authority to collect information but a more fundamental question: Do these agencies of law enforcement have the infrastructure and the capacity to collect, process, evaluate, and distribute this information?

It was only a few weeks ago that the Senate Judiciary Committee had its first oversight hearing in 20 years on the FBI.

The information that came to us suggests that FBI computer capabilities are archaic, that no successful business in America could operate with the computers we have given to the premier law enforcement agency in America. Is there any doubt in anyone's mind that computer capability is as important, if not more important, than additional authorization in the law to collect information?

Things are being done. A man by the name of Bob Dies left the IBM Corporation and came to the Department of Justice to modernize their computer systems. I trust him. I believe he has a good mind. He can help us out of this terrible situation into modern computer technology.

When I sat down with Mr. Dies yesterday and asked him the problems he ran into, he gave me an example. We know there is software available that would allow us to see the coordinates of any location in America, cross streets in the city of Boston or the city of Chicago, and then with this software, with concentric circles, see all of the important surrounding structures, the buildings, the hospitals, whether

there is any type of nuclear facilities or electric substations, all within that region. Think of how valuable that is when we are fighting terrorism.

If they receive a notice at the FBI that there has been an explosion at a certain location, by using this software they can immediately see before them all of the potential targets and all of the worrisome areas around that explosion. That seems to be an obvious tool. Wouldn't you assume the FBI already had it? They don't. They don't have access to it because when Mr. Dies said he wanted to buy this software for the FBI—and they were excited about receiving it—he was told: First you have to draw up, under Federal procurement laws, a request with specific elements in it as to what you want in this software, and then we have to have it put out for bid. We think in about a year we can get it for you.

The average American can go right now and buy the software off the shelf. It is absolutely unforgivable that that basic tool and so many others are being denied to the FBI and other law enforcement agencies because of the bureaucratic mess we have in procurement in this Nation.

I am working at this moment on legislation that will allow an exception to our procurement laws in areas of national need and national emergency. We should have a certification process that will allow us to step back from this morass of bureaucracy and get to the point of bringing modern computers into the FBI so that all the names and all the tips and all the information collected can be processed, formulated, evaluated, and distributed so that the names of suspects can be given to the Federal Aviation Administration and, in turn, given to all of the airlines so that they can do their job when people apply for a ticket.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The time for morning business has expired.

Mr. DURBIN. I ask unanimous consent for 1 additional minute.

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

Mr. DURBIN. Mr. President, I hope that during the course of considering antiterrorism legislation we don't stop short of giving new authority to collect information but also give to the FBI, CIA, and other Federal law enforcement agencies the infrastructure to use that information. We need to create an extraordinary process for extraordinary times.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I ask unanimous consent to proceed as in morning business and, after I have completed, Senator TORRICELLI be recognized.

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

#### PROBLEMS WITH THE FBI

Mr. KERRY. Mr. President, I thank the Senator from Illinois for his com-

ments. He could not be more correct about the problems with the FBI. In fact, the FBI had a lot of information regarding the potential of the events on September 11 4 and 5 years ago, I have learned, in certain compartments. Regrettably, just because of the compartmentalization and the process, that information was never adequately followed up on, as I think we will learn over the course of the next few months. We regret that.

There needs to be an enormous amount of work done in the coordination of the processing of information between the CIA and the FBI. The FBI, obviously, has been much more focused on prosecuting crimes after they happen and not necessarily on taking information and evaluating it in the context of a crime that may happen. The CIA has been much more involved in the processing of information. Their human intelligence component in the CIA has been so devastated in the last 10, 15 years, that we are light years behind where we ought to be.

I will correct my colleague. We had the security chief from El Al in yesterday with Senator HOLLINGS. He said that every facet of airline security is in fact Government managed at this point—in fact, the employees. I don't know if that was an older process or what. Yesterday, El Al gave us a clear description of how they are doing it now. It is entirely managed by the Government, which is precisely what we are suggesting ought to happen here.

(The remarks of Mr. KERRY pertaining to the introduction of S. 1499 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KERRY. Mr. President, I thank the Senator from New Jersey for his courtesy in allowing me to step in front of him to introduce this legislation.

The PRESIDING OFFICER. The Senator from New Jersey.

#### ESTABLISHING A BOARD OF INQUIRY

Mr. TORRICELLI. Mr. President, when this Chamber was new and Members of the Senate were gathering in their first years, they were confronted with the reality of a civil war which had consumed over 860,000 lives and the rebuilding of our Republic. Even with those daunting tasks, there was a recognition that somehow the institutions of our Government had failed to deal with the crisis, to avert the struggle.

Even in that atmosphere, those who preceded us created a board of inquiry as to the reasons of the war and how it was executed and what might lie ahead for the country.

That civil war debate created a foundation which through two centuries has created a consistent pattern for this Congress. In times of national trouble or trauma, part of dealing with

the realities of our problems and preparing for the future required a dispassionate analysis of the problem.

While survivors were still being taken out of the North Atlantic from the sinking of the *Titanic*, a board of inquiry met to determine the failures of maritime safety.

Three weeks after the Japanese attack on Pearl Harbor, a board of inquiry began to examine why our Nation was not prepared and how the institutions of our country had failed to respond to the looming threat and the reality of the attack.

In the ensuing years, we returned again and again to this trusted form of analysis that allowed our people to trust a result and the Congress to prepare to avoid the same circumstances in the future: a commission that was formed after the assassination of President Kennedy and the board that convened after the *Challenger* accident.

In each of these instances, I have no doubt a Senator rose and said it is difficult to deal with examining the reasons for the war of 1861 because our time is consumed with the reality of the situation. How can one deal with the reality of the situation if we do not know the reasons for the problem?

How can we simply give more resources to the same institutions, more power to those institutions if we doubted they had the ability or used those powers or resources properly in the first instance? Indeed, one can only imagine when President Roosevelt required a board of inquiry on preparedness and the response to Pearl Harbor how admirals and generals, scrambling to defend the Nation and execute the war, must have felt about diverting resources to deal with the inquiry.

It was recognized by those who sat in these chairs before us, as we should recognize now, that the credibility of the institutions involved, the confidence in their leadership, a dispassionate, removed analysis of their powers is a foundation before implementing a new policy to avert the same problems.

A number of my colleagues are joining with me in the coming days in introducing legislation to create a board of inquiry regarding the terrorist attacks of September 11. It is my intention to offer it as an amendment to legislation that is currently working its way through the Senate dealing with this tragedy.

As the Senate properly responds to the administration's request for more power in Federal institutions, the people need to know how those institutions use the power they possess and to restore confidence in those institutions as they execute these powers.

The Senate properly allocates billions of dollars more for national security and law enforcement and the protection of our people. People of our country justifiably will want to know, as antiterrorist activities in the last 5 years increased by 300 percent, why that money was not sufficient or why it failed to protect our country.

It speaks well of this Congress that we are willing to do so much to protect our country, to avert a future terrorist attack, but I have 3,000 families in New Jersey who have a husband or a mother or a wife or a child who will never come home. Of the 6,500 potentially dead victims of the New York attack alone, and the hundreds of families in Virginia, the families of New Jersey are going to want to know not simply what are we doing in the future, but what happened in the past.

How did an intelligence community that is larger financially than the military establishments of our largest rivals fail to uncover the intentions of these terrorists? How did all of our technology prove unable to intercept their communications? How, with all of the interceptions that have taken place, were we unable to analyze the information and predict the attack? How, indeed, in law enforcement, given the presence of these same terrorist organizations in previous attacks from the same locations on the same target, were we unable to infiltrate these organizations?

It may well be that there is a good explanation for each of these failures. Indeed, it may prove that everything that was humanly possible was done to the fullest extent conceivable. It may be there are institutional failures and conflicts, so that all the money conceivable will not prevent a future attack if powers are not properly distributed or the proper people do not have authority or there are breakdowns in command or communication.

I cannot predict any of these answers, but what is important is neither can anyone else in this Congress or the administration because without some analysis, as we have done throughout our country's history, we will never know. Indeed, if we fail to have a board of inquiry in the midst of this crisis about these circumstances, I believe history will instruct us it will be the first time in the history of the Republic that the Government did not hold itself accountable and subject to analysis when our American people have faced a crisis of this magnitude.

The people deserve an answer. The Government should hold itself accountable, and only a board of inquiry, independent of the Congress and the Executive, has the credibility to do it.

Dealing with the issue of accountability for the past, I want to, for a moment, deal with prevention in the future. This Senate is rightfully responding to the problem of the hijackings by comprehensive legislation dealing with airline security. It is only right and proper we should do so. Our Nation is dependent on the airlines. The economic contagion from this tragedy has affected every State in our Union. Cynics will decry that we are simply closing the barn door, but indeed there is no choice but to do so lest terrorists travel through that barn door again.

What is significant is it is not adequate to respond to these terrorist at-

tacks, enhancing the security of our people, by responding in one dimension. It is unlikely these terrorists or others who would conspire with them, or act in concert with their actions, will respond again in the same manner by the same mode as the last terrorist attacks. If indeed the bin Laden organization is responsible, the history of their actions suggests each time they strike they strike in a different mode, in a different method, sometimes in a different place.

Obviously, I support this airline security legislation but it is not enough. From our reservoirs to our powerplants to other modes of transportation, we need to secure the Nation. It needs to be more comprehensive.

The PRESIDING OFFICER. The Senator's time in morning business has expired.

Mr. TORRICELLI. Mr. President, I ask unanimous consent for 5 additional minutes.

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

Mr. TORRICELLI. Many of my colleagues have joined me in insisting the Airline Security Act also include rail security. We do so for the following reason: In my State alone, nearly a quarter of a million people ride railroads every day, many of them through old tunnels. The tunnels under the Hudson River were built between 1911 and 1920. As this photograph illustrates, they are largely without ventilation. This is a single fan to exhaust smoke from a fire in a two and a half mile tunnel.

Every Amtrak Metroliner, if fully loaded, under the Hudson River or the Baltimore tunnels, or even the approaches to Washington, DC, carries 2,000 passengers, more than three times the number of people on a 747. The tunnels do not have ventilation and they do not have escapes.

As this second photograph illustrates, under the East River of New York and under the Hudson River, a single spiral staircase serves to exit 500 to 2,000 passengers. The same spiral staircase would be used for firefighters getting to the train. It is obviously not adequate.

Last August, before these attacks occurred, the New York State Commission said it was a disaster waiting to happen. Those are not the only problems. We need police officers on Amtrak trains. We need to screen luggage. We need to ensure that switching mechanisms are safeguarded and secure. This Congress will do a good deed for the American people if indeed we secure our airlines, but it is unlikely we would be so fortunate that terrorists will choose this same method and mode for the next attack.

Securing Amtrak and commuter trains is essential. The legislation we will offer, \$3.2 billion, will secure the tunnels, hire police officers, assure screening, and bring our train transportation network to the same new high standards as our aircraft.

It is essential. It is timely, and I hope my colleagues around the country understand those of us in the Northeast and the great metropolitan areas of Los Angeles, Chicago, Miami, and Boston cannot yield on this point, not with hundreds of thousands of commuters having their lives depending upon it every day.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

#### AVIATION SECURITY

Mr. ROCKEFELLER. Mr. President, the day of September 11 has been eloquently described by the preceding speaker, Senator TORRICELLI. Its consequences are unknown. In fact, one of the great questions none of us can answer at this point is: What are the unintended consequences of what will follow this attack over a period of weeks and months?

However, this is not our purpose. Our purpose is to get an aviation security bill done. That is why this Senator from West Virginia chooses to speak.

I wish to make a couple of very clear points. We have not yet passed an aviation security bill. There were those who said, no, you cannot work on the aviation industry's financial condition until you have done an aviation security bill. That was an understandable argument, as well as those who talk about people who have lost their jobs. There really was not much point in doing an aviation security bill if there weren't any airplanes flying. That had to be done as a first order of business.

They are flying. They have picked up a modest amount of business. It has increased about 7 percent in the last week, but they are still in a very bad position, even with the money we gave them after forcing them to ground all of their airplanes for a period of time.

In any event, that and the loan guarantees part is done and so now we move on to aviation security, which we ought to do. One could say, well, that is a fairly easy subject. We could go ahead and do that promptly and without much fuss.

That is not quite the case. There is a lot involved, which is serious, which is complex, a lot of back and forth about which is the best agency to do this or that and how do people feel about it, what are the costs involved.

That being said, the Department of Transportation, under President Bush's leadership, immediately after September 11, took some very strong steps with respect to our airports and our airlines. Within days, Congress sent, as I have indicated, its strong support with an emergency financial package that, in fact, included \$3 billion, still unknown to most people, for airport security. That was included to be used at the discretion of the President, which was fine. Most of that has been used for sky marshals and other items. Urgent aviation security efforts are already in place. The money is there. Now we are

talking about a bill for a broader aviation security purpose.

In the few weeks that have passed since September 11, a large group has been working around the clock through a lot of very contentious issues, not easy issues, to try to resolve what should be in an aviation security bill that would best serve the Nation, not just in the next months but in the coming years. One can say, therefore, that the Aviation Security Act is a result of these efforts. It is not finally worked out. There was to be a meeting this morning with the Secretary of Transportation. He was called to the White House. There are still details pending. That is not the point. We are on it and moving at the point, for those who come down to speak on it, because we want this done if at all possible this week, with the American people knowing that aviation security is at the top of our legislative agenda.

I am very proud to have joined Senator HOLLINGS, Senator McCAIN, Senator HUTCHINSON as original cosponsors, and I rise in strong support of the managers' amendment because we have been working closely with Senator LOTT and Senator DASCHLE. I can report there is broad bipartisan support within this body on both sides of the aisle as to what we ought to do. That has come through in meetings and compromises. That is a very important fact and bodes well for the bill.

The truth is, the horrific attacks of September 11 do reflect broad intelligence and other failures.

#### EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, if the Senator will yield, I ask unanimous consent that the morning hour be extended for 1 hour, until 12:30, with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. ROCKEFELLER. I ask unanimous consent for an additional 10 minutes.

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

Mr. ROCKEFELLER. The fault of these attacks clearly lies with those who perpetrated them, but the failures are all our shared responsibilities. There is no way to get away from that.

On the other hand, they are also a shared opportunity. I have long argued and made many speeches that we have a habit in the Congress, and to some extent in our country, of taking aviation for granted, knowing very little about its details, complaining when we are delayed but not making the effort to understand what aviation entails, what happens when passenger traffic doubles—as everybody knew would happen before September 11, and which I believe will come to be true again. This is an opportunity, this horrible tragedy, to set a number of accounts straight in terms of the way we secure our airports.

We have to develop, we have to fund, we have to implement a better and changed way of providing security—particularly true after September 11. Had it never happened, we still should have been doing it. Instead, we were concentrating on air traffic control, runways, matters of this sort that are tremendously important, but we were not focused on security. That has to change. The Aviation Security Act gives us the chance to do exactly that.

First and foremost, the bill restores the basic responsibility for security to its rightful place. That is with Federal law enforcement rather than with the airlines and the airports, which can neither afford it nor do it properly. This is not a question of private security companies. There is absolutely no other segment of American life in which we need national security contracted out to the private sector. Until last month, the airports' private security companies had in fact managed to ensure that ours was the safest system in the world. Let that be said. It always has been, always will be. But there is public concern that if there is an accident, it will be of a very large nature; if there is terrorism in our future, it will be of a very large nature. We have to begin to think about all things more seriously. We want the safest system in the world. We have the safest system in the world, but it has to be a lot better.

Law enforcement has to be fulfilled by the Federal Government. Everybody agrees on that, both sides of the aisle. The Bush administration is working on that, leaning towards that. We owe it to the American people to take profitability out of aviation safety altogether.

This bill, still subject to some details that have to be worked out—but that is good, that is not bad; we are moving—creates a new Deputy Secretary for Transportation Security, with ultimate responsibility for interagency aviation security, and expands the air marshal program to provide armed, expert marshals on both domestic and international flights, and increases Federal law enforcement for airport perimeter and for air traffic control facilities—not just getting in and out of airports but the complete perimeter of the airport. Screening will also be monitored as it has never been monitored before by armed Federal law enforcement. It will be conducted in virtually all cases by a Federal screening workforce.

When you walk into a small airport, you will see uniforms, pistols, screeners who, like everybody else in this country, are going to have to be trained more or less from ground zero because the training is insufficient, the turnover is horrendous. It is a national embarrassment. The whole level of training will have to be raised very dramatically in urban and in rural airports. In rural airports there is a possibility, where there are five or six flights a day, you don't need full-time



security. There we would have deputized local police officers who are federally trained at the highest levels and who are federally funded. So there is no net difference, no first and second class airport. It is a question of making sure the rural airports have the security they need. We will be sure of that.

On board the aircraft, the bill requires strengthening cockpit doors. We had a fascinating discussion at length with El Al. They have a double set of doors with space in between so if even a hijacker were able to get through one, he or she probably could not possibly get through the second. That, obviously, would take reconfiguration, would take some time, and it would take some costs. We have to do what is necessary. Does a pilot come out of a cockpit, for example, to use the lavatory? I am not for that. I think lavatories ought to be inside the cockpit. A cockpit should be absolutely inviolate—nobody gets in. If nobody gets in, there will be no more hijackings. El Al has not had any, and I don't expect them to. Even flight attendants will not have keys to be able to get into the cockpit. No one will be able to access the plane's controls other than the pilot.

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. ROCKEFELLER. I ask unanimous consent for an additional 4 minutes.

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

Mr. ROCKEFELLER. It will take some time. People should understand that. We cannot take a workforce without sufficient training and upgrade it in a day, in a month. You don't quickly reconfigure airplanes in the way we will have to with sky marshals, through cockpit arrangements. It will take time. People need to understand that. If they want airport security totally now, we can give them a lot of that, but we cannot give it all to them immediately; it will take time. The federalization will give people confidence this will be done at the highest level.

We have anti-hijack training for pilots and flight attendants. We propose to pay for this with passenger security fees, authorizing DOT to reimburse airports for the costs incurred by them since September 11. Most have no idea that is coming, but it is. We will help them pay their costs. We will give airports temporary flexibility to pay for their security responsibilities under the AIP program. They can't do that now. We will give them that flexibility. They can pay for security equipment and infrastructure, but they cannot pay for any direct expenditures such as salaries and the rest.

It will be a very good bill.

We are looking at security with biometric and hand-retina recognition devices. As the bill comes before us and as we debate it, there can be no higher order of magnitude for our Senate concentration than this bill as it emerges.

I strongly urge my colleagues to support it.

I thank the Presiding Officer. I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, just over 2 weeks ago I came to this floor and talked about the 20-year history of aviation security. I did so for a simple reason. There has been a very clear pattern on this issue over the last 20 years. Again and again there has been a tragedy in the sky. Again and again there has been widespread public outrage. Again and again there has been widespread agreement on what needs to be done to improve aviation security. Again and again the real reforms weren't implemented because of political infighting.

I come to the floor of the Senate today to say that this time it really has to be different. This time the Senate needs to come together on a bipartisan basis and make sure these changes are actually implemented. I wanted to make this appeal for bipartisanship because that is what Chairman HOLLINGS—I see my friend Senator MCCAIN on the floor as well—and Senator MCCAIN are trying to do in the Senate Commerce Committee with the legislation that we would like to have taken up.

I happen to believe that, as a result of the determination and the persistence of Chairman HOLLINGS and Senator MCCAIN, we are now talking about legislation that will bring new accountability on this aviation security issue. The bill is not about political ideology. The Hollings-McCain legislation is about accountability—about ensuring that the Federal Government on a national security issue is accountable. Nobody in the Senate would ever think about subcontracting out our national security. But that is regrettably what has happened in the aviation sector for so many years.

I went back through some of the history almost 2 weeks ago on the floor of the Senate. It started really after the Pan Am Flight 103 bombing over Lockerbie in 1988. We saw it again after the TWA Flight 800 crashed near Long Island. In each case Presidential commissions were established, and there was unanimity about what needed to be done, with the General Accounting Office and the Department of Transportation inspector general outlining the vulnerabilities and then political infighting started.

I am very hopeful the Senate will support the bipartisan effort being led by Chairman HOLLINGS and Senator MCCAIN. I have felt for way too long that there isn't enough bipartisanship on important issues of today. Senator SMITH and I are trying to do it in our home State of Oregon. I think Chairman HOLLINGS and Senator MCCAIN are trying to do it in this Chamber with this legislation.

If we don't get this done, I fear we will be back on the floor of this body in

6 months or a year with Senator after Senator taking their turn once again in a procession of floor speeches about how sorry and upset the Senate is that another tragedy has occurred—that another tragedy occurred because the Senate failed to act promptly to put in place the safeguards that I have documented on the floor of this Senate and that have been called for now repeatedly in the last 20 years.

I am hopeful that in the hours ahead—I appreciate what Chairman HOLLINGS and Senator MCCAIN are trying to do—we can deal with the additional issues that are outstanding and get this legislation reported.

Let me touch on two other matters. The second issue I would like to mention is this: The rule and the procedures that are going to be set out will define what the aviation industry is all about for years and years to come. I am talking now about the rule that is going to be set in place with respect to loans and loan guarantees that are going to go a long way in determining whether there is real competition in the airline sector, affordable prices, and whether places in rural Nebraska and rural Oregon are serviced. I have outlined what I think are six or seven key principles that ought to govern how those loans and loan guarantees are made.

What concerns me is that those decisions are being made behind closed doors. They are being made outside the public debate. There is considerable discussion about whether the large airlines may, in fact, have an agenda that will crush the small airlines. I am very hopeful that Members of this body will weigh in between now and Saturday with the Office of Management and Budget as they make the rules that are going to govern these loans and loan guarantees.

One last point: Something that I and Senator SMITH are together on is the pride in our State and our citizens. A number of Oregonians, strong-willed people in our State, are mounting an operation that they call Flight for Freedom, answering the national call for all of us to get on with our lives and come to the aid of those hurt in the attacks of September 11. In a show of solidarity with their fellow Americans, more than 700 Oregonians are making the statement this weekend by heading to the hotels and Broadway shows and restaurants in New York City that are fighting for economic survival in the aftermath of the attack. With Oregonians' Flight for Freedom, the people of my State are standing shoulder to shoulder with the citizens of New York in an effort to make clear that no terrorist can break the American spirit.

I congratulate Sho Dozono and the other organizers and participants in Oregon's Flight for Freedom for their generous efforts. I urge all Americans to follow their example. Oregonians are showing this weekend that we are going to stand against terrorism by

reaching out to fellow citizens and enjoying what American life has to offer in our centers of commerce across this great Nation. Because of these kinds of efforts, we can send a message that terrorists can't extinguish the American spirit.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank my colleague from Oregon for his kind words about the work we have done together on the Commerce Committee on other issues. It has been a distinct honor for me to have the benefit of the relationship we developed over the years. I am very grateful for his involvement in issues such as Internet tax, aviation, and many others. I believe he is correct in that we have been able to display from time to time the degree of cooperation working together on common goals about which I think the American people are very pleased.

If you believe the latest polls, Americans have never been more pleased at the way we have been performing in a bipartisan fashion. I thank the Senator from Oregon for his kind words.

I wish to take a couple of minutes to talk about where we are and where we need to go on airport security and airline security. I am sure all of us by now know that a Russian airliner was shot down a few hours ago. They are not exactly sure why. But I think that may, at least in the minds of some of us, emphasize the need for us to proceed with whatever measures we can take to ensure safety but also as importantly to restore confidence in the American people in their ability to utilize air transportation in America in as safe a manner as possible.

There is no doubt that there are millions of Americans who are still either concerned about or afraid of flying on commercial airlines. We need to move forward with this legislation.

What is hanging it up? One is there is a disagreement between sponsors of the bill, Senator HOLLINGS, myself, Senator HUTCHISON, Senator ROCKEFELLER, and the administration on the issue of federalization of employees. There are different approaches. But I think we can at least have serious negotiations and come to some agreement. I believe that is not only possible but probable.

The second point is the concern about the addition of nongermane amendments to the legislation—whether it be Amtrak, whether it be on the so-called Carnahan amendment which extends unemployment benefits and other benefits to people whose lives were affected by the shutdown of the airlines.

I think all of us are in sympathy with those individuals, all of them, particularly those at National Airport, who had a more extended period of unemployment as a direct result of an order of the Federal Government. I am not sure how a conservative or liberal could argue the point that since it was a Government action it would be hard

for us to not justify some assistance to those people whose lives were directly affected.

As we all know, hundreds of thousands or so of airline employees' lives are affected by layoffs that the major airlines have already announced. So there is a significant problem out there. But I would make a strong case that this is an airline/airport security bill. This is to improve aviation security. It is not a bill for unemployment compensation or any other. This legislation is directly tailored to aviation security and airline safety.

Last week, we passed a bill to give financial relief to the airlines. That was what it was about. That is for what it was tailored. We did not add extraneous amendments.

So I have to say to my colleagues that I think it is not the time to add that to an aviation security bill, especially in light of the fact that we all know within a week or two we are going to take up a stimulus package. Clearly, that issue would be addressed in some shape or form when the stimulus package is considered.

So I intend to oppose any nongermane amendment to this legislation. I believe there are at least 41 of us, if not 51 of us, who would object, so therefore we would not have the bill become bogged down in extended debate.

Those who insist on putting a nongermane amendment on an aviation security bill would then be responsible for preventing passage of a bill that has to do with aviation security.

So I hope those Members who are concerned and committed to assisting those whose lives have been severely disrupted by the shutdown of the airlines—we are in complete sympathy with them and we intend to act. And we intend to negotiate a reasonable package that would provide some benefits and compensation, depending on how directly their lives were affected, et cetera—something that, by the way, we would have to have a lot of facts and figures about, too. But to put it on this bill would be obfuscation, delay, and prevention of us acting to ensure the safety and security of airlines and airline passengers throughout America.

So I want to make that perfectly clear, that we should not have any amendment, no matter how virtuous it may be, on an airport and airline security bill.

I hope we can move forward with this bill. There are a lot of Members who want to talk about it. There are not too many amendments. We could get this thing done today if we could move forward on it and have some agreement.

I also remind my colleagues that we are in negotiation and will continue to try to work with the administration. We also have to work with the Members of the House on this legislation as well. But for us to delay because we have our own pet agendas, our own specific priorities, and not act as speedily

as possible to restore confidence on the part of the American people in their ability to get on an airline is somewhat of an abrogation of our responsibilities.

I am pleased that Senator HOLLINGS, the distinguished chairman of the committee, has also pledged to oppose any nongermane amendments as well.

So, Mr. President, I really want to emphasize that we need to move forward. I think it would be wrong of us to go into the weekend without doing so, at least making some progress. We are prepared to do so, and I hope we can.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I want to discuss for a little bit the airline issue. I thank my friend from Arizona for the work he has done on this issue. Certainly, security in flying is an issue on which all of us want to move forward. So this is not a failure to act.

Some people have said we are holding it up, it is slow, and so on. I do not think that is the case at all. I think what is the case is that this is a very important issue. This is an issue that could be done in several ways. I think there is a legitimate effort to try to ensure that we think it through enough to come up with a process that would most likely achieve the goals that we have; that is, of course, safety and security on airlines.

There are a number of different issues that need to be talked about, but I do not think there is a soul in this body who does not want to move forward on airline security. It is the security issue of the moment.

There needs to be some major changes in the process. We have had security for some time. We have a higher security level now, I believe, than we did before September 11. I happen to have been in Wyoming three times since then and have found that there is security. There are armed people in Dulles, for example—more security. Is it enough? Probably not. We probably need to do it better and more professionally. And that is what this is all about.

But I do want to make the point that I think you will see airline passenger numbers going up. There is more security than there has been in the past, but we need to change the process. And we need to do it as quickly as we possibly can.

We need to have more experienced people there, particularly in baggage examination. We need to do it so that we do not develop a long-term Federal bureaucracy. That is an opinion that some do not share. But, nevertheless, in order to achieve the goals we want, we have to make some changes. And even though I would like to see it done in the next 15 minutes, and move out of here, I must say, I am glad that we are taking the time to examine these issues and to come up with what we think is the best solution, even if it takes a little longer.

As I say, we now have substantially more security than we did have. In

some of the smaller States, the National Guard has been made available to help, and so on. One of the puzzles, of course, is to find the proper agency. I don't know that it is a puzzle, but it is a challenge to find the proper agency to supervise and be responsible for airline security. Many believe—and I am one of those who think it—that it ought to be a law enforcement agency and not really belong in the FAA. Those people have responsibilities, but law enforcement is not one of those responsibilities. So that is one of the issues.

I see my friend from Texas is in the Chamber. She has been very involved in this issue. I yield my time to her.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I appreciate very much the Senator from Wyoming, who has also been working on this issue, coming forward.

I see the Senator from Montana in the Chamber; he is a very important part of the negotiations on this issue.

The bottom line is, we want to go to the bill. The American people expect us to pass a bill to securitize the airplanes and the airports in this country. What is holding us up is people who want to offer extraneous amendments. Some of them I agree with; some of them I do not.

But the point is, we cannot put every amendment, on any different subject, on the security bill and pass it. We have legitimate disagreements on how to best securitize our aviation system.

Let us go to the bill and start talking about those differences because I think we can work them out. I believe we are 90 percent there. There are a few things on which we are going to continue to negotiate, but we need to be on the bill. We cannot go to the bill if we are worried about having extraneous amendments, whether it is on employee problems and benefits or whether it is on Amtrak security—all of which I think are very legitimate issues. I want to add security to Amtrak, as long as we add security for the entire system and not just one part of the system.

But the bottom line is, we have an aviation security package that is a very good first step forward, where we would put sky marshals in the air, where we would secure the cockpit, where we would have better trained and equipped screeners, where we would have better equipment. All of these things must be done. And we can do it this week if we can get to the bill.

I urge my colleagues not to have process drag us down. The Senate has a bill before it that is good, solid legislation. We are working with Democrats and Republicans and with the administration to make sure we do what we do well, correctly, and give the flying public the confidence that when they get on an airplane, they are going to be safe.

If we can do that, it will be the beginning of rebuilding our economy. If we

can secure the airlines so people will come back and fly, then more of those people who have been laid off by the airline industry will be called back to work.

The travel industry will be uplifted. We will have people staying in hotels. We will have people renting cars, employed in the airports, and in the shops. These are the things that will stimulate our economy.

We are talking about a stimulus package, which I hope we will look at next week. That is very important. We can stimulate the economy with an aviation security package. We can put people back to work in the aviation industry and stop the domino effect to our economy caused by layoffs in the airline industry because people are not coming back to fly.

I appreciate the cooperation we are getting. Senator HOLLINGS, Senator ROCKEFELLER, Senator McCain, and I have worked well together to try to get a consensus. We are very close. If we can go to the bill and if people will agree not to offer amendments that delay the ability for us to consider relevant amendments, we can work it out this week and send something to the House and hopefully go to the President and do the very important part of the stimulus package, and that is to beef up the aviation industry.

I thank my colleague from Wyoming, and I certainly thank my colleague from Montana, who has been a very important part of the aviation subcommittee, working to put something together that all of us will be able to support.

The PRESIDING OFFICER (Mr. BAYH). The Senator from Wyoming.

Mr. THOMAS. Mr. President, I thank the Senator from Texas who has worked very hard on aviation matters. We are moving forward. No one is seeking to hold up this bill. All of us agree aviation security is something that needs to be done and needs to be done very soon.

The Senator from Montana has been a part of this committee and has worked very hard. I yield to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank my good friend from Wyoming.

When we examine this issue, we find several approaches we have to take a look at. We do want to move forward on it because there is a sense of urgency, if not in this body, in America.

Last weekend when I was in Montana, that is what they discussed: How do we travel; how do we know we are safe; and the anger they feel because of the events on September 11. Whatever was important to us on September 10, by September 12 it was not important anymore.

Now we have before us the very important issue of airport security and this legislation. Let's talk about the areas of concern: intelligence and passenger lists, who is in charge of those,

who can better manage those; security at airports on the perimeter, the total facility, the check-in area, the departure gate, the cargo, which includes baggage and how they handle baggage, and the tremendous tonnage of air freight that moves through each airport and each facility every year; how do we secure the area where the aircraft are parked; and finally, and most importantly, the security of the aircraft.

We had an opportunity to visit with the security people who are in charge of passenger safety and security for El Al. It is a Government-owned airline by the country of Israel. If there is one thing of which the Israeli people are apprised and aware, it is terrorism. How do they handle this? Granted, their domestic air transportation isn't as great as the system we find here in the United States. However, in principle, it has to be the same heightened awareness of security before we see load factors going from what they are running, around 40, 45 percent now, to 70, 75 percent, and profitability of the airlines. Air transportation is one of those linchpins of the American economy, our ability to move.

El Al has 31 airplanes. Living in a very volatile region of the world, the areas of responsibility to which I referred are very important to them. They have 7,000 employees, 1,500 of whom are employed in the security part of their operation. They do nothing but security. They secure the areas I previously enumerated: intelligence and passenger lists, the airport facility, the check-in area, departure gate, cargo, aircraft area, and aircraft.

They have been pretty successful in the last 20 years. They have not had a hijacking or anything such as that, operating in an area of the world that is very volatile.

They have one man who is in charge of security in all of these areas. He doesn't operate the airport, the runways, the luggage, the people who handle cargo. He handles security. They have accountability and responsibility.

That is what the American public wants us to do. In this legislation, there has to be a strong, bright line of accountability and responsibility to one agency or one area of government.

I have proposed an amendment. It has very strong bipartisan support. The amendment would give that responsibility to the Department of Justice. Not that the Department of Transportation is not efficient and would not be dedicated to passenger safety and security, not that the FAA could not do it, but we do not need a convoluted and nondistinct line of responsibility or accountability.

The American public are telling us Justice does it best, with the confidence in the Federal Bureau of Investigation, in the Federal marshal system. We have a model right in front of us, as those folks are responsible for the security of our Federal buildings,

the movement of Federal prisoners. They understand secure areas and danger points. However the Attorney General wants to do it matters not to me. It is that we have a bright line of authority and accountability and responsibility.

Mr. REID. Will my friend yield for a question?

Mr. BURNS. Certainly.

Mr. REID. I say to my friend from Montana, I was speaking earlier today to the chairman of the committee, Senator HOLLINGS. He, too, thought that perhaps there should be some other entity other than the Department of Transportation that would supervise and control this. He suggested, for example,—I know there is a dispute as to whether or not they should be federalized, but he suggested maybe the Department of Defense. I say to my friend, in the form of a question, I think the Senator's suggestion is worth consideration. I think it is not a bad idea.

Maybe the Department of Justice, which has wide law enforcement responsibilities already, could do this. But the question I ask my friend—my friend from Texas, the junior Senator from Texas, who was here in the Chamber saying we should get to the bill and get some of this stuff decided, I agree with her; we should get on the bill. But I say to my friend from Montana, the minority is holding up the bill. I think the issue the Senator is talking about as to who should supervise, whether it should be federalized or not—we should get to the floor and offer amendments.

I think the Senator's idea is good. I will not do this now because it is inappropriate, but if I offered a unanimous consent agreement now that we would go to the bill immediately, would the Senator allow me to do that?

Mr. BURNS. How loaded was that? I think there are still disagreements among leadership. I could not do that personally. If it were in my power—which it is not—I am a soldier around here and everybody in the world is smarter than I am—I am ready to go to the bill. I would offer my amendment and we would vote on it, and we would win or lose and we would go on down the trail.

Mr. REID. I am not going to offer a unanimous consent at this time because, as the Senator has indicated, leadership on his side perhaps doesn't agree. I hope the Senator, with the persuasive nature that he has in his down-home, homespun, very persistent and persuasive way, would be able to talk to his side and let us get to this bill. There are some things that I would like to offer as an amendment on the bill. The Senator from Montana agrees, and I agree, that airport security is something we should fasten onto quickly. We should get to the bill. If there is something somebody doesn't like in the way of an amendment—and people are not complaining about the underlying bill, but if there is an amendment someone doesn't like, vote it up or down.

I hope today we can get to the bill. I appreciate the courtesy of my friend from Montana for yielding.

Mr. BURNS. I thank my friend from Nevada.

Mr. REID. The only thing I will say, the Senator mentioned he is one of the soldiers. If I were going to war, I would not mind having the Senator from Montana with me.

Mr. BURNS. I thank the Senator for that. I feel the same way about him. I want to reiterate that I think we can complete this bill today. I don't know whether or not we are in session tomorrow, but I think we can get it done. I am not sure if we have an agreement with the folks on the House side. That is another important piece of this puzzle that we have to solve in the next 2 or 3 days in order to move this legislation to the President's desk.

I am sure the President wants a piece of legislation that he can sign, which gives him the direction and also allows him the flexibility to provide the safety and security for the American people. He is basically the ultimate director of how this will work. What I am saying is that I think the American people are watching this very closely.

Yesterday, we had a hearing on border security. Nobody is more in tune than I am as far as border security. The Senator from Nevada understands the Western States and how big they are. We have just a little under 4,000 miles of border with our friends in Canada, with cultures that are similar, and no language barrier; and 25 percent of that border is my State of Montana. We have farmers who farm both in Montana and in Canada. So for the movement of livestock, and for farm machinery, and farm chemicals, and everything it takes to make a farm or ranch go, it is important that we have not only secure borders but also borders that are flexible enough to allow movement of commerce and to get the job done for those people who live on the border. There are ranches that lay on both sides, part in Canada and part in the United States. No, we don't have a lot of ports and the gates are rusted open. Nine times out of 10 they set out a red cone and it says: The gate is closed. You can go 100 yards on either side of the gate of entry and go in unnoticed, undetected. So we understand that, too.

To conclude my statement, Mr. President, even though there is a sense of urgency for the passage of airport security, I think there is also a feeling in the United States—even though we are working in this highly charged environment because of the events of September 11—that we do it right. I think we can do it right. We also can be accountable to the American people for whom we are doing this legislation. It is for their benefit, their movement, and for the safety of this country. I appreciate the attention of the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### RECESS

Mr. REID. Mr. President, I ask unanimous consent—and this has been cleared with the minority—that the Senate stand in recess until 2:30 p.m. this day.

There being no objection, the Senate, at 12:26 p.m., recessed until 2:29 p.m. and reassembled when called to order by the Presiding Officer (Mr. REID).

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from New York.

#### TRANSPORTATION SECURITY

Mrs. CLINTON. Mr. President, I come to the Chamber to discuss further the need for transportation security that encompasses not only our airlines but also our rail lines and our ports. Others with their own experiences and perspectives have already spoken to these issues and I am sure will continue to do so because as we address these critical needs of transportation security, it is imperative we look at all the means of transportation our people require and that we found to be particularly important in responding to the events of September 11.

I want to focus my remarks on Amtrak and our rail transportation system. I think anyone who followed the events of September 11 is well aware that Amtrak played a critical and essential role in responding to this national disaster. We know that without Amtrak being able to respond, New York would have been cut off. The natural flow of commerce and passengers between Boston and Washington, the busiest rail corridor in our country, would have been severely undermined. We know, too, that Amtrak did its part to make sure people not only could reach their destinations but, for example, those who had planned to fly by air when our air system was shut down, their tickets were honored and they were part of the continuing and increasing flow of people and goods that demonstrated that America was still moving.

Ridership on Amtrak has been up 17 percent across the Nation and certainly in the Northeast corridor, which was so devastated by the attack on the Pentagon, the closure of our airports, the attack in New York City, the continued, until thankfully today, closure of our Washington National Airport. We know that Amtrak's increase here was up by 30 percent.

How do we make sure this critical mode of transportation is safe and secure in the future? We cannot be in a position of looking backwards. We have to look forward and say, what do we need to do to make sure our transportation system is redundant and safe? I

believe we have to focus, as we look at transportation security, on ensuring that our thousands and thousands of rail passengers are safe.

I am grateful Amtrak has come forward with a specific plan to address the needs of those passengers. We need, for example, more police officers on our trains, more canine units to inspect the trains, more power and switch upgrades to ensure they absolutely run without any delay or disruption.

In New York, we have immediate safety concerns which demand we act now, not later—hopefully in time to make sure we are always moving—and, if there is any natural or other disaster, that we keep our people moving.

I want to bring to the attention of my colleagues some specific safety concerns. Anyone who has ever been on a train in or out of New York knows, I assume, that there are four tunnels under the East River and two tunnels under the Hudson River that serve as vital links between New York City and the surrounding area and the rest of America.

These tunnels were built in 1910, and now almost a century later they have not undergone any serious security upgrade. Under today's regulations, the tunnels would never be allowed to be constructed in the same shape in which they currently exist.

Penn Station in New York City is the busiest railroad station in the United States. More than 500,000 passengers, from all parts of our Nation, on more than 750 trains pass through Penn Station each day. As many as 300,000 commuters pass through the East River tunnels on the Long Island Railroad trains each day. So these tunnels are essential to our national railroad network and to the moving of people who commute every day in and out of New York City. The tunnels are so essential that we must turn our attention to ensuring they are safe for the hundreds of thousands of people who use them every single day.

If for some reason a train were to become incapacitated in one of our tunnels, the only means of escape would be through one of two antiquated spiral staircases on either side of the river or by walking in the dark almost 2 miles out of the tunnels. These are also the only routes by which firefighters and other emergency workers can get into the tunnels.

I have a picture, and it shows a narrow 10-flight spiral staircase which serves as the evacuation route for passengers as well as the means for rescue workers to enter the tunnels. I can barely even imagine what the situation would be like under the ground, under the rivers, if some kind of disaster were to occur, with passengers and crew trying to move up this narrow spiral staircase and rescue workers trying to move down; or, in the alternative, people being, in some instances, carried or trying to get out on their own going 2 miles in whatever conditions existed at the time.

I bring this to the attention of my colleagues because I think it is imperative, as we look at transportation security, that we do not turn our backs on the hundreds of thousands of people every single day who use our railroads. I fully support adding air marshals on our flights. I support federalizing the inspection that passengers and cargo and luggage must go through, and I support doing everything we humanly can think of that will guarantee to the American public we are doing all that can be imagined to make our airlines safe.

I also want to be able to stand in front of the people in my State who rely on these trains to get to and from work, who rely on these trains to commute, who travel out of New York City, and people all over our country who similarly rely on our trains, that they also will be secure. We don't want to leave any American out of our security efforts. This is an opportunity to do right what is required, what we now know will prepare America for any future problems.

The airline security bill, which I hope we will be considering soon, calls for the creation of a Deputy Secretary of Transportation Security who will be responsible for the day-to-day operations of all modes of transportation. I applaud this provision. I think it is long overdue. It certainly will be a strong endorsement of the kind of broad-based security required for our millions of airline passengers, for those who use our ports, for those who come in and out of our transportation network, and for the 20 million passengers who rode Amtrak last year.

Over a week ago—it is hard to keep track of time in the last weeks—40 of our colleagues took the train to New York City. I am so grateful. For some, it was the first time they had been on the train. It was fun to see their surprise and enjoyment provided by the ride to and from New York City. They were, in a sense, following in the footsteps of the hundreds of thousands of people who either have used trains out of necessity or out of choice for years or who were forced to use trains in the wake of September 11. And, thank goodness, the trains were there.

I cannot even begin to calculate the economic and psychological costs we would have suffered had we been totally shut off. We could not have moved people as easily as we did if Amtrak had not responded as well as it did in putting on additional equipment and personnel.

I hope my colleagues will remember this picture of this spiral staircase. I hope they will think about everyone they have ever known who perhaps has been a passenger, as I have been many times on these trains, through these tunnels. I hope they will join in the commitment we must make to every single American that we will guarantee the highest possible level of security for all transportation. It is the least we can do. I look forward to working with my colleagues to make sure it happens.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Before the Senator leaves the Chamber, I appreciate the invitation from her and Senator SCHUMER to travel to New York. Having traveled on the train on a number of occasions, I have always enjoyed it. That day it was not a time of enjoyment but a time for learning. It is a trip I will never forget. We have seen and understand a little bit better the devastation, the hardship, and the sorrow of the people of New York.

I express publicly my appreciation and the appreciation of the people of Nevada for the great work the Senator has done representing the State of New York in these events following September 11. What a pleasure it is to serve with her in the Senate.

#### EXTENSION OF MORNING BUSINESS

Mr. REID. I ask unanimous consent that the Senate stand in a period of morning business until 4 o'clock today, with Senators allowed to speak for up to 10 minutes each.

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

The Senator from Wyoming.

#### AVIATION SECURITY

Mr. THOMAS. Mr. President, I will talk about where we are with regard to aviation security. I appreciate very much the comments of the Senator from New York and her information about railroad security. I certainly agree with her that we have to look at all our transportation systems and, indeed, we have an opportunity to look at it all. If it is different in different parts of the country. Of course, we don't have to have Amtrak trains in Wyoming. Nevertheless, I fully understand the importance of railroads.

I raise the question of how we complete the work before the Senate. Hopefully we will have back this afternoon a bill to improve aviation security. It is called the Aviation Security Act, and it has been developed for that very purpose. It has to do with the Deputy Administrator for Aviation Security. It has to do with the Aviation Security Coordinating Council. It has to do with training and improving flight deck integrity.

This bill is an aviation bill. We have a number of things on which we have not quite yet come together on this bill, but I think our challenge is to pass this bill. I don't think there is anyone who would argue on the point of the Senator from New York that we need to do that and we need to get to railroads, but I guess there is a question as to whether those issues will hold up doing what we want to do with regard to aviation. That is the question before the Senate. Hopefully, it will be resolved shortly so we can move forward.

Obviously, there are unique aspects to airlines and airports. There needs to

be changes made in their operation. And there have been. We have already made a great deal of progress in terms of security. There is a great deal more to make. I hope that not only this issue but other issues that have been suggested become a part of this air security bill could be handled on a free standing bill so we move this bill as soon as it is possible to do that.

We have before the Senate that challenge. There is no question about the safety aspect of other modes. We have not come together on this one yet. There is a difference of view as to the proper agency to do this work, whether it ought to be a law enforcement agency, whether it ought to be the FAA. There are fairly strong feelings about that. But that has not been resolved.

There are questions as to staffing and what supervision and criteria will be required in order to have people who are, indeed, qualified to do the kind of work that is necessary to be done, and whether or not these persons ought to be supervised by a law enforcement agency of the Federal Government, which I happen to think is probably the better way to do it, and do some contracting so we can move more quickly.

We do have questions and problems. We are talking about that now. I am hopeful we can settle a couple of those disputes. One is the idea of bringing in other issues into this bill through amendments and changes that would then require the same kind of consideration, or whether we can move this package, designed for airline security and aircraft safety, and turn to the others that are equally as important. Which is the better way?

There are other fairly unrelated issues having to do with health care, unemployment compensation, all of which are very important, but they are not part of this issue and not part of the considerations.

I am hopeful we can deal with these issues as they come forward. We are slowed by the idea of bringing more and more issues into the same base bill when it is designed to be specifically oriented toward airline safety. I suggest we move with this bill and come in as soon as possible with the other issues that are equally important, but we not hold this waiting to try to make other proposals fit into this bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### RAIL SERVICE SECURITY

Mr. CARPER. Mr. President, I rise today during this period of time when we are discussing the need for additional security for airports and air-

liners to again voice my strong support for the measures included in the legislation that is soon to be before us.

Having said that, I also observe that this country has shown it is pretty good at fighting the last war in preparing to fight the next war. Those of us who are students of the history of World War I know that World War II was a lot different from World War I, and we only have to think of the Maginot Line to know how different it was. Korea was different from World War II; Vietnam was different from Korea; the Persian Gulf was different from Vietnam.

We are now struggling in this war against terrorism to make sure the kinds of tragedies that occurred on September 11 do not occur again, and we should do that. If we look back at the history of the last several years with respect to terrorism, we had the bombing of the World Trade Center in 1993, the bombing of two U.S. embassies in East Africa in 1998, the bombing of the U.S.S. *Cole* last year as it was at anchor, and now the use of our own aircraft as guided missiles to be used against the Pentagon and the World Trade Center.

Now as we prepare this fight against terrorism to fight the last war, to make sure no other hijacked aircraft can be flown into other targets, we need to remember there is a different element to this war, a different front to this war, and it is not just airplanes; it is not just airlines; it is not just airports.

As the Presiding Officer knows, I travel to my State of Delaware most mornings and nights on the train. We are mindful of trains in our State. We do not have a commercial airport. We use Philadelphia or BWI for most of our commercial flights. A lot of people take the train. It is not just in Delaware. It is a lot of folks up and down the Northeast corridor; indeed, a lot of people around the country.

During a given day, we have people who get on the trains in my State and some head south toward Washington and others head North toward New York City where they work or go for business or pleasure.

In order to get into New York City, a train has to go through tunnels. There is a network of tunnels underneath New York City, underneath the waterways. Some of those tunnels are used by Amtrak, some are used by New Jersey Transit, some by the Long Island Railroad. Amtrak is a minority user of those tunnels.

All told, I understand between 300,000 and 400,000 people a day ride trains, whether they are intercity passenger rail trains of Amtrak or commuter rails, transit trains—between 300,000 to 400,000 people a day go through those tunnels into New York City.

Those tunnels were built during the Great Depression, between World War I and World War II. We have tunnels that are even older than that around Baltimore and indeed right here in our Na-

tion's Capital, some of which go back to the administration, not of FDR, but of President Grant.

I would like to stand before you and say each of those tunnels through which trains pass carrying hundreds of thousands of people every day is not a target for terrorists, but if they were, they are tunnels that are well ventilated, well lit, there are adequate provisions to detect those who might want to do damage to the tunnels or to people who use the trains. Unfortunately, that is not the case. The tunnels are not well ventilated. They are not well lit. They are not tunnels with good surveillance that would enable security officers to detect the movements of suspicious persons or materiel.

As we prepare to fight the last war that grew out of the tragedies of September 11, I hope we will not forget those hundreds of thousands of people who are in those tunnels every day going in and out of New York City. I hope we will not forget the thousands of people who are in those tunnels every day beneath this city and beneath Baltimore.

I am told, as far as passenger capacity aboard airplanes is concerned, there are about 150 people who can be seated aboard a 727 jetliner. The new Acela Express trains carry over 200 people. I am told the seating capacity aboard a 737 is roughly 150 people. The Metroliners that go up and down the Northeast corridor carry 225 people. A 747 aircraft can seat maybe 400 people. A conventional train, the Acela regional trains that go up and down the Northeast corridor, can seat up to 500 people. And a new 767 airliner can carry as many as 500 people. The Auto Train that goes from Lorton, VA, to Sanford, FL, near Disney World, carries 500 people and some 600 cars.

My hope and my fervent prayer is that nothing ever happens to any of those people on any of the airliners again or any of the trains I talked about or the other commuter trains that work their way through the Northeast corridor and the cities around the country. I hope that is the case.

That may not be the case. As we prepare to fight this next war, we need to keep in mind the Achilles heel with respect to security of passenger rail.

A package has been put together addressing some of our biggest concerns for the safety of folks who are using trains. I will tell my colleagues one of the reasons I think this is important.

Think back to what happened on September 11. One of the first things that happened was the airplanes that were ready to take off did not take off, and those in the air were ordered to land. As that happened, in the Northeast corridor Amtrak kept working.

The first trains heading north from here pull out at 3:30 a.m. The first trains coming out of New York City heading south pull out at 3:30 a.m. As aircraft were downed across the country, Amtrak was running and carrying



hundreds of people. When people could not get out of Montreal, Amtrak made provisions to get them where they needed to go in the United States. When O'Hare and Los Angeles shut down and the Postal Service was grounded, Amtrak carried over 200,000 carloads of mail, I am told.

When people and planes around this country—Raleigh and Pittsburgh—were grounded, Amtrak stepped in to move emergency personnel and equipment from one end of the country to the other where it was needed.

My colleagues know the two Senators from Delaware are big supporters of passenger rail service. We think that is an important component of our national transportation policy.

This is not an effort during this time of distress and fear to try to obtain extra funding for passenger rail service, although some suggest this is an appropriate time to do that. Instead, what we have in mind is to try to strategically pick a handful of items that need to be fixed in order to ensure, just as we are making travel for airline passengers safer, that we simultaneously make travel for rail passengers safer.

What we are proposing to do is to rehabilitate those seven tunnels that go into Manhattan. We have, as was said earlier, old tunnels in Baltimore and in Washington as well. They all have the same problems. They need to be fixed, and we ought to get started fixing them.

I have been riding trains lately that have Amtrak police officers on them. They are working extra shifts. They are working doubles. They are working a lot of extra hours. They cannot continue to do that forever. We need additional Amtrak police officers to meet the security burdens that are placed on them. We are going to have sky marshals on aircraft, and we ought to. We ought to have, in many cases, Amtrak police officers on our trains. We do not have enough of them to go around.

More people are taking the train these days. It is not just here; it is the Texas Eagle, trains out on the west coast. It is trains all over the United States. It is the Acela Express trains, the Metroliners, conventional trains in the corridor and conventional trains all over the country. More people are riding rail, and my guess is more people will ride rail as we go forward. We need to make sure they are safe.

In addition to more police officers, we need more canine and we need training for those officers who are going to be using the dogs. We need video equipment that allows Amtrak to monitor sensitive points along rail lines. We can do that remotely. We can do it effectively. It makes sense. We can use, and ought to have some beefing up of, the aerial inspections that are available to use with Amtrak. We can do it by day; we can do it by night.

Some people have said to this Senator and to Senator BIDEN and others that they support making travel by

rail safer; that it sounds like a good idea. But what they also say is this is not the time and place to do that.

I say to my friends and colleagues who have made the offer of supporting legislation like this sometime further down the line, we have heard similar promises, literally, right in this Chamber about a year ago. We are now doing something for passenger rail further down the line, and we are a year further down the line. That which was supposed to have been done has not been done.

What was supposed to have been done was the creation of high-speed rail corridors in places all around the country. It makes no sense to put people on an airplane to fly 150 miles, 200 miles in densely populated corridors where they could as efficiently, or more efficiently, take a train. That would make easier the security job, the safety job of the people running the airports. We ought to do that.

We have not come back and addressed that question raised a year ago to enable us to work with State and local governments to create high-speed rail corridors. That is another issue. We are not going to talk about that. We are going to stay away from that. This is a different argument, but this is the right day, and this is the right place, to raise that argument.

Passenger rail utilization is up probably 30 to 40 percent since September 11. Any number of the trains I have ridden in the corridor, every seat is full—Acela Express, Metroliners, conventional trains as well. We are seeing a similar kind of jump in ridership around the country. A lot of the people riding those trains used to fly airplanes. They are now on a train because they feel safer, maybe because it is more convenient.

I want to make sure they feel safer, not just continue to feel safer but to make sure they are safer because we will take right now the kind of steps to protect their safety, just as we are taking steps to protect the safety of those who would fly in their 727s, 737s, 747s, or 767s.

This is the time, this is the place, this is the legislation on which we should debate these issues and we should approve them. We should affirm them and we should put these safety precautions in place for passengers on rail as we do the passengers of airlines.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. DORGAN of S. 1504 are printed in today's RECORD pertaining to the introduction under "Introduction of Bills and Joint Resolutions.")

Mr. DORGAN. Mr. President, I ask unanimous consent to be recognized in morning business on another subject.

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

#### AIRPORT SECURITY

Mr. DORGAN. Let me ask a question in the largely empty Senate on a Thursday afternoon. It is now 4:05. We came to the Senate this week dealing with Defense authorization at a time when defense is critically important to this country. This country was attacked. Thousands of Americans tragically were killed by mass murderers who committed the most heinous crime that any of us have ever seen.

The issue of defense at a moment when we are sending American men and women who wear our country's uniform into harm's way is a very important issue. Our first order of business in dealing with the Defense authorization bill in the Senate was to have to vote on cloture to shut off debate so we could complete this bill.

What does that say about our priorities? We had a cloture vote, we got through that, we finished that bill, finally, and now it is Thursday at 4:05 in the afternoon, and the subject is airport security. When those commercial airliners hit the Trade Towers in New York, and that commercial airliner hit the Pentagon, it is something that none of us will ever forget—the image of the airplanes hitting the Trade Towers in New York, seeing the fire at the Pentagon, seeing the crater dug into the ground in Pennsylvania by the United Airlines jet. When all of that happened, immediately the FAA shut down all air service in the United States. Every single airplane was ordered grounded. All commercial airlines flying and private airplanes flying in this country were ordered grounded and, as I understand it, moved to the nearest airport they could find.

At that moment of that day, September 11, the only thing in the skies over Washington, New York, and other parts of the country were F-16s, armed, flying combat missions over American cities.

Our commercial airlines were ordered grounded. None flew for a number of days. And then commercial airlines were allowed to come back with added security and they began to fly once again.

What has happened in this country is people have not been coming back to the airports to use commercial air service because they are concerned about the issue of security. Last week I boarded an airplane and flew to North Dakota for the weekend and came back. I appreciate the air service. I appreciate the added security at the airports. I hope all Americans will understand a substantial amount is being done in this country to try to make sure we will not see airplane hijackings once again. It is important.

But the Congress is moving to do more with an airport security bill that we have been considering for a number of days on the floor of the Senate, but we cannot move forward. The issue of the Congress of the United States to put sky marshals on virtually every flight in this country, hiring a lot of sky marshals to say to the American people, when you fly, someone will fly with you, a sky marshal, trained and armed and ready to take over that plane if needed. That is an important message to the American people.

When you fly, you will go through baggage screening that is not haphazard as it is in some airports but screening by somebody who is trained and following procedures. When you fly, that the airport perimeter, at airports in this country, will be a perimeter that is guarded, in which law enforcement understands what is happening around that airport perimeter.

When you fly in the future, you will be on an airplane in which someone is not going to be able to get through that cockpit door because it is a hardened cockpit, as it is on some carriers overseas. All of these things relate to the question, Do we provide confidence to the American people that we have taken the steps as a country to protect ourselves against hijackers?

So we bring a bill to the floor of the Senate, largely agreed to, negotiated over a long period of time—and it is now Thursday at 10 minutes after 4—and we have a motion to proceed to the bill on airline and airport security, a motion to proceed to the bill that we cannot advance. There is a filibuster on the motion to proceed.

There is something fundamentally wrong with that. The last thing in the world you would expect, in my judgment, is stalling on a motion to proceed to the airport security bill in the Congress in the aftermath of the September 11 tragedy.

If there are things people object to, if there are things they do not like in this bill, things they want to change—if they have heartache about something, let the bill come to the floor and offer an amendment. Just offer it, grab a microphone, stand up, and have at it. We will be here. We do not have to go anywhere real soon. There is nothing, in my judgment, that has a higher priority than this at the moment.

If we do not get people back in the air, if we do not get commerce going again in this country—business travelers and travelers for vacations, pleasure travelers and so forth—if we do not have people back in the air, we will not have a commercial aviation system left in this country. They are hemorrhaging in red ink, and we did a bill to try to provide some support for that, but that bill only lasts a very short period of time. We must give people confidence that when they get on an airplane, they are not going to have substantial risk of hijacking, that the security procedures in place are going to protect them. We must give them that

confidence. That is what this legislation is about, and it is just unfathomable to me that there is nothing happening here because we have an objection on the motion to proceed.

My colleague from Nevada, Senator REID, said if you will not agree to go to the airport security bill, we have five appropriations bills that should have been done by October 1 but we did not get them done. Let's have an appropriations bill on the floor this afternoon. Let's work on that. We can be here until midnight. Hard work is not something that is a stranger to most people in this Chamber.

Do you know what? We have five appropriations bills that should have been done already, and we cannot get one to the floor of the Senate today because when the Senator from Nevada makes a unanimous consent request—if you will not go to airport security, then let's go to an appropriations bill—and the words "I object" are heard.

So who is objecting, and for what purpose? And how does it advance this country's public policy interests, in a range of critically important issues—notably airport security, which I think ought to rank near the top, given what happened on September 11? How does it advance this country's interest to shut this place down?—just stop it. It doesn't seem to me to be the mood that ought to exist.

Post-September 11, we have had a period unprecedented, at least in my judgment, here in the Congress. President Bush came to speak to a joint session. I thought he gave a strong and powerful speech. I thought he spoke for this country, saying this country is unified, this country has one voice. That is a voice of determination saying to the rest of the world that what happened in this country was a heinous act of mass murder. We will find those who did it, and we will punish them, and we will take all steps necessary to prevent that sort of thing from happening again in America.

One part of that, and I must say a very important part of that, is dealing with security in the area of commercial airlines and commercial aviation. This legislation dealing with sky marshals, airport screening, perimeter law enforcement, hardening of the cockpit, and so many other issues—the appointment of an Assistant Secretary of Transportation whose sole authority it is to deal with security—all of that is in this legislation. So, on Thursday afternoon we sit in a spooky quiet Chamber because somehow this cooperation is not there.

I am not here just to point my finger. I haven't named anybody or talked about sides here. All I say is those who say "I object" when we say at least let's move to the motion to proceed to the airport security bill, when they say "I object," I think they retard rather than advance this country's interests on something so important and so timely and so necessary at this moment.

The reason I wanted to speak beyond the piece of legislation I introduced here is to say how disappointed I am this afternoon. I think many of my colleagues feel the same way. I am not angry about it, I am just disappointed. This is not what we should do. We know how to do good public policy. We do good public policy by getting together and getting the best of what everybody has to offer, not the worst of each. If you have an objection, if you have a burr under your saddle somewhere about something, if you are cranky about something, got up on the wrong side of the bed, didn't have sugar in your cereal, good for you. That doesn't mean you have to hold up the whole place. If you have a problem with something, come offer an amendment. These microphones work at every single desk. Come offer an amendment, and if you have enough support, you are going to win, and God bless you, that is the way life is here in the Senate.

I understand people say we have a right to use the rules and the rules allow us to object to a motion to proceed. That is true, absolutely the case. But there are times, unusual times, in my judgment, in this country, when the American people do not want to see business at usual; when what the American people want to see is cooperation and people coming here to say, we know we have a problem, and when this country has a problem, we are one; we are going to work together and solve it.

That doesn't mean every voice has to be singing exactly the same note. Someone said when everyone in the room is thinking the same thing, nobody is thinking very much. I am not asking for a unison of thought, but I am asking that we decide to take some action in this Congress. This is the opposite of action, and it is not the best of what Congress has to offer the American people so soon after the tragedy that occurred on September 11.

I express my disappointment as only one Member of the Senate. But I hope very much others will join and we will begin next week—the Senate has no votes tomorrow, and Monday is Columbus Day. The Senate will not have votes on Monday. My hope is when we come back Tuesday, we will see a series of actions on the part of the Senate with a new determination to cooperate, to say, yes, let's do these things. We know they need to get done; let's do them. Bring up the airport security bill, offer some amendments, agree to some limitation on time on debate. If you don't want to do that, that is fine, but it seems to me it makes sense to get these things done. Bring the appropriations bills up. Let's get these done. Let's work in a spirit of cooperation.

I am not saying one side is bad and the other side is good. I am saying all of us are on the same side. There is only one side in America at this point, and that is the side of trying to get the right thing done at the right time for the American people.

I yield the floor, and I make a point of order a quorum is not present.

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

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent the quorum call be dispensed with.

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

#### BIPARTISAN RESPONSE TO THE CRISIS

Mr. NELSON of Florida. I was so inspired by the comments of the Senator from North Dakota that I felt compelled to rise to offer my additional comments to the thoughts the Senator from North Dakota has offered.

I have gone home each weekend and heard my people respond that they are so proud that they have seen a unanimity of purpose, a unity of leadership, unity of the executive and legislative branches of Government, and they are so proud that they have seen bipartisanship as America has responded to the crisis we now face.

In the midst of that unity and that bipartisanship, we have seen swift action on a number of pieces of legislation:

First of all, the emergency supplemental that would appropriate \$20 billion to respond to the terrorists and another \$10 billion to respond to the crisis in New York;

Then, as the Senator pointed out, the quick action on the financial package for the airlines so that we can get people back into the air and help shore up this major component of our economy.

But in the midst of all this unity, I think that partisanship and ideological rigidity is beginning to raise its ugly head again, for as the Senator from North Dakota has pointed out, there was an objection offered last week when we needed to pass a Department of Defense authorization bill that held it up some 5 days more. Finally, we got an agreement after a tortuous process of trying to explain to others that you couldn't load down the Department of Defense authorization bill with everybody's agenda, that you had to keep it pure and address the defense needs of this country, particularly at a time such as this.

We came to a point yesterday late in the day where the majority leader—and I believe the minority leader—wanted to agree to the unanimous consent request of the majority leader to proceed on this airline security bill, and yet there were objections—perhaps for some partisan reasons, perhaps for some ideological reasons, perhaps for some parochial reasons. But as so eloquently pointed out by the Senator from North Dakota, are we forgetting what is in the interest of the country, which is to get the American public flying again, and to help all of these myriad of industries that are depend-

ent upon a healthy airline industry with lots of passengers?

My State is clearly one that is so desperately affected by the lack of airline travel and its spillover into the hotels, restaurants, and the visitor attractions. You can go on with car rental companies, on and on.

The majority leader, our wonderful leader, Senator DASCHLE—I think with the concurrence of the minority leader certainly in wanting to be there—wants a bill that would put sky marshals on the planes, that would strengthen the cockpit doors, that would have enhanced and federalized screening of passengers, that would help train the crews for anti-hijacking procedures, that would require background checks on those who are not citizens who want to learn to fly in our flight schools, and all of those things that are unanimously embraced in this country and that we want to pass.

As so adequately pointed out by the Senator from North Dakota, it is 4:25 on Thursday and we can't proceed to the bill. We can't even proceed to the motion to proceed because it is going to be filibustered.

We will pass the motion to proceed next Tuesday. But then there are 30 hours of debate on the motion to proceed before we can ever get to the airline security bill unless people will come to their senses as to what is in the national interest, putting aside their partisan concerns, putting aside their parochial concerns, and coming together again in what has been a bright, shining moment for America in the unity and bipartisanship that has been displayed in the last 3 weeks.

I was sufficiently moved by the comments of the Senator from North Dakota that I wanted—I thank him for taking my place in the chair as the Presiding Officer—to offer these remarks.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. NELSON of Florida pertaining to the introduction of S. 1506 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

#### RAIL SECURITY

Mr. CORZINE. Mr. President, I rise today to speak with strong support for an amendment that I know my colleague from Delaware, the senior Senator, JOE BIDEN, will be offering which deals with the issue of rail transportation up and down the east coast—actually across the country, an amendment that provides about \$3 billion to enhance the security of our rail transportation network.

This happens to be an amendment that I think fits extraordinarily well and is extraordinarily important in providing a comprehensive security package for our transportation network in this country.

The tragic events of recent weeks have focused attention on our need to improve the safety and soundness of our transportation network, in particular our airlines. I congratulate the leaders of the Senate, our majority leader, TOM DASCHLE, and the minority leader, TRENT LOTT, along with Senators HOLLINGS and MCCAIN, for their outstanding work to bring forward a package that I believe our Nation is asking for, is demanding: that we recognize we need to improve the safety of our aviation system in this country.

We need to be a little more forward looking. We need to think outside just the events that have occurred to what could occur and where the next tragedies might very well occur.

While we are tightening aviation security, we need to address problems that may very well exist in other parts of our transportation system.

Just yesterday we experienced a serious problem in our country's bus network. Fortunately, it was not of the same tragic proportions, but we saw, once again, a criminal taking over a bus and attacking the driver, leading to the death of five innocent passengers.

We have a vulnerable transportation system in this country. Unfortunately, our rail system may be the most vulnerable. That is why we need the Biden initiative, hopefully with a number of Senators from across the country supporting it. We need to address this issue before a problem occurs.

Talk about proportionality. In fiscal year 2000, Amtrak provided ridership for 22.5 million folks. Out of New York City, there were 8.5 million boardings. It is an enormous contributor to the transportation system in this country. It is an important one.

We learned that it is complementary to our transportation system as we saw the shutdown of Reagan National and we saw the aftermath of the events.

It is not just passenger traffic. Freight traffic feeds one of the most important ports in our country, the New York-New Jersey port. Up and down the east coast, there is tremendous interconnectivity of our society through rail traffic. This is one of our most vulnerable spots, and I think it needs to be addressed on an emergency basis. I think a lot of my colleagues do,

and that is why we are so impassioned about the need to address this now in this time when we are looking at various needs for security.

When you ride Amtrak, which a number of Senators did when they visited ground zero a couple of weeks ago, and as a number of us do regularly, you do not have to go through any security checkpoints before boarding, no metal detectors, no x-ray machines to check luggage, and there are very few security officers. Someone can just walk on a train and put a bag in the storage bins. One does not even have to be suicidal to accomplish destruction.

Indications are that security on trains is light. Under these circumstances, we have been very fortunate, in my view, to have avoided a major terrorist attack on our Nation's rail system. It is not just a Northeast corridor problem. It is a problem across the country where we have heavy rail traffic.

It is time to improve that security now. We need to think ahead to what could be a major disaster, a human tragedy for our country. That is why the Biden initiative, and the initiative of so many of us, is so important.

This amendment will provide the resources to substantially improve the security of the Nation's passenger rail system—not just in the Northeast but the Nation's rail transportation system. Funds could be used for a variety of purposes, including hiring more police officers, improving training and security personnel, purchase of security cameras, and the establishment of special emergency response teams that can respond instantly if we have a problem on our rails. It could provide helicopters to check the track coverage to make sure we are not being attacked before an event.

There are a number of things we need to do on a commonsense basis to make sure we are more secure in our rail traffic, to make sure our economy continues to roll and provide the freight connections with which Amtrak and rail across our country use to service our economy. We ought to do this now and not wait for a problem to occur.

It is also important—and this is absolutely more clear every day—Mr. President, I encourage you to come to New York, New Jersey, and try to commute across the various forms of transportation under the Hudson River or over it and see the 1½ to 2 hour lines that are taking place because of the breakdown, obviously, of the path tunnel that went into the World Trade Center. There were 50,000 riders one way each day on that pathway, and now they are looking for other ways to get into the city.

With the entry level of the Holland Tunnel now stopped because of security reasons, there is an absolute need for us to understand that these are important security chokepoints, risk points in our transportation network.

A lot of these tunnels are extraordinarily dated and, by the way, not just

the ones in New York and New Jersey, but Baltimore, Washington, and other places across the country are not up to scale for the 21st century. In fact, some of them are not up to scale for the 20th century.

The ones in Baltimore were put in place in the 1870s. The tunnels under the Hudson River were built in the early 1900s when we had the Pennsylvania railroad. They have gone through different ownerships and struggles to stay current.

If a terrorist were to attack the ones I know best under the Hudson River, there are two exits in a tunnel that is the better part of 6 or 7 miles long. Lousy ventilation was put in place, as I said, in the early 1900s, and a narrow passageway virtually makes it impossible to evacuate.

On an average day there are 100,000 passengers who go through that tunnel. It is not just Amtrak, but it is the New Jersey transit, which is one of the vital links to have a connected economy in the metropolitan New York-New Jersey-Connecticut area.

I stress that it is not only New York-New Jersey. We have similar issues in the Baltimore tunnels, and, frankly, they have a tunnel in Washington that runs right next to the Capitol Building. There are enormous risks and inefficiencies that occur here.

We have a safety issue for sure. All one has to do is watch grade B movies of days in the West, as we might have seen in South Dakota, where people blew up bridges or blew up tunnels to know it does not take a genius to figure out that these are places where security measures need to be taken and attended to.

I hope my friends in the Senate will realize this is not about porkbarrel spending. This is a serious concern for literally millions of folks who are involved in our rail transportation system.

Finally, this is a vital economic link for this country. There is an enormous amount of freight traffic up and down the east coast. There is in other parts of the country as well, and our friends need to have protection to make sure those links stay in place. If we are ever going to worry about where the status of our economy is and how we are going to keep it thriving, get it back on the right track, now is the time to be thinking about that. That is why I think we have to make sure we move on these issues with regard to rail transportation at the same time we are talking about aviation.

There is the old saying: Fool us once, shame on you; fool us twice, shame on us. Frankly, I think we are in that position. That is why I feel so strongly about support of the initiative that a number of us are taking under the leadership of Senator BIDEN, and I hope we will move that forward. Economic reasons for sure, but when you want to think about the safety of the people of America, we do not need another September 11 to produce movement on

things where we know there are problems.

As a matter of fact, the traffic has increased over 40 percent in that Northeast corridor since September 11 because a lot of people believe it is an alternative to air transportation. I hope we will move on this bill, move on it quickly, so we are looking after our citizens in a prospective way, not in a reactive way.

For all of these reasons, I strongly urge my colleagues to support the Biden amendment when it is presented. I hope to come back and speak to this again and make sure people forcefully understand this is a need that has to be addressed now, not after the fact. I appreciate the attention of the Senate, and I hope we will all be attentive to the needs of what I think are important rail safety issues, as well as our aviation safety.

I yield the floor.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from Idaho.

#### RESOLVING DIFFERENCES

Mr. CRAIG. Mr. President, this afternoon I want to speak to the issue that many of my colleagues have spoken about. For the first time since September 11, I have heard an interesting word used by the majority leader of the Senate, the word "obstruction."

I am disappointed Senator DASCHLE has decided that is a word he needs to use to express his concern about where we are in the Senate at this moment.

What I will say this afternoon to the majority leader is there is an awful lot about trying to get the work product we are going to offer to the American people next week right correct, well done, before we bring it to the floor. For example, if Senator DASCHLE had suggested we bring the antiterrorism package to the floor yesterday, we would not have had a completed product. Somebody would have had to stand up and object and say, wait a moment, Tom, somehow you have the cart before the horse.

If we spend another 24 hours on it, maybe we can resolve our differences. You know what happened in that 24-hour period? Differences were resolved. The Senate stood in a bipartisan way last night and crafted an antiterrorism package, and the House voted out of committee unanimously in a bipartisan way to resolve it.

There is not a great deal of difference between that and the airport safety package that came to the floor without clear instructions and a bipartisan unity that would have led us to resolve it in the correct fashion. Many of our colleagues were lining up, and rightfully so, to offer a variety of amendments that could have taken us well into next week, substantially changed the character of an airport safety package, and sent a very confusing message to the American public. The public has a right to be concerned at this moment because current airport safety failed us

on September 11. They want to make darn sure that whatever we do this time we get it right.

In getting it right, my guess is the first question you would ask is, Are you going to use the old model that failed us on September 11 and throw more money at it and throw more people at it, or are you going to think differently? Are you going to step out of that box and look at something new that really is an awful lot about law enforcement and a lot less about hiring the cheapest kind of personnel you can get to fill what is required by the FAA? That really is the debate that is going on behind the closed doors that the majority leader has not been willing to expose to the American people this afternoon. He has simply stood on this floor, wrung his hands, and used the word "obstruction."

Let me say what is going on in the back rooms at this moment: The White House, the Secretary of Transportation, the chairman of the Commerce Committee, the ranking member of the Commerce Committee, and a good many others are trying to craft a final product that is a hybrid, that is out of the box, that is different, that is unique, that we can bring to the floor next Tuesday and show to the American people we can get it right and they will, from that day forward, as this new product gets implemented, have the kind of airport security they want, demand, and are going to require of their government.

Is it more of a model of law enforcement, maybe like the U.S. Marshals Service that has a cadre of professionals that allows contracting out but does so with very strict parameters? The White House has said they do not want to federalize all of it. They recognize you cannot make all of these people Federal employees and expect the best product, but if you do, then you have to change the character of the way you hire a Federal employee, and you have to allow hiring and you have to allow firing. You have to be able to proscribe and demand and inspect and make sure the end product, the inability to penetrate security at all of our Nation's airports, is absolute.

I suggest to the majority leader the reason we are not debating this issue on the floor this afternoon is not a matter of obstruction; it is a matter of getting it right before it is brought to the floor. It is an awful lot more about airport security in the long term because we only have one more bite at this apple. If we get it wrong this time, shame on us.

We heard the Senator from New Jersey talk about a very important issue: rebuilding the infrastructure of the rail delivery system of the east coast. Should it be a part of airport security or should it be a part of an infrastructure bill that has long been needed that addresses the refurbishing of a very antiquated rail system? How much money is it going to cost? Should we rush to judgment and spend a few billion dol-

lars more when we are on the verge of spending beyond what we now have available to spend?

September 11 awakened us to a great many needs, but it does not mean we do them all overnight or we spend hundreds of billions of dollars into deficit to accommodate it. It says, though, that we have some immediate needs. One of the most immediate is airport security.

While Americans are beginning to return to our airports because they know security has been substantially heightened, what we are going to offer them in the package that is brought to the floor next week is a new model that creates a new paradigm of thinking, that clearly allows the American people to see on an annual basis, as we review it, as it is implemented by this administration, an airport security system that has the integrity not to allow the penetration, not to allow a September 11 to ever happen again in this country, and to say to them, as I should as a policymaker in a legitimate way, we have offered the best product available to guarantee security and a sense of well-being when one steps on an airliner at any airport in this country.

So should we be rushing now to get it out or should we be trying to do it right?

Our President spoke about being calm, about missiles or bombs not flying the day after September 11, about going out and finding out where the enemy is, building coalitions and doing it in a progressive, constructive way that forever would rid this world of terrorism. He preached calmness and he asked us to unite. The kind of divisive word, "obstruction," that I heard this afternoon does not serve this body well. It does not bring us together. It divides us. It divides Members along a line that says: there is somebody for something and somebody against something.

I suggest there isn't anything that we can all be unanimously for at this moment because there are very legitimate questions about the integrity of the proposal and how it will work and who will manage it—FAA? Department of Transportation? Department of Justice? Is it a transportation issue? Is it a law enforcement issue? They are reasonable questions to be asked, not after the fact but before the fact, before you get to the floor, before you have a final product, so we can stand united, together, as the American people are expecting in this time of national crisis, and not to divide along party lines.

As a result of that need that I think is critical and that my leader thinks is critical, we had to say: Wait a moment; back off for just a little bit. Let's finish that product and let the chairman of the committee, who has worked hard and had a good idea, and the ranking member and the White House, and others, come together.

It is true there was a bill and the bill they tried to present and bring forward

yesterday afternoon had not been before the committee, had not had hearings, had not worked the process. I understand that. We all understand that. It is a time of urgency. But in that urgency, in the very critical character of what we do, we cannot do it wrong. We cannot rush to judgment and load it down with everything else, including social agendas, unemployment agendas, a whole infrastructure, transportation system for Amtrak. That is for another day and another issue. Darned important, yes. We need time to debate it on the floor. Let the committee work its will.

I am not going to suggest I understand exactly how any of these systems ought to work. I understand when we take our time and involve all of our colleagues and use the process appropriately, we produce better public policy.

Clearly, the White House engaged us yesterday in a much more direct way with some examples of things they believed were necessary that were not in the bill, that the leader was trying to bring to the floor, that he now accuses us of having obstructed. Mr. Leader, of course you speak out as you wish, but I will suggest that come next Tuesday or Wednesday we will have a better product. We will be more united. We will stand together as the American people ask. We will craft out of a box, out of the old failed paradigm, a new product, and we will be able to turn to the American people and say, in the collective best thinking of the U.S. Congress, the President of the United States, the Secretary of Transportation, and all of the experts we could assemble, we are creating an airport security system in this Nation that will work.

Following that, I hope we can move to antiterrorism and the kind of package that was crafted in an unhurried but aggressive environment which the House voted out unanimously last night from their committee, and Senators came around yesterday evening in final draft to say that is a product that will work, that will give the FBI, that will give other law enforcement agencies in our country the kind of seamless web and communications system that allows them to know what the right hand is doing for the left hand, and vice versa, and the ability to track in a modern, electronic way those who might be brewing ill will for our Nation and our Nation's citizens.

Let us stand together in this Nation's time of need. "Obstruction" is not a constructive word. It is not the glue we need. My guess is, getting it right is what we are about and what the American people expect.

For tomorrow, for Saturday, and for Monday, our work is all about getting an airport security bill right. When we do, then we can turn to the American people and say we are putting in place a security system second to none. And from that, we can suggest the skies of America and America's air carriers are

safer than they have ever been. That is our goal. It is our charge. Frankly, it is our responsibility. We are up to it in a bipartisan fashion with the whole Senate speaking as one voice. Next week we will be prepared to do that.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### TRIBUTE TO MARION EIN LEWIN

Mr. DASCHLE. Mr. President, today I want to pay tribute to Marion Ein Lewin, a prominent health policy analyst and the long-time director of the highly regarded Robert Wood Johnson Health Policy Fellowship program. Marion is retiring from the fellowship program this year, after 14 years of dedicated service during which she guided and mentored scores of health care professionals from around the United States who took time off from their careers to participate in the policymaking process in Washington, DC. Her mixture of warmth, wisdom, and compassion will be sorely missed by future RWJ fellows and by the Members of Congress and the administration offices who have had the good fortune to work with Marion and the top-notch fellows she has overseen.

For almost 30 years, the RWJ Health Policy Fellowship program has selected a small group of leaders in America's academic health centers to participate in the development of America's health policy. RWJ Fellows come to Washington understanding health care delivery, and, during an extensive training program, they supplement their health care expertise with lessons about health policy and the process to develop that policy. This training and the unique opportunities created by working on the health staffs of Members of Congress and in the Executive Branch have allowed RWJ Fellows to participate in every major health care debate over the last 25 years.

Marion Ein Lewin has served as the guiding light for the last 14 classes of RWJ Fellows. As teacher, mentor and policy analyst, Marion has helped new Fellows understand the history and opportunities of health policy. She has introduced Fellows to the most important health policy thinkers in the country. The greatest testament to her extraordinary impact is the warmth and fondness departing Fellows feel for her.

Appropriately, Marion's experience in health policy began in a Member's office. She served as the Legislative Assistant for Health for Congressman James H. Scheurer (D-NY), where she

helped develop legislation and performed all the activities of a Congressional staffer.

Though Marion is known for her grace and warmth, she has made substantial contributions to the annals of American health policy. Marion's broad experience in health policy was bolstered by stints at the American Enterprise Institute and the National Health Policy Forum. She became director of the AEI Center for Health Policy Research before joining the Institute of Medicine. While at AEI, Marion edited five texts on health policy.

During her 14 years on the staff of the Institute of Medicine, Marion served as the study director for three IOM reports on critical issues ranging from improving Medicare, to the impact of information on the development of health policy, to the status of safety net providers. While at the IOM, she also directed the Pew Health Policy Fellowship.

Now, after 14 years, Marion Ein Lewin has decided to leave her pivotal role in the Robert Wood Johnson Fellowship. Her influence upon the 85 Fellows who served during her tenure is indelible. She has overseen the transformation of academic faculty into reasonable facsimiles of congressional health LAs. Fellows have provided my staff and me incalculable assistance over the years, and I know other Members of Congress and the administration share my appreciation. Marion's guidance has enabled these Fellows to make these valuable contributions as we seek to improve the healthcare system in our country.

Through the dint of her long service and extraordinary knowledge of health policy, Marion has come to personify the Fellowship and its values. It is hard to imagine the Robert Wood Johnson Health Policy Fellowship without Marion Ein Lewin. Mr. President, I ask my Senate colleagues to join me in congratulating Marion and the Robert Wood Johnson Program on their many successes, and sending a heartfelt thank you for her many years of dedicated service. Marion has made a genuine difference in health care. We wish her well and expect her to continue her good work as she enters this new phase in her life.

#### IN SUPPORT OF THE UNITED STATES

Mr. HELMS. Mr. President, I am grateful to President Chen Shui-bian and Ambassador C.J. Chen of the Republic of China on Taiwan for their support of the United States in the aftermath of the September 11 attacks on New York and Washington.

Taiwan was one of the first countries to declare its unequivocal support and cooperation with the United States, and deserves our gratitude for its firm stand with us.

In offering us whatever we need to combat worldwide terrorism, Taiwan has demonstrated its unity with Amer-

ica during our time of grief. During this period of turmoil and anxiety, I remind my colleagues that Taiwan will mark its National Day on October 10.

In recent years Taiwan has sought to return to the United Nations. I believe we should give Taiwan our support. The Republic of China on Taiwan is a democracy guaranteeing rights to all its citizens; it is one of the most important economic entities in the world; and despite its small population, 23 million people, Taiwan has financial resources surpassing those of many western countries.

Sadly, the international community accords Taiwan less recognition than many other non-state entities, including the terrorist Palestine Liberation Organization.

As the people of Taiwan, the East Asian region's leading free market democracy, celebrate their National Day on October 10, we should commend them for their successes and encourage other nations to support Taiwan's participation and membership in international organizations.

#### COMMON SENSE ON FIFTY CALIBER WEAPONS

Mr. LEVIN. Mr. President, long-range fifty caliber sniper weapons are among the most powerful firearms legally available. According to a rifle catalogue cited in a 1999 report by minority staff on the House Government Reform committee, one manufacturer touted his product's ability to "wreck several million dollars' worth of jet aircraft with one or two dollars' worth of cartridge." Some fifty caliber ammunition is even capable of piercing several inches of metal or exploding on impact.

These weapons are not only powerful, but they're accurate. According to the Government Reform staff report, the most common fifty caliber weapon can accurately hit targets a mile away and can inflict damage to targets more than four miles away.

Despite these facts, long-range fifty caliber weapons are less regulated than handguns. Buyers must simply be 18 years old and submit to a Federal background check. In addition, there is no Federal minimum age for possessing a fifty caliber weapon and no regulation on second-hand sales.

Given the facts on fifty caliber weapons, I'm pleased that Senator FEINSTEIN has introduced a bill, which I have cosponsored, that would change the way they're regulated. Senator FEINSTEIN's bill would ensure that fifty caliber weapons could only be legally purchased through licensed dealers. Her bill would also ensure that they could not be purchased second-hand. Buyers would have to fill out license transfer applications with the ATF, supply fingerprints and submit to a detailed FBI criminal background check. By any measure Senator FEINSTEIN's bill makes sense and I urge my colleagues to join me in cosponsoring the bill.



# LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred April 13, 2001 in San Antonio, TX. According to police, a 39-year-old man was attacked because the suspect thought he was a homosexual. The victim had stopped in a park to look at some rocks when a man with a knife came up behind him. The man held the victim in a bear hug before stabbing him in the chest with a knife that he described as a three-inch Buck knife. The suspect allegedly called him anti-gay names as he stabbed him.

I believe the government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

## HISPANIC HERITAGE MONTH 2001

Mr. DURBIN. Mr. President, I rise to celebrate our Nation's 33rd Hispanic Heritage Month, which commemorates Hispanic Americans and their contributions to the strength of our Nation in the past, present, and future.

Congress started the tradition of Hispanic Heritage Month in 1968 with the National Hispanic Heritage Week, and expanded the annual celebration to a month-long event in 1989. This year, the month follows the terrorist attacks on our country on September 11. More than ever, it is essential to take this opportunity to recognize the many hardworking Hispanic Americans who have helped make our country great and will continue to do so throughout our future. Our country stands united, with Americans of Central and South American descent standing alongside Americans with roots from all over the world.

There are many shining examples of Hispanic Americans who have stood up for our country and communities in times of war and peace. Ancestors of present-day Hispanics sacrificed or risked their lives throughout the many years of North American history that led to our country's beginning. Hispanic Americans have served the United States in every war since World War I. Many Hispanic American service members have earned distinction in our military, such as Emilio A. De La Garza, who entered the U.S. Marine Corps in Illinois and was awarded the Medal of Honor, America's highest decoration for valor.

In Silvis, IL, there is a monument to eight heroes of Mexican-American de-

scend who gave their lives in defense of this nation. The street the monument is on was once called Second Street USA, but it is now called Hero Street USA. The street's name honors 84 men from the 22 families on one small block of this street participated in World War II, Korea and Vietnam. Many of them grew up on this street, some working for the railroad as their fathers did in Mexico. Today the street serves as a remembrance of those who courageously served our country.

Other Hispanic Americans stand up for their communities on a daily basis. Whether serving in our town councils, fire departments, or police departments, they are always working to advance our safety and quality of life. These local heroes include Raymond Orozco, who led the Chicago Fire Department with distinction until his recent retirement, and Jaime Gonzalez, the first Hispanic police officer in Elgin, IL.

Hispanic Americans also have enhanced our national prosperity and will continue to play an important role in our economy. A study by the National Academy of Sciences found that the Latino community contributes about \$10 billion to the U.S. economy per year. According to the Census, Hispanics owned about 1.2 million nonfarm businesses in 1997, employing over 1.3 million people and generating \$186.3 billion in business. The Small Business Administration tells us that minority and women-owned businesses are the most rapidly growing segments of the business community, and the number of Hispanic-owned businesses has increased by over 600 percent over the past 20 years. Female Latino-owned businesses are growing faster than any other segment of business owners. According to the Center for Women's Business Research, two-thirds of Latina entrepreneurs came into business ownership not by purchasing, inheriting or acquiring a business, but by starting their own. These are women like Chicagoan Sonia Archer, who, while raising a child, founded a home-based business marketing discounted legal services for people who cannot afford attorneys' fees. Stories like Sonia's illustrate how Hispanic Americans bring great innovation and success to our economy.

A wide array of talented Hispanic Americans enrich arts and athletics in our country. In the literary world, Sandra Cisneros brings us powerful, eloquent stories of young women growing up in communities in Chicago, or on the Mexican border, that are full of challenges and beauty. Tito Puente, known as "El Rey" or The King of Mambo, delighted audiences around the world with his musical gifts, using the timbal, vibraphone, trap drums, conga drums, claves, piano, saxophone, and clarinet. Hispanic Americans have also brought tremendous talent to America's pastime: baseball. Among the earlier figures was Roberto Clemente, who played right-field for

the Pittsburgh Pirates from 1955 to 1972, and won four National League batting titles, twelve Golden Glove awards, and the title of National League's Most Valuable Player in 1966. Then there is Nomar Garciaparra, who in 1997 set several rookie records during what Baseball Weekly called the greatest rookie season in history. Today we have Sammy Sosa, who is outfielder for the Chicago Cubs and the only player in the history of baseball to hit 60 home runs in each of three different seasons.

As we take time to reflect upon the strength Hispanic Americans bring to our country, we must also remember that many Latinos face challenges in our society. Fair and equal treatment of all Americans is a cornerstone of our society and our political system. Unfortunately, despite great progress, the struggle for civil rights and equal treatment under the law continues today for many citizens, including our fellow Hispanic Americans.

A time of national crisis reminds us that we must unite against hate and bigotry. I support several key bills that would bring us closer to this goal. First, I hope to see passage of the Local Law Enforcement Enhancement Act of 2001, also known as the hate crimes bill. Among other things, this legislation would expand current Federal protections against hate crimes based on race, religion, and national origin; authorize grants for programs designed to combat and prevent hate crimes; and enable the Federal Government to assist State and local law enforcement in investigating and prosecuting hate crimes. I have also introduced the Reasonable Search Standards Act, which would prohibit United States Customs Service personnel working at our borders and in our airports from searching or detaining individuals solely based on their race, religion, gender, national origin, or sexual orientation. Finally, I am cosponsoring the End Racial Profiling Act, which would make profiling by any law enforcement agent or agency a crime prosecutable in any State court of general jurisdiction or in a District Court of the United States; and would require Federal, State, and local law enforcement agencies receiving Federal grants to maintain adequate policies and procedures designed to eliminate racial profiling. I believe these measures take important steps toward preventing discrimination and violence based on race and ethnicity.

There are currently 31.5 million Hispanic Americans living in the United States, and Hispanic Americans comprise 35 percent of the population under the age of 18. Sadly, only 57 percent of Latino students complete high school and only 10.6 percent earn a bachelor's degree. We can do better. This year Congress has worked with the administration to facilitate real education reform based on high standards and meaningful accountability measures.

As we work to raise the bar for students and teachers, we must also ensure that schools across the country have adequate resources to hire and train teachers and principals, help all students attain fluency in English, integrate technology effectively in the classroom, and provide children with enriching after-school activities. I support the 21st Century Higher Education Initiative, which will substantially expand college opportunity through student aid, early intervention efforts, and more resources to strengthen minority-serving institutions. I also introduced the Children's Adjustment, Relief, and Education, CARE, Act to enable immigrant children to fulfill their potential and pursue higher education on the same terms as other children.

According to the 2000 Census, 60 percent of Latinos in this Nation are natives of the United States. Whether Hispanic Americans were born here or moved to our country later in life, most of them feel the impact of immigration policy. Many live in immigrant families or communities, and many, like most Americans, have strong memories of or connections to our immigrant heritage. I support reforming immigration laws to ensure the due process rights of immigrants, so that they are guaranteed fairness in our courts and are not unnecessarily detained for indefinite periods. We also need to enhance the efficiency and accountability of the Immigration and Naturalization Service. Finally, it is essential to protect the safety of our Nation's immigrants and their due process rights at our borders, while enforcing our immigration laws and protecting our national security.

Hispanic Heritage Month in 2001 gives us an opportunity to deepen our understanding, appreciation, and common bonds with each other. It also gives us pause, reminding us of the American ideals we must continue to fight for. The challenges that we face in Congress and our Nation are not insurmountable. Together, we can stand up for the rights of all Americans, including our Hispanic American friends. And together, we can recognize how our diverse cultures and talents contribute to our collective strength as Americans.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO REV. DR. WILLIAM D. WATLEY

• Mr. CORZINE. Mr. President, I want to bring to the attention of my colleagues a great man in the State of New Jersey, Reverend Doctor William D. Watley.

Reverend Watley is a man of integrity who is committed to the spiritual, mental, social, and economic well being of his congregation and the residents of the City of Newark.

Reverend Watley has dedicated his life to his ministry. As Pastor of the

St. James A.M.E. Church in Newark, he ensures that everyone has a voice and gives hope to those who feel they have no hope. Under his leadership, St. James A.M.E. Church has reached out to the community and established numerous programs, including a soup kitchen that feed over 1,000 people per week, a clothing program, and a drug and alcohol abuse program. Reverend Watley is also an outstanding advocate for children and families. His vision was to start a state of the art preparatory school in the heart of Newark, preparing students mentally, physically, and spiritually for the challenges ahead. His dream realized, St. James Prep opens its doors every day stressing academic excellence and social responsibility.

Reverend Watley is a true American, one who believes that all people should have access to America's promise. One of his many gifts is the ability to bring people together to work for a common cause. Reverend Watley is an unselfish man whose motivation is not self-gratification. He possesses a higher calling.

This week, Reverend Watley celebrates 17 wonderful years of pastoral ministry at the St. James A.M.E. Church in Newark, NJ where over 3,000 people attend services each Sunday, and where I have frequently joined with the congregation in being spiritually uplifted by Reverend Watley's message of hope. Under his expert guidance, St. James A.M.E. Church has experienced enormous growth and is a warm congregation filled with joy and love.

Reverend Watley has been a true friend to me. I admire him for his leadership in and outside the walls of his church. He is a role model for all of us. I can boldly say that the State of New Jersey is a better place because of the leadership of Reverend Doctor William D. Watley and I am a better man today because of my friendship with him. It is an honor for me to bring him to your attention.●

##### RECOGNITION OF MISSOURI STATE REPRESENTATIVE LINDA BARTELSMEYER

• Mr. BOND. Mr. President, I rise today to recognize the contributions Missouri State Representative Linda Bartelsmeyer has made to her community, State and nation.

Missouri State Representative Linda Bartelsmeyer is a native of Southwest Missouri and is serving her fourth term in the Missouri Legislature representing Barry, Lawrence and Newton counties. This year, during the annual conference, she will have the distinct honor of becoming President for the 2001-2002 National Organization for Women Legislators. The National Order of Women Legislators is the oldest and largest bipartisan organization of its kind, created in part to kindle and promote a spirit of helpfulness among present and former women State legislators. Missouri State Rep-

resentative Linda Bartelsmeyer has devoted her life to public service by actively serving on the local, State and national levels for 27 years. She has led by example and proved be an outstanding citizen. I am privileged to call on the United States Senate to recognize her outstanding accomplishments.●

#### A SPECIAL POEM

• Ms. MIKULSKI. Mr. President, I rise to share a special poem with my colleagues. Ethel A. Smith is a friend and poet from the city of Baltimore. She is a former activist, who wrote poems for various Baltimore newsletters. She is now 93 years old and continues to write poems. She wrote the following poem to express how moved she was by the tragic events of September 11, 2001. Like so many Americans, she is drawing on her strong faith, family, and community to help at this difficult time.

I ask that the poem be printed in the RECORD.

The poem follows:

TURN BACK TO GOD  
(By Ethel Smith)

Turn back  
Turn back  
To God  
Dear friends  
He will not turn you away.  
Come back  
Come back  
To God  
Everyone  
We have wandered to far away.  
Then fall on your knees and pray.  
Come back  
Come back  
To the church of your choice  
Then ask that Faith take sway.  
Oh! Come back  
Come back  
Come back  
Dear friends  
Let not your prayers e'er cease.  
Come back  
Come back  
To God  
Everyone  
To pray for our country and peace.  
Then while you are praying for God's blessings  
On our land that we love so true  
Let us pray and ask God  
For his blessings  
On other lands  
Caught in this war too.  
We also pray  
Dear Father  
For the thousands that have lost their life  
and lie beneath all the rubble  
While their families await in strife.  
Have mercy on each and every one of us  
Dear Father  
As the suffering continues from the terrorist  
attack  
on September 11, 2001.  
Amen.●

#### ALASKAN SMOKEJUMPER: MR. DAVID LISTON

• Mr. MURKOWSKI. Mr. President, life as a smokejumper is not glamorous

with huge financial benefits or personal recognition. Smokejumping is a dangerous job undertaken by those with a strong spirit who simply love what they do fighting forest fires.

My home state of Alaska, and the states of many of my colleagues, have been struck by the wrath of forest fires. We often forget the men and women who bravely enter the ring of fire to battle the often times insurmountable flames. These courageous firefighters, known in the industry as smokejumpers, parachute out from DC-3 airplanes as they fly low over acres of intense smoke and flames shooting up from the forest canopy. On top of the physical and emotional danger related to smokejumping, work-related injuries such as broken bones, burns and chainsaw gashes are common but occasionally smokejumping claims the life of one of its own.

Twenty-eight-year-old Bureau of Land Management-Alaska smokejumper David J. Liston loved firefighting, and he died doing what he loved. During a refresher jump April 29, 2000 in Fort Wainwright, Alaska, David's parachute and the back-up chute failed to open. David was returning to work after his honeymoon in Mexico with new wife Kristin; the two were married 21 days earlier, on April 8.

Mr. President, David's dedication to firefighting will be remembered on October 7 by President George W. Bush and First Lady Laura Bush at a Memorial Service at the National Fallen Firefighters Memorial in Emmitsburg, Maryland. David's name will be inscribed on a plaque at the memorial, along with the names of 100 other firefighters who died in 2000. Sadly, after the service, the memorial will bear the names of 2,181 firefighters from 38 states and Puerto Rico. Each family, including David's, will be presented with an American flag that has been flown over the nation's Capitol.

None of us can thank firefighters enough for the work they do everyday. The heroism and bravery we witnessed in the firefighters in New York City, at the Pentagon and in Pennsylvania on September 11, remind us of the courage America's firefighters must embrace daily. Their selflessness and their desire to help others is to be commended, and we always need to remember those, like David Liston, for their service and determination to get the job done.●

#### EXCELLENCE IN PHYSICAL FITNESS

● Mr. CRAPO. Mr. President, I rise today to commend the students and faculty at three exemplary elementary schools in the great State of Idaho—Oakley Elementary in Oakley, Ucon Elementary in Idaho Falls, and Oakwood Elementary in Preston. The students' demonstrated excellence in physical fitness has earned them recognition by the President of the United States for their efforts to improve their physical well-being and raise

awareness for this important issue. Obesity among American youth has doubled in the past 10 years, and not only is this unhealthy by itself but can also lead to other physical ailments later in life, such as high blood pressure, type two diabetes, or cardiovascular disease.

Oakley, Ucon, and Oakwood Elementary schools were named "State Champion" schools by the President's Council on Physical Fitness and Sports and selected based on their outstanding achievement in the President's Challenge Physical Activity and Fitness Awards Program.

I commend these students and their teachers for their commitment to physical fitness. Good habits need to start at a young age and I hope that these students' healthy behaviors will continue throughout their lives.●

#### TEXAS A&M/CORPS OF CADETS 125TH ANNIVERSARY

● Mrs. HUTCHISON. Mr. President, I rise today to recognize with pleasure Texas A&M University on its 125th anniversary. Texas A&M, one of our Nation's finest institutions of higher education, was opened on October 4, 1876 as the Agriculture and Mechanical College of Texas. From its roots of agriculture and engineering, A&M has grown into a world class university that is a leader in university research and development. It also offers an amazing 383 degree-granting programs. Although the university is justifiably proud of its academic reputation, A&M is especially proud of its famous Corps of Cadets.

For 125 years, A&M's Corps of Cadets have provided our State and country with leaders in the military, government and business. Texas A&M has the largest cadet corps outside the U.S. military academies and commissions more officers in all four branches of service than any other university military program. Former cadets have served in every military conflict, from the Indian Wars to Desert Storm. During World War II, 54,000 Aggies served as officers, more than any other school, including the service academies. They have always answered our Nation's call, and they have always met the challenge. Although only a small percentage of Texas A&M's student population, members of the Corps of Cadets are the keepers of the many famous traditions at A&M that contribute to the unique culture and spirit that is "Aggieland." Today, former cadets serve in leadership and frontline forces throughout our military services and will help lead our Nation to success in this 21st century war against terrorism.

Although the military has seen technology move from horse and rifle to spacecraft and lasers, the foundations of our military, leadership and teamwork, remain the same. These traits are the bedrock of the Corps and of Texas A&M University and explain the

success of the University and its graduates. During this most difficult time in our Nation's history, we are all learning the value and strength of A&M's Corps of Cadets motto, *Per Unitatem Vis—Through Unity, Strength*.

On behalf of my colleagues in the United States Senate, and with just and lasting pride, I offer heartfelt appreciation and respect to all the current and former members of the illustrious Texas A&M University Corps of Cadets. I also wish all Aggies around the world a Happy 125th Anniversary.●

#### MEASURES READ THE FIRST TIME

The following bills were read the first time

S. 1499. A bill to provide assistance to small business concerns adversely impacted by the terrorist attacks perpetrated against the United States on September 11, 2001, and for other purposes.

S. 1510. A bill to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4293. A communication from the President of the United States, transmitting, pursuant to law, a report relative to Columbia; to the Committee on Appropriations.

EC-4294. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a certification for Fiscal Year 2002; to the Committee on Foreign Relations.

EC-4295. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination for the position of Administrator, Wage and Hour Division, received on October 3, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-4296. A communication from the Director, Office of Regulations Management, Board of Veterans Appeals, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Board of Veterans Appeals: Rules of Practice-Subpoenas" (RIN2900-AJ58) received on October 3, 2001; to the Committee on Veterans' Affairs.

EC-4297. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the Annual Report on Veterans' Employment in the Federal Government for Fiscal Year 2000; to the Committee on Veterans' Affairs.

EC-4298. A communication from the Acting Deputy General Counsel, Office of Financial Assistance, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Business Loan Program and Office of Hearings and Appeals" (RIN3245-AE51) received on October 3, 2001; to the Committee on Small Business and Entrepreneurship.

EC-4299. A communication from the Acting Deputy General Counsel, Office of Financial Assistance, Small Business Administration, transmitting, pursuant to law, the report of

a rule entitled "Microloan Program" (RIN3245-AE73) received on October 3, 2001; to the Committee on Small Business and Entrepreneurship.

EC-4300. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the 1989 Exxon Valdez oil spill; to the Committee on Energy and Natural Resources.

EC-4301. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Maryland Regulatory Program" (MD-050-FOR) received on October 2, 2001; to the Committee on Energy and Natural Resources.

EC-4302. A communication from the District of Columbia Auditor, transmitting, a report entitled "Audit of the Peoples Counsel Agency Fund for Fiscal Year 2000"; to the Committee on Governmental Affairs.

EC-4303. A communication from the District of Columbia Auditor, transmitting, a report entitled "Audit of the Public Service Commission Agency Fund for Fiscal Year 2000"; to the Committee on Governmental Affairs.

EC-4304. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "National School Lunch Program and School Breakfast Program: Alternatives to Standard Application and Meal Counting Procedures" (RIN0584-AC25) received on October 2, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4305. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revocation of Unlimited Tolerance Exemptions; Correction and Reopening of Comment Period" (FRL6803-8) received on October 2, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4306. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Sethoxydim; Pesticide Tolerances for Emergency Exemptions" (FRL6802-3) received on October 2, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4307. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fenthion, Methidathion, Naled, Phorate, and Profenofos; Tolerance Revocations" (FRL6795-8) received on October 2, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4308. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Irish Potatoes Grown in Colorado; Modification of Area No. 3 Handling Regulation" (Doc. No. FV01-948-1FR) received on October 2, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4309. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Papayas Grown in Hawaii; Suspension of Grade, Inspection, and Related Reporting Requirements" (Doc. No. FV01-928-1FIR) received on October 3, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4310. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled

"Tomatoes Grown in Florida; Change to the Handling Regulation for Producer Field-Packed Tomatoes" (Doc. No. FV01-966-1FIR) received on October 3, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4311. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oranges and Grapefruit (Texas and States Other Than Florida, California, and Arizona); Grade Standards" (Doc. No. FV-00-304) received on October 3, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4312. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Indian and Pakistan: Lifting of Sanctions, Removal of Indian and Pakistani Entities, and Revision in License Review Policy" (RIN0694-AC50) received on October 1, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-4313. A communication from the Assistant General Counsel for Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Revision to SEMAP Lease-Up Indicator" (RIN2577-AC21) received on October 1, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-4314. A communication from the Assistant General Counsel for Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program-Fiscal Year 2002" (FR-4680-N-02) received on October 1, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-4315. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Organization and Operations of Federal Credit Unions Non-discrimination Requirements—Non-discrimination in Advertising" (12 CFR Section 701.31(d)) received on October 3, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-4316. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Truth in Savings" (12 CFR Part 707) received on October 3, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-4317. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, the report of the Strategic Plan which covers the period from Fiscal Year 2001 through Fiscal Year 2002; to the Committee on Finance.

EC-4318. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Appeals Settlement Guidelines: Pharmaceutical—Accrual of Medicaid Rebate Liability" (UIL0461.01-10) received on October 1, 2001; to the Committee on Finance.

EC-4319. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to the federal Unemployment Trust Fund; to the Committee on Finance.

EC-4320. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Preferential Treatment of Brassieres Under the United States-

Caribbean Basin Trade Partnership Act" (RIN1515-AC89) received on October 2, 2001; to the Committee on Finance.

EC-4321. A communication from the Regulations Coordinator, Administration for Children and Families, transmitting, pursuant to law, the report of a rule entitled "Individual Development Accounts" (RIN0970-AC08) received on October 3, 2001; to the Committee on Finance.

EC-4322. A communication from the Regulations Coordinator, Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Requirements for the Recredentialing of Medicare and Choice Organization Providers" (RIN0938-AK41) received on October 3, 2001; to the Committee on Finance.

EC-4323. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Modification of the Medicaid Upper Payment Limit Transition Period for Inpatient Hospital Services, Outpatient Hospital Services, Nursing Facility Services, Intermediate Care Facilities for the Mentally Retarded, and Clinic Services" (RIN0938-AK89) received on October 3, 2001; to the Committee on Finance.

EC-4324. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Replacement of Reasonable Change Methodology by Fee Schedules for Parental and External Nutrients, Equipment, and Supplies" (RIN0938-AJ00) received on October 3, 2001; to the Committee on Finance.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 838: A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children. (Rept. No. 107-79).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. Res. 164: A resolution designating October 19, 2001, as "National Mammography Day."

By Mr. BIDEN, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and an amendment to the title:

S. 1465: A bill to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S.J. Res. 18: A joint resolution memorializing fallen firefighters by lowering the United States flag to half-staff on the day of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland.

S. Con. Res. 74: A concurrent resolution condemning bigotry and violence against Sikh-Americans in the wake of terrorist attacks in New York City and Washington, D.C. on September 11, 2001.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN for the Committee on Foreign Relations.

\*Patrick Francis Kennedy, of Illinois, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America to the United Nations for U.N. Management and Reform.

By Mr. LEAHY for the Committee on the Judiciary.

Barrington D. Parker, Jr., of Connecticut, to be United States Circuit Judge for the Second Circuit.

Michael P. Mills, of Mississippi, to be United States District Judge for the Northern District of Mississippi.

Timothy Mark Burgess, of Alaska, to be United States Attorney for the District of Alaska for the term of four years.

Harry Sandlin Mattice, Jr., of Tennessee, to be United States Attorney for the Eastern District of Tennessee for the term of four years.

Robert Garner McCampbell, of Oklahoma, to be United States Attorney for the Western District of Oklahoma for the term of four years.

Matthew Hansen Mead, of Wyoming, to be United States Attorney for the District of Wyoming for the term of four years.

Michael W. Mosman, of Oregon, to be United States Attorney for the District of Oregon for the term of four years.

John W. Suthers, of Colorado, to be United States Attorney for the District of Colorado for the term of four years.

Susan W. Brooks, of Indiana, to be United States Attorney for the Southern District of Indiana for the term of four years.

John L. Brownlee, of Virginia, to be United States Attorney for the Western District of Virginia for the term of four years.

Todd Peterson Graves, of Missouri, to be United States Attorney for the Western District of Missouri for the term of four years.

Terrell Lee Harris, of Tennessee, to be United States Attorney for the Western District of Tennessee for the term of four years.

David Claudio Iglesias, of New Mexico, to be United States Attorney for the District of New Mexico for the term of four years.

Charles W. Larson, Sr., of Iowa, to be United States Attorney for the Northern District of Iowa for the term of four years.

Steven M. Colloton, of Iowa, to be United States Attorney for the Southern District of Iowa for the term of four years.

Gregory Gordon Lockhart, of Ohio, to be United States Attorney for the Southern District of Ohio for the term of four years.

Jay B. Stephens, of Virginia, to be Associate Attorney General.

Benigno G. Reyna, of Texas, to be Director of the United States Marshals Service.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself, Mr. BOND, Mr. SCHUMER, Mr. BINGAMAN, Mr.

INOUE, Mr. WELLSTONE, Mr. SARBANES, Mr. AKAKA, Mr. HARKIN, Mr. REED, Mrs. CLINTON, Mr. DURBIN, Mr. CLELAND, Mr. KENNEDY, Mr. LIEBERMAN, Mr. GRASSLEY, Mr. TORRICELLI, Mr. DASCHLE, Mrs. LINCOLN, Mr. EDWARDS, Mr. ROCKEFELLER, Mrs. CARNAHAN, Mr. HOLINGS, Ms. SNOWE, Mr. LEAHY, Mr. CORZINE, Mr. LEVIN, Ms. CANTWELL, Ms. LANDRIEU, Mr. ALLEN, Mrs. MURRAY, Mr. JOHNSON, Mr. NELSON of Florida, Mr. BIDEN, Ms. COLLINS, Mr. ENZI, Mr. BURNS, and Mr. CRAPO):

S. 1499. A bill to provide assistance to small business concerns adversely impacted by the terrorist attacks perpetrated against the United States on September 11, 2001, and for other purposes; read the first time.

By Mr. KYL (for himself and Mr. MILLER):

S. 1500. A bill to amend the Internal Revenue Code of 1986 to provide tax and other incentives to maintain a vibrant travel and tourism industry, to keep working people working, and to stimulate economic growth, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. TORRICELLI, Ms. MIKULSKI, and Mrs. CLINTON):

S. 1501. A bill to consolidate in a single independent agency in the Executive branch the responsibilities regarding food safety, labeling, and inspection currently divided among several Federal agencies; to the Committee on Governmental Affairs.

By Mr. JEFFORDS (for himself, Mrs. LINCOLN, Mr. CHAFEE, Mr. BAYH, and Ms. SNOWE):

S. 1502. A bill to amend the internal Revenue Code of 1986 to allow a refundable tax credit for health insurance costs for COBRA continuation coverage, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. DEWINE, Ms. LANDRIEU, Ms. SNOWE, Mr. BREAUX, Mr. BOND, Mr. LEVIN, Mr. CRAIG, and Mr. GRAHAM):

S. 1503. A bill to extend and amend the Promoting Safe and Stable Families Program under subpart 2 of part B of title IV of the Social Security Act, to provide the Secretary of Health and Human Services with new authority to support programs mentoring children of incarcerated parents, to amend the Foster Care Independent Living Program under part E of title IV of the Social Security Act to provide for educational and training vouchers for youths aging out of foster care, and for other purposes; to the Committee on Finance.

By Mr. DORGAN (for himself and Mr. BREAUX):

S. 1504. A bill to extend the moratorium enacted by the Internet Tax Freedom Act through June 30, 2002; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself, Mr. ALLEN, Mr. INOUE, and Mr. KERRY):

S. 1505. A bill to authorize the Secretary of Commerce to establish a Travel and Tourism Promotion Bureau; to the Committee on Commerce, Science, and Transportation.

By Mr. NELSON of Florida:

S. 1506. A bill to amend title 10, United States Code, to repeal the requirement for reduction of SBP survivor annuities by dependency and indemnity compensation; to the Committee on Armed Services.

By Ms. COLLINS:

S. 1507. A bill to provide for small business growth and worker assistance, and for other purposes; to the Committee on Finance.

By Mr. CORZINE (for himself, Mr. REED, and Mr. TORRICELLI):

S. 1508. A bill to increase the preparedness of the United States to respond to a biologi-

cal or chemical weapons attack; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER:

S. 1509. A bill to establish a grant program to enable rural police departments to gain access to the various crime-fighting, investigatory, and information-sharing resources available on the Internet, and for other purposes; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. LOTT, Mr. LEAHY, Mr. HATCH, Mr. GRAHAM, Mr. SHELBY, and Mr. SARBANES):

S. 1510. A bill to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes; read the first time.

By Mr. SPECTER:

S.J. Res. 24. A joint resolution honoring Maureen Reagan on the occasion of her death and expressing condolences to her family, including her husband Dennis Revell and her daughter Rita Revell; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. BINGAMAN, Mr. HATCH, Mr. HUTCHINSON, and Mr. REID):

S. Res. 168. A resolution congratulating and honoring Cal Ripken, Jr. for his amazing and storybook career as a player for the Baltimore Orioles and thanking him for his contributions to baseball, the State of Maryland, and the United States; considered and agreed to.

By Mr. HARKIN (for himself, Mr. SCHUMER, Mr. WARNER, Mrs. CLINTON, Mr. ALLEN, Mr. HELMS, Mr. CORZINE, Ms. SNOWE, Mr. VOINOVICH, and Mr. LIEBERMAN):

S. Con. Res. 75. A concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to public safety officers killed or seriously injured as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, and to those who participated in the search, rescue and recovery efforts in the aftermath of those attacks; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself, Mr. ALLEN, Mr. WARNER, Mrs. CLINTON, and Mr. SCHUMER):

S. Con. Res. 76. A concurrent resolution honoring the law enforcement officers, firefighters, emergency rescue personnel, and health care professionals who have worked tirelessly to search for and rescue the victims of the horrific attacks on the United States on September 11, 2001; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 237

At the request of Mr. HUTCHINSON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 237, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

S. 267

At the request of Mr. AKAKA, the name of the Senator from Michigan

(Ms. STABENOW) was added as a cosponsor of S. 267, a bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 345

At the request of Mr. ALLARD, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to strike the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 615

At the request of Mr. KOHL, the name of the Senator from Oregon (Mr. SMITH of Oregon) was added as a cosponsor of S. 615, a bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage bond financing, and for other purposes.

S. 686

At the request of Mrs. LINCOLN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 686, a bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for energy efficient appliances.

S. 694

At the request of Mr. LEAHY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 694, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 775

At the request of Mrs. LINCOLN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 775, a bill to amend title XVIII of the Social Security Act to permit expansion of medical residency training programs in geriatric medicine and to provide for reimbursement of care coordination and assessment services provided under the medicare program.

S. 905

At the request of Mr. HARKIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 905, a bill to provide incentives for school construction, and for other purposes.

S. 913

At the request of Ms. SNOWE, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor

of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 952

At the request of Mr. GREGG, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 952, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 969

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 969, a bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes.

S. 1083

At the request of Ms. MIKULSKI, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1083, a bill to amend title XVIII of the Social Security Act to exclude clinical social worker services from coverage under the medicare skilled nursing facility prospective payment system.

S. 1111

At the request of Mr. CRAIG, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1111, a bill to amend the Consolidated Farm and Rural Development Act to authorize the National Rural Development Partnership, and for other purposes.

S. 1163

At the request of Mr. CORZINE, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1163, a bill to increase the mortgage loan limits under the National Housing Act for multifamily housing mortgage insurance.

S. 1214

At the request of Mr. HOLLINGS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1214, a bill to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes.

S. 1262

At the request of Mr. ROCKEFELLER, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Louisiana (Mr. BREAU), the Senator from Iowa (Mr. HARKIN), the Senator from Mississippi (Mr. COCHRAN), the Senator from North Dakota (Mr. CONRAD), and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 1262, a bill to make improvements in mathematics and science education, and for other purposes.

S. 1269

At the request of Mr. BREAU, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 1269, a bill to amend title XIX of the Social Security Act to revise and simplify the transitional medical assistance (TMA) program.

S. 1271

At the request of Mrs. LINCOLN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1271, a bill to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small business concerns with certain Federal paperwork requirements, to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small business concerns, and for other purposes.

S. 1278

At the request of Mrs. LINCOLN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1278, a bill to amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

S. 1296

At the request of Mr. DODD, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1296, a bill to provide for the protection of the due process rights of United States citizens (including United States servicemembers) before foreign tribunals, including the International Criminal Court, for the prosecution of war criminals, and for other purposes.

S. 1327

At the request of Mr. MCCAIN, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1327, a bill to amend title 49, United States Code, to provide emergency Secretarial authority to resolve airline labor disputes.

S. 1434

At the request of Mr. SPECTER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1434, a bill to authorize the President to award posthumously the Congressional Gold Medal to the passengers and crew of United Airlines flight 93 in the aftermath of the terrorist attack on the United States on September 11, 2001.

S. 1447

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 1447, a bill to improve aviation security, and for other purposes.

S. 1465

At the request of Mr. BROWNBACK, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Nebraska (Mr. HAGEL), the Senator from Tennessee (Mr. FRIST), the Senator from Minnesota (Mr. WELLSTONE), the Senator from New Jersey (Mr. TORRICELLI), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Virginia (Mr. ALLEN), and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1465, a bill to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes.



S. 1478

At the request of Mr. SANTORUM, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1478, a bill to amend the Animal Welfare Act to improve the treatment of certain animals, and for other purposes.

S. 1482

At the request of Mr. HARKIN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1482, a bill to consolidate and revise the authority of the Secretary of Agriculture relating to protection of animal health.

S. RES. 109

At the request of Mr. REID, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Res. 109, a resolution designating the second Sunday in the month of December as "National Children's Memorial Day" and the last Friday in the month of April as "Children's Memorial Flag Day."

S. RES. 161

At the request of Mrs. MURRAY, the name of the Senator from Oregon (Mr. SMITH of Oregon) was added as a cosponsor of S. Res. 161, a resolution designating October 17, 2001, as a "Day of National Concern About Young People and Gun Violence."

S. RES. 164

At the request of Mr. BIDEN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 164, a resolution designating October 19, 2001, as "National Mammography Day."

S. CON. RES. 17

At the request of Mr. SARBANES, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Con. Res. 17, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1497. A bill to convey certain property to the city of St. George, Utah, in order to provide for the protection and preservation of certain rare paleontological resources on that property, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. HATCH. Mr. President, I rise today to introduce the Virgin River Dinosaur Footprint Preservation Act. Originally introduced in the House by Representative JAMES HANSEN of Utah, this legislation is vital in guaranteeing the preservation of one of our Nation's most intact and rare pre-Jurassic paleontological discoveries. I applaud Chairman HANSEN for his leadership on this issue.

In February 2000, Sheldon Johnson of St. George, UT began development preparations on his land when he uncovered one of the world's most significant collections of dinosaur tracks, traildraggings, and skin imprints in the surrounding rock. The site has attracted thousands of visitors and the interest of some of the world's top paleontologists.

This valuable resource is now in jeopardy. The fragile sandstone in which the impressions have been made is in jeopardy due to the heat and wind typical of the southern Utah climate. We must act quickly if these footprints from our past are to be preserved. This bill would authorize the Secretary of the Interior to purchase the land where the footprints and traildraggings are found and convey the property to the city of St. George, UT, which will work with the property owners and the county to preserve and protect the area and resources in question. I urge my colleagues to support this effort to protect our national treasure.

By Mr. KERRY (for himself, Mr. BOND, Mr. SCHUMER, Mr. BINGAMAN, Mr. INOUE, Mr. WELLSTONE, Mr. SARBANES, Mr. AKAKA, Mr. HARKIN, Mr. REED, Mrs. CLINTON, Mr. DURBIN, Mr. CLELAND, Mr. KENNEDY, Mr. LIEBERMAN, Mr. GRASSLEY, Mr. TORRICELLI, Mr. DASCHLE, Mrs. LINCOLN, Mr. EDWARDS, Mr. ROCKEFELLER, Mrs. CARNAHAN, Mr. HOLLINGS, Ms. SNOWE, Mr. LEAHY, Mr. CORZINE, Mr. LEVIN, Ms. CANTWELL, Ms. LANDRIEU, Mr. ALLEN, Mrs. MURRAY, Mr. JOHNSON, Mr. NELSON of Florida, Mr. BIDEN, Ms. COLLINS, Mr. ENZI, Mr. BURNS, and Mr. CRAPO):

S. 1499. A bill to provide assistance to small business concerns adversely impacted by the terrorist attacks perpetrated against the United States on September 11, 2001, and for other purposes; read the first time.

Mr. KERRY. Mr. President, I am introducing today, together with Senator BOND, the ranking member of the Committee on Small Business and Entrepreneurship, and 26 of my colleagues, including Senators WELLSTONE, HARKIN, CLELAND, LIEBERMAN, EDWARDS, CARNAHAN, LEVIN, SNOWE, SCHUMER, CLINTON, DASCHLE, BINGAMAN, INOUE, SARBANES, AKAKA, REED of Rhode Island, DURBIN, KENNEDY, GRASSLEY, TORRICELLI, LINCOLN, ROCKEFELLER, HOLLINGS, LEAHY, CORZINE, CANTWELL, LANDRIEU, ALLEN, MURRAY, and JOHNSON, the American Small Business Emergency Relief and Recovery Act of 2001.

This is emergency legislation to help small businesses that have been impacted as a consequence of the attacks that took place on September 11. Thousands of small businesses employing millions of Americans are suffering significantly as a consequence of what has happened. Many of these companies

may not survive. But these businesses are the engine of our economy and we need to act to help them.

This bill is the product of bipartisan work on our committee. I thank Senator BOND for cosponsoring it and for working with us. It includes input from many sources, much of which was gathered through a combination of about 30 meetings and conference calls with small business trade associations, contractors, subcontractors, small business lenders, and small business consultants.

Of course, I think we have all learned firsthand a lot from the small business owners who have told us their personal stories of healthy businesses—up until September 11—which have simply taken a nosedive as a consequence of the tragic events.

Our airport small businesses, our taxi drivers, small hotels and restaurants, small suppliers, travel agents, crop dusters, charter bus companies, and many others have called to explain their plight. For example, there is a woman in my State who started a travel agency 26 years ago in a suburb of Boston. She has six employees. She is hanging on now only through personal savings because they have zero business all of a sudden. The agency has virtually no incoming sales, and has had to refund commissions on all canceled vacation packages, cruises and airline tickets that had generated income over the past 6 months.

Yesterday, I met with a fellow who does a lot of business out in North Dakota. Senator CONRAD introduced us. They were doing 20,000 sales a day. They went down to two sales a day for a period of time. They are now back up to about 10,000. But the problem is that banks are withholding the lines of credit for many of these companies, and we want them to survive.

In New York where more than 14,000 businesses inside and around ground zero have been impacted, there's the story of Sydmore Sportswear just four blocks from where the World Trade Center once stood. Joseph Pinkas, who's owned the small business for 20 years owes \$100,000 to his suppliers, and revenues are down 65 percent. "We don't know where our customers are going to come from," he said in an AP story. "I'm worried about the future, about survival. I don't sleep at night." Other businesses in the area are filled with dust and debris, and their phones are dead.

Small businesses doing business with the Federal government have also felt the impact of the attacks on September 11, 2001. Small business contractors, because of very real and legitimate security concerns, have experienced a dramatic increase in costs for work in and around Federal government facilities. We have heard reports of small businesses being denied access to their equipment on military bases, waiting for hours each day to enter government facilities and being limited in the hours they can work on their

contracts. Once again, let me stress, these security precautions are very necessary, but they are having a dramatic impact on our small businesses. Many small businesses, particularly those performing government contracts, operate on a tight profit margin, so when the contract takes longer to complete, or rented equipment goes unused or can not be returned, unanticipated costs are incurred.

Let me cite the situation faced by Dave Krueger, president of AS Horner Construction, Inc. out of Albuquerque, NM. Dave is currently doing work on a Federal contract at an Air Force facility pouring concrete parking aprons. Immediately after the attack, his company was locked out of the facility for nearly two weeks and currently have limited hours to access the construction site. Dave estimates that this will result in cost increases of at least 10 to 15 percent, meaning he will take a loss on this contract.

Such situations cannot go unresolved. Small businesses are far too important, not just to our national economy, but to our national defense as well. Small business are a vital component of our national supply chain and essential to our national security interests.

This act was designed to mitigate bankruptcies, business closures, and layoffs related to the attacks. It also addresses the shrinking availability of credit and venture capital to small businesses through traditional lenders and investors, which has been exacerbated by the attacks. It includes changes in SBA's main non-disaster lending and venture capital programs in order to encourage borrowing and lending for new and expanding small businesses that might otherwise be reluctant to start or expand their businesses in the post-September 11 economy.

This legislation addresses three categories of small businesses:

One, small businesses directly affected because they are physically located in or near the buildings or areas attacked or closed for security measures, or are located in national airports. For example, a brokerage firm located in one of the World Trade Center Towers or an independent souvenir shop in the Reagan National Airport or the Miami International Airport. These businesses will be eligible for SBA's economic injury disaster loans, under more favorable terms, such as deferring the payments and forgiving the interest on these loans for two years, as well as increasing the loan caps and extending the deadline for applying for disaster loans to one year.

Small businesses not physically damaged or destroyed or in the vicinity of such businesses, but directly or indirectly affected because they are a supplier, service provider or complementary industry, especially the financial, hospitality, travel and tour industries. For example, a tour company in Hawaii or Rhode Island that has had hardly

any sales since the attacks because the average occupancy at its client hotels has dropped to 10 percent. These businesses are eligible for 7(a) loans, tailored to be easier to qualify for, to have lower interest rates, and to offer the option of deferring the principal payments for 1 year.

Small businesses in need of capital and investment financing, procurement assistance or management counseling in the economic aftermath of September 11. These businesses will have access to a variety of SBA's programs with incentive features, such as waiving the borrower's fee for a regular 7(a) loan for working capital or a 504 loan to buy equipment to increase productivity and beat the competition, or cut energy consumption and utility costs.

Mr. President, history has taught us that, during an economic down turn, lenders become increasingly reluctant to lend to small businesses. From our contact with lenders, we know loan committees decided days after the attacks to clamp down on loans to small businesses. And to make matters worse, lenders are already calling in existing loans. One example is a woman who owns a manufacturing businesses in Quincy, MA, whose bank called her loan and credit line. She's never missed a payment. Where is she going to come up with more than \$1 million? If her business closes, 40 jobs are lost, her contribution to the tax base is lost, and she's out of a job. It is critical to keep credit available to small businesses.

In addition to getting credit into the hands of small businesses, it is important to make sure they have access to counseling and training to run their businesses better, deal with the volatile market, and adjust to the changing times. Providing access to such counseling helps protect our investment in their loans because a stronger business is more likely to repay its loans. This legislation increases funding for the Small Business Development Centers, with an emphasis on New York and Virginia, as well as the volunteer Service Corps of Retired Executives, the Women's Business Centers, and SBA's microlending experts.

To help alleviate the unfortunate situations related to delayed Federal contracts, my legislation includes provisions to help expedite the claims of small business contractors applying for equitable adjustments to their contracts. The goal of this provision, simply, is to help offset the unanticipated and temporary costs of the increased security at Federal Government facilities. Additionally, it establishes a \$100 million fund under the control of the Small Business Administration to ensure that no contracting agency has to pay out of previously allocated funds the increased costs of existing contracts because of the security measures implemented as a result of the September 11th attacks.

I have confidence in our economy. The attacks may have arrested one of

our financial centers momentarily and robbed families and businesses of thousands of brilliant and hard-working folks who helped make our country prosperous, but our economic foundation is strong. We have world-class universities, we have a great work force made up of people with an amazing work ethic, our banks are strong, we have a reliable infrastructure for communications, energy and transport, and the dollar is holding up.

Now is not the time to pull back on investing in our economy, particularly in small-business development and growth. The SBA is doing a good job with the tools it has, but we need to improve those tools and give SBA more resources to deal with the scope of the problems faced by small businesses in the aftermath of September 11th. This legislation does just that. I urge my colleagues to support this bill, and the Senate to act quickly so that this emergency help is available very soon.

Mr. President, Senator AKAKA could not be present to voice his support for this bill and concern for the small businesses in Hawaii, so I ask unanimous consent that his statement be included in the RECORD. I also ask unanimous consent that a letter of support and the bill be printed in the RECORD.

In addition to this legislation that I am introducing today, there are a series of tax items that we believe fall into the category of stimulus, but they are not within the jurisdiction of our committee. As a member of the Finance Committee, I am going to encourage our committee to embrace these. One would be an increase in expensing, so that you can deduct an expense up to \$24,000 of the cost of qualifying property; and we would encourage that increase and expensing to encourage greater business investment, and we want that expensing allowance increased to a higher amount.

In addition, I have several times introduced—and I will reintroduce—a zero capital gains tax for those companies with capitalization up to \$200 million or \$300 million in new capitalization in the critical technologies or entrepreneurial businesses, where we would most respond to the creation of the high-value-added jobs or some of the technology fixes that will exist for security, for instance, or for national defense and other things that we need to do with respect to the battle against terrorism.

Third would be changes in depreciation. There are a number of proposals for changes to depreciation rules. We would support some, such as changing the depreciation schedule for computer hardware from 5 years to 3, software from 3 years to 2, or several other proposals.

Mr. President, there are a number of these tax proposals which the Small Business Committee will refer to the Finance Committee and to our colleagues with hopes that we can embrace them as a component of the stimulus package because they will have a

stimulus effect and a long-term beneficial effect on our economy.

Small businesses, as we all know, small businesses represent 99 percent of all employers, provide 75 percent of all net new jobs and contribute significantly to our economy. Every single company on the stock exchange today began as a small business. Some of them, such as Callaway Golf, Federal Express, Intel, and many others, got help through the Small Business Administration's loans or venture capital.

The Federal Government helped provide the impetus for those companies. We have many times over repaid the Federal Treasury the entire budget of the Small Business Administration and its lending programs through the taxes paid by the success stories of our investments.

I encourage my colleagues to embrace this emergency relief act, the American Small Business Emergency Relief and Recovery Act, and these emergency tax measures, as a way of encouraging further business growth and development.

Mr. President, I ask unanimous consent to print in the RECORD a letter from the National Community Reinvestment Corporation.

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

NATIONAL COMMUNITY  
REINVESTMENT COALITION,  
Washington, DC, October 2, 2001.

Hon. JOHN F. KERRY,  
Chairman, Committee on Small Business and  
Entrepreneurship, Washington, DC.

DEAR CHAIRMAN KERRY: The National Community Reinvestment Coalition (NCRC) strongly supports the American Small Business Emergency Relief and Recovery Act of 2001 as essential to the efforts of lending institutions, community organizations and local public agencies to help small businesses directly and indirectly impacted by the September 11th terrorist attacks. NCRC and our 800+ member organizations community groups and local public agencies around the country also commend your leadership on this legislative measure and pledge to promote this bill via our membership and through our policy initiatives.

In today's new enterprise marketplace, entrepreneurs have surged into small businesses ownership in record numbers. Their impact on U.S. growth and productivity is evident.

America's 25.5 million small businesses represent more than 99 percent of our nation's employers. They employ 51 percent of the private sector workforce and create over 80 percent of all the net new jobs in the United States.

In 2000, there were 612,400 new employer firms, an increase of 4.3 percent from 1999. Small business bankruptcies decreased by 14.8 percent between 1999 and 2000, to the lowest level in over 20 years. And the business failure index also decreased by 1.7 percent since, 1999.

Small businesses' income increased 7.2 percent, rising from \$95.2 billion in 1998 to \$638.2 billion in 1999. They represent 96 percent of all exporters of goods and generate more than half of the nation's gross domestic product.

Today, however, hardship and economic adversity have stricken the small business marketplace as a result of the September

11th attacks. NCRC commends the Small Business Administration (SBA) for acting quickly to help entrepreneurs deal with the aftermath of the attacks. Unfortunately, SBA's authority is limited under the Disaster Loan Program guidelines. SBA may only provide assistance in declared disaster areas' contiguous communities.

What will happen to the gift basket service whose sole distribution source was a florist in one of the World Trade Center towers? What will happen to the small catering business that has had to lay off staff as a result of banquet cancellations and no new bookings? And what will happen to the independent souvenir store in Ronald Reagan International Airport and other airports, given current lack of traffic in the terminals?

Your American Small Business Emergency Relief and Recovery Act of 2001 is key to the recovery efforts. If enacted, it will help small business entrepreneurs drive the American economy. NCRC has long championed the role of small businesses in growing and expanding our economy. Since our inception in 1990, we have led the charge to bring equal access to credit and capital to all emerging market sectors. One highly successful capacity-building initiative is the SBA/NCRC partnership on the CommunityExpress program.

CommunityExpress is part of SBA's initiative to spur economic development and job creation in under-served communities. The program combines SBA loan guarantees, targeted lending by select banks, and technical assistance from local NCRC members. The key to CommunityExpress is that it provides small business entrepreneurs with technical and managerial assistance before and after the loan is made.

The SBA/NCRC cooperative effort has led to the rapid growth of the loan program from a level of just over \$2 million in Fall 1999 to over \$42 million in loans as of September 2001. Of the 439 loans to date, women and minority entrepreneurs have been the greatest beneficiaries, as nearly 56 percent of the loans have gone to women and 52 percent of loans have gone to minorities. The average size of a CommunityExpress loan is \$96,527 with 61 loans between \$200,000 and \$250,000.

Your leadership has paved the way to support small businesses in the wake of the September 11th tragedy. NCRC pledges to continue support your efforts and to help entrepreneurs in low- and moderate-income areas through CommunityExpress and other initiatives.

We thank you for your continuing efforts. We look forward to working with you and your outstanding staff during the course of the 107th Congress—and beyond.

Yours sincerely,

JOHN TAYLOR,  
President and CEO.

Mr. BOND. Mr. President, I rise today to express my strong support for the American Small Business Emergency Relief and Recovery Act of 2001. I thank Senator JOHN KERRY for introducing this bill, and I am pleased to be its principal cosponsor. In this period immediately following the September 11 terrorist attacks on the World Trade Center and the Pentagon, I urge all my colleagues to review this bill closely. Its prompt passage will provide important tools to small businesses that were directly and indirectly harmed by the terrorist attacks.

As the ranking member of the Committee on Small Business and Entrepreneurship, I receive on a daily basis

pleas for help from small business in Missouri and across the Nation: small restaurants who have lost much of their business due to the fall off in business travel; local flight schools that have been grounded as a result of the recent terrorist attacks; and Main Street retailers who are struggling to survive in the slowing economy. Clearly, we in Congress must act and act soon to help our Nation's small businesses.

In response to these urgent calls for help, yesterday, I introduced the Small Business Leads to Economic Recovery Act of 2001 (S. 1493), which is designed to provide effective economic stimulus in three distinct but complementary ways: increasing access to capital for the Nation's small enterprises; providing tax relief and investment incentives for our small firms and the self-employed; and directing one of the Nation's largest consumers, the Federal Government, to shop with small business in America.

The Kerry-Bond bill goes to the heart of the problem by addressing the access to capital barriers now confronting small businesses. This bill is a bipartisan collaboration between Senator KERRY and me and our staffs of the Committee on Small Business and Entrepreneurship. We have worked together to devise one-time modifications to the SBA Disaster Relief, 7(a) and 504 Loan Programs because the traditional approach to disaster relief will not address the critical needs of thousands of small businesses located at or around the World Trade Center, the Pentagon and in strategic locations throughout the United States.

In New York City, it may be a year or more before many of the small businesses destroyed or shut down by the terrorist attacks can reopen their doors for business. Small firms near the Pentagon, such as those at the Reagan National Airport or Crystal City, Virginia, are also shut down or barely operating. And there are small businesses throughout the United States that have been shut down for national security concerns. For example, General Aviation aircraft remain grounded, closing all flight schools and other small businesses dependent on single engine aircraft.

Regular small business disaster loans fall short of providing effective disaster relief to help these small businesses. Therefore, our bill will allow small businesses to defer for up to two years repayment of principal and interest on their SBA disaster relief loans. Interest that would otherwise accrue during the deferment period would be forgiven. The thrust of this essential new ingredient is to allow the small businesses to get back on their feet without jeopardizing their credit or driving them into bankruptcy.

Small enterprises located in the presidentially declared disaster areas surrounding the World Trade Center and the Pentagon are not the only businesses experiencing extreme hardship as a direct result of the terrorist

attacks of September 11. Nationwide, thousands of small businesses are unable to conduct business or are operating at a bare-minimum level. Tens of thousands of jobs are at risk of being lost as small businesses weather the fall out from the September 11 attacks.

The Kerry-Bond bill provides a special financial tool to assist small businesses as they deal with these significant business disruptions. Small businesses in need of working capital would be able to obtain SBA-guaranteed "Emergency Relief Loans" from their banks to help them during this period. Fees normally paid by the borrower to the SBA would be eliminated, and the SBA would guarantee 95 percent of the loan. A key feature of the bill is the authorization for banks to defer repayment of principal for up to one year.

My colleagues and I have been hearing time and time again during the last three weeks since the terrorist attacks that small businesses are experiencing significant hardship. The downturn in business activity, however, was clearly underway prior to September 11. The downturn was further exacerbated by the terrorist attacks.

Historically, when our economy slows or turns into a recession, the strength of the small business sector helps to right our economic ship, with small businesses leading the nation to economic recovery. Today, small businesses employ 58 percent of the U.S. workforce and create 75 percent of the net new jobs. Clearly, we cannot afford to ignore America's small businesses as we consider measures to stimulate our economy.

The Kerry-Bond bill would provide for changes in the SBA 7(a) Guaranteed Business Loan Program and the 504 Certified Development Company Loan Program to stimulate lending to small businesses that are most likely to grow and add new employees. These enhancements to the SBA's 7(a) and 504 loan programs are to extend for one year. They are designed to make the program more affordable during the period when the economy is weak and banks have tightened their underwriting requirements for small business loans.

Specifically, when the economy is slowing, it is normal for banks to raise the bar for obtaining commercial loans. However, making it harder for small businesses to survive is the wrong reaction to a slowing economy. By making these one-year adjustments to the 7(a) and 504 loans to make them more affordable to borrowers and lenders, we will be working against history's rules governing a slowing economy, thereby adding a stimulus for small businesses. Essentially, we will be providing a counter-cyclical action in the face of a slow economy with the express purpose of accelerating the recovery.

The SBA has a very effective infrastructure for providing management assistance to small businesses located nationwide. The Small Business Development

Center (SBDC), SCORE, Women's Business Center and Microloan programs provide much needed counseling to small businesses that are struggling or facing problems in their start-up phase. With the U.S. economy under unusual stress, many segments of the small business community are today unable to cope with daily management issues.

The Kerry-Bond bill would authorize expansions in these programs so that the SBDCs, the SCORE chapters and the Women's Business Centers are positioned to address the needs of a large influx of small businesses looking for help. Our bill would create special authorizations for each program to provide assistance tailored to the needs of small businesses following the September 11 terrorist attacks. In addition, the bill would increase the authorization levels by the following amounts: SBDC program \$25 million, SCORE \$2 million, Women's Business Centers, \$2 million, and Microloan technical assistance, \$5 million.

In order to measure the impact of the terrorist attacks on small businesses and the effectiveness of the Federal response to provide assistance, the Kerry-Bond bill directs the Office of Advocacy at the SBA to submit annual studies to the Congress for the next five years outlining its findings. Specifically, each annual report should include information and data on bankruptcies and business failures, job losses, and the impact of the assistance to the adversely affected small businesses. \$500,000 annually is authorized for the Office of Advocacy to carry out this important five year project.

The American Small Business Emergency Relief and Recovery Act of 2001 is important legislation that is needed to help the many struggling small businesses. I am pleased to join Senator KERRY and my colleagues who are co-sponsoring the bill in urging an early debate on this bill. Swift passage will be very helpful to the long-term survival of many of America's small businesses.

MR. BINGAMAN. Mr. President, I rise today in extremely strong support of S. 1499, the American Small Business Emergency Relief and Protection Act, and I am pleased to be an original co-sponsor of the legislation. In the aftermath of the attacks on New York City and the Pentagon on September 11, we were right I believe, to focus our attention on the loss of human life and the enormous tragedy that had affected our entire Nation. From my perspective, there would have been something callous about calculating economic impact when there was so much visible pain and suffering going on around us.

But as time has passed, there is an economic reality that must be addressed in a coherent and effective fashion. The increasingly negative economic reports we face cannot be ignored as they have immediate and tangible effects on the people and communities of our country. Over the last

week or so the administration, along with key Members of Congress, have discussed the creation of an economic stimulus plan that is designed to pull our country and our economy back on track and back to where it belongs. Although this plan has yet to be solidified, it will provide Americans with a stable and secure foundation upon which public confidence can grow again, economic growth can expand again, and business productivity can increase again.

The bipartisan legislation that was introduced today by Senator KERRY will complement this economic stimulus package by giving substantial assistance to the small businesses that were either directly affected by the events on September 11 or subsequently affected by the ripple that has spread across the United States. Senator KERRY has very wisely taken an approach that looks not only at the small businesses that were in the immediate areas of the attack and thus suffered as a result of the damage or closures, but also those businesses—supplier firms, contractors, and so on—that have suffered indirectly as a result of the initial destruction. These businesses will now have the opportunity to obtain a number of benefits not previously available under current legislation. In brief, the legislation: expands and facilitates access for small business to the SBA Disaster Loan Program; offers incentives that allows business to use the 7(a) and 504 Loan Programs; provides additional funds to the SCORE and SBDC Programs, and; increases outreach done by SBA to small businesses in need of management consulting.

Let me provide some context to this effort. From where I sit, no sector of the economy is as vital, dynamic, and creative as small business. If you read the paper or listen to the news, you know that there has been an entrepreneurial explosion in the United States over the last decade, and that this explosion has significantly impacted every region in the country. According to the latest estimates, there are at least 24 million full time small businesses in the United States at this time, employing millions of Americans. Make no mistake about it, these businesses drive the U.S. economy, as they are the ones that fire innovation, provide jobs, and create wealth for the country as a whole. When we talk about the knowledge economy, we are talking about small business. When we talk about energy and risk-taking, we are talking about small business. When we talk about the "creative destruction" that enhances our over-all competitiveness and pushes our country forward, we are talking about small business.

Small business represents the best of the United States, and from where I sit we should always make sure it has everything it needs to make a go of it. In my State of New Mexico, there are nearly 40,000 small businesses, over half

owned by women and minorities. These entities employ nearly 60 percent of the individuals that are now working in my state and generate billions of dollars in revenue. New Mexico depends on small business for its continued economic welfare, and I am committed to helping them succeed in good times and in bad.

It is never easy to start a small business or earn a profit, but it has gotten significantly harder recently. Many small businesses were already teetering on the brink as a result of the economic downturn, but in number of cases, conditions have become unmanageable as a result of the September 11 events and the recession. It is time to recognize that these folks need some help. This legislation does that. It shows that the Congress cares about what has happened and will do everything in its power to put things back on track again. It accepts the fact that these folks are not experiencing a normal business cycle downturn, and that they can't wait for the next upturn for things to get better. They need some assistance, and they need it now.

As far as I am concerned, it would be a good fit to have this specific legislation in the economic stimulus package being put together at this time. However, given how far down the road the negotiations over that package are, I doubt if that is possible. If this is indeed the case, I think it is imperative absolutely imperative, that this legislation be passed by both the Senate and the House, and then signed by the President as soon as possible. If we are looking for stability and confidence to be re-established in the United States, small business is a good place to start. It is time to act, and I urge my colleagues on both sides of the aisle to support this bill.

Mr. AKAKA. Mr. President, I am pleased to join my colleagues from Massachusetts, Mr. KERRY, and Missouri, Mr. BOND, as an original cosponsor of the American Small Business Emergency Relief and Protection Act of 2001.

As our Nation grieves for the victims and honors the rescuers, the American people stand with President Bush and support his assurance that our response to this terrible event and our pursuit of justice will be "calm and resolute." The challenge and responsibility we all share in the aftermath of September 11 is to return to work, carry on with business, bolster our economy, and restore public confidence in the freedom of movement which we enjoy.

We have already begun to repair the damage, enhance airline security, strengthen our national security, and fight terrorism. We have acted to support the airline industry in this difficult time. Now, legislation is needed to support small businesses as they face increasing challenges.

It has been twenty-three days since the disaster and millions of workers and small businesses nationwide in a variety of industries have felt the eco-

nomic aftershock of these events. Hawaii's hospitality industry has been hit particularly hard by the significant decrease in business and leisure travelers who are staying close to home. Airlines are having to adjust to the reduced number of travelers, while hotels are dealing with low occupancy rates due to the cancellation or postponement of planned trips to Hawaii. Since the airports reopened, domestic visitor arrivals in Hawaii have decreased by 31 percent compared to the same time period last year. Comparing international arrivals during the period from September 15-25 for 2000 and 2001, reveals a 65 percent decrease in visitors. Restaurants, hospitality services, shopping centers, and other tourism-related businesses are also being affected by the lack of visitors. The Hawaii Department of Labor and Industrial Relations reports that unemployment claims for the week of September 17 were double the weekly average. It is estimated that 80 percent of these claims are tourism related.

Hawaii is not alone in experiencing a downturn in tourist and business travel. Popular visitor destinations across the country, including Washington, DC, Florida, and Las Vegas have also endured sharp drops in visitors. The losses to airlines, hotels, restaurants, and other small businesses are already in the billions of dollars. The economic repercussions extend to all fifty states, as the economic decline impacts the lives of millions of people.

While I am confident that Hawaii's and our Nation's tourism industry can withstand this downturn in the economy, action is necessary to help preserve existing jobs and support the economy during this difficult time. Further job reductions will have significant spillover effects on the economy.

The legislation is aimed at alleviating the economic strain on small businesses by providing crucial access to credit. By expanding the application eligibility of the Small Business Administration's Disaster Loan programs to event-based instead of location-based criteria, many more struggling companies in all 50 states will be able to obtain the assistance they need. For example, small companies which provide hospitality or travel services would be eligible. Many others in a wide range of industries would be permitted to apply for assistance. The measure would also create incentives for small businesses to utilize the non-disaster relief loan programs. The incentives would encourage wary individuals and companies to borrow and lend to establish and expand small businesses in the current economic environment.

I thank my colleagues from Massachusetts and Missouri for introducing this legislation and ask my colleagues to join in supporting this essential measure to assist small businesses in the aftermath of the heinous attacks of September 11.

By Mr. KYL (for himself and Mr. MILLER):

S. 1500. A bill to amend the Internal Revenue Code of 1986 to provide tax and other incentives to maintain a vibrant travel and tourism industry, to keep working people working, and to stimulate economic growth, and for other purposes; to the Committee on Finance.

Mr. KYL. Mr. President, today I rise to introduce critical legislation that will help restore confidence in our country's ailing travel and tourism industry as well as serve as an immediate stimulus to our economy in general.

As recent economic data have confirmed, our economy was ailing before the terrorist attacks on Tuesday, September, 11, but few were talking about emergency measures to stimulate it. What is different after September 11 is the downward spiral of the economy, led by the travel industry.

Proposals for stimulating the economy have centered on traditional arguments as to whether we should focus more on stimulating business investment, consumer demand, or infrastructure. Eager for a bipartisan approach, members of Congress and President Bush appear agreeable to splitting the difference and doing a little of each. To me, that's a political solution and it ignores the emergency created in the aftermath of September 11.

I believe that we need to rethink what has happened to our economy to arrive at the stimulus legislation that attacks the major problem, and, therefore, will do the most overall good.

Before September 11, our economy was ailing for precisely the reasons Federal Reserve Chairman Alan Greenspan articulated, a lack of business investment. The terrorist attacks have made the general situation worse and caused an absolute emergency in certain sectors of the economy. Although I certainly agree that Congress should stimulate business investment and shore up consumer expectations, for example, by making our recent tax law permanent, cutting capital gains taxes, eliminating corporate AMT and accelerating our outdated cost recovery periods, I contend that our first focus should be directly on the sector hardest hit by these events.

To illustrate my point, an analogy is useful. Our economy had a bad case of the flu before September 11. Reducing interest rates, providing tax relief, and cutting regulatory burdens were all part of the antibiotic medicine needed to get the economy healthy again. During the economy's rehabilitation period, however, it sustained a major trauma. Under these circumstances, what should be a first priority, another dose of flu medication, or treatment applied directly to the gaping wound?

I believe that we must focus an emergency economic stimulus on the sector that has been most harmed: our travel industry. If we are to prevent thousands of bankruptcies, hundreds of thousands of lost jobs, as well as numerous indirect consequences to the

rest of the economy, it is essential that we provide some immediate help to the travel industry.

Accordingly, I am introducing legislation that seeks to treat this emergency economic situation or wound before it spreads an infection throughout the entire economy. Elements of my legislation include: Providing a temporary \$500 tax credit per person (\$1,000 for a couple filing jointly) for personal travel expenses for travel originating in and within the United States. This will help encourage Americans to resume their normal travel habits. Unlike general rebate checks to taxpayers, a tax credit conditioned on travel expenses ensures that the money is spent on a specific activity, in this case an activity that will generate positive economic ripples throughout the entire American economy. It will also help create confidence and encourage Americans to get back on airplanes.

Since business travel expenses are already deductible, temporarily restoring full deductibility for all business entertainment expenses, including meals, that are now subject to a 50 percent limitation, would help bring back the backbone of the travel industry, the business traveler.

Finally, in order to provide tax relief to those travel-related businesses most hurt by the terrorist attacks, Congress should allow these companies to "carry back" their losses incurred after September 11, for a temporary period of three additional years, a total, temporary, "carry back" period of five years. This will allow companies that have been profitable until September 11, but then lost money in excess of the past two years' amount of profit, to offset previous years' profit. Without this relief, many companies will go bankrupt, solely due to the terrorist attacks.

To be quick and temporary, the credit should be available for expenses incurred before December 31, 2001. The travel could occur later.

This legislation meets the criteria set forth by President Bush and the chairman of the Finance Committee. By definition, the relief would be temporary. The revenue loss attributable to this legislation for 2001 should occur no later than 2002 and so there would not be a long-term, negative drag on our federal budget. In fact, I believe that it would help ensure a positive, long-term budgetary position by getting America moving and doing business again. As for the need to stimulate consumer spending, providing consumers with incentives to travel is clearly a demand-driven idea. I also contend that it will help stem the retrenchment in business investment that the economy is experiencing in the travel industry and many related industries. Finally, travel is not a partisan issue, it is one of the most bipartisan of all issues.

As Secretary O' Neill said before the Finance Committee on October 3, "The

medicine has to work and be worth the cost." Without airline travel, collateral consequences to related industries will be substantial. Of all the competing proposals I can think of, none more directly affects the major cause of the problem in our economy.

So there it is. Our economy has sustained a specific trauma. We need a quick and focused response to this emergency condition. The "Travel America Now Act" provides the right medicine for the most acute problem. I urge my colleagues to join me and support this legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1500

*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 "Travel America Now Act of 2001".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Prior to September 11, 2001, more than 19,000,000 Americans were employed in travel and travel-related jobs, with an estimated annual payroll of \$171,500,000,000.

(2) In recent years, the travel and tourism industry has grown to be the third largest industry in the United States as measured by retail sales, with over \$582,000,000,000 in expenditures, generating over \$99,600,000,000 in Federal, State, and local tax revenues in 2000.

(3) In 2000, the travel and tourism industry created a \$14,000,000,000 balance of trade surplus for the United States.

(4) The travel and tourism industry and all levels of government are working together to ensure that, following the horrific terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001, travel is safe and secure, and that confidence among travelers is maintained.

(5) Urgent, short-term measures are necessary to keep working people working and to generate cash flow to assist the travel and tourism industry in its ongoing efforts to retain its economic footing.

(6) Increased consumer spending on travel and tourism is essential to revitalizing the United States economy.

(7) The American public should be encouraged to travel for personal, as well as business, reasons as a means of keeping working people working and generating cash flow that can help stimulate a rebound in the Nation's economy.

#### SEC. 3. PERSONAL TRAVEL CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

##### "SEC. 25C. PERSONAL TRAVEL CREDIT.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified personal travel expenses which are paid or incurred by the taxpayer on or after the date of the enactment of this section and before January 1, 2002.

"(b) MAXIMUM CREDIT.—The credit allowed to a taxpayer under subsection (a) for any taxable year shall not exceed \$500 (\$1,000, in the case of a joint return).

"(c) QUALIFIED PERSONAL TRAVEL EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified personal travel expenses' means reasonable expenses in connection with a qualifying personal trip for—

"(A) travel by aircraft, rail, watercraft, or motor vehicle, and

"(B) lodging while away from home at any commercial lodging facility.

Such term does not include expenses for meals, entertainment, amusement, or recreation.

"(2) QUALIFYING PERSONAL TRIP.—

"(A) IN GENERAL.—The term 'qualifying personal trip' means travel within the United States—

"(i) the farthest destination of which is at least 100 miles from the taxpayer's residence,

"(ii) involves an overnight stay at a commercial lodging facility and

"(iii) which is taken on or after the date of the enactment of this section.

"(B) ONLY PERSONAL TRAVEL INCLUDED.—Such term shall not include travel if, without regard to this section, any expenses in connection with such travel are deductible in connection with a trade or business or activity for the production of income.

"(3) COMMERCIAL LODGING FACILITY.—The term 'commercial lodging facility' includes any hotel, motel, resort, rooming house, or campground.

"(d) SPECIAL RULES.—

"(1) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(2) EXPENSES MUST BE SUBSTANTIATED.—No credit shall be allowed by subsection (a) unless the taxpayer substantiates by adequate records or by sufficient evidence corroborating the taxpayer's own statement the amount of the expenses described in subsection (c)(1).

"(e) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any expense for which credit is allowed under this section."

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting before the item relating to section 26 the following new item:

"Sec. 25C. Personal travel credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

#### SEC. 4. TEMPORARY INCREASE IN DEDUCTION FOR BUSINESS MEALS AND ENTERTAINMENT.

(a) IN GENERAL.—Subsection (n) of section 274 of the Internal Revenue Code of 1986 (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

"(4) TEMPORARY INCREASE IN LIMITATION.—With respect to any expense or item paid or incurred on or after the date of the enactment of this paragraph and before January 1, 2002, paragraph (1) shall be applied by substituting '100 percent' for '50 percent'."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

#### SEC. 5. NET OPERATING LOSS CARRYBACK FOR TRAVEL AND TOURISM INDUSTRY.

(a) IN GENERAL.—Paragraph (1) of section 172(b) of the Internal Revenue Code of 1986



(relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

“(H) TRAVEL AND TOURISM INDUSTRY LOSSES.—In the case of a taxpayer which has a travel or tourism loss (as defined in subsection (j)) for a taxable year that includes any portion of the period beginning on or after September 12, 2001, and ending before January 1, 2002, such travel or tourism loss shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss.”

(b) SPECIAL RULES FOR TRAVEL AND TOURISM INDUSTRY LOSSES.—Section 172 of the Internal Revenue Code of 1986 (relating to net operating loss deduction) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) RULES RELATING TO TRAVEL AND TOURISM INDUSTRY LOSSES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘travel or tourism loss’ means the lesser of—

“(A) the amount which would be the net operating loss for the taxable year if only income and deductions attributable to the travel or tourism businesses are taken into account, or

“(B) the amount of the net operating loss for such taxable year.

“(2) TRAVEL OR TOURISM BUSINESS.—The term ‘travel or tourism business’ includes the active conduct of a trade or business directly related to travel or tourism, including—

“(A) the provision of commercial transportation (including rentals) or lodging,

“(B) the operation of airports or other transportation facilities or the provision of services or the sale of merchandise within such facilities,

“(C) the provision of services as a travel agent,

“(D) the operation of convention, trade show, or entertainment facilities, and

“(E) the provision of other services as specified by the Secretary.

“(3) COORDINATION WITH SUBSECTION (b)(2).—For purposes of applying subsection (b)(2), a travel or tourism loss for any taxable year shall be treated in a manner similar to the manner in which a specified liability loss is treated.

“(4) ELECTION.—Any taxpayer entitled to a 5-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.

“(5) RELATED TAXPAYERS.—Under regulations prescribed by the Secretary and at the election of a taxpayer entitled to a 5-year carryback under subsection (b)(1)(H) with respect to a travel or tourism loss, such loss may be credited against the taxable income earned during the 5-year carryback period by any member of a controlled group of corporations (as defined in section 1563(a)) of which the taxpayer is a component or additional member within the meaning of section 1563(b).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending before, on, or after the date of the enactment of this Act.

By Mr. DURBIN (for himself, Mr. TORRICELLI, Ms. MIKULSKI, and Mrs. CLINTON):

S. 1501. A bill to consolidate in a single independent agency in the Executive branch the responsibilities regarding food safety, labeling, and inspection currently divided among several Federal agencies; to the Committee on Government Affairs.

Mr. DURBIN. Mr. President, today I am introducing legislation that would replace the current fragmented Federal food safety system with a single agency responsible for all Federal food safety activities, the Safe Food Act of 2001. I am pleased to be joined by Senators TORRICELLI, MIKULSKI, and CLINTON in this important effort.

Make no mistake, our country has been blessed with one of the safest and most abundant food supplies in the world. However, we can do better. Foodborne illnesses and hazards are still a significant problem that cannot be passively dismissed.

The Centers for Disease Control and Prevention, CDC, estimate that as many as 76 million people will suffer from food poisoning this year. Of those individuals, approximately 325,000 will be hospitalized, and more than 5,000 will die. The Department of Health and Human Services, HHS, also predicts that foodborne illnesses and deaths will increase 10–15 percent over the next decade. With emerging pathogens, an aging population with a growing number of people at high risk for foodborne illnesses, broader distribution patterns, an increasing volume of food imports, and changing consumption patterns, this situation is not likely to improve without decisive action.

Foodborne illnesses are not only a safety concern for our citizens. They are also a costly problem for the Nation. In terms of medical costs and productivity losses, foodborne illness costs the Nation up to \$37 billion annually.

American consumers spend more than \$617 billion annually on food, of which about \$511 billion is spent on foods grown on U.S. farms. Our ability to ensure that our food supply is safe, and to react rapidly to potential threats to food safety is critical not only for public health, but also to the vitality of both domestic and rural economies and international trade.

Many of you have probably followed the stories about the European food crises, dioxin contamination of Belgian food, foot-and-mouth disease in the United Kingdom, and mad cow disease spreading to 13 European countries, as well as to Asia. While these diseases have thankfully not reached the United States, they do cause American consumers concern and remind us that food safety fears are global.

Today, food moves through a global marketplace. This was not the case in the early 1900s when the first Federal food safety agencies were created. Throughout this century, Congress responded by adding layer upon layer, agency upon agency, to answer the pressing food safety needs of the day. That’s how the Federal food safety system got to the point where it is today.

And again as we face increasing pressures on food safety, the Federal Government must respond. But we must respond not only to these pressures but also to the highly fragmented nature of the Federal food safety structure.

Fragmentation of our food safety system is a burden that must be changed to protect the public health from these increasing pressures. Currently, there are at least 12 different Federal agencies and 35 different laws governing food safety. With overlapping jurisdictions, Federal agencies often lack accountability on food safety-related issues.

The General Accounting Office, GAO, has also been unequivocal in its recommendation for consolidation of Federal food safety programs. Over the past two years, GAO has issued numerous reports on topics such as food recalls, food safety inspections, and the transport of animal feeds. Each of these reports highlight the current fragmentation and inconsistent organization of the various agencies involved in food safety oversight. In August 1999, GAO testified that a “single independent food safety agency administering a unified, risk-based food safety system is the preferred approach . . .” to food safety oversight. Also, in a May 25, 1994 report, GAO cites that its testimony in support of a unified, risk-based food safety system “is based on over 60 reports and studies issued over the last 25 years by GAO, agency Inspectors General, and others.” The Appendix to the 1994 GAO report lists 49 reports since 1977, 9 USDA Office of Inspector General reports since 1986, 1 HHS Office of Inspector General report in 1991, and 15 reports and studies by Congress, scientific organizations, and others since 1981.

The National Academy of Sciences, NAS, has also concluded that the current fragmented food safety system is less than adequate to meet America’s food safety needs. In August 1998, the NAS released a report recommending the establishment of a “unified and central framework” for managing Federal food safety programs. They instructed that the unified system should be “one that is headed by a single official and which has the responsibility and control of resources for all Federal food safety activities.”

I agree with the recommendations of both the GAO and the NAS. A single food safety agency is needed to replace the current, fragmented system. My proposed legislation would combine the functions of USDA’s Food Safety and Inspection Service, FDA’s Center for Food Safety and Applied Nutrition and the Center for Veterinary Medicine, the Department of Commerce’s Seafood Inspection Program, and the food safety functions of other Federal agencies. This agency would be funded with the combined budgets from these consolidated agencies.

Following the events of September 11, we are more keenly focused on how varied aspects of America’s homeland

security, including our Nation's food supply, may be vulnerable to attack. Our Federal food safety system must be able to prevent potential food hazards from reaching the public. A single food safety agency will help ensure that we have a cohesive process to address all ongoing and emerging threats to food safety.

With overlapping jurisdictions, Federal agencies many times lack accountability on food safety-related issues. There are simply too many cooks in the kitchen. A single agency would help focus our policy and improve enforcement of food safety and inspection laws.

Over 20 years ago, the Senate Committee on Governmental Affairs advised that consolidation is essential to avoid conflicts of interest and overlapping jurisdictions. This 1977 report stated, "While we support the recent efforts of FDA and USDA to improve coordination between the agencies, periodic meetings will not be enough to overcome [these] problems."

It's time to move forward. Let's stop discussing the need to consolidate and instead take steps to make consolidation happen. Let us create what only makes sense, a single food safety agency!

A single agency with uniform food safety standards and regulations based on food hazards would provide an easier framework for implementing U.S. standards in an international context. When our own agencies don't have uniform safety and inspection standards for all potentially hazardous foods, the establishment of uniform international standards will be next to impossible.

Research could be better coordinated within a single agency than among multiple programs. Currently, Federal funding for food safety research is spread over at least 20 Federal agencies, and coordination among those agencies is ad hoc at best.

New technologies to improve food safety could be approved more rapidly with one food safety agency. Currently, food safety technologies must go through multiple agencies for approval, often adding years of delay.

Food recalls are on the rise. In fact, at the end of August 2001, FSIS reported that there have been over fifty recalls of meat and poultry products throughout the Nation this year alone. Under these serious circumstances, it is important to move beyond short-term solutions to major food safety problems. A single food safety and inspection agency could more easily work toward long-term solutions to the frustrating and potentially life-threatening issue of food safety.

In this era of limited budgets, it is our responsibility to modernize and streamline the food safety system. The U.S. simply cannot afford to continue operating multiple systems. This is not about more regulation, a super agency, or increased bureaucracy. It is about common sense and more effective marshaling of our existing Federal resources.

Together, we can bring the various agencies together to eliminate the overlap and confusion that have, unfortunately, at times characterized our food safety efforts. We need action, not simply reaction. I encourage my colleagues to join me in this effort to consolidate the food safety and inspection functions of numerous agencies and offices into a single food safety agency.

By Mr. JEFFORDS (for himself, Mrs. LINCOLN, Mr. CHAFEE, Mr. BAYH, and Ms. SNOWE):

S. 1502. A bill to amend the internal Revenue Code of 1986 to allow a refundable tax credit for health insurance costs for COBRA continuation coverage, and for other purposes; to the Committee on Finance.

Mr. JEFFORD. Mr. President, as President Bush said yesterday, regarding the need for an economic stimulus package: "one person laid off is one person too many." I strongly agree. Today, I'm pleased to join with Senator LINCOLN and my other colleagues in introducing the COBRA Plus Act of 2001. This legislation will help those who've lost their jobs in the aftermath of the terrorist acts of September 11 keep health insurance coverage for themselves and their families as they seek new employment.

As we in Congress work with the administration to develop an economic stimulus package, it needs to reflect the three themes spelled out by Secretary O'Neill. The package must restore consumer confidence. For with the restoration of confidence, the American people will again begin buying our Nation's goods and services. We must also support increased business investment. Business investment is what creates new jobs and is the engine of our economy. And finally, and I think most importantly, we must help those individual Americans who lost their jobs as a consequence of the terrorist bombings of September 11.

COBRA provides an existing mechanism to allow these laid-off workers the opportunity to keep their health insurance while they seek new employment. Under COBRA, an employer with 20 or more employees must provide those employees and their families the option of continuing their coverage under the employer's group health insurance plan in the case of losing their job. The employer is not required to pay for this coverage; instead, the individual can be required to pay up to 102 percent of the premium.

For all of its strengths, COBRA has some significant deficiencies. While it allows those who've lost their job to keep their health insurance coverage, it requires them to pay the entire premium at a time when they have no income. The high cost of COBRA is the major reason cited for the fact that only 18 percent of eligible enrollees utilize their coverage option. The COBRA Plus Act of 2001 solves this problem. It provides a 50-percent subsidy for the individual's health insurance premium,

not to exceed a total of \$110 per month for single coverage and \$290 per month for family coverage. This subsidy would be a refundable tax credit, which means it is available regardless of one's tax liability, and the credit could be advanced directly on a monthly basis to the individual's employer or health insurance plan.

The credit would be available for a period not to exceed 9 months and the credit must be used to purchase COBRA coverage. The credit would be available for 2 years beginning January 1, 2002 and it would sunset on December 31, 2003. While the Joint Committee on Taxation has not released a cost estimate, rough informal estimates are that the legislation will cost between \$3.3 billion and \$5 billion per year and it would more than double the number of individuals utilizing COBRA at any one time from the current level of \$2.5 million to \$6 million.

Vermont's motto of "Freedom and Unity" captures the sense of individual responsibility and shared community that are the twin goals of the COBRA Plus Act of 2001. First, by giving unemployed workers access to additional financial resources, it will significantly increase the number of Americans who take advantage of COBRA's health insurance coverage option. And second, by relying on the tax code, the credit will go directly to individuals and eliminate the need to create a new Federal program.

In my home State of Vermont, as is the case across the country, these recent events have put the security of a well-paid job with health insurance coverage at risk. It is important that we here in Congress help to restore confidence in the fundamental strength of our Nation's economy. Americans should know that they will still have productive jobs with health insurance coverage for their families now and into the future. I believe that the enactment of this legislation will be an important strand in strengthening the fabric of our society as we move forward in addressing the terrible acts of September 11.

Mr. CHAFEE. Mr. President, I am pleased to join Senators JEFFORDS, LINCOLN, SNOWE, and BAYH today in introducing the COBRA Plus Act of 2001.

The COBRA Plus Act of 2001 will provide a tax credit to help offset the costs of COBRA health insurance for unemployed workers. This is particularly important due to the challenges that our economy faces and the number of individuals who have lost or will lose their jobs as a result of the terrorist attacks on September 11. Specifically, this bill will help unemployed individuals keep their health insurance coverage by subsidizing their COBRA premiums through an individual tax credit.

According to the Congressional Research Service, it is estimated that 4.7 million Americans are enrolled in

COBRA health plans at any given moment. With average annual COBRA insurance costing over \$6,000, many individuals opt not to participate and therefore join the ranks of the 39 million uninsured in this country. A recent survey indicated that less than 20 percent of those eligible for COBRA insurance actually took advantage of the insurance. Without a premium subsidy such as the one offered in this bill, COBRA insurance is cost-prohibitive. The goal of this legislation is to decrease the number of uninsured individuals by providing an incentive to use COBRA insurance. This legislation will hopefully increase the number of COBRA users to at least six million.

While I am deeply saddened by the events that led to the introduction of this bill, I am heartened that we are able to provide a way for individuals to retain their health insurance.

I commend Senator JEFFORDS for his leadership on this issue, and am hopeful that it will get signed into law in the near future to assist our nation's displaced workers.

By Mr. ROCKFELLER (for himself, Mr. DEWINE, Mr. LEVIN, Mr. CRAIG, and Mr. GRAHAM):

S. 1503. A bill to extend and amend the Promoting Safe and Stable Families Program under subpart 2 of part B of title IV of the Social Security Act, to provide the Secretary of Health and Human Services with new authority to support programs mentoring children of incarcerated parents to amend the Foster Care Independent Living Program under part E of title IV of the Social Security Act to provide for educational and training vouchers for youths aging out of foster care, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I am proud to join with Senators DEWINE, LANDRIEU, SNOWE, BREAUX, BOND, and LEVIN to introduce bipartisan legislation which includes President Bush's initiative to reauthorize and increase funding for the Promoting Safe and Stable Families Program. The President's initiative increases funding to help abused and neglected children by \$200 million. He knows this group of vulnerable children deserves our attention, even in this most challenging of times in American history. These children face their own form of terror in their own homes, at the hands of their own parents. It is a horrible circumstance that we know something about how to address—and address it we must.

Our legislation also includes the President's initiative to start a new program to provide mentoring services to the more than 2 million children whose parents are in prison. These children are at high-risk and they too, deserve our support.

This bill includes the President's initiative to provide \$5,000 in education vouchers to teens who age out of foster care so they have incentives to continue their education. This final program suggested by President Bush

means a great deal to me because in 1999, I worked closely with the late Senator John Chafee to develop a new program to help teenagers from the foster care system. Senator Chafee passed away that fall, but I was proud to work with a bipartisan group to enact the foster care legislation that meant so much to him. It is one important piece of Senator John Chafee's remarkable legacy of leadership for children and families.

Senator DEWINE and I added a small, but important provision to help adoption agencies, like Catholic Charities and others, finding permanent homes for children with special needs. On January 23, 2001, the U.S. Department of Health and Human Services issued a new policy announcement which changed current practice for children with special needs. We need a legislative clarification to ensure that children with special needs who are voluntarily relinquished to private, non-profit adoption agencies can still receive the adoption assistance they need and deserve.

In the Senate, there is a long, strong tradition of bipartisanship on child welfare issues. Over recent years we have made real progress. In 1993, working with Senator BOND and others we created a new program to invest in prevention and treatment. In 1997, another bipartisan group worked long and hard on the Adoption and Safe Families Act. This act significantly revised child welfare policy. It said for the first time in Federal law that a child's safety and health are paramount, and every child deserve a safe, permanent home. In this act, thanks to the leadership of Senator DEWINE we clarified "reasonable efforts" to focus more concern and attention on the needs of the child.

The Promoting Safe and Stable Families Act was part of that historic agreement, and it must be reauthorized this year or we will lose the funding that exists in the budget baseline, and, more importantly, children and families will lose needed services and support. The Safe and Stable Families Program provides a range of services including promoting adoptions and post-adoption support, family support to avoid placements and neglect, family preservation, and time-limited reunification for children who return home from foster care. Each is a necessary piece. This program is one of the major funding resources for adoption.

Almost daily and far too often we read tragic stories about abuse and neglect in our newspapers. Such reports are disturbing and disheartening. But the untold story is the progress that is being made thanks to new policy and new investments which is why I believe so strongly that we must continue those investments and progress by enacting the President's initiative.

In 1996, 28,000 children were adopted from the foster care system. In 2000, nearly 50,000 were adopted from foster care.

I am proud to report that my State of West Virginia is one of many States that is increasing the number of adop-

tions. But almost 100,000 children nationwide are still waiting for adoption which is why the increase in Safe and Stable Families is crucial. With the \$200 million increase included in our legislation, we will make the commitment to invest a minimum of \$100 million in adoption promotion and the adoption support.

Victimization rates are slowly declining. In 1993, the children victimization rate was 15.3 per 1,000 children. In 1999, the child victimization rate was 11.8 per 1,000 children. The 1999 rate is the lowest rate since we started collecting this data in 1990.

In some States within a year or two, there will be more children receiving adoption assistance and subsidized guardianship payments than in the foster care system, and that is a major shift and historic progress towards the fundamental goal of permanency for vulnerable children.

These are encouraging trends, but there are still 581,000 children in foster care and about one million substantiated cases of abuse or neglect each year. We are making progress, but we should and must do more for the most vulnerable children in our country.

Since September 11, 2001, our world has changed. We face new challenges for recovery, national security and combating terrorism. We must focus on this immediate threat, but we also must remember those vulnerable children who are at risk of abuse and neglect in their own homes. The Senate has a long tradition of working hard, and doing the right thing, usually as one of the last orders of business to help such children. I urge my colleagues to join me in supporting President Bush's initiative. Delivering on this promise truly will help ensure that no children is left behind as the President eloquently insisted in his campaign and in his State of the Union address.

Remembering our commitment to vulnerable children is one clear way to emphasize how our country is unique and strong. In the midst of challenge and terror, we should remember our youngest victims, too. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1503

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

#### SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Promoting Safe and Stable Families Amendments Act of 2001".

(b) REFERENCES IN ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; references in act; table of contents.

# TITLE I—PROMOTING SAFE AND STABLE FAMILIES

## Subtitle A—Grants to States for Promoting Safe and Stable Families

Sec. 101. Findings and purpose.

Sec. 102. Definition of family support services.

Sec. 103. Reallotments.

Sec. 104. Payments to States.

Sec. 105. Evaluations.

Sec. 106. Authorization of appropriations; reservation of certain amounts.

Sec. 107. State court improvements.

## Subtitle B—Mentoring Children of Incarcerated Parents

Sec. 121. Grants for programs for mentoring children of incarcerated parents.

# TITLE II—FOSTER CARE, ADOPTION ASSISTANCE, AND INDEPENDENT LIVING

Sec. 201. Elimination of opt-out provision for State requirement to conduct criminal background check on prospective foster or adoptive parents.

Sec. 202. Eligibility for adoption assistance payment of special needs children voluntarily relinquished to private nonprofit agencies.

Sec. 203. Educational and training vouchers for youths aging out of foster care.

## TITLE III—EFFECTIVE DATES

Sec. 301. Effective dates.

# TITLE I—PROMOTING SAFE AND STABLE FAMILIES

## Subtitle A—Grants to States for Promoting Safe and Stable Families

### SEC. 101. FINDINGS AND PURPOSE.

Section 430 (42 U.S.C. 629) is amended to read as follows:

#### “SEC. 430. FINDINGS AND PURPOSE.

“(a) FINDINGS.—Congress finds that there is a continuing urgent need to protect children and to strengthen families as demonstrated by the following:

“(1) Family support programs directed at specific vulnerable populations have had positive effects on parents and children. The vulnerable populations for which programs have been shown to be effective include teenage mothers with very young children and families that have children with special needs.

“(2) Family preservation programs have been shown to provide extensive and intensive services to families in crisis.

“(3) The time lines established by the Adoption and Safe Families Act of 1997 have made the prompt availability of services to address family problems (and in particular the prompt availability of appropriate services and treatment addressing substance abuse) an important factor in successful family reunification.

“(4) The rapid increases in the annual number of adoptions since the enactment of the Adoption and Safe Families Act of 1997 have created a growing need for post-adoption services and for service providers with the particular knowledge and skills required to address the unique issues adoptive families and children may face.

“(b) PURPOSE.—The purpose of this program is to enable States to develop and establish, or expand, and to operate coordinated programs of community-based family support services, family preservation services, time-limited family reunification services, and adoption promotion and support services to accomplish the following objectives:

“(1) To prevent child maltreatment among families at risk through the provision of supportive family services.

“(2) To assure children’s safety within the home and preserve intact families in which children have been maltreated, when the family’s problems can be addressed effectively.

“(3) To address the problems of families whose children have been placed in foster care so that reunification may occur in a safe and stable manner in accordance with the requirements of the Adoption and Safe Families Act of 1997.

“(4) To support adoptive families by providing support services as necessary so that the families can make a lifetime commitment to their children.”.

### SEC. 102. DEFINITION OF FAMILY SUPPORT SERVICES.

Section 431(a)(2) (42 U.S.C. 629a(a)(2)) is amended by inserting “to strengthen parental relationships and promote healthy marriages,” after “environment.”.

### SEC. 103. REALLOTMENTS.

Section 433 (42 U.S.C. 629c) is amended by adding at the end the following new subsection:

“(d) REALLOTMENTS.—The amount of any allotment to a State under this section for any fiscal year that the State certifies to the Secretary will not be required for carrying out the State plan under section 432 shall be available for reallocation for such fiscal year using the allotment methodology specified in this section. Any amount so reallocated to a State shall be deemed part of that State’s allotment under this section for that fiscal year.”.

### SEC. 104. PAYMENTS TO STATES.

(a) IN GENERAL.—Section 434(a) (42 U.S.C. 629d(a)) is amended—

(1) by striking paragraph (2);

(2) by striking all that precedes subparagraph (A) and inserting the following:

“(a) ENTITLEMENT.—Each State that has a plan approved under section 432 shall be entitled to payment of the lesser of—”; and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and by adjusting the left margins accordingly.

(b) CONFORMING AMENDMENTS.—Section 434(b) (42 U.S.C. 629d(b)) is amended—

(1) in paragraph (1)—

(A) by striking “paragraph (1) or (2)(B) of”; and

(B) by striking “described in this subpart” and inserting “under the State plan under section 432”; and

(2) in paragraph (2), by striking “subsection (a)(1)” and inserting “subsection (a)”.

### SEC. 105. EVALUATIONS.

Section 435 (42 U.S.C. 629e) is amended—

(1) in the heading, by inserting “; research; technical assistance” before the period; and

(2) by adding at the end the following new subsections:

“(c) RESEARCH.—The Secretary shall give priority consideration to the following topics for research and evaluation under this subsection, using rigorous evaluation methodologies where feasible:

“(1) Promising program models in the service categories specified in section 430(b), particularly time-limited reunification services and post-adoption services.

“(2) Multidisciplinary service models designed to address parental substance abuse and to reduce the impact of such abuse on children.

“(3) The efficacy of approaches directed at families with specific problems and with children of specific age ranges.

“(4) The outcomes of adoptions finalized after enactment of the Adoption and Safe Families Act of 1997.

“(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance that helps States to—

“(1) identify families with specific risk characteristics for intervention;

“(2) develop treatment models that address the needs of families at risk, particularly families with substance abuse issues;

“(3) implement programs with well articulated theories of how the intervention will result in desired changes among families at risk;

“(4) establish mechanisms to ensure that service provision matches the treatment model; and

“(5) establish mechanisms to ensure that post-adoption services meet the needs of the individual families and develop models to reduce the disruption rates of adoption.”.

### SEC. 106. AUTHORIZATION OF APPROPRIATIONS; RESERVATION OF CERTAIN AMOUNTS.

(a) IN GENERAL.—Subpart 2 of part B of title IV (42 U.S.C. 629 et seq.) is amended by adding at the end the following new section:

#### “SEC. 436. AUTHORIZATION OF APPROPRIATIONS; RESERVATION OF CERTAIN AMOUNTS.

“(a) AUTHORIZATION.—There are authorized to be appropriated to carry out the provisions of this subpart (other than section 438) \$505,000,000 for each of fiscal years 2002 through 2006.

“(b) RESERVATION OF CERTAIN AMOUNTS.—From the amount specified for each fiscal year under subsection (a), the Secretary shall reserve amounts for use as follows:

“(1) EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall reserve \$15,000,000 for fiscal year 2002, and \$20,000,000 for each of fiscal years 2003 through 2006, for expenditure by the Secretary—

“(A) for research, training, and technical assistance costs related to the program under this subpart (other than section 438), including expenditures for research of not less than \$9,000,000 for fiscal year 2002, and not less than \$14,000,000 for each of fiscal years 2003 through 2006; and

“(B) for evaluation of State programs based on the plans approved under section 432 and funded under this subpart, and any other Federal, State, or local program, regardless of whether federally assisted, that is designed to achieve the same purposes as such State programs.

“(2) STATE COURT IMPROVEMENTS.—The Secretary shall reserve \$20,000,000 for grants under section 437.

“(3) INDIAN TRIBES.—The Secretary shall reserve 2 percent for allotment to Indian tribes in accordance with section 433(a).”.

(b) CONFORMING AMENDMENTS.—Section 433 is amended—

(1) in subsection (a), by striking “section 430(d)(3)” and inserting “section 436(b)(3)”;

(2) in subsection (b)—

(A) by striking “section 430(b)” and inserting “section 436(a)”;

(B) by striking “section 430(d)” and inserting “section 436(b)”;

(3) in subsection (c)—

(A) by striking “section 430(b)” and inserting “section 436(a)”;

(B) by striking “section 430(d)” and inserting “section 436(b)”.

### SEC. 107. STATE COURT IMPROVEMENTS.

(a) RELOCATION AND REDESIGNATION.—

(1) IN GENERAL.—Section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note) is relocated and redesignated as section 437 of the Social Security Act.

(2) CONFORMING AMENDMENTS.—Section 437, as relocated and redesignated under paragraph (1), is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking “of title IV of the Social Security Act”; and

(ii) in paragraph (1)(A), by striking “of title IV of such Act”; and

(B) in subsection (c)(2), by striking “section 430(d)(2) of the Social Security Act” and inserting “section 436(b)(2)”.

(b) SCOPE OF ACTIVITIES.—

(1) Section 437(a)(2) (as so relocated and redesignated) is amended—

(A) by striking “changes” and inserting “improvements”; and

(B) by inserting before the period “in order to promote more timely court actions that provide for the safety of children in foster care and expedite the placement of such children in appropriate permanent settings”.

(2) Section 437(c)(1) (as so relocated and redesignated) is amended in the matter preceding subparagraph (A) by inserting “and improvement” after “assessment”.

(c) ALLOTMENTS.—Section 437(c)(1) (as so relocated and redesignated) is amended by striking all that follows “shall be entitled to payment,” and inserting “for each of fiscal years 2002 through 2006, from amounts reserved pursuant to section 436(b)(2), of an amount equal to the sum of \$85,000 plus the amount described in paragraph (2) for such fiscal year.”.

(d) FEDERAL SHARE.—Section 437(d) (as so relocated and redesignated) is amended—

(1) by striking the heading and inserting “FEDERAL SHARE.—”; and

(2) by striking “to pay—” and all that follows and inserting “to pay not more than 75 percent of the cost of activities under this section in each of fiscal years 2002 through 2006.”.

#### **Subtitle B—Mentoring Children of Incarcerated Parents**

#### **SEC. 121. GRANTS FOR PROGRAMS FOR MENTORING CHILDREN OF INCARCERATED PARENTS.**

Subpart 2 of part B of title IV (42 U.S.C. 629 et seq.), as amended by sections 106 and 107, is amended by adding at the end the following new section:

#### **“SEC. 438. GRANTS FOR PROGRAMS FOR MENTORING CHILDREN OF INCARCERATED PARENTS.**

“(a) FINDINGS AND PURPOSE.—

“(1) FINDINGS.—Congress makes the following findings:

“(A) In the period between 1991 and 1999, the number of children with a parent incarcerated in a Federal or State correctional facility increased by more than 100 percent, from approximately 900,000 to approximately 2,000,000. In 1999, 2.1 percent of all children in the United States had a parent in a Federal or State correctional facility.

“(B) Prior to incarceration, 64 percent of female prisoners and 44 percent of male prisoners in State facilities lived with their children.

“(C) Nearly 90 percent of the children of incarcerated fathers live with their mothers, and 79 percent of the children of incarcerated mothers live with a grandparent or other relative. Only 10 percent of incarcerated mothers and 2 percent of incarcerated fathers in State facilities report that their child or children are in foster care.

“(D) Parental arrest and confinement lead to stress, trauma, stigmatization, and separation problems for children. These problems are coupled with existing problems that include poverty, violence, parental substance abuse, high-crime environments, intrafamilial abuse, child abuse and neglect, multiple care givers, or prior separations. As a result, children of an incarcerated parent often exhibit a broad variety of behavioral, emotional, health, and educational problems that are often compounded by the pain of separation.

“(E) Empirical research demonstrates that mentoring is a potent force for improving children's behavior across all risk behaviors affecting health. Quality, one-on-one relationships that provide young people with caring role models for future success have profound, life-changing potential. Done right, mentoring markedly advances youths' life prospects. A widely cited 1995 study by Public/Private Ventures measured the impact of one Big Brothers Big Sisters program and found significant effects in the lives of youth—cutting first-time drug use by almost half and first-time alcohol use by about a third, reducing school absenteeism by half, cutting assaultive behavior by a third, improving parental and peer relationships, giving youth greater confidence in their school work, and improving academic performance.

“(2) PURPOSE.—The purpose of this section is to authorize the Secretary to make competitive grants to local governments in areas with substantial numbers of children of incarcerated parents to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring services for children of incarcerated parents.

“(b) DEFINITIONS.—In this section:

“(1) CHILDREN OF INCARCERATED PARENTS.—The term ‘children of incarcerated parents’ means a child, 1 or both of whose parents are incarcerated in a Federal or State correctional facility. Such term shall be deemed to include any child who is in an ongoing mentoring relationship in a program under this section at the time of the release of the child's parent or parents from a correctional facility, for purposes of continued participation in the program.

“(2) MENTORING.—The term ‘mentoring’ means a structured, managed program in which children are appropriately matched with screened and trained adult volunteers for one-on-one relationships, involving meetings and activities on a regular basis, intended to meet, in part, the child's need for involvement with a caring and supportive adult who provides a positive role model.

“(3) MENTORING SERVICES.—The term ‘mentoring services’ means those services and activities that support a structured, managed program of mentoring, including the management by trained personnel of outreach to, and screening of, eligible children; outreach to, education and training of, and liaison with sponsoring local organizations; screening and training of adult volunteers; matching of children with suitable adult volunteer mentors; support and oversight of the mentoring relationship; and establishment of goals and evaluation of outcomes for mentored children.

“(c) PROGRAM AUTHORIZED.—From the amount appropriated under subsection (g) for a fiscal year that remains after the application of subsection (g)(2), the Secretary shall make grants under this section for each of fiscal years 2002 through 2006 to local governments in areas that have significant numbers of children of incarcerated parents and that submit applications meeting the requirements of this section, including—

“(1) two-thirds of such amount in grants in amounts of up to \$5,000,000 each; and

“(2) one-third of such amount in grants in amounts of up to \$10,000,000 each.

“(d) APPLICATION REQUIREMENTS.—In order to be eligible for a grant under this section, the mayor or other chief executive officer of a city, council of governments, or other unit of local government shall submit to the Secretary an application containing the following:

“(1) PROGRAM DESIGN.—A description of the proposed local program, including—

“(A) a list of local public and private organizations and entities that will participate in the mentoring network;

“(B) the name, description, and qualifications of the entity that will coordinate and oversee the activities of the mentoring network;

“(C) the number of mentor-child matches proposed to be established and maintained annually under the program;

“(D) such information as the Secretary may require concerning the methods to be used to recruit, screen support, and oversee individuals participating as mentors (which methods shall include criminal background checks on such individuals), and to evaluate outcomes for participating children, including information necessary to demonstrate compliance with requirements established by the Secretary for the program; and

“(E) such other information as the Secretary may require.

“(2) COMMUNITY CONSULTATION; COORDINATION WITH OTHER PROGRAMS.—A demonstration that, in developing and implementing the program, the local government will, to the extent feasible and appropriate—

“(A) consult with public and private community entities, including religious organizations, and including, as appropriate, Indian tribal organizations and urban Indian organizations, and with family members of potential clients;

“(B) coordinate the programs and activities under the program with other Federal, State, and local programs serving children and youth; and

“(C) consult with appropriate Federal, State, and local corrections, workforce development, and substance abuse and mental health agencies.

“(3) EQUAL ACCESS FOR LOCAL SERVICE PROVIDERS.—An assurance that public and private entities and community organizations, including religious organizations and Indian organizations, will be eligible to participate in the program on an equal basis.

“(4) SUPPLEMENTATION ASSURANCE.—An assurance that Federal funds provided to the local government under this section will not be used to supplant Federal or non-Federal funds for existing services and activities that promote the purpose of this section.

“(5) BIENNIAL PROGRAM REPORT.—An agreement that the local government will submit to the Secretary, after the second year of funding of a program under this section and every second year thereafter, a report containing the following:

“(A) A description of the grant requirements used by the local government to award grant funds.

“(B) The measurable goals and outcomes expected by the programs receiving assistance under the local government program (and in later reports, the extent to which such goals and outcomes were achieved).

“(C) A description of the services provided by programs receiving assistance under the local government program.

“(D) The number of children and families served.

“(E) Such other such information as the Secretary may require.

“(6) RECORDS, REPORTS, AND AUDITS.—An agreement that the local government will maintain such records, make such reports, and cooperate with such reviews or audits as the Secretary may find necessary for purposes of oversight of project activities and expenditures.

“(7) EVALUATION.—An agreement that the local government will cooperate fully with the Secretary's ongoing and final evaluation of the program under the plan, by means including providing the Secretary with access to the program and program-related records

and documents, staff, and grantees receiving funding under the plan.

“(8) EXTENT OF LOCAL-STATE COOPERATION.—A statement as to whether, and the extent to which, the State government has undertaken to provide support to and to cooperate with the local program.

“(e) FEDERAL SHARE.—

“(1) IN GENERAL.—A grant for a program under this section shall be available to pay a percentage share of the costs of the program up to—

“(A) 80 percent for the first fiscal year for which the grant is awarded;

“(B) 60 percent for the second such fiscal year;

“(C) 40 percent for the third such fiscal year; and

“(D) 20 percent for each succeeding fiscal year.

“(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of projects under this section may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to goods, services, and facilities contributed from non-Federal sources.

“(f) CONSIDERATIONS IN AWARDING GRANTS.—In awarding grants under this section, the Secretary shall take into consideration—

“(1) the experience, qualifications, and capacity of local governments and networks of organizations to effectively carry out a mentoring program under this section;

“(2) the comparative severity of need for mentoring services in given local areas, taking into consideration data on the numbers of children (and in particular of low-income children) with an incarcerated parent (or parents) in such areas;

“(3) whether, and the extent to which, the State government has undertaken to support and cooperate with the local mentoring program;

“(4) evidence of consultation with existing youth and family service programs, as appropriate; and

“(5) any other factors the Secretary may deem significant with respect to the need for or the potential success of carrying out a mentoring program under this section.

“(g) AUTHORIZATION OF APPROPRIATIONS; RESERVATION OF CERTAIN AMOUNTS.—

“(1) AUTHORIZATION.—There are authorized to be appropriated to carry out this section—

“(A) \$67,000,000 for fiscal year 2002; and

“(B) such sums as may be necessary for each of fiscal years 2003 through 2006.

“(2) RESERVATION.—The Secretary shall reserve 2.5 percent of the amount appropriated for each fiscal year under paragraph (1) for expenditure by the Secretary for research, technical assistance, and evaluation related to programs carried out under this section.”.

## TITLE II—FOSTER CARE, ADOPTION ASSISTANCE, AND INDEPENDENT LIVING

### SEC. 201. ELIMINATION OF OPT-OUT PROVISION FOR STATE REQUIREMENT TO CONDUCT CRIMINAL BACKGROUND CHECK ON PROSPECTIVE FOSTER OR ADOPTIVE PARENTS.

Section 471(a)(20) (42 U.S.C. 671(a)(20)) is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) by striking “(A) unless an election provided for in subparagraph (B) is made with respect to the State.”;

(3) by striking subparagraph (B);

(4) by striking “(i)” and inserting “(A)”;

and

(5) by striking “(ii)” and inserting “(B)”.

### SEC. 202. ELIGIBILITY FOR ADOPTION ASSISTANCE PAYMENT OF SPECIAL NEEDS CHILDREN VOLUNTARILY RELINQUISHED TO PRIVATE NONPROFIT AGENCIES.

Section 473(a)(2) (42 U.S.C. 673(a)(2)) is amended—

(1) in subparagraph (A)(i), by striking “either pursuant” and all that follows through “July 16, 1996)” and inserting “pursuant to a voluntary relinquishment to, or a voluntary placement agreement with, a public or nonprofit private agency.”; and

(2) in subparagraph (B)(i), by striking “agreement was entered into” and inserting “relinquishment occurred, agreement was entered into.”.

### SEC. 203. EDUCATIONAL AND TRAINING VOUCHERS FOR YOUTHS AGING OUT OF FOSTER CARE.

(a) PURPOSE.—Section 477(a) (42 U.S.C. 677(a)) is amended—

(1) by striking “and” at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(6) to make available vouchers for education and training, including postsecondary training and education, to youths who have aged out of foster care.”.

(b) EDUCATIONAL AND TRAINING VOUCHERS.—Section 477 (42 U.S.C. 677) is amended by adding at the end the following new subsection:

“(i) EDUCATIONAL AND TRAINING VOUCHERS.—The following conditions shall apply to a State educational and training voucher program under this section:

“(1) Vouchers under the program shall be available to youths otherwise eligible for services under the State program under this section.

“(2) For purposes of the voucher program, youths adopted from foster care after attaining age 16 shall be considered to be youths otherwise eligible for services under the State program under this section.

“(3) A youth participating in the voucher program on the date the youth attains age 21 shall remain eligible until the youth attains age 23, as long as the youth is enrolled in a full-time postsecondary education or training program and is making satisfactory progress toward completion of that program.

“(4) The voucher or vouchers provided for an individual under this section—

“(A) shall be available for the cost of attendance at an institution of higher education, as defined in section 102 of the Higher Education Act of 1965; and

“(B) shall not exceed the lesser of \$5,000 per year or the total cost of attendance, as defined in section 472 of that Act.

“(5)(A) Subject to subparagraphs (B) and (C), the amount of a voucher under this section shall be disregarded for purposes of determining the recipient's eligibility for, or the amount of, any other Federal or federally supported assistance.

“(B) The total amount of educational assistance to a youth under this section and under other Federal and federally supported programs shall not exceed the total cost of attendance, as defined in section 472 of the Higher Education Act of 1965.

“(C) The State agency shall take appropriate steps to prevent duplication of benefits under this and other Federal or federally supported programs.

“(6) The program shall be coordinated with other appropriate education and training programs.”.

(c) CERTIFICATION.—Section 477(b)(3) (42 U.S.C. 677(b)(3)) is amended by adding at the end the following new subparagraph:

“(J) A certification by the chief executive officer of the State that the State edu-

cational and training voucher program under this section is in compliance with the conditions specified in subsection (i), including a statement describing methods the State will use—

“(i) to ensure that the total amount of educational assistance to a youth under this section and under other Federal and federally supported programs does not exceed the limitation specified in subsection (i)(5)(B); and

“(ii) to avoid duplication of benefits under this and any other Federal or federally supported benefit program in accordance with subsection (i)(5)(C).”.

(d) INCREASED AUTHORIZATIONS OF APPROPRIATIONS.—Section 477(h) (42 U.S.C. 677(h)) is amended by striking “there are authorized” and all that follows and inserting the following: “there are authorized to be appropriated to the Secretary for each fiscal year—

“(1) \$140,000,000, which shall be available for all purposes under this section; and

“(2) an additional \$60,000,000, which shall be available for payments to States for education and training vouchers for youths who age out of foster care, to assist such youths to develop skills necessary to lead independent and productive lives.”.

(e) ALLOTMENTS TO STATES.—Section 477(c) (42 U.S.C. 677(c)) is amended—

(1) in paragraph (1)—

(A) by striking “(1) IN GENERAL.—From the amount specified in subsection (h)” and inserting “(1) GENERAL PROGRAM ALLOTMENT.—From the amount specified in subsection (h)(1)”;

(B) by striking “which bears the same ratio and all that follows through the period” and inserting “which bears the ratio equal to the State foster care ratio, as adjusted in accordance with paragraph (2).”;

(2) by adding at the end the following new paragraphs:

“(3) VOUCHER PROGRAM ALLOTMENT.—From the amount specified in subsection (h)(2) for a fiscal year, the Secretary shall allot to each State with an application approved under subsection (b) for the fiscal year the amount that bears the ratio to such amount equal to the State foster care ratio.

“(4) STATE FOSTER CARE RATIO.—In this subsection, the term ‘State foster care ratio’ means the ratio of the number of children in foster care in the State in the most recent fiscal year for which such information is available to the total number of children in foster care in all States for such most recent fiscal year.”.

(f) PAYMENTS TO STATES.—Section 474(a)(4) (42 U.S.C. 674(a)(4)) is amended to read as follows:

“(4) an amount equal to—

“(A) with respect to amounts for expenditures in accordance with the State application approved under section 477(b) (including any amounts expended in accordance with an amendment that meets the requirements of section 477(b)(5)), the sum of—

“(i) the lesser of—

“(I) 80 percent of the amounts expended by the State during the quarter to carry out programs for the purposes described in subsection (h)(1); or

“(II) the amount allotted to the State under section 477(c)(1) for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this paragraph for such purposes for all prior quarters in the fiscal year; and

“(ii) the lesser of—

“(I) 80 percent of the amounts expended by the State during the quarter to carry out programs for the purposes described in subsection (h)(2); or



“(II) the amount allotted to the State under section 477(c)(3) for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this paragraph for such purposes for all prior quarters in the fiscal year; reduced by

“(B) the total amount of any penalties assessed against the State under section 477(e) for such fiscal year.”.

### TITLE III—EFFECTIVE DATES

#### SEC. 301. EFFECTIVE DATES.

(a) IN GENERAL.—Subject to subsections (b), (c), and (d), the amendments made by this Act take effect October 1, 2001.

(b) ELIMINATION OF OPT-OUT PROVISION FOR CRIMINAL BACKGROUND CHECKS.—Subject to subsection (d), the amendments made by section 201 take effect on the date of enactment of this Act.

(c) ELIGIBILITY FOR ADOPTION ASSISTANCE PAYMENT OF SPECIAL NEEDS CHILDREN VOLUNTARILY RELINQUISHED TO PRIVATE NON-PROFIT AGENCIES.—Subject to subsection (d), the amendments made by section 202 shall be effective with respect to children voluntarily relinquished to, or the subject of a voluntary placement agreement with, a public or non-profit private agency on or after the date that is 90 days after the date of enactment of this Act.

(d) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—In the case of a State plan under subpart 2 of part B or part E of the Social Security Act (42 U.S.C. 629 et seq.; 670 et seq.) that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this Act, the State plan shall not be regarded as failing to comply with the requirements of such subpart or part solely on the basis of the failure of the plan to meet such additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Mr. DEWINE. Mr. President, I rise today with my friend and colleague, Senator ROCKEFELLER, to introduce the “Promoting Safe and Stable Families” bill. This legislation reauthorizes four programs designed to help child welfare agencies establish and maintain permanency by providing grants to States and Indian tribes. The bill also includes programs that the President has proposed, which have my utmost support, as well as a technical correction that Senator ROCKEFELLER and I have proposed to ensure that special needs children continue to be eligible for adoption assistance.

It would be impossible for me to talk about the challenges facing children and the agencies dedicated to protecting them, without saying a few brief words about the recent terrorist bombings in New York and Washington. Following those tragic events, we awoke to a whole new world, a world forever changed by a faceless, cowardly band of terrorists, a world filled with sorrow at the senseless, needless injury and loss of countless members of our American family.

Though it is going to take time to eradicate the terrorist enemy, I am confident that our efforts will bring about peace and security both here at home and across that globe. Ultimately, our efforts to protect the Nation is about the future of our children and grandchildren. And so, we must do all we can to protect them and give them a world that is safe and secure.

In creating that kind of a world, we have to realize that there are thousands of children in this Nation right now who don't live in safe and secure environments, children who have only one parent or no parents at all, as sadly is now the case for many of the children who lost parents in the terrorist attacks.

Far too many children in our country are at risk, not because of the terrorist threat, but because they are neglected or abused by parents or because they are trapped in the legal limbo that is our child welfare system. Because of this, we have an obligation to these children. We have an obligation to protect these innocent lives.

With the bill we are introducing today, we are taking a big step toward meeting that obligation. By reauthorizing and improving the Safe and Stable Families program, we can help strengthen families and ensure the safety of vulnerable children. The funding provided to the States through this legislation is used for four categories of services: family preservation, community-based family support, time-limited family reunification, and adoption promotion and support. These services are designed to prevent child abuse and neglect in communities at risk, avoid the removal of children from their homes, and support timely reunification or adoption.

Our bill reauthorizes the only program that provides funding for post-adoption services. With a 30-percent increase in the number of adoptions since the implementation of the Adoption and Safe Families Act, funding for adoption promotion and support services is especially vital. These services are necessary to ensure that adoptions are not disrupted, which risks further traumatizing a child.

Our bill also amends the Foster Care Independent Living Program to extend the eligibility age from 21 to 23, so that children aging out of foster care can qualify for educational and training vouchers. Currently, too many of the 16,000 children youth who age out of foster care are not able to pursue educational or vocational training because they just don't have the money. This provision helps these young people get the education and career training they need and deserve.

The bill doubles the funding for the Court Improvement Program, CIP, and reauthorizes it through 2006. The CIP program provides grants to the States to develop a system of more timely court actions that provides for the safety of children in foster care and expedites the placement of such children

in appropriate permanent settings. This money helps ensure that state courts have the resources necessary to stay in compliance with the Adoption and Safe Families Act. In my own home State of Ohio, this money has been used to develop and implement an attorney certification program in family law. Additionally, the CIP money has been used to implement the Court Appointed Special Advocate, CASA, program throughout Ohio and to implement five pilot programs that uniquely address family law issues.

Also, Senator ROCKEFELLER and I have added a technical correction to the bill that would clarify how Adoption Assistance Payments are distributed. Prior to January 23, 2001, title IV-E Adoption Assistance Payments were available to parents adopting children who met three special needs criteria, regardless of whether a child was placed by a private agency or the State foster care system. Unfortunately, some private agencies were using only one of the three special needs criteria to access payments for these adoptive families.

The January 23rd Adoption Assistance decision draws a distinction between private and State foster care systems to prevent the misuse of funds. However, the decision has had the unintended consequence of adversely affecting agencies like Catholic Charities and their ability to provide adoptive families with payments. Our correction focuses on the children, not the placement agency, by making special needs children adopted through voluntary relinquishment eligible for adoption assistance payments.

I am particularly pleased with some of the President's new initiatives authorized in our bill. For example, the President has proposed that the Department of Health and Human Services be authorized to provide competitive grants to support mentoring programs for children of incarcerated parents. With more than 2 million children with incarcerated parents, this program would provide valuable outreach to this vulnerable group of children.

I would like to conclude my remarks by drawing my colleagues' attention to a recent Washington Post series on the dire state of the District of Columbia's child welfare system. This series outlines multiple mistakes made by the Government by placing children in unsafe homes or institutions. Unfortunately, these same mistakes occur in the child welfare system throughout our country. Here in Washington, these mistakes resulted in over 180 deaths of children in foster care since 1993, 40 of whom died as a direct result of government workers' failure to take key preventative actions or because they placed children in unsafe homes or institutions.

The bill we are introducing today will help make sure that these kinds of mistakes are never repeated. The Senate has a tradition of helping our most vulnerable children, and so I urge my

colleagues to join us in supporting the Reauthorization of Promoting Safe and Stable Families. It is the right thing to do.

By Mr. DORGAN (for himself and Mr. BREAU):

S. 1504. A bill to extend the moratorium enacted by the Internet Tax Freedom Act through June 30, 2002; to the Committee on Commerce, Science, and Transportation.

Mr. DORGAN. Mr. President, I am going to introduce legislation today on behalf of myself, Senator BREAU from Louisiana, and Senator HUTCHISON from Texas dealing with the extension of the moratorium on Internet taxation. Let me describe what that is and what it means.

We already have in law a provision that provides a moratorium on the taxation of the Internet as it is called, but it really provides a moratorium on a State government's or a local government's ability to provide a tax on the access to the Internet. There is a moratorium. That moratorium expires on October 21. Except those few that are grandfathered, the moratorium bill not only prohibits State and local governments, from imposing a tax on access to the Internet, it also prohibits punitive or discriminatory taxes with respect to the Internet.

The Congress passed that legislation a couple of years ago. It was designed to expire October 21 of this year. In a few days, it will expire, and there are colleagues of mine who have offered in recent days extensions of the moratorium. Some are talking 5 years; some are talking 2 years. I think both of those are far too long. I propose we extend the moratorium until June 30 of next year.

There is another issue that relates to this, which is why I believe there needs to be an extension. We need to solve the problem of tax collections with respect to Internet transactions and all transactions of remote sales. When you use a computer, or a catalog for that matter, to buy a product, when you receive that product, in most cases you are supposed to pay a sales or a consumption tax to your local government or your State government.

In point of fact, most people never pay that tax. So the State and local governments lose that revenue. The seller, a catalog company or an Internet company that is doing business in most of the States, is not required to collect that sales tax so the seller does not collect it. The person who receives it or orders it and then receives the goods does not pay it, even though they are required to, and the State and local governments lose a substantial amount of money.

A recent study from the Institute for State Studies says this year the loss will be \$13.3 billion for State and local governments, and by the year 2011 it is expected State and local governments will lose \$54.8 billion of expected revenue. Most of this, incidentally, is rev-

enue that is essential to school systems around the country. Most of this is essential for State and local governments to keep their school systems operating and pay for their schools and education programs.

So State and local governments have a very serious problem. What do they do about it? Internet sellers and catalog sellers also have a problem. If one is set up in business to sell all across the country, but they really have only one location and that is the area where they are set up in business, they do not want to have to subscribe to 5,000 or 7,000 different sales tax jurisdictions. That is far too complicated. The remote sellers have a right to say: We don't want to have to subscribe and pay taxes and file forms in thousands and thousands of different jurisdictions. They are right about that.

What is to be done? It seems to me there is a requirement for State and local governments to simplify their sales tax systems, and when they have dramatically simplified those systems so that companies that are doing business all across the country can easily comply with the requirements—when that happens, when State and local government do that—I believe those engaged in remote sales should collect the tax and remit it to State and local governments. It will be easy for the consumer to have that happen. The tax is already owed. It seems to me it will be convenient enough for the seller to do it if the States have dramatically simplified their system. And it will finally provide the resources the States and local governments have been counting on to support their school systems. All of that ought to be done.

As far as I am concerned, I don't mind extending this moratorium forever—6 months, 2 years, 5 years. It doesn't matter to me. We should not apply discriminatory taxes. We should not apply punitive taxes to Internet transactions. I don't care much about the question of taxing access. As far as I'm concerned, we can prevent all State and local governments from doing that. It does not matter much to me. Speaking for myself, we could make permanent the moratorium. But it should be made permanent or should be made a long-term extension only when we agree, all of us, that we have another problem attendant to it: the problem of the collection and remission of taxes that support our school system.

Let's do both. We have some in the Chamber who say, let's ignore the issue of school finance; say that doesn't exist. You cannot do that. You cannot cast a blind eye to that problem. It is a problem that is serious and growing. Governor Leavitt from Utah sent me a note about it along with the study of the Institute for States Studies describing this.

I ask unanimous consent that the report be printed in the RECORD.

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

INSTITUTE FOR STATE STUDIES,  
Salt Lake City, UT, Oct. 2, 2001.

NEW STUDY SHOWS SALES TAX REVENUE LOSSES FROM E-COMMERCE 41 PERCENT HIGHER THAN PREVIOUS ESTIMATES

STATES, LOCALITIES PROJECTED TO LOSE \$54.8 BILLION A YEAR BY 2011

WASHINGTON.—New figures released here today show that state and local governments will lose \$13.3 billion in revenue this year—41 percent higher than previously estimated—because taxes are not paid on remote online purchases as they are on “Main Street” purchases. Projected annual revenue losses jump to \$45.2 billion in 2006 and a staggering \$54.8 billion by 2011 as a result of skyrocketing business-to-business e-commerce activity.

This continued loss of revenue highlights fairness issues for Main Street retailers, taxpayers and state and local governments. It creates difficult choices for the 45 states and the District of Columbia that rely on sales tax revenue; raise sales, income and/or property tax rates to compensate; cut services like education and public safety; or a combination of both.

The study was prepared by the Center for Business and Research at the University of Tennessee, the pioneers in research on the subject. Data was collected by Forrester Research, Inc., the recognized leader in e-commerce research. The study was commissioned by the Institute for State Studies, a non-profit public policy group. The study quantifies the amount of sales tax revenue states and local governments stand to lose in 2001, 2006 and 2011 because remote Internet-based retailers are not required to collect and remit sales tax. The U.S. Congress is currently debating how to address this inequity. The report is available online at [www.statestudies.org](http://www.statestudies.org).

A broad coalition of retailers, shopping center owners, state and local government leaders and national associations has for some time maintained that current tax policy as it applies to e-commerce isn't fair. They argue that the lack of a “level playing field” in collecting sales taxes leads to significant fairness issues for consumers and businesses. It also creates huge revenue losses for states and local governments, affecting their ability to provide citizens with quality education, effective public safety and other basic services. This research supports those assertions.

For example, Texas will lose \$1.2 billion to e-commerce sales tax erosion this year. In Florida, the number is \$932.2 million. Illinois will lose out on \$532.9 million, Michigan will lose \$502.9, Tennessee will lose \$362.3 million, Maryland, \$194.4 million. In the smallest states, the revenue erosion is large as well. Wyoming will lose \$26.1 million; Rhode Island, \$36.8 million; North Dakota, \$26.4 million; and the District of Columbia, \$36.7 million.

In a decade, the revenue losses grow tremendously, according to Donald Bruce, assistant professor at the University of Tennessee and the study's co-author. “By 2011, the potential revenue loss in Texas alone will be \$4.8 billion—that's almost 10 percent of the state's total expected tax collections. To make up for this revenue, Texas's current statewide sales tax rate of 6.25 percent would have to rise to 7.86 percent.”

Historically, states and localities have responded to this erosion in sales tax revenue by raising tax rates, Bruce pointed out. In 1970, the median sales tax rate in the U.S. was 3.25 percent. This rose to 4.0 percent in 1980 and 5.0 percent in 1990. Fifteen states now have rates at or above 6.0 percent.

“We determined that, to make up for revenue losses due to e-commerce, states and local governments would have to raise their

sales tax rates between 0.83 and 1.73 percentage points by 2011," said William F. Fox, study co-author and University of Tennessee professor. "When other factors causing sales tax revenue to shrink are added in, the projected tax increases are even higher."

In addition to erosion from remote sales, states and local governments are facing a loss of sales tax revenue from two other major trends: 1) a greater consumption of generally non-taxable services rather than taxable goods; and 2) a continual practice of state-legislated exemptions that are narrowing the tax base.

Steps are being taken to simplify the sales tax system, such as streamlining the rules and regulations of the 7,500 taxing jurisdictions in the U.S. This Streamlined Sales Tax Project is sponsored by a consortium of government associations led by the National Governors Association. So far, 32 states are participating in the effort to simplify tax rates and definitions of taxable goods, and to certify software that will make it easier for retailers, both on Main Street and on the Internet, to collect sales taxes. Nineteen states have enacted simplification legislation; another 10 have introduced legislation for consideration.

As part of the ongoing e-commerce sales tax debate, the Institute for State Studies will use this research data to educate state, local and national officials about the magnitude of the issue. The Institute for State Studies is a nonprofit center for public policy research and education located at Western Governors University. The foundation focuses on three areas: public policy and governance issues created by new technology, advancing competency-based measurement and certification in education, and increasing speed and decreasing cost in environmental progress.

#### PROJECTED STATE AND LOCAL REVENUE LOSSES FROM E-COMMERCE ACTIVITY

(Figures in millions)

State	2001	2006	2011
Alabama	\$177.4	\$604.3	\$734.4
Arkansas	143.8	488.0	590.9
Arizona	231.1	799.2	982.5
California	1,750.0	5,952.0	7,225.0
Colorado	200.7	686.4	836.2
Connecticut	190.5	648.9	788.2
District of Columbia	36.7	123.1	147.7
Florida	932.2	3,214.0	3,944.4
Georgia	439.0	1,517.8	1,865.6
Hawaii	105.1	359.2	438.3
Iowa	111.8	372.3	443.7
Idaho	44.4	151.5	184.6
Illinois	532.9	1,795.3	2,161.7
Indiana	215.5	728.5	879.8
Kansas	134.4	451.5	542.2
Kentucky	158.7	535.5	645.8
Louisiana	302.6	1,008.1	1,202.5
Massachusetts	200.6	683.0	828.6
Maryland	194.4	664.3	809.2
Maine	43.1	146.4	177.5
Michigan	502.9	1,696.2	2,043.6
Minnesota	270.6	920.6	1,117.2
Missouri	261.6	884.1	1,066.7
Mississippi	136.5	462.8	560.0
North Carolina	293.4	1,010.9	1,239.4
North Dakota	26.4	87.6	103.9
Nebraska	70.9	238.7	287.3
New Jersey	337.8	1,150.0	1,396.1
New Mexico	129.1	440.2	535.4
Nevada	126.3	441.7	549.0
New York	1,052.9	3,569.2	4,318.4
Ohio	446.7	1,502.2	1,805.9
Oklahoma	202.8	670.6	794.5
Pennsylvania	446.4	1,503.4	1,811.0
Rhode Island	36.8	124.5	150.4
South Carolina	153.4	525.0	640.5
South Dakota	39.4	133.4	161.3
Tennessee	362.3	1,242.8	1,518.7
Texas	1,162.1	3,957.0	4,805.6
Utah	104.5	359.0	439.2
Virginia	238.5	817.0	997.2
Vermont	21.0	71.7	87.2
Washington	416.5	1,427.3	1,745.3
Wisconsin	213.5	721.5	871.0
West Virginia	70.1	232.4	276.2
Wyoming	26.1	85.2	100.0
Total	13,293.1	45,204.3	54,849.5

Mr. DORGAN. Mr. President, virtually every Governor, or 45 Governors

in this country believe strongly we ought to do this, give the States the ability to develop a compact to dramatically simplify their revenue systems. Then, with that compact, we would allow or require the remote sellers to collect the taxes owed.

I am introducing the legislation on behalf of myself, Senator BREAUX, and Senator HUTCHISON, that would extend until June 30 the moratorium that now exists. Between now and June 30 I believe Congress has a responsibility to solve this problem. I don't want there to be and will not support punitive or discriminatory taxes on the Internet. I don't believe we ought to be taxing access to the Internet, and it would not matter to me if we shut it off even for the grandfathered States. The issue of extending the moratorium is not a problem with me.

But we must not extend the moratorium and ignore the other significant problem that exists; and that is, the erosion of billions and billions of dollars that are expected to come in to our State and local government coffers to support our schools. That erosion, to the tune of what is expected to be \$54 billion in the year 2011 is a very serious problem and serves no purpose for people to talk only of extending the moratorium and not about the other problem. Let's solve both problems at once on behalf of America's kids and on behalf of remote sellers.

I happen to think the growth of the Internet is a wonderful thing. I think catalog sales are a wonderful thing. I think Main Street businesses are great. I think all the commerce opportunities that exist in this country enhance this country. The Main Street business people say to us: We rent the business, we hire the employees, we carry the inventory, and if you come to our Main Street business and buy a product, we must collect the sales tax. But someone a thousand miles away who competes by catalog or television monitor can make the same sale and sell it without collecting the sales tax. It is true the buyer has a tax responsibility, but the buyer almost never remits that small use tax to the State when that sale is made.

Those are the issues. I call attention today to the fact that some colleagues introduced a piece of legislation that calls for a moratorium for 2 years, some are talking about 5 years. One was introduced, I believe, by my colleague from Virginia and my colleague from California for a 5-year extension. Another was introduced for a 2-year extension. I believe both are too long. I believe the extension until June 30 of next year, with a requirement we get to work, will give the States and the Internet sellers and remote sellers the time they need to get to work and solve this problem. Let's extend it forever as far as I am concerned, but we should fix the long-term problem as we do so.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1504

*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 "Internet Tax Moratorium Extension Act".

#### SEC. 2. EXTENSION OF INTERNET TAX FREEDOM ACT MORATORIUM THROUGH JUNE 30, 2002.

(a) IN GENERAL.—Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 nt.) is amended by striking "3 years after the date of enactment of this Act—" and inserting "on June 30, 2002:".

(b) CONFORMING AMENDMENTS.—Section 1101(a) of that Act (47 U.S.C. 151 nt.) is further amended—

(1) by striking "taxes" in paragraph (1) and inserting "Taxes";

(2) by striking "1998; and" in paragraph (1) and inserting "1998."; and

(3) by striking "multiple" in paragraph (2) and inserting "Multiple".

#### SEC. 3. SENSE OF THE CONGRESS.

It is the sense of the Congress that State governments and interested business organizations should expedite efforts to develop a streamlined sales and use tax system that, once approved by Congress, would allow sellers to collect and remit sales and use taxes without imposing an undue burden on interstate commerce.

By Mrs. BOXER (for herself, Mr. ALLEN, Mr. INOUE, and Mr. KERRY):

S. 1505. A bill to authorize the Secretary of Commerce to establish a Travel and Tourism Promotion Bureau; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, today I am introducing the Rediscover America Act of 2001 along with my colleagues, Senator ALLEN, Senator INOUE, and Senator KERRY. The Rediscover America Act is a bipartisan effort to help promote travel and tourism in the United States in the wake of the September 11, 2001 terrorist attacks on America.

The bill directs the U.S. Secretary of Commerce to establish a Travel and Tourism Promotion Bureau. The Bureau would work with the private sector to develop a public service/advertising campaign to encourage people to rediscover America. While the Bureau will work in the same spirit as the former Travel and Tourism Administration, it will not be a large new bureaucracy. The bill is designed to give the Secretary the flexibility to appoint up to three existing Department of Commerce employees to work on this 2-year project. At least \$60 million of the funds provided in the supplemental appropriations bill would be available for this effort so that the campaign can begin quickly. We envision celebrities and national leaders participating in ads that will tout the beauty of the nation and encourage people here and abroad to Rediscover America.

We need the Rediscover America Act at this time for a number of reasons. The revitalization of the travel and

tourism industry following the September 11, 2001 terrorist attacks on the United States is a national economic necessity. The travel and tourism industry has a large impact on the U.S. economy, adding nearly 5 percent of the GDP, generating more than \$578 million in revenues, supporting more than 17 million jobs, and providing a \$14 million trade surplus for the country.

In California, the travel and tourism industry provides over 1.1 million jobs. Those jobs are now in danger. We estimate that the total direct and indirect losses in the travel and tourism industry as a result of declining consumer confidence could reach nearly 20,000. We need to encourage people to travel in order to restore jobs for people in the industry.

In light of the effect that the attacks have had on the travel and tourism industry, it is important to put measures immediately into place to encourage consumer confidence in travel and in the economy.

Safety and security in travel is of utmost importance in order to restore consumer confidence in the industry. But we will have to get the message out there that it is safe to travel again in order to get passengers back on planes.

While this marketing assistance can only constitute one facet of our response to the current crisis in the travel and tourism industry, we hope its impact will be widely felt. More than 95 percent of the businesses in travel and tourism are small to medium sized enterprises who need help now. Again, this is only one step toward getting the travel and tourism industry back on its feet. Its restoration is vital for the future well being of our economy.

By Mr. NELSON of Florida:

S. 1506. A bill to amend title 10, United States Code, to repeal the requirement for reduction of SBP survivor annuities by dependency and indemnity compensation; to the Committee on Armed Services.

Mr. NELSON of Florida. Mr. President, I am introducing legislation today to take care of a major problem we overlooked recently in passing the defense authorization bill.

I take my inspiration from Holy Scripture where we are told that in God's eyes, the measure of our faith is to look after orphans and widows in their distress.

The fiscal year 2002 Defense authorization bill we just passed corrected one long-standing inequity but not another long-standing inequity. What the Defense authorization bill did was correct an inequity by restoring benefits to our disabled military retirees because currently our system penalizes military retirees, who have given our country the best years of their lives, by reducing their retirement pay by the amount of disability pay they are entitled to receive.

This simply is not fair. Senator REID, our great Democratic floor leader, of-

fered the amendment to the Defense authorization bill, and it was accepted. It allows the disabled military retirees to receive both their disability pay and their retirement pay concurrently instead of one offsetting the other. It makes it effective upon the Defense authorization bill becoming law.

I supported it. All of us supported the Reid amendment. It is now included in the final version of the bill. That correction in law is long overdue.

Now there is another related injustice which needs to be addressed. The legislation I am offering will extend the same protection of benefits to the widows and orphans of military retirees because the same kind of rule that penalized disabled retirees, the offset of disability pay to military retirement pay, also hurts the widows and the surviving children.

Mr. President, go back to 1972 when Congress established the military survival benefits plan to provide retirees' survivors an annuity that was specifically modeled after the civil service survival benefit plan. Like the civilian plan, the military survivors benefit plan is a volunteer benefit program purchased by the retiree. Retired service members pay for this benefit from their retired pay. Then upon their death, their spouse or dependent children can receive up to 55 percent of their retired pay as an annuity.

Surviving spouses or dependent children of 100-percent service-connected disabled retirees are also entitled to dependency and indemnity compensation from the Veterans' Administration. But the annuity paid by the survivors benefits plan and received by a widow or an orphan is reduced by the amount of the dependency and indemnity compensation received from the VA—the same unfair offset that we are now correcting for our military retirees.

So the penalty for widows or orphans is no more justifiable than for retirees. In fact, in the absence of their veteran spouse or parent, the survivors' need for a stable income is often greater. They have depended on the person who has received this disability pay because that disabled person's income was lowered because of their disability, and often because the spouse or the children have to be caregivers to the disabled person, their incomes likewise are reduced; thus the need for this disability pay as set up in law sometime ago for the survivors' need.

Well, Mr. President, I know of no other surviving spouse annuity program in the Federal or private sector that is permitted to offset, terminate, or reduce their survivor payments because of disability payments. Naturally, I was disappointed in this year's Defense authorization bill that we have left behind the widows or orphans of 100-percent disabled retirees. I am not talking about 50-percent disabled; I am talking about the widows or orphans of 100-percent disabled retirees.

I believe we should have and could have addressed this issue when we fixed

the offset problem for military retirees. But we didn't. So that is what we are trying to correct with the offering of this legislation.

We should honor our commitments with disabled military retirees and their surviving widows and dependent children. So today I am offering stand-alone legislation to eliminate that offset called the VA dependency and indemnity compensation offset against the annuity paid by the survivors benefit plan.

I will repeat what I said at the outset. In the first chapter of James, verse 27 of the Holy Scriptures, we are told in God's eyes that the true measure of our faith is to look after orphans and widows in their distress. So we simply can't allow this situation to stand. We need to restore the full benefits to our country's military retirees and their families. I will continue to work to do right by those who have given this Nation their all, and especially for the loved ones they may leave to our care.

Thank you for the opportunity of addressing the Senate as I introduce this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1506

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

**SECTION 1. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) REPEAL.—Section 1451(c) of title 10, United States Code, is amended by striking paragraph (2).

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date specified in subsection (c) by reason of the amendment made by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

By Mr. CORZINE (for himself,

Mr. REED, and Mr. TORRICELLI):

S. 1508. A bill to increase the preparedness of the United States to respond to a biological or chemical weapons attack; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce the Biological and Chemical Attack Preparedness Act, legislation that would help prepare our public health infrastructure for the possibility of a future biological or chemical attack.

The attacks of September 11 have focused attention on the threat posed to our entire Nation by terrorists, especially the threat of biological and chemical attacks. My office has received numerous letters and phone

calls from constituents alarmed by recent news reports that the Federal Aviation Administration grounded crop dusters. Some speculate that the small propeller planes might be used to deliver chemical or biological weapons over a broad area, threatening the health and well being of the people below. The implications of such an attack are enormous. One analysis from the Centers for Disease Control predicted that a few kilograms of anthrax delivered over a major metropolitan area would kill more people than the atomic bomb dropped on Hiroshima.

While the US is fortunate to have avoided a biological or chemical attack thus far, the threat of such an attack is very real. In 1995, it was hard to imagine that Japan would be targeted for such an attack. But that year, an apocalyptic cult did just that in a Tokyo subway station. The highly sophisticated cult counted scientists among its adherents and developed a deadly chemical weapon: sarin gas. They employed a crude form of delivery, filling soda cans and lunch boxes with sarin gas and puncturing the improvised containers as they left a rail car.

While technical expertise and considerable resources are required, it is clear that a motivated terrorist group can unleash a chemical or biological weapon on a complacent population. The possibility of such an attack seems even greater when one realizes that many of the countries considered to be active state sponsors of terrorism by the State Department are also believed to be developing chemical and biological weapons.

The events of September 11 have brought our country's vulnerability to an attack with chemical and biological weapons into even greater focus. However, the challenge of maintaining the functionality of key infrastructure in the event of a chemical or biological emergency has been a concern for some time. The well-regarded Hart-Rudman report calls for careful preparation and explains that in a biological attack, "citizen cooperation with government authorities will depend on public confidence that those authorities can manage the emergency." A recent Newsweek poll found that 46 percent of respondents were not convinced that national and local governments are prepared to handle an attack with biological or chemical weapons.

Unfortunately, Americans have reason to be skeptical about the extent or which our public health system is prepared for a chemical or biological attack. The overwhelming consensus among public health officials is that our health care infrastructure today is not equipped to address a mass casualty incident involving chemical and biological weapons.

The attack in Japan in 1995 was the first time in history when chemical weapons were turned on a civilian population. As such, it is a valuable and instructive case study. The attack itself killed eleven Japanese civilians

and injured several hundred, a tragedy by any measure, but with a limited death count. The incident has broader significance for what it shows about the failure of an advanced public health system to respond to a biological or chemical weapon emergency. Specifically, the attack highlighted unfortunate weaknesses in Japan's ability to coordinate a comprehensive public health response.

To put it mildly, the subway attack caught Japan's public health system off guard. St. Luke's International Hospital received most victims of the attack, treating over six hundred Japanese patients. Although even before the attack the hospital maintained a high level of emergency preparedness and conducted periodic emergency drills, it was not ready for the tremendous surge of acutely ill patients that overwhelmed the emergency room. The hospital was not prepared to treat victims manifesting the symptoms characteristic of sarin gas poisoning. It was not prepared to guarantee the health and safety of the healthcare workers employed there. And, although terribly overburdened with patients being treated in the chapel and cafeteria, it was unable to release patients to other hospitals, knowing that other hospitals were even less prepared to deal with the unique challenges posed by victims of chemical weapons. Because of the use of chemical weapons, standards already established for mass casualty incidents were found to be inadequate, and the staff was forced to improvise. According to a study conducted by the hospital, more than twenty-percent of the health professionals assisting the victims developed sarin gas poisoning themselves.

Healthcare workers helping the sick were put into harm's way. Had the chemical or biological agent been more severe or had the health professionals received a greater dose, the implications of Japan's lack of preparation could have been even more serious.

The United States must learn from the nightmare experienced by Japan and shore up our public health infrastructure before it is too late.

Unfortunately, despite several programs that have moved us in the right direction, including the historic Frist-Kennedy emerging threats legislation passed in the last Congress that I hope will receive the funding it deserves, the United States' public health system is not much more prepared than Japan's in 1995.

A study appearing in the May 2001 issue of the respected American Journal of Public Health reveals a troubling situation. Of the hospitals that responded to a survey, fewer than 20 percent had any plans for biological or chemical weapons incidents. That means only one-fifth of hospitals nationwide had even considered the implications of a chemical or biological attack on delivery of care. And only 6 percent had the minimum recommended physical resources for a hy-

pothetical sarin incident. It is clear, that the U.S. is not prepared.

The study outlines that the "Domestic Preparedness Program . . . has included no systemic efforts to integrate hospitals into response plans, and it has provided only limited funds to acquire resources for state and local responders and none for hospitals." It is time to ensure that our public health system is up to the challenges of the new threat environment, including the possibility that chemical weapons or biological agents will be released on the United States.

A report published by the American Hospital Association in conjunction with the Office of Emergency Preparedness, found that the fundamental problem is, and I quote, "there is no general societal support for the preparedness role of the hospital." Up until this point, there was no requirement for individual hospitals or departments of health to plan for the possibility of a chemical or biological attack. Nor was there any funding to help them in this important process. In our previous approach to bioterrorism, we have focused on stockpiling medical supplies and creating additional laboratory capacity, but we have ignored the emergency preparedness of our hospitals.

The Biological and Chemical Attack Preparedness Act seeks to overcome this failing of our public health system in several important ways. First, it would require States to develop public health disaster plans in consultation with local governments. It is vital that the various state governments rapidly devise and implement plans based on their own specific needs and strengths. The public health disaster plan developed by Nebraska will be very different from the one developed by New Jersey, and for good reason. The public health challenges posed by a rural population are different than those posed by a suburban or urban population. State plans must take into account the distribution and the pre-existing capabilities of hospitals in their states. They must address issues surrounding proximity to care and the financial costs of implementing a system. Simply put, they must devise a mechanism for providing care to all affected state residents in the event of an attack.

This being said, as with national security issues generally, there is an important federal role. It is the job of the Department of Health and Human Services to establish broad guidelines and oversee the implementation of the various plans. Just as we need coordination between States, localities, and hospitals, we need coordination with the national health system. To ensure that states comply, Medical funding would be withheld for any state that failed to meet the broad requirements of the legislation.

Second, as part of the public health disaster plan, States would be required to designate hospitals so that all state residents affected by a chemical or biological weapons disaster would have access to treatment. Each designated

hospital would be required to devise and implement a chemical and biological weapons response that complies with their responsibilities as a component of the State's overall response. Right now, with only 6 percent of hospitals providing a high level of chemical and biological weapons attack readiness, we are far from the goal of ensuring that any person affected by chemical or biological weapons can receive treatment. Hospitals designated as part of the plan must be prepared with equipment, trained personnel, and pharmaceutical products sufficient to meet the anticipated need in the event of chemical or biological attack.

I know we are asking a lot of our States and of our hospitals. Certainly, the additional precautions taken to prepare for an unconventional attack will be expensive. To address this real concern, the bill would create a new grant program administered by the Office of Emergency Preparedness of HHS to fund the implementation of biological and chemical attack preparedness strategies by health care providers. Hospitals could use the funds to purchase Class-A suits to protect healthcare professionals, filtration equipment to clean the air, shower units to remove chemical agents, antibiotics and vaccines to treat patients, and, perhaps most importantly, training for the staff to recognize the warning signs of an attack. And, because we are asking for additional preparation on the part of designated hospitals, they will receive preferential treatment in the grant program. Not incidentally, local governments would be eligible for the grants as well, providing a level of local control and oversight that is a vital component of a truly coordinated response.

The Biological and Chemical Attack Preparedness Act would help ensure that our national public health system is prepared to orchestrate a skillful, quick and coordinated response to an attack with chemical or biological weapons. The bill would provide the resources necessary to assist hospitals and local governments in getting up to speed. And it would ensure that the various jurisdictions in our public health system are working together towards a single compelling goal: preparing for the devastating implications of a chemical or biological weapons attack. It would be far better to spend the money now than suffer the grim consequences later.

I urge my colleagues to support this important piece of legislation, and ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1508

*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 "Biological and Chemical Attack Preparedness Act".

#### SEC. 2. STATE PUBLIC HEALTH DISASTER PLANS.

(a) IN GENERAL.—Not later than 120 days after the publication of the standards developed by the Secretary of Health and Human Services (in this Act referred to as the "Secretary") under subsection (c), each State shall develop a State public health disaster plan for responding to biological or chemical attacks. Not later than 180 days after the publication of such standards, each State shall fully implement the State's plan.

(b) REQUIREMENTS OF PLAN.—A State public health disaster plan developed under subsection (a) shall—

(1) comply with the standards developed under subsection (c);

(2) require designated hospitals and health care providers in the State to have procedures in place to provide health care items and services (including antidotes, vaccines or other drugs or biologicals) to all State residents in the event of a biological or chemical attack;

(3) require that hospitals and health care providers designated under paragraph (2) conduct drills, on a semiannual or other basis determined appropriate by the Secretary, to ensure the readiness of such hospital or provider to receive and treat victims of a biological or chemical attack;

(4) be developed in consultation with affected local governments and hospitals; and

(5) meet such other requirements as the Secretary determines appropriate.

(c) STANDARDS.—Not later than 120 days after the date of enactment of this Act, the Secretary of Health and Human Services shall develop, and publish in the Federal Register, standards relating to State public health disaster plans, including requirements relating to the equipment, training, treatment, and personnel that a hospital or health care provider must have to be a designated hospital or provider under such plan.

(d) SUBMISSION TO SECRETARY.—

(1) IN GENERAL.—Not later than 360 days after the date on which standards are published under subsection (c), and annually (or at such other regular periods as the Secretary may determine appropriate) thereafter, a State shall submit to the Secretary for approval the disaster plan developed by the State under this section. The Secretary may only approve such plan if the Secretary determines that the plan complies with such standards.

(2) MONITORING.—The Secretary shall monitor the States to determine whether each State has developed and implemented a State disaster plan in accordance with this section.

(e) MEDICAID STATE PLAN REQUIREMENT.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (64), by striking "and" at the end;

(2) in paragraph (65), by striking the period at the end and inserting "; and", and

(3) by inserting after paragraph (65) the following:

"(66) provide that the State shall develop, for approval by the Secretary, and have in effect a State public health disaster plan for responding to biological or chemical attacks in accordance with section 2 of the Biological and Chemical Attack Preparedness Act, except that this paragraph shall not apply to a State if the Secretary waives the application of this paragraph because of the existence of exceptional circumstances."

#### SEC. 3. GRANTS FOR TRAINING, EQUIPMENT, AND PERSONNEL.

(a) IN GENERAL.—The Secretary, acting through the Director of the Office of Emergency Preparedness, shall award grants to hospitals and health care providers to enable such hospitals and providers to provide training, give treatment, purchase equipment, and employ personnel.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible for a grant under subsection (a), a hospital or health care provider shall in consultation with the State, prepare and submit to the Director of the Office of Emergency Preparedness, an application at such time, in such manner, and containing such information as the Director may require.

(2) PREFERENCE FOR DESIGNATED HOSPITALS AND PROVIDERS.—In awarding grants under this section, the Director shall give priority to applicant hospitals and health care providers that are designated hospitals or providers under the State public health disaster plan under section 2.

(3) GOVERNMENTAL ENTITIES.—Notwithstanding paragraph (1)(A), the Director may award a grant under this section to a State or local governmental entity if the Secretary determines that such an award is appropriate.

(c) USE OF FUNDS.—

(1) IN GENERAL.—A grantee shall use amounts received under a grant under this section to provide training, give treatment (including the provision of antidotes, vaccines or other drugs or biologicals), purchase equipment, and employ personnel as determined to be appropriate by the Director of the Office of Emergency Preparedness to enable the grantee to carry out its duties under the State public health disaster plan.

(2) TECHNICAL EXPERTISE.—A grantee may use amounts received under a grant under this section to acquire technical expertise to enable the grantee to develop appropriate responses to biological or chemical attacks.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, such sums as may be necessary to carry out this section.

Mr. REED. Mr. President, I am pleased to join my colleagues, Senators CORZINE and TORRICELLI of New Jersey in introducing this timely and important legislation. The Biological and Chemical Attack Preparedness Act seeks to address a critical need that currently exists in our health care emergency preparedness network.

Since the devastating attacks of September 11, it has become apparent that we as a Nation face many threats for which we must be prepared. Over the past decade, the Federal Government has made significant investments in research, planning and implementation of procedures designed to deal with a variety of terrorist attacks, including strengthening our public health system so that it may respond effectively to a potential biological or chemical terrorist event. In that time, we have made great progress in solidifying our level of preparedness for these kinds of insidious events. Nevertheless, the events of last month have also made us keenly aware of our vulnerabilities, particularly when it comes to State and local health systems, where our ability to respond to a major catastrophic event is not what it should be.

Specifically, while the 1996 Defense Against Weapons of Mass Destruction Act required the development of a Domestic Preparedness Program, including efforts to improve capacity of local emergency response agencies, only limited funds were provided to state and local responders and none for hospitals. For those hospitals that have devised



plans, the challenge is often finding the resources to acquire the appropriate equipment and training necessary to respond to a chemical or biological event.

The Biological and Chemical Attack Preparedness Act we are introducing today would address this urgent problem by requiring all States to think strategically about their health systems and how they might be called to respond to a biological or chemical attack. Each State would submit to the Department of Health and Human Services for review and approval a disaster preparedness plan that would designate certain hospitals and providers to respond to a terrorist attack. These facilities would devise and implement chemical and biological weapons response plans that conform to their responsibilities as a component of the State's overall disaster response. To help defray these additional costs, the bill authorizes a new grant program administered by HHS' Office of Emergency Preparedness to fund the implementation of biological and chemical attack preparedness strategies.

This legislation compliments ongoing efforts to enhance our public health capability to minimize casualties should a biological or chemical attack occur within our borders. Indeed, it is absolutely essential that every link in the health system chain, from the individual provider to our Federal health agencies, has the tools it needs to carry out the tasks for which it is responsible in this new world.

I thank my colleagues for the opportunity to join them today in this important endeavor and urge the Senate to take quick action to adopt this important legislation.

By Mr. ROCKEFELLER:

S. 1509. A bill to establish a grant program to enable rural police departments to gain access to the various crime-fighting, investigatory, and information-sharing resources available on the Internet, and for other purposes; to the Committee on the Judiciary.

Mr. ROCKEFELLER. Mr. President, I am proud today to introduce the Networking Electronically To Connect Our Police Act of 2001, or the NET COP Act, which will help police departments in rural communities throughout the United States take advantage of the many crime-fighting and information-sharing resources available through the Internet.

In the first decade of widespread use of the Internet, people everywhere have become accustomed to ready availability of a tremendous volume of useful information available to anyone with a computer and access to the Web. Federal, State, and local law enforcement agencies in this country have made extremely good use of this capability to share intelligence, to widen their investigatory nets, to find lost or abducted children, to locate deadbeat parents, to tap into centralized criminal databases, and to track and appre-

hend criminals with a speed they could not have dreamed of before using the Internet.

Unfortunately, as truly amazing as the law enforcement successes have been, the results could be better. Much as schools, libraries, local governments, and businesses in rural America have not always shared equally in the benefits of Internet access with their counterparts in urban and suburban areas, police departments serving some smaller communities have been unable to participate in this revolutionary crime-fighting technology to the same degree enjoyed by big-city departments.

Of the many lessons this country learned so painfully because of the terrorist attacks of September 11, perhaps the most painful is that information and intelligence that is not shared is information and intelligence wasted, often with tragic results. Crimes, including acts of terrorism, might be prevented if the right information finds its way to the appropriate law enforcement officials. We are also sensitized to the fact that crime knows no boundaries. In the world today, criminal activity is as great a concern for citizens and police officers in small towns as it is for those in large population centers. With our renewed national dedication to supplying law enforcement agencies with the tools they need to fight crime, we cannot doubt the necessity of ensuring that police departments in rural communities, like their colleagues in cities, have access to Internet-based crime-fighting and information-sharing resources.

The NET COP Act does just this. This bill sets up a grant program, administered by the United States Department of Justice, to enable rural police departments without Internet access to purchase appropriate computer hardware and software, or to pay for Internet access, so that they can join the many thousands of federal, State, and local agencies already sharing information and cooperating to track down and arrest criminals via such Internet-based services as DOJ's Regional Information Sharing Systems, RISS, and the FBI's Law Enforcement On-Line, LEO, program. NET COP grants will be given directly to police chiefs, so that they can buy just what they need to hook into the growing network of web-based law enforcement tools. NET COP grants will also be available for computer upgrades, if they are determined to be necessary.

Some rural police department officials and officers have been able to afford computer equipment, or to have their departments wired for the Internet, and have paid for out of their own pockets. So, NET COP grants will also be made available for reimbursement to those police officers and officials who have taken it upon themselves to provide their departments with these essential tools. Criteria for this reimbursement will be set by the Attorney General.

Additionally, this bill will require the Attorney General to set up a Police Department Technology Assistance Desk, to answer questions from local police chiefs about necessary technologies, and to assist police officials and local governments in making appropriate purchases from reputable dealers.

Finally, to gauge how effective the NET COP grant program is, the bill requires the General Accounting Office to make an annual report to Congress comparing the concentration of the nation's "wired" police departments generally with the number of rural departments having Internet access.

I believe the NET COP Act will serve as an extremely important crime-fighting tool for rural America. As we endeavor to create a safer and more secure United States, I recommend this legislation as a crucial component of a comprehensive response to crime.

By Mr. DASCHLE (for himself, Mr. LOTT, Mr. LEAHY, Mr. HATCH, Mr. GRAHAM, Mr. SHELBY, and Mr. SARBANES):

S. 1510. A bill to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes; read the first time.

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

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 1510

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

#### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Uniting and Strengthening America Act" or the "USA Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Construction; severability.

#### TITLE I—ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

Sec. 101. Counterterrorism fund.

Sec. 102. Sense of Congress condemning discrimination against Arab and Muslim Americans.

Sec. 103. Increased funding for the technical support center at the Federal Bureau of Investigation.

Sec. 104. Requests for military assistance to enforce prohibition in certain emergencies.

Sec. 105. Expansion of national electronic crime task force initiative.

Sec. 106. Presidential authority.

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#### **TITLE V—REMOVING OBSTACLES TO INVESTIGATING TERRORISM**

Sec. 501. Professional Standards for Government Attorneys Act of 2001.

Sec. 502. Attorney General's authority to pay rewards to combat terrorism.

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Sec. 504. DNA identification of terrorists and other violent offenders.

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Sec. 506. Miscellaneous national security authorities.

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Sec. 508. Disclosure of educational records.

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#### **TITLE VI—PROVIDING FOR VICTIMS OF TERRORISM, PUBLIC SAFETY OFFICERS, AND THEIR FAMILIES**

##### **Subtitle A—Aid to Families of Public Safety Officers**

Sec. 611. Expedited payment for public safety officers involved in the prevention, investigation, rescue, or recovery efforts related to a terrorist attack.

Sec. 612. Technical correction with respect to expedited payments for heroic public safety officers.

Sec. 613. Public Safety Officers Benefit Program payment increase.

Sec. 614. Office of justice programs.

##### **Subtitle B—Amendments to the Victims of Crime Act of 1984**

Sec. 621. Crime Victims Fund.

Sec. 622. Crime victim compensation.

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#### **TITLE VII—INCREASED INFORMATION SHARING FOR CRITICAL INFRASTRUCTURE PROTECTION**

Sec. 711. Expansion of regional information sharing system to facilitate Federal-State-local law enforcement response related to terrorist attacks.

#### **TITLE VIII—STRENGTHENING THE CRIMINAL LAWS AGAINST TERRORISM**

Sec. 801. Terrorist attacks and other acts of violence against mass transportation systems.

Sec. 802. Expansion of the biological weapons statute.

Sec. 803. Definition of domestic terrorism.

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Sec. 805. Jurisdiction over crimes committed at U.S. facilities abroad.

Sec. 806. Material support for terrorism.

Sec. 807. Assets of terrorist organizations.

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Sec. 815. Deterrence and prevention of cyberterrorism.

Sec. 816. Additional defense to civil actions relating to preserving records in response to government requests.

Sec. 817. Development and support of cybersecurity forensic capabilities.

#### **TITLE IX—IMPROVED INTELLIGENCE**

Sec. 901. Responsibilities of Director of Central Intelligence regarding foreign intelligence collected under Foreign Intelligence Surveillance Act of 1978.

Sec. 902. Inclusion of international terrorist activities within scope of foreign intelligence under National Security Act of 1947.

Sec. 903. Sense of Congress on the establishment and maintenance of intelligence relationships to acquire information on terrorists and terrorist organizations.

Sec. 904. Temporary authority to defer submittal to Congress of reports on intelligence and intelligence-related matters.

Sec. 905. Disclosure to director of central intelligence of foreign intelligence-related information with respect to criminal investigations.

Sec. 906. Foreign terrorist asset tracking center.

Sec. 907. National virtual translation center.

Sec. 908. Training of government officials regarding identification and use of foreign intelligence.

## SEC. 2. CONSTRUCTION; SEVERABILITY.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

## TITLE I—ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

### SEC. 101. COUNTERTERRORISM FUND.

(a) **ESTABLISHMENT; AVAILABILITY.**—There is hereby established in the Treasury of the United States a separate fund to be known as the “Counterterrorism Fund”, amounts in which shall remain available without fiscal year limitation—

(1) to reimburse any Department of Justice component for any costs incurred in connection with—

(A) reestablishing the operational capability of an office or facility that has been damaged or destroyed as the result of any domestic or international terrorism incident;

(B) providing support to counter, investigate, or prosecute domestic or international terrorism, including, without limitation, paying rewards in connection with these activities; and

(C) conducting terrorism threat assessments of Federal agencies and their facilities; and

(2) to reimburse any department or agency of the Federal Government for any costs incurred in connection with detaining in foreign countries individuals accused of acts of terrorism that violate the laws of the United States.

(b) **NO EFFECT ON PRIOR APPROPRIATIONS.**—Subsection (a) shall not be construed to affect the amount or availability of any appropriation to the Counterterrorism Fund made before the date of enactment of this Act.

### SEC. 102. SENSE OF CONGRESS CONDEMNING DISCRIMINATION AGAINST ARAB AND MUSLIM AMERICANS.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Arab Americans, Muslim Americans, and Americans from South Asia play a vital role in our Nation and are entitled to nothing less than the full rights of every American.

(2) The acts of violence that have been taken against Arab and Muslim Americans since the September 11, 2001, attacks against the United States should be and are condemned by all Americans who value freedom.

(3) The concept of individual responsibility for wrongdoing is sacrosanct in American society, and applies equally to all religious, racial, and ethnic groups.

(4) When American citizens commit acts of violence against those who are, or are perceived to be, of Arab or Muslim descent, they should be punished to the full extent of the law.

(5) Muslim Americans have become so fearful of harassment that many Muslim women are changing the way they dress to avoid becoming targets.

(6) Many Arab Americans and Muslim Americans have acted heroically during the attacks on the United States, including Mohammed Salman Hamdani, a 23-year-old New Yorker of Pakistani descent, who is believed to have gone to the World Trade Center to offer rescue assistance and is now missing.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the civil rights and civil liberties of all Americans, including Arab Americans, Muslim Americans, and Americans from South Asia, must be protected, and that every effort must be taken to preserve their safety;

(2) any acts of violence or discrimination against any Americans be condemned; and

(3) the Nation is called upon to recognize the patriotism of fellow citizens from all ethnic, racial, and religious backgrounds.

### SEC. 103. INCREASED FUNDING FOR THE TECHNICAL SUPPORT CENTER AT THE FEDERAL BUREAU OF INVESTIGATION.

There are authorized to be appropriated for the Technical Support Center established in section 811 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132) to help meet the demands for activities to combat terrorism and support and enhance the technical support and tactical operations of the FBI, \$200,000,000 for each of the fiscal years 2002, 2003, and 2004.

### SEC. 104. REQUESTS FOR MILITARY ASSISTANCE TO ENFORCE PROHIBITION IN CERTAIN EMERGENCIES.

Section 2332e of title 18, United States Code, is amended—

(1) by striking “2332c” and inserting “2332a”; and

(2) by striking “chemical”.

### SEC. 105. EXPANSION OF NATIONAL ELECTRONIC CRIME TASK FORCE INITIATIVE.

The Director of the United States Secret Service shall take appropriate actions to develop a national network of electronic crime task forces, based on the New York Electronic Crimes Task Force model, throughout the United States, for the purpose of preventing, detecting, and investigating various forms of electronic crimes, including potential terrorist attacks against critical infrastructure and financial payment systems.

### SEC. 106. PRESIDENTIAL AUTHORITY.

Section 203 of the International Emergency Powers Act (50 U.S.C. 1702) is amended—

(1) in subsection (a)(1)—

(A) at the end of subparagraph (A) (flush to that subparagraph), by striking “; and” and inserting a comma and the following:

“by any person, or with respect to any property, subject to the jurisdiction of the United States;”;

(B) in subparagraph (B)—

(i) by inserting “, block during the pendency of an investigation” after “investigate”; and

(ii) by striking “interest;” and inserting “interest by any person, or with respect to any property, subject to the jurisdiction of the United States; and”; and

(C) by inserting at the end the following:

“(C) when the United States is engaged in armed hostilities or has been attacked by a foreign country or foreign nationals, confiscate any property, subject to the jurisdiction of the United States, of any foreign person, foreign organization, or foreign country that he determines has planned, authorized, aided, or engaged in such hostilities or attacks against the United States; and all right, title, and interest in any property so confiscated shall vest, when, as, and upon the terms directed by the President, in such agency or person as the President may designate from time to time, and upon such terms and conditions as the President may prescribe, such interest or property shall be

held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes.”; and

(2) by inserting at the end the following:

“(c) **CLASSIFIED INFORMATION.**—In any judicial review of a determination made under this section, if the determination was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act) such information may be submitted to the reviewing court ex parte and in camera. This subsection does not confer or imply any right to judicial review.”.

## TITLE II—ENHANCED SURVEILLANCE PROCEDURES

### SEC. 201. AUTHORITY TO INTERCEPT WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS RELATING TO TERRORISM.

Section 2516(1) of title 18, United States Code, is amended—

(1) by redesignating paragraph (p), as so redesignated by section 434(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132; 110 Stat. 1274), as paragraph (r); and

(2) by inserting after paragraph (p), as so redesignated by section 201(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-565), the following new paragraph:

“(q) any criminal violation of section 229 (relating to chemical weapons); or sections 2332, 2332a, 2332b, 2332d, 2339A, or 2339B of this title (relating to terrorism); or”.

### SEC. 202. AUTHORITY TO INTERCEPT WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS RELATING TO COMPUTER FRAUD AND ABUSE OFFENSES.

Section 2516(1)(c) of title 18, United States Code, is amended by striking “and section 1341 (relating to mail fraud),” and inserting “section 1341 (relating to mail fraud), a felony violation of section 1030 (relating to computer fraud and abuse),”.

### SEC. 203. AUTHORITY TO SHARE CRIMINAL INVESTIGATIVE INFORMATION.

(a) **AUTHORITY TO SHARE GRAND JURY INFORMATION.**—

(1) **IN GENERAL.**—Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure is amended—

(A) in clause (iii), by striking “or” at the end;

(B) in clause (iv), by striking the period at the end and inserting “; or”; and

(C) by inserting at the end the following:

“(v) when the matters involve foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), or foreign intelligence information (as defined in Rule 6(e)(3)(C)(ii)) to any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official in order to assist the official receiving that information in the performance of his official duties. Any Federal official who receives information pursuant to clause (v) may use that information only as necessary in the conduct of that person’s official duties subject to any limitations on the unauthorized disclosure of such information.”.

(2) **DEFINITION.**—Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure, as amended by paragraph (1), is amended by—

(A) inserting “(i)” after “(C)”; and

(B) redesignating clauses (i) through (v) as subclauses (I) through (IV), respectively; and

(C) inserting at the end the following:

“(ii) In this subparagraph, the term ‘foreign intelligence information’ means—

“(I) information, whether or not concerning a United States person, that relates

to the ability of the United States to protect against—

“(aa) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

“(bb) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

“(cc) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

“(II) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

“(aa) the national defense or the security of the United States; or

“(bb) the conduct of the foreign affairs of the United States.”.

(b) **AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.**—

(1) **LAW ENFORCEMENT.**—Section 2517 of title 18, United States Code, is amended by inserting at the end the following:

“(6) Any investigative or law enforcement officer, or attorney for the Government, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official to the extent that such contents include foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), or foreign intelligence information (as defined in subsection (19) of section 2510 of this title), to assist the official who is to receive that information in the performance of his official duties. Any Federal official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information.”.

(2) **DEFINITION.**—Section 2510 of title 18, United States Code, is amended by—

(A) in paragraph (17), by striking “and” after the semicolon;

(B) in paragraph (18), by striking the period and inserting “; and”; and

(C) by inserting at the end the following:

“(19) ‘foreign intelligence information’ means—

“(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

“(i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

“(ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

“(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

“(B) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

“(i) the national defense or the security of the United States; or

“(ii) the conduct of the foreign affairs of the United States.”.

(c) **PROCEDURES.**—The Attorney General shall establish procedures for the disclosure of information pursuant to section 2517(6) and Rule 6(e)(3)(C)(v) of the Federal Rules of Criminal Procedure that identifies a United States person, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)).

(d) **FOREIGN INTELLIGENCE INFORMATION.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, it shall be lawful for foreign intelligence or counterintelligence (as defined section 3 of the National Security Act of 1947 (50 U.S.C. 401a)) or foreign intelligence information obtained as part of a criminal investigation to be disclosed to any Federal law enforcement, intelligence, protective, immigration, national defense, or national security official in order to assist the official receiving that information in the performance of his official duties. Any Federal official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information.

(2) **DEFINITION.**—In this subsection, the term “foreign intelligence information” means—

(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

(i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(B) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

(i) the national defense or the security of the United States; or

(ii) the conduct of the foreign affairs of the United States.

#### **SEC. 204. CLARIFICATION OF INTELLIGENCE EXCEPTIONS FROM LIMITATIONS ON INTERCEPTION AND DISCLOSURE OF WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS.**

Section 2511(2)(f) of title 18, United States Code, is amended—

(1) by striking “this chapter or chapter 121” and inserting “this chapter or chapter 121 or 206 of this title”; and

(2) by striking “wire and oral” and inserting “wire, oral, and electronic”.

#### **SEC. 205. EMPLOYMENT OF TRANSLATORS BY THE FEDERAL BUREAU OF INVESTIGATION.**

(a) **AUTHORITY.**—The Director of the Federal Bureau of Investigation is authorized to expedite the employment of personnel as translators to support counterterrorism investigations and operations without regard to applicable Federal personnel requirements and limitations.

(b) **SECURITY REQUIREMENTS.**—The Director of the Federal Bureau of Investigation shall establish such security requirements as are necessary for the personnel employed as translators under subsection (a).

(c) **REPORT.**—The Attorney General shall report to the Committees on the Judiciary of the House of Representatives and the Senate on—

(1) the number of translators employed by the FBI and other components of the Department of Justice;

(2) any legal or practical impediments to using translators employed by other Federal, State, or local agencies, on a full, part-time, or shared basis; and

(3) the needs of the FBI for specific translation services in certain languages, and recommendations for meeting those needs.

#### **SEC. 206. ROVING SURVEILLANCE AUTHORITY UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.**

Section 105(c)(2)(B) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amended by inserting “, or in circumstances where the Court finds that the actions of the target of the application may have the effect of thwarting the identification of a specified person, such other persons,” after “specified person”.

#### **SEC. 207. DURATION OF FISA SURVEILLANCE OF NON-UNITED STATES PERSONS WHO ARE AGENTS OF A FOREIGN POWER.**

(a) **DURATION.**—

(1) **SURVEILLANCE.**—Section 105(d)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(d)(1)) is amended by—

(A) inserting “(A)” after “except that”; and

(B) inserting before the period the following: “, and (B) an order under this Act for a surveillance targeted against an agent of a foreign power, as defined in section 101(b)(A) may be for the period specified in the application or for 120 days, whichever is less”.

(2) **PHYSICAL SEARCH.**—Section 304(d)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824(d)(1)) is amended by—

(A) striking “forty-five” and inserting “90”; and

(B) inserting “(A)” after “except that”; and

(C) inserting before the period the following: “, and (B) an order under this section for a physical search targeted against an agent of a foreign power as defined in section 101(b)(A) may be for the period specified in the application or for 120 days, whichever is less”.

(b) **EXTENSION.**—

(1) **IN GENERAL.**—Section 105(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(d)(2)) is amended by—

(A) inserting “(A)” after “except that”; and

(B) inserting before the period the following: “, and (B) an extension of an order under this Act for a surveillance targeted against an agent of a foreign power as defined in section 101(b)(1)(A) may be for a period not to exceed 1 year”.

(2) **DEFINED TERM.**—Section 304(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824(d)(2)) is amended by inserting after “not a United States person,” the following: “or against an agent of a foreign power as defined in section 101(b)(1)(A)”.

#### **SEC. 208. DESIGNATION OF JUDGES.**

Section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) is amended by—

(1) striking “seven district court judges” and inserting “11 district court judges”; and

(2) inserting “of whom no less than 3 shall reside within 20 miles of the District of Columbia” after “circuits”.

#### **SEC. 209. SEIZURE OF VOICE-MAIL MESSAGES PURSUANT TO WARRANTS.**

Title 18, United States Code, is amended—

(1) in section 2510—

(A) in paragraph (1), by striking beginning with “and such” and all that follows through “communication”; and

(B) in paragraph (14), by inserting “wire or” after “transmission of”; and

(2) in subsections (a) and (b) of section 2703—

(A) by striking “CONTENTS OF ELECTRONIC” and inserting “CONTENTS OF WIRE OR ELECTRONIC” each place it appears;

(B) by striking “contents of an electronic” and inserting “contents of a wire or electronic” each place it appears; and

(C) by striking “any electronic” and inserting “any wire or electronic” each place it appears.

**SEC. 210. SCOPE OF SUBPOENAS FOR RECORDS OF ELECTRONIC COMMUNICATIONS.**

Section 2703(c)(2) of title 18, United States Code, as redesignated by section 212, is amended—

(1) by striking “entity the name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of the subscriber” and inserting the following: “entity the—

“(A) name;

“(B) address;

“(C) local and long distance telephone connection records, or records of session times and durations;

“(D) length of service (including start date) and types of service utilized;

“(E) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

“(F) means and source of payment (including any credit card or bank account number), of a subscriber”; and

(2) by striking “and the types of services the subscriber or customer utilized.”.

**SEC. 211. CLARIFICATION OF SCOPE.**

Section 631 of the Communications Act of 1934 (47 U.S.C. 551) is amended—

(1) in subsection (c)(2)—

(A) in subparagraph (B), by striking “or”;

(B) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(C) by inserting at the end the following:

“(D) authorized under chapters 119, 121, or 206 of title 18, United States Code, except that such disclosure shall not include records revealing customer cable television viewing activity.”; and

(2) in subsection (h) by striking “A governmental entity” and inserting “Except as provided in subsection (c)(2)(D), a governmental entity”.

**SEC. 212. EMERGENCY DISCLOSURE OF ELECTRONIC COMMUNICATIONS TO PROTECT LIFE AND LIMB.**

(a) DISCLOSURE OF CONTENTS.—

(1) IN GENERAL.—Section 2702 of title 18, United States Code, is amended—

(A) by striking the section heading and inserting the following:

“§ 2702. Voluntary disclosure of customer communications or records”;

(B) in subsection (a)—

(i) in paragraph (2)(A), by striking “and” at the end;

(ii) in paragraph (2)(B), by striking the period and inserting “; and”; and

(iii) by inserting after paragraph (2) the following:

“(3) a provider of remote computing service or electronic communication service to the public shall not knowingly divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by paragraph (1) or (2)) to any governmental entity.”;

(C) in subsection (b), by striking “EXCEPTIONS.—A person or entity” and inserting “EXCEPTIONS FOR DISCLOSURE OF COMMUNICATIONS.—A provider described in subsection (a)”;

(D) in subsection (b)(6)—

(i) in subparagraph (A)(ii), by striking “or”;

(ii) in subparagraph (B), by striking the period and inserting “; or”; and

(iii) by adding after subparagraph (B) the following:

“(C) if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person requires disclosure of the information without delay.”; and

(E) by inserting after subsection (b) the following:

“(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER RECORDS.—A provider described in subsection (a) may divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a)(1) or (a)(2))—

“(1) as otherwise authorized in section 2703;

“(2) with the lawful consent of the customer or subscriber;

“(3) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;

“(4) to a governmental entity, if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person justifies disclosure of the information; or

“(5) to any person other than a governmental entity.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 121 of title 18, United States Code, is amended by striking the item relating to section 2702 and inserting the following:

“2702. Voluntary disclosure of customer communications or records.”.

(b) REQUIREMENTS FOR GOVERNMENT ACCESS.—

(1) IN GENERAL.—Section 2703 of title 18, United States Code, is amended—

(A) by striking the section heading and inserting the following:

“§ 2703. Required disclosure of customer communications or records”;

(B) in subsection (c) by redesignating paragraph (2) as paragraph (3);

(C) in subsection (c)(1)—

(i) by striking “(A) Except as provided in subparagraph (B), a provider of electronic communication service or remote computing service may” and inserting “A governmental entity may require a provider of electronic communication service or remote computing service to”;

(ii) by striking “covered by subsection (a) or (b) of this section) to any person other than a governmental entity.”.

“(B) A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to a governmental entity” and inserting “)”;;

(iii) by redesignating subparagraph (C) as paragraph (2);

(iv) by redesignating clauses (i), (ii), (iii), and (iv) as subparagraphs (A), (B), (C), and (D), respectively;

(v) in subparagraph (D) (as redesignated) by striking the period and inserting “; or”; and

(vi) by inserting after subparagraph (D) (as redesignated) the following:

“(E) seeks information under paragraph (2).”; and

(D) in paragraph (2) (as redesignated) by striking “subparagraph (B)” and insert “paragraph (1)”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 121 of title 18, United States Code, is amended by striking the item relating to section 2703 and inserting the following:

“2703. Required disclosure of customer communications or records.”.

**SEC. 213. AUTHORITY FOR DELAYING NOTICE OF THE EXECUTION OF A WARRANT.**

Section 3103a of title 18, United States Code, is amended—

(1) by inserting “(a) IN GENERAL.—” before “In addition”; and

(2) by adding at the end the following:

“(b) DELAY.—With respect to the issuance of any warrant or court order under this section, or any other rule of law, to search for and seize any property or material that constitutes evidence of a criminal offense in violation of the laws of the United States, any notice required, or that may be required, to be given may be delayed if—

“(1) the court finds reasonable cause to believe that providing immediate notification of the execution of the warrant may have an adverse result (as defined in section 2705);

“(2) the warrant prohibits the seizure of any tangible property, any wire or electronic communication (as defined in section 2510), or, except as expressly provided in chapter 121, any stored wire or electronic information, except where the court finds reasonable necessity for the seizure; and

“(3) the warrant provides for the giving of such notice within a reasonable period of its execution, which period may thereafter be extended by the court for good cause shown.”.

**SEC. 214. PEN REGISTER AND TRAP AND TRACE AUTHORITY UNDER FISA.**

(a) APPLICATIONS AND ORDERS.—Section 402 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842) is amended—

(1) in subsection (a)(1), by striking “for any investigation to gather foreign intelligence information or information concerning international terrorism” and inserting “for any investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution”;

(2) by amending subsection (c)(2) to read as follows:

“(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution.”;

(3) by striking subsection (c)(3); and

(4) by amending subsection (d)(2)(A) to read as follows:

“(A) shall specify—

“(i) the identity, if known, of the person who is the subject of the investigation;

“(ii) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied;

“(iii) the attributes of the communications to which the order applies, such as the number or other identifier, and, if known, the location of the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied and, in the case of a trap and trace device, the geographic limits of the trap and trace order.”.

(b) AUTHORIZATION DURING EMERGENCIES.—Section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843) is amended—

(1) in subsection (a), by striking “foreign intelligence information or information concerning international terrorism” and inserting “information to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution”; and

(2) in subsection (b)(1), by striking "foreign intelligence information or information concerning international terrorism" and inserting "information to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution".

**SEC. 215. ACCESS TO RECORDS AND OTHER ITEMS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT.**

Title V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) is amended by striking sections 501 through 503 and inserting the following:

**"SEC. 501. ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.**

"(a)(1) The Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order requiring the production of any tangible things (including books, records, papers, documents, and other items) for an investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution.

"(2) An investigation conducted under this section shall—

"(A) be conducted under guidelines approved by the Attorney General under Executive Order 12333 (or a successor order); and

"(B) not be conducted of a United States person solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

"(b) Each application under this section—

"(1) shall be made to—

"(A) a judge of the court established by section 103(a); or

"(B) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the production of tangible things under this section on behalf of a judge of that court; and

"(2) shall specify that the records concerned are sought for an authorized investigation conducted in accordance with subsection (a)(2) to protect against international terrorism or clandestine intelligence activities.

"(c)(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application meets the requirements of this section.

"(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a).

"(d) No person shall disclose to any other person (other than those persons necessary to produce the tangible things under this section) that the Federal Bureau of Investigation has sought or obtained tangible things under this section.

"(e) A person who, in good faith, produces tangible things under an order pursuant to this section shall not be liable to any other person for such production. Such production shall not be deemed to constitute a waiver of any privilege in any other proceeding or context.

**"SEC. 502. CONGRESSIONAL OVERSIGHT.**

"(a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the

House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests for the production of tangible things under section 402.

"(b) On a semiannual basis, the Attorney General shall provide to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding 6-month period—

"(1) the total number of applications made for orders approving requests for the production of tangible things under section 402; and

"(2) the total number of such orders either granted, modified, or denied."

**SEC. 216. MODIFICATION OF AUTHORITIES RELATING TO USE OF PEN REGISTERS AND TRAP AND TRACE DEVICES.**

(a) GENERAL LIMITATIONS.—Section 3121(c) of title 18, United States Code, is amended—

(1) by inserting "or trap and trace device" after "pen register";

(2) by inserting ", routing, addressing," after "dialing"; and

(3) by striking "call processing" and inserting "the processing and transmitting of wire or electronic communications so as not to include the contents of any wire or electronic communications".

(b) ISSUANCE OF ORDERS.—

(1) IN GENERAL.—Section 3123(a) of title 18, United States Code, is amended to read as follows:

"(a) IN GENERAL.—

"(1) ATTORNEY FOR THE GOVERNMENT.—Upon an application made under section 3122(a)(1), the court shall enter an ex parte order authorizing the installation and use of a pen register or trap and trace device anywhere within the United States, if the court finds that the attorney for the Government has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation. The order, upon service of that order, shall apply to any person or entity providing wire or electronic communication service in the United States whose assistance may facilitate the execution of the order. Whenever such an order is served on any person or entity not specifically named in the order, upon request of such person or entity, the attorney for the Government or law enforcement or investigative officer that is serving the order shall provide written or electronic certification that the order applies to the person or entity being served.

"(2) STATE INVESTIGATIVE OR LAW ENFORCEMENT OFFICER.—Upon an application made under section 3122(a)(2), the court shall enter an ex parte order authorizing the installation and use of a pen register or trap and trace device within the jurisdiction of the court, if the court finds that the State law enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation."

(2) CONTENTS OF ORDER.—Section 3123(b)(1) of title 18, United States Code, is amended—

(A) in subparagraph (A)—

(i) by inserting "or other facility" after "telephone line"; and

(ii) by inserting before the semicolon at the end "or applied"; and

(B) by striking subparagraph (C) and inserting the following:

"(C) the attributes of the communications to which the order applies, including the number or other identifier and, if known, the location of the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied, and, in the case of an order authorizing installation and use of a trap and trace device under subsection (a)(2), the geographic limits of the order; and"

(3) NONDISCLOSURE REQUIREMENTS.—Section 3123(d)(2) of title 18, United States Code, is amended—

(A) by inserting "or other facility" after "the line"; and

(B) by striking ", or who has been ordered by the court" and inserting "or applied, or who is obligated by the order".

(c) DEFINITIONS.—

(1) COURT OF COMPETENT JURISDICTION.—Section 3127(2) of title 18, United States Code, is amended by striking subparagraph (A) and inserting the following:

"(A) any district court of the United States (including a magistrate judge of such a court) or any United States court of appeals having jurisdiction over the offense being investigated; or"

(2) PEN REGISTER.—Section 3127(3) of title 18, United States Code, is amended—

(A) by striking "electronic or other impulses" and all that follows through "is attached" and inserting "dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted, provided, however, that such information shall not include the contents of any communication"; and

(B) by inserting "or process" after "device" each place it appears.

(3) TRAP AND TRACE DEVICE.—Section 3127(4) of title 18, United States Code, is amended—

(A) by striking "of an instrument" and all that follows through the semicolon and inserting "or other dialing, routing, addressing, and signaling information reasonably likely to identify the source of a wire or electronic communication, provided, however, that such information shall not include the contents of any communication;"; and

(B) by inserting "or process" after "a device".

(4) CONFORMING AMENDMENT.—Section 3127(1) of title 18, United States Code, is amended—

(A) by striking "and"; and

(B) by inserting ", and 'contents'" after "electronic communication service".

(5) TECHNICAL AMENDMENT.—Section 3124(d) of title 18, United States Code, is amended by striking "the terms of".

**SEC. 217. INTERCEPTION OF COMPUTER TRESPASSER COMMUNICATIONS.**

Chapter 119 of title 18, United States Code, is amended—

(1) in section 2510—

(A) in paragraph (17), by striking "and" at the end;

(B) in paragraph (18), by striking the period and inserting a semicolon; and

(C) by inserting after paragraph (18) the following:

"(19) 'protected computer' has the meaning set forth in section 1030; and

"(20) 'computer trespasser'—

"(A) means a person who accesses a protected computer without authorization and thus has no reasonable expectation of privacy in any communication transmitted to, through, or from the protected computer; and

"(B) does not include a person known by the owner or operator of the protected computer to have an existing contractual relationship with the owner or operator of the protected computer for access to all or part of the protected computer.";

(2) in section 2511(2), by inserting at the end the following:

"(i) It shall not be unlawful under this chapter for a person acting under color of law to intercept the wire or electronic communications of a computer trespasser, if—

"(i) the owner or operator of the protected computer authorizes the interception of the



computer trespasser's communications on the protected computer;

“(ii) the person acting under color of law is lawfully engaged in an investigation;

“(iii) the person acting under color of law has reasonable grounds to believe that the contents of the computer trespasser's communications will be relevant to the investigation; and

“(iv) such interception does not acquire communications other than those transmitted to or from the computer trespasser.”.

#### SEC. 218. FOREIGN INTELLIGENCE INFORMATION.

Sections 104(a)(7)(B) and section 303(a)(7)(B) (50 U.S.C. 1804(a)(7)(B) and 1823(a)(7)(B)) of the Foreign Intelligence Surveillance Act of 1978 are each amended by striking “the purpose” and inserting “a significant purpose”.

#### SEC. 219. SINGLE-JURISDICTION SEARCH WARRANTS FOR TERRORISM.

Rule 41(a) of the Federal Rules of Criminal Procedure is amended by inserting after “executed” the following: “and (3) in an investigation of domestic terrorism or international terrorism (as defined in section 2331 of title 18, United States Code), by a Federal magistrate judge in any district in which activities related to the terrorism may have occurred, for a search of property or for a person within or outside the district”.

#### SEC. 220. NATIONWIDE SERVICE OF SEARCH WARRANTS FOR ELECTRONIC EVIDENCE.

Chapter 121 of title 18, United States Code, is amended—

(1) in section 2703, by striking “under the Federal Rules of Criminal Procedure” every place it appears and inserting “using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation”; and

(2) in section 2711—

(A) in paragraph (1), by striking “and”;

(B) in paragraph (2), by striking the period and inserting “; and”; and

(C) by inserting at the end the following:

“(3) the term ‘court of competent jurisdiction’ has the meaning assigned by section 3127, and includes any Federal court within that definition, without geographic limitation.”.

#### SEC. 221. TRADE SANCTIONS.

(a) IN GENERAL.—The Trade Sanctions Reform and Export Enhancement Act of 2000 (Public Law 106-387; 114 Stat. 1549A-67) is amended—

(1) by amending section 904(2)(C) to read as follows:

“(C) used to facilitate the design, development, or production of chemical or biological weapons, missiles, or weapons of mass destruction.”;

(2) in section 906(a)(1)—

(A) by inserting “, the Taliban or the territory of Afghanistan controlled by the Taliban,” after “Cuba”; and

(B) by inserting “, or in the territory of Afghanistan controlled by the Taliban,” after “within such country”; and

(3) in section 906(a)(2), by inserting “, or to any other entity in Syria or North Korea” after “Korea”.

(b) APPLICATION OF THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT.—Nothing in the Trade Sanctions Reform and Export Enhancement Act of 2000 shall limit the application or scope of any law establishing criminal or civil penalties, including any executive order or regulation promulgated pursuant to such laws (or similar or successor laws), for the unlawful export of any agricultural commodity, medicine, or medical device to—

(1) a foreign organization, group, or person designated pursuant to Executive Order 12947 of June 25, 1995;

(2) a Foreign Terrorist Organization pursuant to the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132);

(3) a foreign organization, group, or person designated pursuant to Executive Order 13224 (September 23, 2001);

(4) any narcotics trafficking entity designated pursuant to Executive Order 12978 (October 21, 1995) or the Foreign Narcotics Kingpin Designation Act (Public Law 106-120); or

(5) any foreign organization, group, or persons subject to any restriction for its involvement in weapons of mass destruction or missile proliferation.

#### SEC. 222. ASSISTANCE TO LAW ENFORCEMENT AGENCIES.

Nothing in this Act shall impose any additional technical obligation or requirement on a provider of wire or electronic communication service or other person to furnish facilities or technical assistance. A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to section 216 shall be reasonably compensated for such reasonable expenditures incurred in providing such facilities or assistance.

#### TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT AND ANTI-TERRORIST FINANCING ACT OF 2001.

##### SEC. 301. SHORT TITLE.

This title may be cited as the “International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001”.

##### SEC. 302. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) money laundering, estimated by the International Monetary Fund to amount to between 2 and 5 percent of global gross domestic product, which is at least \$600,000,000,000 annually, provides the financial fuel that permits transnational criminal enterprises to conduct and expand their operations to the detriment of the safety and security of American citizens;

(2) money laundering, and the defects in financial transparency on which money launderers rely, are critical to the financing of global terrorism and the provision of funds for terrorist attacks;

(3) money launderers subvert legitimate financial mechanisms and banking relationships by using them as protective covering for the movement of criminal proceeds and the financing of crime and terrorism, and, by so doing, can threaten the safety of United States citizens and undermine the integrity of United States financial institutions and of the global financial and trading systems upon which prosperity and growth depend;

(4) certain jurisdictions outside of the United States that offer “offshore” banking and related facilities designed to provide anonymity, coupled with special tax advantages and weak financial supervisory and enforcement regimes, provide essential tools to disguise ownership and movement of criminal funds, derived from, or used to commit, offenses ranging from narcotics trafficking, terrorism, arms smuggling, and trafficking in human beings, to financial frauds that prey on law-abiding citizens;

(5) transactions involving such offshore jurisdictions make it difficult for law enforcement officials and regulators to follow the trail of money earned by criminals, organized international criminal enterprises, and global terrorist organizations;

(6) correspondent banking facilities are one of the banking mechanisms susceptible in some circumstances to manipulation by foreign banks to permit the laundering of funds by hiding the identity of real parties in interest to financial transactions;

(7) private banking services can be susceptible to manipulation by money launderers,

for example corrupt foreign government officials, particularly if those services include the creation of offshore accounts and facilities for large personal funds transfers to channel funds into accounts around the globe;

(8) United States anti-money laundering efforts are impeded by outmoded and inadequate statutory provisions that make investigations, prosecutions, and forfeitures more difficult, particularly in cases in which money laundering involves foreign persons, foreign banks, or foreign countries;

(9) the ability to mount effective countermeasures to international money launderers requires national, as well as bilateral and multilateral action, using tools specially designed for that effort; and

(10) the Basle Committee on Banking Regulation and Supervisory Practices and the Financial Action Task Force on Money Laundering, of both of which the United States is a member, have each adopted international anti-money laundering principles and recommendations.

(b) PURPOSES.—The purposes of this title are—

(1) to increase the strength of United States measures to prevent, detect, and prosecute international money laundering and the financing of terrorism;

(2) to ensure that—

(A) banking transactions and financial relationships and the conduct of such transactions and relationships, do not contravene the purposes of subchapter II of chapter 53 of title 31, United States Code, section 21 of the Federal Deposit Insurance Act, or chapter 2 of title I of Public Law 91-508 (84 Stat. 1116), or facilitate the evasion of any such provision; and

(B) the purposes of such provisions of law continue to be fulfilled, and that such provisions of law are effectively and efficiently administered;

(3) to strengthen the provisions put into place by the Money Laundering Control Act of 1986 (18 U.S.C. 981 note), especially with respect to crimes by non-United States nationals and foreign financial institutions;

(4) to provide a clear national mandate for subjecting to special scrutiny those foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions that pose particular, identifiable opportunities for criminal abuse;

(5) to provide the Secretary of the Treasury (in this title referred to as the “Secretary”) with broad discretion, subject to the safeguards provided by the Administrative Procedures Act under title 5, United States Code, to take measures tailored to the particular money laundering problems presented by specific foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions;

(6) to ensure that the employment of such measures by the Secretary permits appropriate opportunity for comment by affected financial institutions;

(7) to provide guidance to domestic financial institutions on particular foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions that are of primary money laundering concern to the United States Government;

(8) to ensure that the forfeiture of any assets in connection with the anti-terrorist efforts of the United States permits for adequate challenge consistent with providing due process rights;

(9) to clarify the terms of the safe harbor from civil liability for filing suspicious activity reports;

(10) to strengthen the authority of the Secretary to issue and administer geographic targeting orders, and to clarify that violations of such orders or any other requirement imposed under the authority contained in chapter 2 of title I of Public Law 91-508 and subchapters II and III of chapter 53 of title 31, United States Code, may result in criminal and civil penalties;

(11) to ensure that all appropriate elements of the financial services industry are subject to appropriate requirements to report potential money laundering transactions to proper authorities, and that jurisdictional disputes do not hinder examination of compliance by financial institutions with relevant reporting requirements;

(12) to fix responsibility for high level coordination of the anti-money laundering efforts of the Department of the Treasury;

(13) to strengthen the ability of financial institutions to maintain the integrity of their employee population; and

(14) to strengthen measures to prevent the use of the United States financial system for personal gain by corrupt foreign officials and to facilitate the repatriation of any stolen assets to the citizens of countries to whom such assets belong.

#### **SEC. 303. 4-YEAR CONGRESSIONAL REVIEW-EXPEDITED CONSIDERATION.**

(a) IN GENERAL.—Effective on and after the first day of fiscal year 2005, the provisions of this title and the amendments made by this title shall terminate if the Congress enacts a joint resolution, the text after the resolving clause of which is as follows: “That provisions of the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, and the amendments made thereby, shall no longer have the force of law.”

(b) EXPEDITED CONSIDERATION.—Any joint resolution submitted pursuant to this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Control Act of 1976. For the purpose of expediting the consideration and enactment of a joint resolution under this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee, shall be treated as highly privileged in the House of Representatives.

#### **Subtitle A—International Counter Money Laundering and Related Measures**

#### **SEC. 311. SPECIAL MEASURES FOR JURISDICTIONS, FINANCIAL INSTITUTIONS, OR INTERNATIONAL TRANSACTIONS OF PRIMARY MONEY LAUNDERING CONCERN.**

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5318 the following new section:

#### **“SEC. 5318A. SPECIAL MEASURES FOR JURISDICTIONS, FINANCIAL INSTITUTIONS, OR INTERNATIONAL TRANSACTIONS OF PRIMARY MONEY LAUNDERING CONCERN.**

“(a) INTERNATIONAL COUNTER-MONEY LAUNDERING REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary may require domestic financial institutions and domestic financial agencies to take 1 or more of the special measures described in subsection (b) if the Secretary finds that reasonable grounds exist for concluding that a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts is of primary money laundering concern, in accordance with subsection (c).

“(2) FORM OF REQUIREMENT.—The special measures described in—

“(A) subsection (b) may be imposed in such sequence or combination as the Secretary shall determine;

“(B) paragraphs (1) through (4) of subsection (b) may be imposed by regulation, order, or otherwise as permitted by law; and

“(C) subsection (b)(5) may be imposed only by regulation.

“(3) DURATION OF ORDERS; RULEMAKING.—Any order by which a special measure described in paragraphs (1) through (4) of subsection (b) is imposed (other than an order described in section 5326)—

“(A) shall be issued together with a notice of proposed rulemaking relating to the imposition of such special measure; and

“(B) may not remain in effect for more than 120 days, except pursuant to a rule promulgated on or before the end of the 120-day period beginning on the date of issuance of such order.

“(4) PROCESS FOR SELECTING SPECIAL MEASURES.—In selecting which special measure or measures to take under this subsection, the Secretary—

“(A) shall consult with the Chairman of the Board of Governors of the Federal Reserve System, any other appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act, the Securities and Exchange Commission, the National Credit Union Administration Board, and in the sole discretion of the Secretary such other agencies and interested parties as the Secretary may find to be appropriate; and

“(B) shall consider—

“(i) whether similar action has been or is being taken by other nations or multilateral groups;

“(ii) whether the imposition of any particular special measure would create a significant competitive disadvantage, including any undue cost or burden associated with compliance, for financial institutions organized or licensed in the United States; and

“(iii) the extent to which the action or the timing of the action would have a significant adverse systemic impact on the international payment, clearance, and settlement system, or on legitimate business activities involving the particular jurisdiction, institution, or class of transactions.

“(5) NO LIMITATION ON OTHER AUTHORITY.—This section shall not be construed as superseding or otherwise restricting any other authority granted to the Secretary, or to any other agency, by this subchapter or otherwise.

“(b) SPECIAL MEASURES.—The special measures referred to in subsection (a), with respect to a jurisdiction outside of the United States, financial institution operating outside of the United States, class of transaction within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts are as follows:

“(1) RECORDKEEPING AND REPORTING OF CERTAIN FINANCIAL TRANSACTIONS.—

“(A) IN GENERAL.—The Secretary may require any domestic financial institution or domestic financial agency to maintain records, file reports, or both, concerning the aggregate amount of transactions, or concerning each transaction, with respect to a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts if the Secretary finds any such jurisdiction, institution, or class of transactions to be of primary money laundering concern.

“(B) FORM OF RECORDS AND REPORTS.—Such records and reports shall be made and retained at such time, in such manner, and for such period of time, as the Secretary shall determine, and shall include such informa-

tion as the Secretary may determine, including—

“(i) the identity and address of the participants in a transaction or relationship, including the identity of the originator of any funds transfer;

“(ii) the legal capacity in which a participant in any transaction is acting;

“(iii) the identity of the beneficial owner of the funds involved in any transaction, in accordance with such procedures as the Secretary determines to be reasonable and practicable to obtain and retain the information; and

“(iv) a description of any transaction.

“(2) INFORMATION RELATING TO BENEFICIAL OWNERSHIP.—In addition to any other requirement under any other provision of law, the Secretary may require any domestic financial institution or domestic financial agency to take such steps as the Secretary may determine to be reasonable and practicable to obtain and retain information concerning the beneficial ownership of any account opened or maintained in the United States by a foreign person (other than a foreign entity whose shares are subject to public reporting requirements or are listed and traded on a regulated exchange or trading market), or a representative of such a foreign person, that involves a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts if the Secretary finds any such jurisdiction, institution, or transaction to be of primary money laundering concern.

“(3) INFORMATION RELATING TO CERTAIN PAYABLE-THROUGH ACCOUNTS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary may require any domestic financial institution or domestic financial agency that opens or maintains a payable-through account in the United States for a foreign financial institution involving any such jurisdiction or any such financial institution operating outside of the United States, or a payable through account through which any such transaction may be conducted, as a condition of opening or maintaining such account—

“(A) to identify each customer (and representative of such customer) of such financial institution who is permitted to use, or whose transactions are routed through, such payable-through account; and

“(B) to obtain, with respect to each such customer (and each such representative), information that is substantially comparable to that which the depository institution obtains in the ordinary course of business with respect to its customers residing in the United States.

“(4) INFORMATION RELATING TO CERTAIN CORRESPONDENT ACCOUNTS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary may require any domestic financial institution or domestic financial agency that opens or maintains a correspondent account in the United States for a foreign financial institution involving any such jurisdiction or any such financial institution operating outside of the United States, or a correspondent account through

which any such transaction may be conducted, as a condition of opening or maintaining such account—

“(A) to identify each customer (and representative of such customer) of any such financial institution who is permitted to use, or whose transactions are routed through, such correspondent account; and

“(B) to obtain, with respect to each such customer (and each such representative), information that is substantially comparable to that which the depository institution obtains in the ordinary course of business with respect to its customers residing in the United States.

“(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon, the opening or maintaining in the United States of a correspondent account or payable-through account by any domestic financial institution or domestic financial agency for or on behalf of a foreign banking institution, if such correspondent account or payable-through account involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account or payable-through account.

“(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN.—

“(1) IN GENERAL.—In making a finding that reasonable grounds exist for concluding that a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts is of primary money laundering concern so as to authorize the Secretary to take 1 or more of the special measures described in subsection (b), the Secretary shall consult with the Secretary of State, and the Attorney General.

“(2) ADDITIONAL CONSIDERATIONS.—In making a finding described in paragraph (1), the Secretary shall consider in addition such information as the Secretary determines to be relevant, including the following potentially relevant factors:

“(A) JURISDICTIONAL FACTORS.—In the case of a particular jurisdiction—

“(i) evidence that organized criminal groups, international terrorists, or both, have transacted business in that jurisdiction;

(ii) the extent to which that jurisdiction or financial institutions operating in that jurisdiction offer bank secrecy or special tax or regulatory advantages to nonresidents or nondomiciliaries of that jurisdiction;

“(iii) the substance and quality of administration of the bank supervisory and counter-money laundering laws of that jurisdiction;

“(iv) the relationship between the volume of financial transactions occurring in that jurisdiction and the size of the economy of the jurisdiction;

“(v) the extent to which that jurisdiction is characterized as a tax haven or offshore banking or secrecy haven by credible international organizations or multilateral expert groups;

“(vi) whether the United States has a mutual legal assistance treaty with that jurisdiction, and the experience of United States law enforcement officials, regulatory officials, and tax administrators in obtaining information about transactions originating in or routed through or to such jurisdiction; and

“(vii) the extent to which that jurisdiction is characterized by high levels of official or institutional corruption.

“(B) INSTITUTIONAL FACTORS.—In the case of a decision to apply 1 or more of the special measures described in subsection (b) only to a financial institution or institutions, or to a transaction or class of transactions, or to a type of account, or to all 3, within or involving a particular jurisdiction—

“(i) the extent to which such financial institutions, transactions, or types of accounts are used to facilitate or promote money laundering in or through the jurisdiction;

“(ii) the extent to which such institutions, transactions, or types of accounts are used for legitimate business purposes in the jurisdiction; and

“(iii) the extent to which such action is sufficient to ensure, with respect to transactions involving the jurisdiction and institutions operating in the jurisdiction, that the purposes of this subchapter continue to be fulfilled, and to guard against international money laundering and other financial crimes.

“(d) NOTIFICATION OF SPECIAL MEASURES INVOKED BY THE SECRETARY.—Not later than 10 days after the date of any action taken by the Secretary under subsection (a)(1), the Secretary shall notify, in writing, the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of any such action.

“(e) STUDY AND REPORT ON FOREIGN NATIONALS.—

“(1) STUDY.—The Secretary, in consultation with the appropriate Federal agencies, including the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), shall conduct a study to—

“(A) determine the most timely and effective way to require foreign nationals to provide domestic financial institutions and agencies with appropriate and accurate information, comparable to that which is required of United States nationals, concerning their identity, address, and other related information necessary to enable such institutions and agencies to comply with the reporting, information gathering, and other requirements of this section; and

“(B) consider the need for requiring foreign nationals to apply for and obtain an identification number, similar to what is required for United States citizens through a social security number or tax identification number, prior to opening an account with a domestic financial institution.

“(2) REPORT.—The Secretary shall report to Congress not later than 180 days after the date of enactment of this section with recommendations for implementing such action referred to in paragraph (1) in a timely and effective manner.

“(f) DEFINITIONS.—Notwithstanding any other provision of this subchapter, for purposes of this section, the following definitions shall apply:

“(1) BANK DEFINITIONS.—The following definitions shall apply with respect to a bank:

“(A) ACCOUNT.—The term ‘account’—

“(i) means a formal banking or business relationship established to provide regular services, dealings, and other financial transactions; and

“(ii) includes a demand deposit, savings deposit, or other transaction or asset account

and a credit account or other extension of credit.

“(B) CORRESPONDENT ACCOUNT.—The term ‘correspondent account’ means an account established to receive deposits from, make payments on behalf of a foreign financial institution, or handle other financial transactions related to such institution.

“(C) PAYABLE-THROUGH ACCOUNT.—The term ‘payable-through account’ means an account, including a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act), opened at a depository institution by a foreign financial institution by means of which the foreign financial institution permits its customers to engage, either directly or through a subaccount, in banking activities usual in connection with the business of banking in the United States.

“(2) DEFINITIONS APPLICABLE TO INSTITUTIONS OTHER THAN BANKS.—With respect to any financial institution other than a bank, the Secretary shall, after consultation with the Securities and Exchange Commission, define by regulation the term ‘account’, and shall include within the meaning of that term, to the extent, if any, that the Secretary deems appropriate, arrangements similar to payable-through and correspondent accounts.

“(3) REGULATORY DEFINITION.—The Secretary shall promulgate regulations defining beneficial ownership of an account for purposes of this section. Such regulations shall address issues related to an individual’s authority to fund, direct, or manage the account (including, without limitation, the power to direct payments into or out of the account), and an individual’s material interest in the income or corpus of the account, and shall ensure that the identification of individuals under this section does not extend to any individual whose beneficial interest in the income or corpus of the account is immaterial.”

“(4) OTHER TERMS.—The Secretary may, by regulation, further define the terms in paragraphs (1) and (2) and define other terms for the purposes of this section, as the Secretary deems appropriate.”

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5318 the following new item:

“5318A. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.”

#### SEC. 312. SPECIAL DUE DILIGENCE FOR CORRESPONDENT ACCOUNTS AND PRIVATE BANKING ACCOUNTS.

(a) IN GENERAL.—Section 5318 of title 31, United States Code, is amended by adding at the end the following:

“(i) DUE DILIGENCE FOR UNITED STATES PRIVATE BANKING AND CORRESPONDENT BANK ACCOUNTS INVOLVING FOREIGN PERSONS.—

“(1) IN GENERAL.—Each financial institution that establishes, maintains, administers, or manages a private banking account or a correspondent account in the United States for a non-United States person, including a foreign individual visiting the United States, or a representative of a non-United States person shall establish appropriate, specific, and, where necessary, enhanced, due diligence policies, procedures, and controls to detect and report instances of money laundering through those accounts.

“(2) MINIMUM STANDARDS FOR CORRESPONDENT ACCOUNTS.—

“(A) IN GENERAL.—Subparagraph (B) shall apply if a correspondent account is requested or maintained by, or on behalf of, a foreign bank operating—

“(i) under an offshore banking license; or  
 “(ii) under a banking license issued by a foreign country that has been designated—

“(I) as noncooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member; or

“(II) by the Secretary as warranting special measures due to money laundering concerns.

“(B) POLICIES, PROCEDURES, AND CONTROLS.—The enhanced due diligence policies, procedures, and controls required under paragraph (1) shall, at a minimum, ensure that the financial institution in the United States takes reasonable steps—

“(i) to ascertain for any such foreign bank, the shares of which are not publicly traded, the identity of each of the owners of the foreign bank, and the nature and extent of the ownership interest of each such owner;

“(ii) to conduct enhanced scrutiny of such account to guard against money laundering and report any suspicious transactions under section 5318(g); and

“(iii) to ascertain whether such foreign bank provides correspondent accounts to other foreign banks and, if so, the identity of those foreign banks and related due diligence information, as appropriate under paragraph (1).

“(3) MINIMUM STANDARDS FOR PRIVATE BANKING ACCOUNTS.—If a private banking account is requested or maintained by, or on behalf of, a non-United States person, then the due diligence policies, procedures, and controls required under paragraph (1) shall, at a minimum, ensure that the financial institution takes reasonable steps—

“(A) to ascertain the identity of the nominal and beneficial owners of, and the source of funds deposited into, such account as needed to guard against money laundering and report any suspicious transactions under section 5318(g); and

“(B) to conduct enhanced scrutiny of any such account that is requested or maintained by, or on behalf of, a senior foreign political figure, or any immediate family member or close associate of a senior foreign political figure, to prevent, detect, and report transactions that may involve the proceeds of foreign corruption.

“(4) DEFINITIONS AND REGULATORY AUTHORITY.—

“(A) OFFSHORE BANKING LICENSE.—For purposes of this subsection, the term ‘offshore banking license’ means a license to conduct banking activities which, as a condition of the license, prohibits the licensed entity from conducting banking activities with the citizens of, or with the local currency of, the country which issued the license.

“(B) REGULATORY AUTHORITY.—The Secretary, in consultation with the appropriate functional regulators of the affected financial institutions, may further delineate, by regulation the due diligence policies, procedures, and controls required under paragraph (1).”

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect beginning 180 days after the date of enactment of this Act with respect to accounts covered by section 5318(i) of title 31, United States Code, as added by this section, that are opened before, on, or after the date of enactment of this Act.

#### SEC. 313. PROHIBITION ON UNITED STATES CORRESPONDENT ACCOUNTS WITH FOREIGN SHELL BANKS.

(a) IN GENERAL.—Section 5318 of title 31, United States Code, is amended by inserting after section 5318(i), as added by section 312 of this title, the following:

“(j) PROHIBITION ON UNITED STATES CORRESPONDENT ACCOUNTS WITH FOREIGN SHELL BANKS.—

“(1) IN GENERAL.—A financial institution described in subparagraphs (A) through (F) of section 5312(a)(2) (in this subsection referred to as a ‘covered financial institution’) shall not establish, maintain, administer, or manage a correspondent account in the United States for, or on behalf of, a foreign bank that does not have a physical presence in any country.

“(2) PREVENTION OF INDIRECT SERVICE TO FOREIGN SHELL BANKS.—A covered financial institution shall take reasonable steps to ensure that any correspondent account established, maintained, administered, or managed by that covered financial institution in the United States for a foreign bank is not being used by that foreign bank to indirectly provide banking services to another foreign bank that does not have a physical presence in any country. The Secretary shall, by regulation, delineate the reasonable steps necessary to comply with this paragraph.

“(3) EXCEPTION.—Paragraphs (1) and (2) do not prohibit a covered financial institution from providing a correspondent account to a foreign bank, if the foreign bank—

“(A) is an affiliate of a depository institution, credit union, or foreign bank that maintains a physical presence in the United States or a foreign country, as applicable; and

“(B) is subject to supervision by a banking authority in the country regulating the affiliated depository institution, credit union, or foreign bank described in subparagraph (A), as applicable.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘affiliate’ means a foreign bank that is controlled by or is under common control with a depository institution, credit union, or foreign bank; and

“(B) the term ‘physical presence’ means a place of business that—

“(i) is maintained by a foreign bank;

“(ii) is located at a fixed address (other than solely an electronic address) in a country in which the foreign bank is authorized to conduct banking activities, at which location the foreign bank—

“(I) employs 1 or more individuals on a full-time basis; and

“(II) maintains operating records related to its banking activities; and

“(iii) is subject to inspection by the banking authority which licensed the foreign bank to conduct banking activities.”

#### SEC. 314. COOPERATIVE EFFORTS TO DETER MONEY LAUNDERING.

(a) COOPERATION AMONG FINANCIAL INSTITUTIONS, REGULATORY AUTHORITIES, AND LAW ENFORCEMENT AUTHORITIES.—

(1) REGULATIONS.—The Secretary shall, within 120 days after the date of enactment of this Act, adopt regulations to encourage further cooperation among financial institutions, their regulatory authorities, and law enforcement authorities, with the specific purpose of encouraging regulatory authorities and law enforcement authorities to share with financial institutions information regarding individuals, entities, and organizations engaged in or reasonably suspected based on credible evidence of engaging in terrorist acts or money laundering activities.

(2) CONTENTS.—The regulations promulgated pursuant to paragraph (1) may—

(A) require that each financial institution designate 1 or more persons to receive information concerning, and to monitor accounts of individuals, entities, and organizations identified, pursuant to paragraph (1); and

(B) further establish procedures for the protection of the shared information, con-

sistent with the capacity, size, and nature of the institution to which the particular procedures apply.

(3) RULE OF CONSTRUCTION.—The receipt of information by a financial institution pursuant to this section shall not relieve or otherwise modify the obligations of the financial institution with respect to any other person or account.

(4) USE OF INFORMATION.—Information received by a financial institution pursuant to this section shall not be used for any purpose other than identifying and reporting on activities that may involve terrorist acts or money laundering activities.

(b) COOPERATION AMONG FINANCIAL INSTITUTIONS.—Upon notice provided to the Secretary, 2 or more financial institutions and any association of financial institutions may share information with one another regarding individuals, entities, organizations, and countries suspected of possible terrorist or money laundering activities. A financial institution or association that transmits, receives, or shares such information for the purposes of identifying and reporting activities that may involve terrorist acts or money laundering activities shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision thereof, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure, or any other person identified in the disclosure, except where such transmission, receipt, or sharing violates this section or regulations promulgated pursuant to this section.

(c) RULE OF CONSTRUCTION.—Compliance with the provisions of this title requiring or allowing financial institutions and any association of financial institutions to disclose or share information regarding individuals, entities, and organizations engaged in or suspected of engaging in terrorist acts or money laundering activities shall not constitute a violation of the provisions of title V of the Gramm-Leach-Bliley Act (Public Law 106-102).

#### SEC. 315. INCLUSION OF FOREIGN CORRUPTION OFFENSES AS MONEY LAUNDERING CRIMES.

Section 1956(c)(7)(B) of title 18, United States Code, is amended—

(1) in clause (ii), by striking “or destruction of property by means of explosive or fire” and inserting “destruction of property by means of explosive or fire, or a crime of violence (as defined in section 16)”; and

(2) in clause (iii), by striking “1978” and inserting “1978”; and

(3) by adding at the end the following:

“(iv) bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official;

“(v) smuggling or export control violations involving—

“(I) an item controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778); or

“(II) an item controlled under regulations under the Export Administration Act of 1977 (15 C.F.R. Parts 730-774);

“(vi) an offense with respect to which the United States would be obligated by a multilateral treaty, either to extradite the alleged offender or to submit the case for prosecution, if the offender were found within the territory of the United States; or

“(vii) the misuse of funds of, or provided by, the International Monetary Fund in contravention of the Articles of Agreement of the Fund or the misuse of funds of, or provided by, any other international financial

institution (as defined in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)) in contravention of any treaty or other international agreement to which the United States is a party, including any articles of agreement of the members of the international financial institution;".

#### SEC. 316. ANTI-TERRORIST FORFEITURE PROTECTION.

(a) **RIGHT TO CONTEST.**—An owner of property that is confiscated under any provision of law relating to the confiscation of assets of suspected international terrorists, may contest that confiscation by filing a claim in the manner set forth in the Federal Rules of Civil Procedure (Supplemental Rules for Certain Admiralty and Maritime Claims), and asserting as an affirmative defense that—

(1) the property is not subject to confiscation under such provision of law; or

(2) the innocent owner provisions of section 983(d) of title 18, United States Code, apply to the case.

(b) **EVIDENCE.**—In considering a claim filed under this section, the Government may rely on evidence that is otherwise inadmissible under the Federal Rules of Evidence, if a court determines that such reliance is necessary to protect the national security interests of the United States.

(c) **OTHER REMEDIES.**—Nothing in this section shall limit or otherwise affect any other remedies that may be available to an owner of property under section 983 of title 18, United States Code, or any other provision of law.

#### SEC. 317. LONG-ARM JURISDICTION OVER FOREIGN MONEY LAUNDERERS.

Section 1956(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving the margins 2 ems to the right;

(2) by inserting after "(b)" the following: "PENALTIES.—

"(1) IN GENERAL.—";

(3) by inserting ", or section 1957" after "(a)(3)"; and

(4) by adding at the end the following:

"(2) **JURISDICTION OVER FOREIGN PERSONS.**—For purposes of adjudicating an action filed or enforcing a penalty ordered under this section, the district courts shall have jurisdiction over any foreign person, including any financial institution authorized under the laws of a foreign country, against whom the action is brought, if service of process upon the foreign person is made under the Federal Rules of Civil Procedure or the laws of the country in which the foreign person is found, and—

"(A) the foreign person commits an offense under subsection (a) involving a financial transaction that occurs in whole or in part in the United States;

"(B) the foreign person converts, to his or her own use, property in which the United States has an ownership interest by virtue of the entry of an order of forfeiture by a court of the United States; or

"(C) the foreign person is a financial institution that maintains a bank account at a financial institution in the United States.

"(3) **COURT AUTHORITY OVER ASSETS.**—A court described in paragraph (2) may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section.

"(4) **FEDERAL RECEIVER.**—

"(A) IN GENERAL.—A court described in paragraph (2) may appoint a Federal Receiver, in accordance with subparagraph (B) of this paragraph, to collect, marshal, and take custody, control, and possession of all assets of the defendant, wherever located, to

satisfy a judgment under this section or section 981, 982, or 1957, including an order of restitution to any victim of a specified unlawful activity.

"(B) **APPOINTMENT AND AUTHORITY.**—A Federal Receiver described in subparagraph (A)—

"(i) may be appointed upon application of a Federal prosecutor or a Federal or State regulator, by the court having jurisdiction over the defendant in the case;

"(ii) shall be an officer of the court, and the powers of the Federal Receiver shall include the powers set out in section 754 of title 28, United States Code; and

"(iii) shall have standing equivalent to that of a Federal prosecutor for the purpose of submitting requests to obtain information regarding the assets of the defendant—

"(I) from the Financial Crimes Enforcement Network of the Department of the Treasury; or

"(II) from a foreign country pursuant to a mutual legal assistance treaty, multilateral agreement, or other arrangement for international law enforcement assistance, provided that such requests are in accordance with the policies and procedures of the Attorney General."

#### SEC. 318. LAUNDERING MONEY THROUGH A FOREIGN BANK.

Section 1956(c) of title 18, United States Code, is amended by striking paragraph (6) and inserting the following:

"(6) the term 'financial institution' includes—

"(A) any financial institution, as defined in section 5312(a)(2) of title 31, United States Code, or the regulations promulgated thereunder; and

"(B) any foreign bank, as defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101)."

#### SEC. 319. FORFEITURE OF FUNDS IN UNITED STATES INTERBANK ACCOUNTS.

(a) **FORFEITURE FROM UNITED STATES INTERBANK ACCOUNT.**—Section 981 of title 18, United States Code, is amended by adding at the end the following:

"(k) **INTERBANK ACCOUNTS.**—

"(1) IN GENERAL.—

"(A) IN GENERAL.—For the purpose of a forfeiture under this section or under the Controlled Substances Act (21 U.S.C. 801 et seq.), if funds are deposited into an account at a foreign bank, and that foreign bank has an interbank account in the United States with a covered financial institution (as defined in section 5318A of title 31), the funds shall be deemed to have been deposited into the interbank account in the United States, and any restraining order, seizure warrant, or arrest warrant in rem regarding the funds may be served on the covered financial institution, and funds in the interbank account, up to the value of the funds deposited into the account at the foreign bank, may be restrained, seized, or arrested.

"(B) **AUTHORITY TO SUSPEND.**—The Attorney General, in consultation with the Secretary, may suspend or terminate a forfeiture under this section if the Attorney General determines that a conflict of law exists between the laws of the jurisdiction in which the foreign bank is located and the laws of the United States with respect to liabilities arising from the restraint, seizure, or arrest of such funds, and that such suspension or termination would be in the interest of justice and would not harm the national interests of the United States.

"(2) **NO REQUIREMENT FOR GOVERNMENT TO TRACE FUNDS.**—If a forfeiture action is brought against funds that are restrained, seized, or arrested under paragraph (1), it shall not be necessary for the Government to establish that the funds are directly trace-

able to the funds that were deposited into the foreign bank, nor shall it be necessary for the Government to rely on the application of section 984.

"(3) **CLAIMS BROUGHT BY OWNER OF THE FUNDS.**—If a forfeiture action is instituted against funds restrained, seized, or arrested under paragraph (1), the owner of the funds deposited into the account at the foreign bank may contest the forfeiture by filing a claim under section 983.

"(4) **DEFINITIONS.**—For purposes of this subsection, the following definitions shall apply:

"(A) **INTERBANK ACCOUNT.**—The term 'interbank account' has the same meaning as in section 984(c)(2)(B).

"(B) **OWNER.**—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'owner'—

"(I) means the person who was the owner, as that term is defined in section 983(d)(6), of the funds that were deposited into the foreign bank at the time such funds were deposited; and

"(II) does not include either the foreign bank or any financial institution acting as an intermediary in the transfer of the funds into the interbank account.

"(ii) **EXCEPTION.**—The foreign bank may be considered the 'owner' of the funds (and no other person shall qualify as the owner of such funds) only if—

"(I) the basis for the forfeiture action is wrongdoing committed by the foreign bank; or

"(II) the foreign bank establishes, by a preponderance of the evidence, that prior to the restraint, seizure, or arrest of the funds, the foreign bank had discharged all or part of its obligation to the prior owner of the funds, in which case the foreign bank shall be deemed the owner of the funds to the extent of such discharged obligation."

(b) **BANK RECORDS.**—Section 5318 of title 31, United States Code, is amended by adding at the end the following:

"(k) **BANK RECORDS RELATED TO ANTI-MONEY LAUNDERING PROGRAMS.**—

"(1) **DEFINITIONS.**—For purposes of this subsection, the following definitions shall apply:

"(A) **APPROPRIATE FEDERAL BANKING AGENCY.**—The term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

"(B) **INCORPORATED TERMS.**—The terms 'correspondent account', 'covered financial institution', and 'foreign bank' have the same meanings as in section 5318A.

"(2) **120-HOUR RULE.**—Not later than 120 hours after receiving a request by an appropriate Federal banking agency for information related to anti-money laundering compliance by a covered financial institution or a customer of such institution, a covered financial institution shall provide to the appropriate Federal banking agency, or make available at a location specified by the representative of the appropriate Federal banking agency, information and account documentation for any account opened, maintained, administered or managed in the United States by the covered financial institution.

"(3) **FOREIGN BANK RECORDS.**—

"(A) **SUMMONS OR SUBPOENA OF RECORDS.**—

"(i) IN GENERAL.—The Secretary or the Attorney General may issue a summons or subpoena to any foreign bank that maintains a correspondent account in the United States and request records related to such correspondent account, including records maintained outside of the United States relating to the deposit of funds into the foreign bank.

"(ii) **SERVICE OF SUMMONS OR SUBPOENA.**—A summons or subpoena referred to in clause (i) may be served on the foreign bank in the

United States if the foreign bank has a representative in the United States, or in a foreign country pursuant to any mutual legal assistance treaty, multilateral agreement, or other request for international law enforcement assistance.

**“(B) ACCEPTANCE OF SERVICE.—**

**“(i) MAINTAINING RECORDS IN THE UNITED STATES.—**Any covered financial institution which maintains a correspondent account in the United States for a foreign bank shall maintain records in the United States identifying the owners of such foreign bank and the name and address of a person who resides in the United States and is authorized to accept service of legal process for records regarding the correspondent account.

**“(ii) LAW ENFORCEMENT REQUEST.—**Upon receipt of a written request from a Federal law enforcement officer for information required to be maintained under this paragraph, the covered financial institution shall provide the information to the requesting officer not later than 7 days after receipt of the request.

**“(C) TERMINATION OF CORRESPONDENT RELATIONSHIP.—**

**“(i) TERMINATION UPON RECEIPT OF NOTICE.—**A covered financial institution shall terminate any correspondent relationship with a foreign bank not later than 10 business days after receipt of written notice from the Secretary or the Attorney General that the foreign bank has failed—

“(I) to comply with a summons or subpoena issued under subparagraph (A); or

“(II) to initiate proceedings in a United States court contesting such summons or subpoena.

**“(ii) LIMITATION ON LIABILITY.—**A covered financial institution shall not be liable to any person in any court or arbitration proceeding for terminating a correspondent relationship in accordance with this subsection.

**“(iii) FAILURE TO TERMINATE RELATIONSHIP.—**Failure to terminate a correspondent relationship in accordance with this subsection shall render the covered financial institution liable for a civil penalty of up to \$10,000 per day until the correspondent relationship is so terminated.”.

**(c) GRACE PERIOD.—**Financial institutions affected by section 5333 of title 31 United States Code, as amended by this title, shall have 60 days from the date of enactment of this Act to comply with the provisions of that section.

**(d) REQUESTS FOR RECORDS.—**Section 3486(a)(1) of title 18, United States Code, is amended by striking “, or (II) a Federal offense involving the sexual exploitation or abuse of children” and inserting “, (II) a Federal offense involving the sexual exploitation or abuse of children, or (III) money laundering, in violation of section 1956, 1957, or 1960 of this title”.

**(e) AUTHORITY TO ORDER CONVICTED CRIMINAL TO RETURN PROPERTY LOCATED ABROAD.—**

**(1) FORFEITURE OF SUBSTITUTE PROPERTY.—**Section 413(p) of the Controlled Substances Act (21 U.S.C. 853) is amended to read as follows:

**“(p) FORFEITURE OF SUBSTITUTE PROPERTY.—**

**“(1) IN GENERAL.—**Paragraph (2) of this subsection shall apply, if any property described in subsection (a), as a result of any act or omission of the defendant—

“(A) cannot be located upon the exercise of due diligence;

“(B) has been transferred or sold to, or deposited with, a third party;

“(C) has been placed beyond the jurisdiction of the court;

“(D) has been substantially diminished in value; or

“(E) has been commingled with other property which cannot be divided without difficulty.

**“(2) SUBSTITUTE PROPERTY.—**In any case described in any of subparagraphs (A) through (E) of paragraph (1), the court shall order the forfeiture of any other property of the defendant, up to the value of any property described in subparagraphs (A) through (E) of paragraph (1), as applicable.

**“(3) RETURN OF PROPERTY TO JURISDICTION.—**In the case of property described in paragraph (1)(C), the court may, in addition to any other action authorized by this subsection, order the defendant to return the property to the jurisdiction of the court so that the property may be seized and forfeited.”.

**(2) PROTECTIVE ORDERS.—**Section 413(e) of the Controlled Substances Act (21 U.S.C. 853(e)) is amended by adding at the end the following:

**“(4) ORDER TO REPATRIATE AND DEPOSIT.—**

**“(A) IN GENERAL.—**Pursuant to its authority to enter a pretrial restraining order under this section, including its authority to restrain any property forfeitable as substitute assets, the court may order a defendant to repatriate any property that may be seized and forfeited, and to deposit that property pending trial in the registry of the court, or with the United States Marshals Service or the Secretary of the Treasury, in an interest-bearing account, if appropriate.

**“(B) FAILURE TO COMPLY.—**Failure to comply with an order under this subsection, or an order to repatriate property under subsection (p), shall be punishable as a civil or criminal contempt of court, and may also result in an enhancement of the sentence of the defendant under the obstruction of justice provision of the Federal Sentencing Guidelines.”.

**SEC. 320. PROCEEDS OF FOREIGN CRIMES.**

Section 981(a)(1)(B) of title 18, United States Code, is amended to read as follows:

**“(B) Any property, real or personal, within the jurisdiction of the United States, constituting, derived from, or traceable to, any proceeds obtained directly or indirectly from an offense against a foreign nation, or any property used to facilitate such an offense, if the offense—**

**“(i) involves the manufacture, importation, sale, or distribution of a controlled substance (as that term is defined for purposes of the Controlled Substances Act), or any other conduct described in section 1956(c)(7)(B);**

**“(ii) would be punishable within the jurisdiction of the foreign nation by death or imprisonment for a term exceeding 1 year; and**

**“(iii) would be punishable under the laws of the United States by imprisonment for a term exceeding 1 year, if the act or activity constituting the offense had occurred within the jurisdiction of the United States.”.**

**SEC. 321. EXCLUSION OF ALIENS INVOLVED IN MONEY LAUNDERING.**

Section 212(a)(2) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

**“(I) MONEY LAUNDERING ACTIVITIES.—**Any alien who the consular officer or the Attorney General knows or has reason to believe is or has been engaged in activities which, if engaged in within the United States would constitute a violation of section 1956 or 1957 of title 18, United States Code, or has been a knowing assister, abettor, conspirator, or colluder with others in any such illicit activity is inadmissible.”.

**SEC. 322. CORPORATION REPRESENTED BY A FUGITIVE.**

Section 2466 of title 18, United States Code, is amended by designating the present matter as subsection (a), and adding at the end the following:

**“(b) Subsection (a) may be applied to a claim filed by a corporation if any majority shareholder, or individual filing the claim on behalf of the corporation is a person to whom subsection (a) applies.”.**

**SEC. 323. ENFORCEMENT OF FOREIGN JUDGMENTS.**

Section 2467 of title 28, United States Code, is amended—

(1) in subsection (d), by adding the following after paragraph (2):

**“(3) PRESERVATION OF PROPERTY.—**To preserve the availability of property subject to a foreign forfeiture or confiscation judgment, the Government may apply for, and the court may issue, a restraining order pursuant to section 983(j) of title 18, United States Code, at any time before or after an application is filed pursuant to subsection (c)(1). The court, in issuing the restraining order—

“(A) may rely on information set forth in an affidavit describing the nature of the proceeding investigation underway in the foreign country, and setting forth a reasonable basis to believe that the property to be restrained will be named in a judgment of forfeiture at the conclusion of such proceeding; or

“(B) may register and enforce a restraining order has been issued by a court of competent jurisdiction in the foreign country and certified by the Attorney General pursuant to subsection (b)(2).

No person may object to the restraining order on any ground that is the subject to parallel litigation involving the same property that is pending in a foreign court.”;

(2) in subsection (b)(1)(C), by striking “establishing that the defendant received notice of the proceedings in sufficient time to enable the defendant” and inserting “establishing that the foreign nation took steps, in accordance with the principles of due process, to give notice of the proceedings to all persons with an interest in the property in sufficient time to enable such persons”;

(3) in subsection (d)(1)(D), by striking “the defendant in the proceedings in the foreign court did not receive notice” and inserting “the foreign nation did not take steps, in accordance with the principles of due process, to give notice of the proceedings to a person with an interest in the property”; and

(4) in subsection (a)(2)(A), by inserting “, any violation of foreign law that would constitute a violation of an offense for which property could be forfeited under Federal law if the offense were committed in the United States” after “United Nations Convention”.

**SEC. 324. INCREASE IN CIVIL AND CRIMINAL PENALTIES FOR MONEY LAUNDERING.**

**(a) CIVIL PENALTIES.—**Section 5321(a) of title 31, United States Code, is amended by adding at the end the following:

**“(7) PENALTIES FOR INTERNATIONAL COUNTER MONEY LAUNDERING VIOLATIONS.—**The Secretary may impose a civil money penalty in an amount equal to not less than 2 times the amount of the transaction, but not more than \$1,000,000, on any financial institution or agency that violates any provision of subsection (i) or (j) of section 5318 or any special measures imposed under section 5318A.”.

**(b) CRIMINAL PENALTIES.—**Section 5322 of title 31, United States Code, is amended by adding at the end the following:

**“(d) A financial institution or agency that violates any provision of subsection (i) or (j) of section 5318, or any special measures imposed under section 5318A, or any regulation prescribed under subsection (i) or (j) of section 5318 or section 5318A, shall be fined in an amount equal to not less than 2 times the amount of the transaction, but not more than \$1,000,000.”.**



**SEC. 325. REPORT AND RECOMMENDATION.**

Not later than 30 months after the date of enactment of this Act, the Secretary, in consultation with the Attorney General, the Federal banking agencies (as defined at section 3 of the Federal Deposit Insurance Act), the Securities and Exchange Commission, and such other agencies as the Secretary may determine, at the discretion of the Secretary, shall evaluate the operations of the provisions of this subtitle and make recommendations to Congress as to any legislative action with respect to this subtitle as the Secretary may determine to be necessary or advisable.

**SEC. 326. REPORT ON EFFECTIVENESS.**

The Secretary shall report annually on measures taken pursuant to this subtitle, and shall submit the report to the Committee on Banking, Housing, and Urban Affairs of the Senate and to the Committee on Financial Services of the House of Representatives.

**SEC. 327. CONCENTRATION ACCOUNTS AT FINANCIAL INSTITUTIONS.**

Section 5318(h) of title 31, United States Code, as amended by section 202 of this title, is amended by adding at the end the following:

“(3) **CONCENTRATION ACCOUNTS.**—The Secretary may issue regulations under this subsection that govern maintenance of concentration accounts by financial institutions, in order to ensure that such accounts are not used to prevent association of the identity of an individual customer with the movement of funds of which the customer is the direct or beneficial owner, which regulations shall, at a minimum—

“(A) prohibit financial institutions from allowing clients to direct transactions that move their funds into, out of, or through the concentration accounts of the financial institution;

“(B) prohibit financial institutions and their employees from informing customers of the existence of, or the means of identifying, the concentration accounts of the institution; and

“(C) require each financial institution to establish written procedures governing the documentation of all transactions involving a concentration account, which procedures shall ensure that, any time a transaction involving a concentration account commingles funds belonging to 1 or more customers, the identity of, and specific amount belonging to, each customer is documented.”.

**Subtitle B—Currency Transaction Reporting Amendments and Related Improvements****SEC. 331. AMENDMENTS RELATING TO REPORTING OF SUSPICIOUS ACTIVITIES.**

(a) **AMENDMENT RELATING TO CIVIL LIABILITY IMMUNITY FOR DISCLOSURES.**—Section 5318(g)(3) of title 31, United States Code, is amended to read as follows:

“(3) **LIABILITY FOR DISCLOSURES.**—

“(A) **IN GENERAL.**—Any financial institution that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution who makes, or requires another to make any such disclosure, shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure or any other person identified in the disclosure.

“(B) **RULE OF CONSTRUCTION.**—Subparagraph (A) shall not be construed as creating—

“(i) any inference that the term ‘person’, as used in such subparagraph, may be construed more broadly than its ordinary usage so as to include any government or agency of government; or

“(ii) any immunity against, or otherwise affecting, any civil or criminal action brought by any government or agency of government to enforce any constitution, law, or regulation of such government or agency.”.

(b) **PROHIBITION ON NOTIFICATION OF DISCLOSURES.**—Section 5318(g)(2) of title 31, United States Code, is amended to read as follows:

“(2) **NOTIFICATION PROHIBITED.**—

“(A) **IN GENERAL.**—If a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this section or any other authority, reports a suspicious transaction to a government agency—

“(i) the financial institution, director, officer, employee, or agent may not notify any person involved in the transaction that the transaction has been reported; and

“(ii) no officer or employee of the Federal Government or of any State, local, tribal, or territorial government within the United States, who has any knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.

“(B) **DISCLOSURES IN CERTAIN EMPLOYMENT REFERENCES.**—

“(i) **RULE OF CONSTRUCTION.**—Notwithstanding the application of subparagraph (A) in any other context, subparagraph (A) shall not be construed as prohibiting any financial institution, or any director, officer, employee, or agent of such institution, from including information that was included in a report to which subparagraph (A) applies—

“(I) in a written employment reference that is provided in accordance with section 18(v) of the Federal Deposit Insurance Act in response to a request from another financial institution, except that such written reference may not disclose that such information was also included in any such report or that such report was made; or

“(II) in a written termination notice or employment reference that is provided in accordance with the rules of the self-regulatory organizations registered with the Securities and Exchange Commission, except that such written notice or reference may not disclose that such information was also included in any such report or that such report was made.

“(ii) **INFORMATION NOT REQUIRED.**—Clause (i) shall not be construed, by itself, to create any affirmative duty to include any information described in clause (i) in any employment reference or termination notice referred to in clause (i).”.

**SEC. 332. ANTI-MONEY LAUNDERING PROGRAMS.**

Section 5318(h) of title 31, United States Code, is amended to read as follows:

“(h) **ANTI-MONEY LAUNDERING PROGRAMS.**—

“(1) **IN GENERAL.**—In order to guard against money laundering through financial institutions, each financial institution shall establish anti-money laundering programs, including, at a minimum—

“(A) the development of internal policies, procedures, and controls;

“(B) the designation of a compliance officer;

“(C) an ongoing employee training program; and

“(D) an independent audit function to test programs.

“(2) **REGULATIONS.**—The Secretary may prescribe minimum standards for programs established under paragraph (1), and may exempt from the application of those standards any financial institution that is not subject to the provisions of the rules contained in part 103 of title 31, of the Code of Federal Regulations, or any successor rule thereto, for so long as such financial institution is not subject to the provisions of such rules.”.

**SEC. 333. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC TARGETING ORDERS AND CERTAIN RECORDKEEPING REQUIREMENTS, AND LENGTHENING EFFECTIVE PERIOD OF GEOGRAPHIC TARGETING ORDERS.**

(a) **CIVIL PENALTY FOR VIOLATION OF TARGETING ORDER.**—Section 5321(a)(1) of title 31, United States Code, is amended—

(1) by inserting “or order issued” after “subchapter or a regulation prescribed”; and

(2) by inserting “, or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508,” after “sections 5314 and 5315”.

(b) **CRIMINAL PENALTIES FOR VIOLATION OF TARGETING ORDER.**—Section 5322 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “or order issued” after “willfully violating this subchapter or a regulation prescribed”; and

(B) by inserting “, or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508,” after “under section 5315 or 5324”;

(2) in subsection (b)—

(A) by inserting “or order issued” after “willfully violating this subchapter or a regulation prescribed”; and

(B) by inserting “or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508,” after “under section 5315 or 5324”.

(c) **STRUCTURING TRANSACTIONS TO EVADE TARGETING ORDER OR CERTAIN RECORDKEEPING REQUIREMENTS.**—Section 5324(a) of title 31, United States Code, is amended—

(1) by inserting a comma after “shall”;

(2) by striking “section—” and inserting “section, the reporting or recordkeeping requirements imposed by any order issued under section 5326, or the recordkeeping requirements imposed by any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508—”;

(3) in paragraph (1), by inserting “, to file a report or to maintain a record required by an order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508” after “regulation prescribed under any such section”; and

(4) in paragraph (2), by inserting “, to file a report or to maintain a record required by any order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508,” after “regulation prescribed under any such section”.

(d) **LENGTHENING EFFECTIVE PERIOD OF GEOGRAPHIC TARGETING ORDERS.**—Section 5326(d) of title 31, United States Code, is amended by striking “more than 60” and inserting “more than 180”.

**SEC. 334. ANTI-MONEY LAUNDERING STRATEGY.**

(b) **STRATEGY.**—Section 5341(b) of title 31, United States Code, is amended by adding at the end the following:

“(12) **DATA REGARDING FUNDING OF TERRORISM.**—Data concerning money laundering

efforts related to the funding of acts of international terrorism, and efforts directed at the prevention, detection, and prosecution of such funding.”.

**SEC. 335. AUTHORIZATION TO INCLUDE SUSPICIONS OF ILLEGAL ACTIVITY IN WRITTEN EMPLOYMENT REFERENCES.**

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:

“(v) WRITTEN EMPLOYMENT REFERENCES MAY CONTAIN SUSPICIONS OF INVOLVEMENT IN ILLEGAL ACTIVITY.—

“(1) AUTHORITY TO DISCLOSE INFORMATION.—Notwithstanding any other provision of law, any insured depository institution, and any director, officer, employee, or agent of such institution, may disclose in any written employment reference relating to a current or former institution-affiliated party of such institution which is provided to another insured depository institution in response to a request from such other institution, information concerning the possible involvement of such institution-affiliated party in potentially unlawful activity.

“(2) INFORMATION NOT REQUIRED.—Nothing in paragraph (1) shall be construed, by itself, to create any affirmative duty to include any information described in paragraph (1) in any employment reference referred to in paragraph (1).

“(3) MALICIOUS INTENT.—Notwithstanding any other provision of this subsection, voluntary disclosure made by an insured depository institution, and any director, officer, employee, or agent of such institution under this subsection concerning potentially unlawful activity that is made with malicious intent, shall not be shielded from liability from the person identified in the disclosure.

“(4) DEFINITION.—For purposes of this subsection, the term ‘insured depository institution’ includes any uninsured branch or agency of a foreign bank.”.

**SEC. 336. BANK SECRECY ACT ADVISORY GROUP.**

Section 1564 of the Annunzio-Wylie Anti-Money Laundering Act (31 U.S.C. 5311 note) is amended—

(1) in subsection (a), by inserting “, of non-governmental organizations advocating financial privacy,” after “Drug Control Policy”; and

(2) in subsection (c), by inserting “, other than subsections (a) and (d) of such Act which shall apply” before the period at the end.

**SEC. 337. AGENCY REPORTS ON RECONCILING PENALTY AMOUNTS.**

Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury and the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) shall each submit their respective reports to the Congress containing recommendations on possible legislation to conform the penalties imposed on depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) for violations of subchapter II of chapter 53 of title 31, United States Code, to the penalties imposed on such institutions under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818).

**SEC. 338. REPORTING OF SUSPICIOUS ACTIVITIES BY SECURITIES BROKERS AND DEALERS; INVESTMENT COMPANY STUDY.**

(a) 270-DAY REGULATION DEADLINE.—Not later than 270 days after the date of enactment of this Act, the Secretary of the Treasury, after consultation with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System, shall issue final regulations requiring registered brokers and dealers to file reports of suspicious financial transactions, consistent

with the requirements applicable to financial institutions, and directors, officers, employees, and agents of financial institutions under section 5318(g) of title 31, United States Code.

(b) REPORT ON INVESTMENT COMPANIES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission shall jointly submit a report to Congress on recommendations for effective regulations to apply the requirements of subchapter II of chapter 53 of title 31, United States Code, to investment companies, pursuant to section 5312(a)(2)(I) of title 31, United States Code.

(2) DEFINITION.—For purposes of this section, the term “investment company”—

(A) has the same meaning as in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3); and

(B) any person that, but for the exceptions provided for in paragraph (1) or (7) of section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)), would be an investment company.

(3) ADDITIONAL RECOMMENDATIONS.—In its report, the Securities and Exchange Commission may make different recommendations for different types of entities covered by this section.

(4) BENEFICIAL OWNERSHIP OF PERSONAL HOLDING COMPANIES.—The report described in paragraph (1) shall also include recommendations as to whether the Secretary should promulgate regulations to treat any corporation or business or other grantor trust whose assets are predominantly securities, bank certificates of deposit, or other securities or investment instruments (other than such as relate to operating subsidiaries of such corporation or trust) and that has 5 or fewer common shareholders or holders of beneficial or other equity interest, as a financial institution within the meaning of that phrase in section 5312(a)(2)(I) and whether to require such corporations or trusts to disclose their beneficial owners when opening accounts or initiating funds transfers at any domestic financial institution.

**SEC. 339. SPECIAL REPORT ON ADMINISTRATION OF BANK SECRECY PROVISIONS.**

(a) REPORT REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress relating to the role of the Internal Revenue Service in the administration of subchapter II of chapter 53 of title 31, United States Code (commonly known as the “Bank Secrecy Act”).

(b) CONTENTS.—The report required by subsection (a)—

(1) shall specifically address, and contain recommendations concerning—

(A) whether it is advisable to shift the processing of information reporting to the Department of the Treasury under the Bank Secrecy Act provisions to facilities other than those managed by the Internal Revenue Service; and

(B) whether it remains reasonable and efficient, in light of the objective of both anti-money-laundering programs and Federal tax administration, for the Internal Revenue Service to retain authority and responsibility for audit and examination of the compliance of money services businesses and gaming institutions with those Bank Secrecy Act provisions; and

(2) shall, if the Secretary determines that the information processing responsibility or the audit and examination responsibility of the Internal Revenue Service, or both, with respect to those Bank Secrecy Act provisions should be transferred to other agencies, include the specific recommendations of the Secretary regarding the agency or agencies

to which any such function should be transferred, complete with a budgetary and resources plan for expeditiously accomplishing the transfer.

**SEC. 340. BANK SECRECY PROVISIONS AND ANTI-TERRORIST ACTIVITIES OF UNITED STATES INTELLIGENCE AGENCIES.**

(a) AMENDMENT RELATING TO THE PURPOSES OF THE BANK SECRECY ACT.—Section 5311 of title 31, United States Code, is amended by inserting before the period at the end the following: “, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism”.

(b) AMENDMENT RELATING TO REPORTING OF SUSPICIOUS ACTIVITIES.—Section 5318(g)(4)(B) of title 31, United States Code, is amended by striking “or supervisory agency” and inserting “, supervisory agency, or United States intelligence agency for use in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism”.

(c) AMENDMENT RELATING TO AVAILABILITY OF REPORTS.—Section 5319 of title 31, United States Code, is amended to read as follows:

**“§ 5319. Availability of reports**

“The Secretary of the Treasury shall make information in a report filed under this subchapter available to an agency, including any State financial institutions supervisory agency or United States intelligence agency, upon request of the head of the agency. The report shall be available for a purpose that is consistent with this subchapter. The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes or by United States intelligence agencies. However, a report and records of reports are exempt from disclosure under section 552 of title 5.”.

(d) AMENDMENT RELATING TO THE PURPOSES OF THE BANK SECRECY ACT PROVISIONS.—Section 21(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(a)) is amended to read as follows:

“(a) CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.—

“(1) FINDINGS.—Congress finds that—

“(A) adequate records maintained by insured depository institutions have a high degree of usefulness in criminal, tax, and regulatory investigations or proceedings, and that, given the threat posed to the security of the Nation on and after the terrorist attacks against the United States on September 11, 2001, such records may also have a high degree of usefulness in the conduct of intelligence or counterintelligence activities, including analysis, to protect against domestic and international terrorism; and

“(B) microfilm or other reproductions and other records made by insured depository institutions of checks, as well as records kept by such institutions, of the identity of persons maintaining or authorized to act with respect to accounts therein, have been of particular value in proceedings described in subparagraph (A).

“(2) PURPOSE.—It is the purpose of this section to require the maintenance of appropriate types of records by insured depository institutions in the United States where such records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, recognizes that, given the threat posed to the security of the Nation on and after the terrorist attacks against the United States on September 11, 2001, such records may also have a high degree of usefulness in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.”.

(e) AMENDMENT RELATING TO THE PURPOSES OF THE BANK SECRECY ACT.—Section 123(a) of

Public Law 91-508 (12 U.S.C. 1953(a)) is amended to read as follows:

“(a) REGULATIONS.—If the Secretary determines that the maintenance of appropriate records and procedures by any uninsured bank or uninsured institution, or any person engaging in the business of carrying on in the United States any of the functions referred to in subsection (b), has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, and that, given the threat posed to the security of the Nation on and after the terrorist attacks against the United States on September 11, 2001, such records may also have a high degree of usefulness in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism, he may by regulation require such bank, institution, or person.”.

(f) AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.—The Right to Financial Privacy Act of 1978 is amended—

(1) in section 1112(a) (12 U.S.C. 3412(a)), by inserting “, or intelligence or counterintelligence activity, investigation or analysis related to international terrorism” after “legitimate law enforcement inquiry”; and

(2) in section 1114(a)(1) (12 U.S.C. 3414(a)(1))—

(A) in subparagraph (A), by striking “or” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(C) a Government authority authorized to conduct investigations of, or intelligence or counterintelligence analyses related to, international terrorism for the purpose of conducting such investigations or analyses.”.

(g) AMENDMENT TO THE FAIR CREDIT REPORTING ACT.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding at the end the following new section:

**“SEC. 626. DISCLOSURES TO GOVERNMENTAL AGENCIES FOR COUNTERTERRORISM PURPOSES.**

“(a) DISCLOSURE.—Notwithstanding section 604 or any other provision of this title, a consumer reporting agency shall furnish a consumer report of a consumer and all other information in a consumer's file to a government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism when presented with a written certification by such government agency that such information is necessary for the agency's conduct or such investigation, activity or analysis.

“(b) FORM OF CERTIFICATION.—The certification described in subsection (a) shall be signed by the Secretary of the Treasury.

“(c) CONFIDENTIALITY.—No consumer reporting agency, or officer, employee, or agent of such consumer reporting agency, shall disclose to any person, or specify in any consumer report, that a government agency has sought or obtained access to information under subsection (a).

“(d) RULE OF CONSTRUCTION.—Nothing in section 625 shall be construed to limit the authority of the Director of the Federal Bureau of Investigation under this section.

“(e) SAFE HARBOR.—Notwithstanding any other provision of this subchapter, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or other information pursuant to this section in good-faith reliance upon a certification of a governmental agency pursuant to the provisions of this section shall not be liable to any person for such disclosure under this subchapter, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.”.

**SEC. 341. REPORTING OF SUSPICIOUS ACTIVITIES BY HAWALA AND OTHER UNDERGROUND BANKING SYSTEMS.**

(a) DEFINITION FOR SUBCHAPTER.—Section 5312(a)(2)(R) of title 31, United States Code, is amended to read as follows:

“(R) a licensed sender of money or any other person who engages as a business in the transmission of funds, including through an informal value transfer banking system or network of people facilitating the transfer of value domestically or internationally outside of the conventional financial institutions system;”.

(b) MONEY TRANSMITTING BUSINESS.—Section 5330(d)(1)(A) of title 31, United States Code, is amended by inserting before the semicolon the following: “or any other person who engages as a business in the transmission of funds, including through an informal value transfer banking system or network of people facilitating the transfer of value domestically or internationally outside of the conventional financial institutions system;”.

(d) APPLICABILITY OF RULES.—Section 5318 of title 31, United States Code, as amended by this title, is amended by adding at the end the following:

“(1) APPLICABILITY OF RULES.—Any rules promulgated pursuant to the authority contained in section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) shall apply, in addition to any other financial institution to which such rules apply, to any person that engages as a business in the transmission of funds, including through an informal value transfer banking system or network of people facilitating the transfer of value domestically or internationally outside of the conventional financial institutions system.”.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall report to Congress on the need for any additional legislation relating to informal value transfer banking systems or networks of people facilitating the transfer of value domestically or internationally outside of the conventional financial institutions system, counter money laundering and regulatory controls relating to underground money movement and banking systems, such as the system referred to as ‘hawala’, including whether the threshold for the filing of suspicious activity reports under section 5318(g) of title 31, United States Code should be lowered in the case of such systems.

**SEC. 342. USE OF AUTHORITY OF UNITED STATES EXECUTIVE DIRECTORS.**

(a) ACTION BY THE PRESIDENT.—If the President determines that a particular foreign country has taken or has committed to take actions that contribute to efforts of the United States to respond to, deter, or prevent acts of international terrorism, the Secretary of the Treasury may, consistent with other applicable provisions of law, instruct the United States Executive Director of each international financial institution to use the voice and vote of the Executive Director to support any loan or other utilization of the funds of respective institutions for such country, or any public or private entity within such country.

(b) USE OF VOICE AND VOTE.—The Secretary of the Treasury may instruct the United States Executive Director of each international financial institution to aggressively use the voice and vote of the Executive Director to require an auditing of disbursements at such institutions to ensure that no funds are paid to persons who commit, threaten to commit, or support terrorism.

(c) DEFINITION.—For purposes of this section, the term “international financial institution” means an institution described in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)).

**Subtitle C—Currency Crimes**

**SEC. 351. BULK CASH SMUGGLING.**

(a) FINDINGS.—Congress finds that—

(1) effective enforcement of the currency reporting requirements of chapter 53 of title 31, United States Code (commonly referred to as the Bank Secrecy Act), and the regulations promulgated thereunder, has forced drug dealers and other criminals engaged in cash-based businesses to avoid using traditional financial institutions;

(2) in their effort to avoid using traditional financial institutions, drug dealers, and other criminals are forced to move large quantities of currency in bulk form to and through the airports, border crossings, and other ports of entry where it can be smuggled out of the United States and placed in a foreign financial institution or sold on the black market;

(3) the transportation and smuggling of cash in bulk form may, at the time of enactment of this Act, be the most common form of money laundering, and the movement of large sums of cash is one of the most reliable warning signs of drug trafficking, terrorism, money laundering, racketeering, tax evasion, and similar crimes;

(4) the intentional transportation into or out of the United States of large amounts of currency or monetary instruments, in a manner designed to circumvent the mandatory reporting provisions of chapter 53 of title 31, United States Code, is the equivalent of, and creates the same harm as, the smuggling of goods;

(5) the arrest and prosecution of bulk cash smugglers is an important part of law enforcement's effort to stop the laundering of criminal proceeds, but the couriers who attempt to smuggle the cash out of the United States are typically low-level employees of large criminal organizations, and are easily replaced, and therefore only the confiscation of the smuggled bulk cash can effectively break the cycle of criminal activity of which the laundering of bulk cash is a critical part;

(6) the penalties for violations of the currency reporting requirements of the chapter 53 of title 31, United States Code, are insufficient to provide a deterrent to the laundering of criminal proceeds;

(7) because the only criminal violation under Federal law before the date of enactment of this Act was a reporting offense, the law does not adequately provide for the confiscation of smuggled currency; and

(8) if the smuggling of bulk cash were itself an offense, the cash could be confiscated as the corpus delicti of the smuggling offense.

(b) PURPOSES.—The purposes of this section are—

(1) to make the act of smuggling bulk cash itself a criminal offense;

(2) to authorize forfeiture of any cash or instruments of the smuggling offense;

(3) to emphasize the seriousness of the act of bulk cash smuggling; and

(4) to prescribe guidelines for determining the amount of property subject to such forfeiture in various situations.

(c) BULK CASH SMUGGLING OFFENSE.—

(1) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following:

**“§ 5331. Bulk cash smuggling**

“(a) CRIMINAL OFFENSE.—

“(1) IN GENERAL.—Whoever, with the intent to evade a currency reporting requirement under section 5316, knowingly conceals more than \$10,000 in currency or other monetary instruments on his or her person or in any conveyance, article of luggage, merchandise, or other container, and transports or transfers or attempts to transport or transfer the currency or monetary instruments from a place within the United States to a place

outside of the United States, or from a place outside of the United States to a place within the United States, shall be guilty of a currency smuggling offense and subject to punishment under subsection (b).

“(b) PENALTIES.—

“(1) PRISON TERM.—A person convicted of a currency smuggling offense under subsection (a), or a conspiracy to commit such an offense, shall be imprisoned for not more than 5 years.

“(2) FORFEITURE.—

“(A) IN GENERAL.—In addition to a prison term under paragraph (1), the court, in imposing sentence, shall order that the defendant forfeit to the United States any property, real or personal, involved in the offense, and any property traceable to such property, subject to subsection (d).

“(B) APPLICABILITY OF OTHER LAWS.—The seizure, restraint, and forfeiture of property under this section shall be governed by section 413 of the Controlled Substances Act (21 U.S.C. 853). If the property subject to forfeiture is unavailable, and the defendant has no substitute property that may be forfeited pursuant to section 413(p) of that Act, the court shall enter a personal money judgment against the defendant in an amount equal to the value of the unavailable property.

“(c) SEIZURE OF SMUGGLING CASH.—

“(1) IN GENERAL.—Any property involved in a violation of subsection (a), or a conspiracy to commit such violation, and any property traceable thereto, may be seized and, subject to subsection (d), forfeited to the United States.

“(2) APPLICABLE PROCEDURES.—A seizure and forfeiture under this subsection shall be governed by the procedures governing civil forfeitures under section 981(a)(1)(A) of title 18, United States Code.

“(d) PROPORTIONALITY OF FORFEITURE.—

“(1) MITIGATION.—Upon a showing by the property owner by a preponderance of the evidence that the currency or monetary instruments involved in the offense giving rise to the forfeiture were derived from a legitimate source and were intended for a lawful purpose, the court shall reduce the forfeiture to the maximum amount that is not grossly disproportional to the gravity of the offense.

“(2) CONSIDERATIONS.—In determining the amount of the forfeiture under paragraph (1), the court shall consider all aggravating and mitigating facts and circumstances that have a bearing on the gravity of the offense, including—

“(A) the value of the currency or other monetary instruments involved in the offense;

“(B) efforts by the person committing the offense to structure currency transactions, conceal property, or otherwise obstruct justice; and

“(C) whether the offense is part of a pattern of repeated violations of Federal law.

“(e) RULE OF CONSTRUCTION.—For purposes of subsections (b) and (c), any currency or other monetary instrument that is concealed or intended to be concealed in violation of subsection (a) or a conspiracy to commit such violation, any article, container, or conveyance used or intended to be used to conceal or transport the currency or other monetary instrument, and any other property used or intended to be used to facilitate the offense, shall be considered property involved in the offense.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5330 the following new item:

“5331. Bulk cash smuggling.”.

(d) CURRENCY REPORTING VIOLATIONS.—Section 5317(c) of title 31, United States Code, is amended to read as follows:

“(c) FORFEITURE OF PROPERTY.—

“(1) IN GENERAL.—

“(A) CRIMINAL FORFEITURE.—The court, in imposing sentence for any violation of section 5313, 5316, or 5324, or any conspiracy to commit such violation, shall order the defendant to forfeit all property, real or personal, involved in the offense and any property traceable thereto.

“(B) APPLICABLE PROCEDURES.—Forfeitures under this paragraph shall be governed by the procedures set forth in section 413 of the Controlled Substances Act (21 U.S.C. 853), and the guidelines set forth in paragraph (3) of this subsection.

“(2) CIVIL FORFEITURE.—Any property involved in a violation of section 5313, 5316, or 5324, or any conspiracy to commit such violation, and any property traceable thereto, may be seized and, subject to paragraph (3), forfeited to the United States in accordance with the procedures governing civil forfeitures in money laundering cases pursuant to section 981(a)(1)(A) of title 18, United States Code.

“(3) MITIGATION.—In a forfeiture case under this subsection, upon a showing by the property owner by a preponderance of the evidence that any currency or monetary instruments involved in the offense giving rise to the forfeiture were derived from a legitimate source, and were intended for a lawful purpose, the court shall reduce the forfeiture to the maximum amount that is not grossly disproportional to the gravity of the offense. In determining the amount of the forfeiture, the court shall consider all aggravating and mitigating facts and circumstances that have a bearing on the gravity of the offense. Such circumstances include, but are not limited to, the following: the value of the currency or other monetary instruments involved in the offense; efforts by the person committing the offense to structure currency transactions, conceal property, or otherwise obstruct justice; and whether the offense is part of a pattern of repeated violations.

(e) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended—

(1) in section 981(a)(1)(A) by striking “of section 5313(a) or 5324(a) of title 31, or”; and

(2) in section 982(a)(1), striking “of section 5313(a), 5316, or 5324 of title 31, or”.

#### Subtitle E—Anticorruption Measures

#### SEC. 361. CORRUPTION OF FOREIGN GOVERNMENTS AND RULING ELITES.

It is the sense of Congress that, in deliberations between the United States Government and any other country on money laundering and corruption issues, the United States Government should—

(1) emphasize an approach that addresses not only the laundering of the proceeds of traditional criminal activity but also the increasingly endemic problem of governmental corruption and the corruption of ruling elites;

(2) encourage the enactment and enforcement of laws in such country to prevent money laundering and systemic corruption;

(3) make clear that the United States will take all steps necessary to identify the proceeds of foreign government corruption which have been deposited in United States financial institutions and return such proceeds to the citizens of the country to whom such assets belong; and

(4) advance policies and measures to promote good government and to prevent and reduce corruption and money laundering, including through instructions to the United States Executive Director of each international financial institution (as defined in section 1701(c) of the International Financial Institutions Act) to advocate such policies as a systematic element of economic reform

programs and advice to member governments.

#### SEC. 362. SUPPORT FOR THE FINANCIAL ACTION TASK FORCE ON MONEY LAUNDERING.

It is the sense of Congress that—

(1) the United States should continue to actively and publicly support the objectives of the Financial Action Task Force on Money Laundering (hereafter in this section referred to as the “FATF”) with regard to combating international money laundering;

(2) the FATF should identify noncooperative jurisdictions in as expeditious a manner as possible and publicly release a list directly naming those jurisdictions identified;

(3) the United States should support the public release of the list naming noncooperative jurisdictions identified by the FATF;

(4) the United States should encourage the adoption of the necessary international action to encourage compliance by the identified noncooperative jurisdictions; and

(5) the United States should take the necessary countermeasures to protect the United States economy against money of unlawful origin and encourage other nations to do the same.

#### SEC. 363. TERRORIST FUNDING THROUGH MONEY LAUNDERING.

It is the sense of the Congress that, in deliberations and negotiations between the United States Government and any other country regarding financial, economic, assistance, or defense issues, the United States should encourage such other country—

(1) to take actions which would identify and prevent the transmittal of funds to and from terrorists and terrorist organizations; and

(2) to engage in bilateral and multilateral cooperation with the United States and other countries to identify suspected terrorists, terrorist organizations, and persons supplying funds to and receiving funds from terrorists and terrorist organizations.

#### TITLE IV—PROTECTING THE BORDER

##### Subtitle A—Protecting the Northern Border

#### SEC. 401. ENSURING ADEQUATE PERSONNEL ON THE NORTHERN BORDER.

The Attorney General is authorized to waive any FTE cap on personnel assigned to the Immigration and Naturalization Service to address the national security needs of the United States on the Northern border.

#### SEC. 402. NORTHERN BORDER PERSONNEL.

There are authorized to be appropriated—

(1) such sums as may be necessary to triple the number of Border Patrol personnel (from the number authorized under current law), and the necessary personnel and facilities to support such personnel, in each State along the Northern Border;

(2) such sums as may be necessary to triple the number of Customs Service personnel (from the number authorized under current law), and the necessary personnel and facilities to support such personnel, at ports of entry in each State along the Northern Border;

(3) such sums as may be necessary to triple the number of INS inspectors (from the number authorized on the date of enactment of this Act), and the necessary personnel and facilities to support such personnel, at ports of entry in each State along the Northern Border; and

(4) an additional \$50,000,000 each to the Immigration and Naturalization Service and the United States Customs Service for purposes of making improvements in technology for monitoring the Northern Border and acquiring additional equipment at the Northern Border.

**SEC. 403. ACCESS BY THE DEPARTMENT OF STATE AND THE INS TO CERTAIN IDENTIFYING INFORMATION IN THE CRIMINAL HISTORY RECORDS OF VISA APPLICANTS AND APPLICANTS FOR ADMISSION TO THE UNITED STATES.**

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 105 of the Immigration and Nationality Act (8 U.S.C. 1105) is amended—

(1) in the section heading, by inserting “; DATA EXCHANGE” after “SECURITY OFFICERS”;

(2) by inserting “(a)” after “SEC. 105.”;

(3) in subsection (a), by inserting “and border” after “internal” the second place it appears; and

(4) by adding at the end the following:

“(b)(1) The Attorney General and the Director of the Federal Bureau of Investigation shall provide the Department of State and the Service access to the criminal history record information contained in the National Crime Information Center’s Interstate Identification Index (NCIC-III), Wanted Persons File, and to any other files maintained by the National Crime Information Center that may be mutually agreed upon by the Attorney General and the agency receiving the access, for the purpose of determining whether or not a visa applicant or applicant for admission has a criminal history record indexed in any such file.

“(2) Such access shall be provided by means of extracts of the records for placement in the automated visa lookout or other appropriate database, and shall be provided without any fee or charge.

“(3) The Federal Bureau of Investigation shall provide periodic updates of the extracts at intervals mutually agreed upon with the agency receiving the access. Upon receipt of such updated extracts, the receiving agency shall make corresponding updates to its database and destroy previously provided extracts.

“(4) Access to an extract does not entitle the Department of State to obtain the full content of the corresponding automated criminal history record. To obtain the full content of a criminal history record, the Department of State shall submit the applicant’s fingerprints and any appropriate fingerprint processing fee authorized by law to the Criminal Justice Information Services Division of the Federal Bureau of Investigation.

“(c) The provision of the extracts described in subsection (b) may be reconsidered by the Attorney General and the receiving agency upon the development and deployment of a more cost-effective and efficient means of sharing the information.

“(d) For purposes of administering this section, the Department of State shall, prior to receiving access to NCIC data but not later than 4 months after the date of enactment of this subsection, promulgate final regulations—

“(1) to implement procedures for the taking of fingerprints; and

“(2) to establish the conditions for the use of the information received from the Federal Bureau of Investigation, in order—

“(A) to limit the dissemination of such information;

“(B) to ensure that such information is used solely to determine whether or not to issue a visa to an alien or to admit an alien to the United States;

“(C) to ensure the security, confidentiality, and destruction of such information; and

“(D) to protect any privacy rights of individuals who are subjects of such information.”.

(b) REPORTING REQUIREMENT.—Not later than 2 years after the date of enactment of

this Act, the Attorney General and the Secretary of State jointly shall report to Congress on the implementation of the amendments made by this section.

(c) TECHNOLOGY STANDARD TO CONFIRM IDENTITY.—

(1) IN GENERAL.—The Attorney General and the Secretary of State jointly, through the National Institute of Standards and Technology (NIST), and in consultation with the Secretary of the Treasury and other Federal law enforcement and intelligence agencies the Attorney General or Secretary of State deems appropriate, shall within 2 years after the date of enactment of this section, develop and certify a technology standard that can confirm the identity of a person applying for a United States visa or such person seeking to enter the United States pursuant to a visa.

(2) INTEGRATED.—The technology standard developed pursuant to paragraph (1), shall be the technological basis for a cross-agency, cross-platform electronic system that is a cost-effective, efficient, fully integrated means to share law enforcement and intelligence information necessary to confirm the identity of such persons applying for a United States visa or such person seeking to enter the United States pursuant to a visa.

(3) ACCESSIBLE.—The electronic system described in paragraph (2), once implemented, shall be readily and easily accessible to—

(A) all consular officers responsible for the issuance of visas;

(B) all Federal inspection agents at all United States border inspection points; and

(C) all law enforcement and intelligence officers as determined by regulation to be responsible for investigation or identification of aliens admitted to the United States pursuant to a visa.

(4) REPORT.—Not later than 18 months after the date of enactment of this Act, and every 2 years thereafter, the Attorney General and the Secretary of State shall jointly, in consultation with the Secretary of Treasury, report to Congress describing the development, implementation and efficacy of the technology standard and electronic database system described in this subsection.

(d) STATUTORY CONSTRUCTION.—Nothing in this section, or in any other law, shall be construed to limit the authority of the Attorney General or the Director of the Federal Bureau of Investigation to provide access to the criminal history record information contained in the National Crime Information Center’s (NCIC) Interstate Identification Index (NCIC-III), or to any other information maintained by the NCIC, to any Federal agency or officer authorized to enforce or administer the immigration laws of the United States, for the purpose of such enforcement or administration, upon terms that are consistent with the National Crime Prevention and Privacy Compact Act of 1998 (subtitle A of title II of Public Law 105-251; 42 U.S.C. 14611-16) and section 552a of title 5, United States Code.

**SEC. 404. LIMITED AUTHORITY TO PAY OVERTIME.**

The matter under the headings “Immigration And Naturalization Service: Salaries and Expenses, Enforcement And Border Affairs” and “Immigration And Naturalization Service: Salaries and Expenses, Citizenship And Benefits, Immigration And Program Direction” in the Department of Justice Appropriations Act, 2001 (as enacted into law by Appendix B (H.R. 5548) of Public Law 106-553 (114 Stat. 2762A-58 to 2762A-59)) is amended by striking the following each place it occurs: “Provided, That none of the funds available to the Immigration and Naturalization Service shall be available to pay any employee overtime pay in an amount in excess of \$30,000 during the calendar year beginning January 1, 2001.”.

**SEC. 405. REPORT ON THE INTEGRATED AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM FOR POINTS OF ENTRY AND OVERSEAS CONSULAR POSTS.**

(a) IN GENERAL.—The Attorney General, in consultation with the appropriate heads of other Federal agencies, including the Secretary of State, Secretary of the Treasury, and the Secretary of Transportation, shall report to Congress on the feasibility of enhancing the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation and other identification systems in order to better identify a person who holds a foreign passport or a visa and may be wanted in connection with a criminal investigation in the United States or abroad, before the issuance of a visa to that person or the entry or exit by that person from the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not less than \$2,000,000 to carry out this section.

**Subtitle B—Enhanced Immigration Provisions**

**SEC. 411. DEFINITIONS RELATING TO TERRORISM.**

(a) GROUNDS OF INADMISSIBILITY.—Section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)) is amended—

(1) in subparagraph (B)—

(A) in clause (i)—

(i) by amending subclause (IV) to read as follows:

“(IV) is a representative (as defined in clause (v)) of—

“(aa) a foreign terrorist organization, as designated by the Secretary of State under section 219, or

“(bb) a political, social or other similar group whose public endorsement of acts of terrorist activity the Secretary of State has determined undermines United States efforts to reduce or eliminate terrorist activities.”;

(ii) in subclause (V), by inserting “or” after “section 219.”; and

(iii) by adding at the end the following new subclauses:

“(VI) has used the alien’s position of prominence within any country to endorse or espouse terrorist activity, or to persuade others to support terrorist activity or a terrorist organization, in a way that the Secretary of State has determined undermines United States efforts to reduce or eliminate terrorist activities, or

“(VII) is the spouse or child of an alien who is inadmissible under this section, if the activity causing the alien to be found inadmissible occurred within the last 5 years.”;

(B) by redesignating clauses (ii), (iii), and (iv) as clauses (iii), (iv), and (v), respectively;

(C) in clause (i)(II), by striking “clause (iii)” and inserting “clause (iv)”;

(D) by inserting after clause (i) the following:

“(ii) EXCEPTION.—Subclause (VII) of clause (i) does not apply to a spouse or child—

“(I) who did not know or should not reasonably have known of the activity causing the alien to be found inadmissible under this section; or

“(II) whom the consular officer or Attorney General has reasonable grounds to believe has renounced the activity causing the alien to be found inadmissible under this section.”;

(E) in clause (iii) (as redesignated by subparagraph (B))—

(i) by inserting “it had been” before “committed in the United States”; and

(ii) in subclause (V)(b), by striking “or firearm” and inserting “, firearm, or other weapon or dangerous device”;

(F) by amending clause (iv) (as redesignated by subparagraph (B)) to read as follows:

“(iv) ENGAGE IN TERRORIST ACTIVITY DEFINED.—As used in this chapter, the term ‘engage in terrorist activity’ means, in an individual capacity or as a member of an organization—

“(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;

“(II) to prepare or plan a terrorist activity;

“(III) to gather information on potential targets for terrorist activity;

“(IV) to solicit funds or other things of value for—

“(aa) a terrorist activity;

“(bb) a terrorist organization described in clauses (vi)(I) or (vi)(II); or

“(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate that he did not know, and should not reasonably have known, that the solicitation would further the organization’s terrorist activity;

“(V) to solicit any individual—

“(aa) to engage in conduct otherwise described in this clause;

“(bb) for membership in a terrorist organization described in clauses (vi)(I) or (vi)(II); or

“(cc) for membership in a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate that he did not know, and should not reasonably have known, that the solicitation would further the organization’s terrorist activity; or

“(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training—

“(aa) for the commission of a terrorist activity;

“(bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;

“(cc) to a terrorist organization described in clauses (vi)(I) or (vi)(II); or

“(dd) to a terrorist organization described in clause (vi)(III), unless the actor can demonstrate that he did not know, and should not reasonably have known, that the act would further the organization’s terrorist activity.

This clause shall not apply to any material support the alien afforded to an organization or individual that has committed terrorist activity, if the Secretary of State, after consultation with the Attorney General, or the Attorney General, after consultation with the Secretary of State, concludes in his sole unreviewable discretion, that this clause should not apply.”; and

(D) by adding at the end the following new clause:

“(vi) TERRORIST ORGANIZATION DEFINED.—As used in clause (i)(VI) and clause (iv), the term ‘terrorist organization’ means an organization—

“(I) designated under section 219;

“(II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General, as a terrorist organization, after finding that it engages in the activities described in subclause (I), (II), or (III) of clause (iv), or that it provides material support to further terrorist activity; or

“(III) that is a group of two or more individuals, whether organized or not, which engages in the activities described in subclause (I), (II), or (III) of clause (iv).”; and

(2) by adding at the end the following new subparagraph:

“(F) ASSOCIATION WITH TERRORIST ORGANIZATIONS.—Any alien who the Secretary of State, after consultation with the Attorney General, or the Attorney General, after consultation with the Secretary of State, determines has been associated with a terrorist organization and intends while in the United States to engage solely, principally, or incidentally in activities that could endanger the welfare, safety, or security of the United States is inadmissible.”.

(b) CONFORMING AMENDMENT.—Section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)) is amended by striking “section 212(a)(3)(B)(iii)” and inserting “section 212(a)(3)(B)(iv)”.

(c) RETROACTIVE APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of enactment of this Act and shall apply to—

(A) actions taken by an alien before, on, or after such date; and

(B) all aliens, without regard to the date of entry or attempted entry into the United States—

(i) in removal proceedings on or after such date (except for proceedings in which there has been a final administrative decision before such date); or

(ii) seeking admission to the United States on or after such date.

(2) SPECIAL RULE FOR ALIENS IN EXCLUSION OR DEPORTATION PROCEEDINGS.—Notwithstanding any other provision of law, the amendments made by this section shall apply to all aliens in exclusion or deportation proceedings on or after the date of enactment of this Act (except for proceedings in which there has been a final administrative decision before such date) as if such proceedings were removal proceedings.

(3) SPECIAL RULE FOR SECTION 219 ORGANIZATIONS AND ORGANIZATIONS DESIGNATED UNDER SECTION 212(a)(3)(B)(vi)(II).—

(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), no alien shall be considered inadmissible under section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)), or deportable under section 237(a)(4)(B) of such Act (8 U.S.C. 1227(a)(4)(B)), by reason of the amendments made by subsection (a), on the ground that the alien engaged in a terrorist activity described in subclause (IV)(bb), (V)(bb), or (VI)(cc) of section 212(a)(3)(B)(iv) of such Act (as so amended) with respect to a group at any time when the group was not a terrorist organization designated by the Secretary of State under section 219 of such Act (8 U.S.C. 1189) or otherwise designated under section 212(a)(3)(B)(vi)(II).

(B) STATUTORY CONSTRUCTION.—Subparagraph (A) shall not be construed to prevent an alien from being considered inadmissible or deportable for having engaged in a terrorist activity—

(i) described in subclause (IV)(bb), (V)(bb), or (VI)(cc) of section 212(a)(3)(B)(iv) of such Act (as so amended) with respect to a terrorist organization at any time when such organization was designated by the Secretary of State under section 219 of such Act or otherwise designated under section 212(a)(3)(B)(vi)(II); or

(ii) described in subclause (IV)(cc), (V)(cc), or (VI)(dd) of section 212(a)(3)(B)(iv) of such Act (as so amended) with respect to a terrorist organization described in section 212(a)(3)(B)(vi)(III).

(4) EXCEPTION.—The Secretary of State, in consultation with the Attorney General, may determine that the amendments made by this section shall not apply with respect

to actions by an alien taken outside the United States before the date of enactment of this Act upon the recommendation of a consular officer who has concluded that there is not reasonable ground to believe that the alien knew or reasonably should have known that the actions would further a terrorist activity.

(c) DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.—Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)) is amended—

(1) in paragraph (1)(B), by inserting “or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)) or retains the capability and intent to engage in terrorist activity or terrorism” after “212(a)(3)(B)”;

(2) in paragraph (1)(C), by inserting “or terrorism” after “terrorist activity”;

(3) by amending paragraph (2)(A) to read as follows:

“(A) NOTICE.—

“(i) TO CONGRESSIONAL LEADERS.—Seven days before making a designation under this subsection, the Secretary shall, by classified communication, notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees, in writing, of the intent to designate an organization under this subsection, together with the findings made under paragraph (1) with respect to that organization, and the factual basis therefor.

“(ii) PUBLICATION IN FEDERAL REGISTER.—The Secretary shall publish the designation in the Federal Register seven days after providing the notification under clause (i).”;

(4) in paragraph (2)(B)(i), by striking “subparagraph (A)” and inserting “subparagraph (A)(i)”;

(5) in paragraph (2)(C), by striking “paragraph (2)” and inserting “paragraph (2)(A)(i)”;

(6) in paragraph (3)(B), by striking “subsection (c)” and inserting “subsection (b)”;

(7) in paragraph (4)(B), by inserting after the first sentence the following: “The Secretary also may redesignate such organization at the end of any 2-year redesignation period (but not sooner than 60 days prior to the termination of such period) for an additional 2-year period upon a finding that the relevant circumstances described in paragraph (1) still exist. Any redesignation shall be effective immediately following the end of the prior 2-year designation or redesignation period unless a different effective date is provided in such redesignation.”;

(8) in paragraph (6)(A)—

(A) by inserting “or a redesignation made under paragraph (4)(B)” after “paragraph (1)”;

(B) in clause (i)—

(i) by inserting “or redesignation” after “designation” the first place it appears; and

(ii) by striking “of the designation”;

(C) in clause (ii), by striking “of the designation”;

(9) in paragraph (6)(B)—

(A) by striking “through (4)” and inserting “and (3)”;

(B) by inserting at the end the following new sentence: “Any revocation shall take effect on the date specified in the revocation or upon publication in the Federal Register if no effective date is specified.”;

(10) in paragraph (7), by inserting “, or the revocation of a redesignation under paragraph (6),” after “paragraph (5) or (6)”;

(11) in paragraph (8)—

(A) by striking “paragraph (1)(B)” and inserting “paragraph (2)(B), or if a redesignation under this subsection has become effective under paragraph (4)(B)”;



(B) by inserting "or an alien in a removal proceeding" after "criminal action"; and

(C) by inserting "or redesignation" before "as a defense".

**SEC. 412. MANDATORY DETENTION OF SUSPECTED TERRORISTS; HABEAS CORPUS; JUDICIAL REVIEW.**

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 236 the following:

"MANDATORY DETENTION OF SUSPECTED TERRORISTS; HABEAS CORPUS; JUDICIAL REVIEW

"SEC. 236A. (a) DETENTION OF TERRORIST ALIENS.—

"(1) CUSTODY.—The Attorney General shall take into custody any alien who is certified under paragraph (3).

"(2) RELEASE.—Except as provided in paragraph (5), the Attorney General shall maintain custody of such an alien until the alien is removed from the United States. Such custody shall be maintained irrespective of any relief from removal for which the alien may be eligible, or any relief from removal granted the alien, until the Attorney General determines that the alien is no longer an alien who may be certified under paragraph (3).

"(3) CERTIFICATION.—The Attorney General may certify an alien under this paragraph if the Attorney General has reasonable grounds to believe that the alien—

"(A) is described in section 212(a)(3)(A)(i), 212(a)(3)(A)(iii), 212(a)(3)(B), 237(a)(4)(A)(i), 237(a)(4)(A)(iii), or 237(a)(4)(B); or

"(B) is engaged in any other activity that endangers the national security of the United States.

"(4) NONDELEGATION.—The Attorney General may delegate the authority provided under paragraph (3) only to the Commissioner. The Commissioner may not delegate such authority.

"(5) COMMENCEMENT OF PROCEEDINGS.—The Attorney General shall place an alien detained under paragraph (1) in removal proceedings, or shall charge the alien with a criminal offense, not later than 7 days after the commencement of such detention. If the requirement of the preceding sentence is not satisfied, the Attorney General shall release the alien.

"(b) HABEAS CORPUS AND JUDICIAL REVIEW.—Judicial review of any action or decision relating to this section (including judicial review of the merits of a determination made under subsection (a)(3)) is available exclusively in habeas corpus proceedings in the United States District Court for the District of Columbia. Notwithstanding any other provision of law, including section 2241 of title 28, United States Code, except as provided in the preceding sentence, no court shall have jurisdiction to review, by habeas corpus petition or otherwise, any such action or decision.

"(c) STATUTORY CONSTRUCTION.—The provisions of this section shall not be applicable to any other provisions of the Immigration and Nationality Act."

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 236 the following:

"Sec. 236A. Mandatory detention of suspected terrorist; habeas corpus; judicial review."

(c) REPORTS.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, with respect to the reporting period, on—

(1) the number of aliens certified under section 236A(a)(3) of the Immigration and Nationality Act, as added by subsection (a);

(2) the grounds for such certifications;

(3) the nationalities of the aliens so certified;

(4) the length of the detention for each alien so certified; and

(5) the number of aliens so certified who—

(A) were granted any form of relief from removal;

(B) were removed;

(C) the Attorney General has determined are no longer aliens who may be so certified; or

(D) were released from detention.

**SEC. 413. MULTILATERAL COOPERATION AGAINST TERRORISTS.**

Section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) is amended—

(1) by striking "except that in the discretion of" and inserting the following: "except that—

"(1) in the discretion of"; and

(2) by adding at the end the following:

"(2) the Secretary of State, in the Secretary's discretion and on the basis of reciprocity, may provide to a foreign government information in the Department of State's computerized visa lookout database and, when necessary and appropriate, other records covered by this section related to information in the database—

"(A) with regard to individual aliens, at any time on a case-by-case basis for the purpose of preventing, investigating, or punishing acts that would constitute a crime in the United States, including, but not limited to, terrorism or trafficking in controlled substances, persons, or illicit weapons; or

"(B) with regard to any or all aliens in the database, pursuant to such conditions as the Secretary of State shall establish in an agreement with the foreign government in which that government agrees to use such information and records for the purposes described in subparagraph (A) or to deny visas to persons who would be inadmissible to the United States."

**TITLE V—REMOVING OBSTACLES TO INVESTIGATING TERRORISM**

**SEC. 501. PROFESSIONAL STANDARDS FOR GOVERNMENT ATTORNEYS ACT OF 2001.**

(a) SHORT TITLE.—This title may be cited as the "Professional Standards for Government Attorneys Act of 2001".

(b) PROFESSIONAL STANDARDS FOR GOVERNMENT ATTORNEYS.—Section 530B of title 28, United States Code, is amended to read as follows:

**"§ 530B. Professional Standards for Government Attorneys**

"(a) DEFINITIONS.—In this section:

"(1) GOVERNMENT ATTORNEY.—The term 'Government attorney'—

"(A) means the Attorney General; the Deputy Attorney General; the Solicitor General; the Associate Attorney General; the head of, and any attorney employed in, any division, office, board, bureau, component, or agency of the Department of Justice; any United States Attorney; any Assistant United States Attorney; any Special Assistant to the Attorney General or Special Attorney appointed under section 515; any Special Assistant United States Attorney appointed under section 543 who is authorized to conduct criminal or civil law enforcement investigations or proceedings on behalf of the United States; any other attorney employed by the Department of Justice who is authorized to conduct criminal or civil law enforcement proceedings on behalf of the United States; any independent counsel, or employee of such counsel, appointed under chapter 40; and any outside special counsel, or employee of such counsel, as may be duly appointed by the Attorney General; and

"(B) does not include any attorney employed as an investigator or other law en-

forcement agent by the Department of Justice who is not authorized to represent the United States in criminal or civil law enforcement litigation or to supervise such proceedings.

"(2) STATE.—The term 'State' includes a Territory and the District of Columbia.

"(b) CHOICE OF LAW.—Subject to any uniform national rule prescribed by the Supreme Court under chapter 131, the standards of professional responsibility that apply to a Government attorney with respect to the attorney's work for the Government shall be—

"(1) for conduct in connection with a proceeding in or before a court, or conduct reasonably intended to lead to a proceeding in or before a court, the standards of professional responsibility established by the rules and decisions of the court in or before which the proceeding is brought or is intended to be brought;

"(2) for conduct in connection with a grand jury proceeding, or conduct reasonably intended to lead to a grand jury proceeding, the standards of professional responsibility established by the rules and decisions of the court under whose authority the grand jury was or will be impaneled; and

"(3) for all other conduct, the standards of professional responsibility established by the rules and decisions of the Federal district court for the judicial district in which the attorney principally performs his or her official duties.

"(c) LICENSURE.—A Government attorney (except foreign counsel employed in special cases)—

"(1) shall be duly licensed and authorized to practice as an attorney under the laws of a State; and

"(2) shall not be required to be a member of the bar of any particular State.

"(d) UNDERCOVER ACTIVITIES.—Notwithstanding any provision of State law, including disciplinary rules, statutes, regulations, constitutional provisions, or case law, a Government attorney may, for the purpose of enforcing Federal law, provide legal advice, authorization, concurrence, direction, or supervision on conducting undercover activities, and any attorney employed as an investigator or other law enforcement agent by the Department of Justice who is not authorized to represent the United States in criminal or civil law enforcement litigation or to supervise such proceedings may participate in such activities, even though such activities may require the use of deceit or misrepresentation, where such activities are consistent with Federal law.

"(e) ADMISSIBILITY OF EVIDENCE.—No violation of any disciplinary, ethical, or professional conduct rule shall be construed to permit the exclusion of otherwise admissible evidence in any Federal criminal proceedings.

"(f) RULEMAKING AUTHORITY.—The Attorney General shall make and amend rules of the Department of Justice to ensure compliance with this section."

(c) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 31 of title 28, United States Code, is amended, in the item relating to section 530B, by striking "Ethical standards for attorneys for the Government" and inserting "Professional standards for Government attorneys".

(d) REPORTS.—

(1) UNIFORM RULE.—In order to encourage the Supreme Court to prescribe, under chapter 131 of title 28, United States Code, a uniform national rule for Government attorneys with respect to communications with represented persons and parties, not later than 1 year after the date of enactment of this Act, the Judicial Conference of the United States shall submit to the Chief Justice of the United States a report, which shall include recommendations with respect to

amending the Federal Rules of Practice and Procedure to provide for such a uniform national rule.

(2) **ACTUAL OR POTENTIAL CONFLICTS.**—Not later than 2 years after the date of enactment of this Act, the Judicial Conference of the United States shall submit to the Chairmen and Ranking Members of the Committees on the Judiciary of the House of Representatives and the Senate a report, which shall include—

(A) a review of any areas of actual or potential conflict between specific Federal duties related to the investigation and prosecution of violations of Federal law and the regulation of Government attorneys (as that term is defined in section 530B of title 28, United States Code, as amended by this Act) by existing standards of professional responsibility; and

(B) recommendations with respect to amending the Federal Rules of Practice and Procedure to provide for additional rules governing attorney conduct to address any areas of actual or potential conflict identified pursuant to the review under subparagraph (A).

(3) **REPORT CONSIDERATIONS.**—In carrying out paragraphs (1) and (2), the Judicial Conference of the United States shall take into consideration—

(A) the needs and circumstances of multiforum and multijurisdictional litigation;

(B) the special needs and interests of the United States in investigating and prosecuting violations of Federal criminal and civil law; and

(C) practices that are approved under Federal statutory or case law or that are otherwise consistent with traditional Federal law enforcement techniques.

#### **SEC. 502. ATTORNEY GENERAL'S AUTHORITY TO PAY REWARDS TO COMBAT TERRORISM.**

(a) **PAYMENT OF REWARDS TO COMBAT TERRORISM.**—Funds available to the Attorney General may be used for the payment of rewards pursuant to public advertisements for assistance to the Department of Justice to combat terrorism and defend the Nation against terrorist acts, in accordance with procedures and regulations established or issued by the Attorney General.

(b) **CONDITIONS.**—In making rewards under this section—

(1) no such reward of \$250,000 or more may be made or offered without the personal approval of either the Attorney General or the President;

(2) the Attorney General shall give written notice to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary of the Senate and of the House of Representatives not later than 30 days after the approval of a reward under paragraph (1);

(3) any executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) may provide the Attorney General with funds for the payment of rewards;

(4) neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review; and

(5) no such reward shall be subject to any per- or aggregate reward spending limitation established by law, unless that law expressly refers to this section, and no reward paid pursuant to any such offer shall count toward any such aggregate reward spending limitation.

#### **SEC. 503. SECRETARY OF STATE'S AUTHORITY TO PAY REWARDS.**

Section 36 of the State Department Basic Authorities Act of 1956 (Public Law 885, August 1, 1956; 22 U.S.C. 2708) is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking “or” at the end;

(B) in paragraph (5), by striking the period at the end and inserting “, including by dismantling an organization in whole or significant part; or”; and

(C) by adding at the end the following:

“(6) the identification or location of an individual who holds a key leadership position in a terrorist organization.”;

(2) in subsection (d), by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (2); and

(3) in subsection (e)(1), by inserting “, except as personally authorized by the Secretary of State if he determines that offer or payment of an award of a larger amount is necessary to combat terrorism or defend the Nation against terrorist acts.” after “\$5,000,000”.

#### **SEC. 504. DNA IDENTIFICATION OF TERRORISTS AND OTHER VIOLENT OFFENDERS.**

Section 3(d)(2) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)(2)) is amended to read as follows:

“(2) In addition to the offenses described in paragraph (1), the following offenses shall be treated for purposes of this section as qualifying Federal offenses, as determined by the Attorney General:

“(A) Any offense listed in section 2332b(g)(5)(B) of title 18, United States Code.

“(B) Any crime of violence (as defined in section 16 of title 18, United States Code).

“(C) Any attempt or conspiracy to commit any of the above offenses.”.

#### **SEC. 505. COORDINATION WITH LAW ENFORCEMENT.**

(a) **INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.**—Section 106 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806), is amended by adding at the end the following:

“(k)(1) Federal officers who conduct electronic surveillance to acquire foreign intelligence information under this title may consult with Federal law enforcement officers to coordinate efforts to investigate or protect against—

“(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

“(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

“(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power.

“(2) Coordination authorized under paragraph (1) shall not preclude the certification required by section 104(a)(7)(B) or the entry of an order under section 105.”.

(b) **INFORMATION ACQUIRED FROM A PHYSICAL SEARCH.**—Section 305 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by adding at the end the following:

“(k)(1) Federal officers who conduct physical searches to acquire foreign intelligence information under this title may consult with Federal law enforcement officers to coordinate efforts to investigate or protect against—

“(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

“(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

“(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power.

“(2) Coordination authorized under paragraph (1) shall not preclude the certification required by section 303(a)(7) or the entry of an order under section 304.”.

#### **SEC. 506. MISCELLANEOUS NATIONAL SECURITY AUTHORITIES.**

(a) **TELEPHONE TOLL AND TRANSACTIONAL RECORDS.**—Section 2709(b) of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting “at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director” after “Assistant Director”;

(2) in paragraph (1)—

(A) by striking “in a position not lower than Deputy Assistant Director”; and

(B) by striking “made that” and all that follows and inserting the following: “made that the name, address, length of service, and toll billing records sought are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States; and”;

(3) in paragraph (2)—

(A) by striking “in a position not lower than Deputy Assistant Director”; and

(B) by striking “made that” and all that follows and inserting the following: “made that the information sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.”.

(b) **FINANCIAL RECORDS.**—Section 1114(a)(5)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(A)) is amended—

(1) by inserting “in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director” after “designee”; and

(2) by striking “sought” and all that follows and inserting “sought for foreign counter intelligence purposes to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.”.

(c) **CONSUMER REPORTS.**—Section 624 of the Fair Credit Reporting Act (15 U.S.C. 1681u) is amended—

(1) in subsection (a)—

(A) by inserting “in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office designated by the Director” after “designee” the first place it appears; and

(B) by striking “in writing that” and all that follows through the end and inserting the following: “in writing, that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.”;

(2) in subsection (b)—

(A) by inserting “in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office designated by the Director” after “designee” the first place it appears; and

(B) by striking “in writing that” and all that follows through the end and inserting

the following: “in writing that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.”; and

(3) in subsection (c)—

(A) by inserting “in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director” after “designee of the Director”; and

(B) by striking “in camera that” and all that follows through “States.” and inserting the following: “in camera that the consumer report is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.”.

#### SEC. 507. EXTENSION OF SECRET SERVICE JURISDICTION.

(a) CONCURRENT JURISDICTION UNDER 18 U.S.C. 1030.—Section 1030(d) of title 18, United States Code, is amended to read as follows:

“(d)(1) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section.

“(2) The Federal Bureau of Investigation shall have primary authority to investigate offenses under subsection (a)(1) for any cases involving espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)), except for offenses affecting the duties of the United States Secret Service pursuant to section 3056(a) of this title.

“(3) Such authority shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.”.

(b) REAUTHORIZATION OF JURISDICTION UNDER 18 U.S.C. 1344.—Section 3056(b)(3) of title 18, United States Code, is amended by striking “credit and debit card frauds, and false identification documents or devices” and inserting “access device frauds, false identification documents or devices, and any fraud or other criminal or unlawful activity in or against any federally insured financial institution”.

#### SEC. 508. DISCLOSURE OF EDUCATIONAL RECORDS.

Section 444 of the General Education Provisions Act (20 U.S.C. 1232g), is amended by adding after subsection (i) a new subsection (j) to read as follows:

“(j) INVESTIGATION AND PROSECUTION OF TERRORISM.—

“(1) IN GENERAL.—Notwithstanding subsections (a) through (i) or any provision of State law, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring an educational agency or institution to permit the Attorney General (or his designee) to—

“(A) collect education records in the possession of the educational agency or institution that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18 United States Code, or an act of domestic or inter-

national terrorism as defined in section 2331 of that title; and

“(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such records, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

“(2) APPLICATION AND APPROVAL.—

“(A) IN GENERAL.—An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the education records are likely to contain information described in paragraph (1)(A).

“(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

“(3) PROTECTION OF EDUCATIONAL AGENCY OR INSTITUTION.—An educational agency or institution that, in good faith, produces education records in accordance with an order issued under this subsection shall not be liable to any person for that production.

“(4) RECORD-KEEPING.—Subsection (b)(4) does not apply to education records subject to a court order under this subsection.”.

#### SEC. 509. DISCLOSURE OF INFORMATION FROM NCES SURVEYS.

Section 408 of the National Education Statistics Act of 1994 (20 U.S.C. 9007), is amended by adding after subsection (b) a new subsection (c) to read as follows:

“(c) INVESTIGATION AND PROSECUTION OF TERRORISM.—

“(1) IN GENERAL.—Notwithstanding subsections (a) and (b), the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring the Secretary to permit the Attorney General (or his designee) to—

“(A) collect reports, records, and information (including individually identifiable information) in the possession of the center that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18, United States Code, or an act of domestic or international terrorism as defined in section 2331 of that title; and

“(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such information, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

“(2) APPLICATION AND APPROVAL.—

“(A) IN GENERAL.—An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the information sought is described in paragraph (1)(A).

“(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

“(3) PROTECTION.—An officer or employee of the Department who, in good faith, produces information in accordance with an order issued under this subsection does not violate subsection (b)(2) and shall not be liable to any person for that production.”.

### TITLE VI—PROVIDING FOR VICTIMS OF TERRORISM, PUBLIC SAFETY OFFICERS, AND THEIR FAMILIES

#### Subtitle A—Aid to Families of Public Safety Officers

#### SEC. 611. EXPEDITED PAYMENT FOR PUBLIC SAFETY OFFICERS INVOLVED IN THE PREVENTION, INVESTIGATION, RESCUE, OR RECOVERY EFFORTS RELATED TO A TERRORIST ATTACK.

(a) IN GENERAL.—Notwithstanding the limitations of subsection (b) of section 1201 or the provisions of subsections (c), (d), and (e) of such section or section 1202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796, 3796a), upon certification (containing identification of all eligible payees of benefits pursuant to section 1201 of such Act) by a public agency that a public safety officer employed by such agency was killed or suffered a catastrophic injury producing permanent and total disability as a direct and proximate result of a personal injury sustained in the line of duty as described in section 1201 of such Act in connection with prevention, investigation, rescue, or recovery efforts related to a terrorist attack, the Director of the Bureau of Justice Assistance shall authorize payment to qualified beneficiaries, said payment to be made not later than 30 days after receipt of such certification, benefits described under subpart I of part L of such Act (42 U.S.C. 3796 et seq.).

(b) DEFINITIONS.—For purposes of this section, the terms “catastrophic injury”, “public agency”, and “public safety officer” have the same meanings given such terms in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

#### SEC. 612. TECHNICAL CORRECTION WITH RESPECT TO EXPEDITED PAYMENTS FOR HEROIC PUBLIC SAFETY OFFICERS.

Section 1 of Public Law 107-37 (an Act to provide for the expedited payment of certain benefits for a public safety officer who was killed or suffered a catastrophic injury as a direct and proximate result of a personal injury sustained in the line of duty in connection with the terrorist attacks of September 11, 2001) is amended by—

(1) inserting before “by a” the following: “(containing identification of all eligible payees of benefits pursuant to section 1201)”;

(2) inserting “producing permanent and total disability” after “suffered a catastrophic injury”; and

(2) striking “1201(a)” and inserting “1201”.

#### SEC. 613. PUBLIC SAFETY OFFICERS BENEFIT PROGRAM PAYMENT INCREASE.

(a) PAYMENTS.—Section 1201(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by striking “\$100,000” and inserting “\$250,000”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to any death or disability occurring on or after January 1, 2001.

#### SEC. 614. OFFICE OF JUSTICE PROGRAMS.

Section 112 of title I of section 101(b) of division A of Public Law 105-277 and section 108(a) of appendix A of Public Law 106-113 (113 Stat. 1501A-20) are amended—

(1) after “that Office”, each place it occurs, by inserting “(including, notwithstanding any contrary provision of law (unless the same should expressly refer to this section), any organization that administers any program established in title 1 of Public Law 90-351)”;

(2) by inserting “functions, including any” after “all”.

**Subtitle B—Amendments to the Victims of Crime Act of 1984**

**SEC. 621. CRIME VICTIMS FUND.**

(a) DEPOSIT OF GIFTS IN THE FUND.—Section 1402(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(b)) is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) in paragraph (4), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(5) any gifts, bequests, or donations to the Fund from private entities or individuals.”.

(b) FORMULA FOR FUND DISTRIBUTIONS.—Section 1402(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is amended to read as follows:

“(c) FUND DISTRIBUTION; RETENTION OF SUMS IN FUND; AVAILABILITY FOR EXPENDITURE WITHOUT FISCAL YEAR LIMITATION.—

“(1) Subject to the availability of money in the Fund, in each fiscal year, beginning with fiscal year 2003, the Director shall distribute not less than 90 percent nor more than 110 percent of the amount distributed from the Fund in the previous fiscal year, except the Director may distribute up to 120 percent of the amount distributed in the previous fiscal year in any fiscal year that the total amount available in the Fund is more than 2 times the amount distributed in the previous fiscal year.

“(2) In each fiscal year, the Director shall distribute amounts from the Fund in accordance with subsection (d). All sums not distributed during a fiscal year shall remain in reserve in the Fund to be distributed during a subsequent fiscal year. Notwithstanding any other provision of law, all sums deposited in the Fund that are not distributed shall remain in reserve in the Fund for obligation in future fiscal years, without fiscal year limitation.”.

(c) ALLOCATION OF FUNDS FOR COSTS AND GRANTS.—Section 1402(d)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(4)) is amended—

(1) by striking “deposited in” and inserting “to be distributed from”; and

(2) in subparagraph (A), by striking “48.5” and inserting “47.5”; and

(3) in subparagraph (B), by striking “48.5” and inserting “47.5”; and

(4) in subparagraph (C), by striking “3” and inserting “5”.

(d) ANTITERRORISM EMERGENCY RESERVE.—Section 1402(d)(5) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(5)) is amended to read as follows:

“(5)(A) In addition to the amounts distributed under paragraphs (2), (3), and (4), the Director may set aside up to \$50,000,000 from the amounts transferred to the Fund for use in responding to the airplane hijackings and terrorist acts that occurred on September 11, 2001, as an antiterrorism emergency reserve. The Director may replenish any amounts expended from such reserve in subsequent fiscal years by setting aside up to 5 percent of the amounts remaining in the Fund in any fiscal year after distributing amounts under paragraphs (2), (3) and (4). Such reserve shall not exceed \$50,000,000.

“(B) The antiterrorism emergency reserve referred to in subparagraph (A) may be used for supplemental grants under section 1404B and to provide compensation to victims of international terrorism under section 1404C.

“(C) Amounts in the antiterrorism emergency reserve established pursuant to subparagraph (A) may be carried over from fiscal year to fiscal year. Notwithstanding subsection (c) and section 619 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (and any similar limitation on Fund obligations in any future Act, un-

less the same should expressly refer to this section), any such amounts carried over shall not be subject to any limitation on obligations from amounts deposited to or available in the Fund.”.

(e) VICTIMS OF SEPTEMBER 11, 2001.—Amounts transferred to the Crime Victims Fund for use in responding to the airplane hijackings and terrorist acts (including any related search, rescue, relief, assistance, or other similar activities) that occurred on September 11, 2001, shall not be subject to any limitation on obligations from amounts deposited to or available in the Fund, notwithstanding—

(1) section 619 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, and any similar limitation on Fund obligations in such Act for Fiscal Year 2002; and

(2) subsections (c) and (d) of section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601).

**SEC. 622. CRIME VICTIM COMPENSATION.**

(a) ALLOCATION OF FUNDS FOR COMPENSATION AND ASSISTANCE.—Paragraphs (1) and (2) of section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) are amended by inserting “in fiscal year 2002 and of 60 percent in subsequent fiscal years” after “40 percent”.

(b) LOCATION OF COMPENSABLE CRIME.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(6)(B)) is amended by striking “are outside the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18), or”.

(c) RELATIONSHIP OF CRIME VICTIM COMPENSATION TO MEANS-TESTED FEDERAL BENEFIT PROGRAMS.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking subsection (c) and inserting the following:

“(c) EXCLUSION FROM INCOME, RESOURCES, AND ASSETS FOR PURPOSES OF MEANS TESTS.—Notwithstanding any other law (other than title IV of Public Law 107-42), for the purpose of any maximum allowed income, resource, or asset eligibility requirement in any Federal, State, or local government program using Federal funds that provides medical or other assistance (or payment or reimbursement of the cost of such assistance), any amount of crime victim compensation that the applicant receives through a crime victim compensation program under this section shall not be included in the income, resources, or assets of the applicant, nor shall that amount reduce the amount of the assistance available to the applicant from Federal, State, or local government programs using Federal funds, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime.”.

(d) DEFINITIONS OF “COMPENSABLE CRIME” AND “STATE”.—Section 1403(d) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)) is amended—

(1) in paragraph (3), by striking “crimes involving terrorism.”; and

(2) in paragraph (4), by inserting “the United States Virgin Islands,” after “the Commonwealth of Puerto Rico.”.

(e) RELATIONSHIP OF ELIGIBLE CRIME VICTIM COMPENSATION PROGRAMS TO THE SEPTEMBER 11TH VICTIM COMPENSATION FUND.—

(1) IN GENERAL.—Section 1403(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(e)) is amended by inserting “including the program established under title IV of Public Law 107-42,” after “Federal program.”.

(2) COMPENSATION.—With respect to any compensation payable under title IV of Public Law 107-42, the failure of a crime victim compensation program, after the effective

date of final regulations issued pursuant to section 407 of Public Law 107-42, to provide compensation otherwise required pursuant to section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) shall not render that program ineligible for future grants under the Victims of Crime Act of 1984.

**SEC. 623. CRIME VICTIM ASSISTANCE.**

(a) ASSISTANCE FOR VICTIMS IN THE DISTRICT OF COLUMBIA, PUERTO RICO, AND OTHER TERRITORIES AND POSSESSIONS.—Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by adding at the end the following:

“(6) An agency of the Federal Government performing local law enforcement functions in and on behalf of the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any other territory or possession of the United States may qualify as an eligible crime victim assistance program for the purpose of grants under this subsection, or for the purpose of grants under subsection (c)(1).”.

(b) PROHIBITION ON DISCRIMINATION AGAINST CERTAIN VICTIMS.—Section 1404(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(1)) is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(F) does not discriminate against victims because they disagree with the way the State is prosecuting the criminal case.”.

(c) GRANTS FOR PROGRAM EVALUATION AND COMPLIANCE EFFORTS.—Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting “, program evaluation, compliance efforts,” after “demonstration projects”.

(d) ALLOCATION OF DISCRETIONARY GRANTS.—Section 1404(c)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(2)) is amended—

(1) in subparagraph (A), by striking “not more than” and inserting “not less than”; and

(2) in subparagraph (B), by striking “not less than” and inserting “not more than”.

(e) FELLOWSHIPS AND CLINICAL INTERNSHIPS.—Section 1404(c)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(3)) is amended—

(1) in subparagraph (C), by striking “and” at the end;

(2) in subparagraph (D), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(E) use funds made available to the Director under this subsection—

“(i) for fellowships and clinical internships; and

“(ii) to carry out programs of training and special workshops for the presentation and dissemination of information resulting from demonstrations, surveys, and special projects.”.

**SEC. 624. VICTIMS OF TERRORISM.**

(a) COMPENSATION AND ASSISTANCE TO VICTIMS OF DOMESTIC TERRORISM.—Section 1404B(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b(b)) is amended to read as follows:

“(b) VICTIMS OF TERRORISM WITHIN THE UNITED STATES.—The Director may make supplemental grants as provided in section 1402(d)(5) to States for eligible crime victim compensation and assistance programs, and to victim service organizations, public agencies (including Federal, State, or local governments) and nongovernmental organizations that provide assistance to victims of crime, which shall be used to provide emergency relief, including crisis response efforts, assistance, compensation, training and

technical assistance, and ongoing assistance, including during any investigation or prosecution, to victims of terrorist acts or mass violence occurring within the United States.”.

(b) ASSISTANCE TO VICTIMS OF INTERNATIONAL TERRORISM.—Section 1404B(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b(a)(1)) is amended by striking “who are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986”.

(c) COMPENSATION TO VICTIMS OF INTERNATIONAL TERRORISM.—Section 1404C(b) of the Victims of Crime of 1984 (42 U.S.C. 10603c(b)) is amended by adding at the end the following: “The amount of compensation awarded to a victim under this subsection shall be reduced by any amount that the victim received in connection with the same act of international terrorism under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.”.

#### **TITLE VII—INCREASED INFORMATION SHARING FOR CRITICAL INFRASTRUCTURE PROTECTION**

##### **SEC. 711. EXPANSION OF REGIONAL INFORMATION SHARING SYSTEM TO FACILITATE FEDERAL-STATE-LOCAL LAW ENFORCEMENT RESPONSE RELATED TO TERRORIST ATTACKS.**

Section 1301 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) is amended—

(1) in subsection (a), by inserting “and terrorist conspiracies and activities” after “activities”;

(2) in subsection (b)—

(A) in paragraph (3), by striking “and” after the semicolon;

(B) by redesignating paragraph (4) as paragraph (5);

(C) by inserting after paragraph (3) the following:

“(4) establishing and operating secure information sharing systems to enhance the investigation and prosecution abilities of participating enforcement agencies in addressing multi-jurisdictional terrorist conspiracies and activities; and (5)”;

(3) by inserting at the end the following:

“(d) AUTHORIZATION OF APPROPRIATION TO THE BUREAU OF JUSTICE ASSISTANCE.—There are authorized to be appropriated to the Bureau of Justice Assistance to carry out this section \$50,000,000 for fiscal year 2002 and \$100,000,000 for fiscal year 2003.”.

#### **TITLE VIII—STRENGTHENING THE CRIMINAL LAWS AGAINST TERRORISM**

##### **SEC. 801. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST MASS TRANSPORTATION SYSTEMS.**

Chapter 97 of title 18, United States Code, is amended by adding at the end the following:

##### **“§ 1993. Terrorist attacks and other acts of violence against mass transportation systems**

“(a) GENERAL PROHIBITIONS.—Whoever willfully—

“(1) wrecks, derails, sets fire to, or disables a mass transportation vehicle or ferry;

“(2) places or causes to be placed any biological agent or toxin for use as a weapon, destructive substance, or destructive device in, upon, or near a mass transportation vehicle or ferry, without previously obtaining the permission of the mass transportation provider, and with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

“(3) sets fire to, or places any biological agent or toxin for use as a weapon, destructive substance, or destructive device in, upon, or near any garage, terminal, structure, supply, or facility used in the operation

of, or in support of the operation of, a mass transportation vehicle or ferry, without previously obtaining the permission of the mass transportation provider, and knowing or having reason to know such activity would likely derail, disable, or wreck a mass transportation vehicle or ferry used, operated, or employed by the mass transportation provider;

“(4) removes appurtenances from, damages, or otherwise impairs the operation of a mass transportation signal system, including a train control system, centralized dispatching system, or rail grade crossing warning signal;

“(5) interferes with, disables, or incapacitates any dispatcher, driver, captain, or person while they are employed in dispatching, operating, or maintaining a mass transportation vehicle or ferry, with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

“(6) commits an act, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to an employee or passenger of a mass transportation provider or any other person while any of the foregoing are on the property of a mass transportation provider;

“(7) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

“(8) attempts, threatens, or conspires to do any of the aforesaid acts,

shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, on, against, or affecting a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

“(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) in a circumstance in which—

“(1) the mass transportation vehicle or ferry was carrying a passenger at the time of the offense; or

“(2) the offense has resulted in the death of any person,

shall be guilty of an aggravated form of the offense and shall be fined under this title or imprisoned for a term of years or for life, or both.

“(c) DEFINITIONS.—In this section—

“(1) the term ‘biological agent’ has the meaning given to that term in section 178(1) of this title;

“(2) the term ‘dangerous weapon’ has the meaning given to that term in section 930 of this title;

“(3) the term ‘destructive device’ has the meaning given to that term in section 921(a)(4) of this title;

“(4) the term ‘destructive substance’ has the meaning given to that term in section 31 of this title;

“(5) the term ‘mass transportation’ has the meaning given to that term in section 5302(a)(7) of title 49, United States Code, except that the term shall include schoolbus, charter, and sightseeing transportation;

“(6) the term ‘serious bodily injury’ has the meaning given to that term in section 1365 of this title;

“(7) the term ‘State’ has the meaning given to that term in section 2266 of this title; and

“(8) the term ‘toxin’ has the meaning given to that term in section 178(2) of this title.”.

(f) CONFORMING AMENDMENT.—The analysis of chapter 97 of title 18, United States Code, is amended by adding at the end:

“1993. Terrorist attacks and other acts of violence against mass transportation systems.”.

#### **SEC. 802. EXPANSION OF THE BIOLOGICAL WEAPONS STATUTE.**

Chapter 10 of title 18, United States Code, is amended—

(1) in section 175—

(A) in subsection (b)—

(i) by striking “does not include” and inserting “includes”;

(ii) by inserting “other than” after “system for”;

(iii) by inserting “bona fide research” after “protective”;

(B) by redesignating subsection (b) as subsection (c); and

(C) by inserting after subsection (a) the following:

“(b) ADDITIONAL OFFENSE.—Whoever knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose, shall be fined under this title, imprisoned not more than 10 years, or both. In this subsection, the terms ‘biological agent’ and ‘toxin’ do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.”;

(2) by inserting after section 175a the following:

##### **“SEC. 175b. POSSESSION BY RESTRICTED PERSONS.**

“(a) No restricted person described in subsection (b) shall ship or transport interstate or foreign commerce, or possess in or affecting commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in subsection (j) of section 72.6 of title 42, Code of Federal Regulations, pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132), and is not exempted under subsection (h) of such section 72.6, or appendix A of part 72 of the Code of Regulations.

“(b) In this section:

“(1) The term ‘select agent’ does not include any such biological agent or toxin that is in its naturally-occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

“(2) The term ‘restricted person’ means an individual who—

“(A) is under indictment for a crime punishable by imprisonment for a term exceeding 1 year;

“(B) has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

“(C) is a fugitive from justice;

“(D) is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

“(E) is an alien illegally or unlawfully in the United States;

“(F) has been adjudicated as a mental defective or has been committed to any mental institution;

“(G) is an alien (other than an alien lawfully admitted for permanent residence) who is a national of a country as to which the Secretary of State, pursuant to section 6(j) of the Export Administration Act of 1979 (50

U.S.C. App. 2405(j)), section 620A of chapter 1 of part M of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 40(d) of chapter 3 of the Arms Export Control Act (22 U.S.C. 2780(d)), has made a determination (that remains in effect) that such country has repeatedly provided support for acts of international terrorism; or

“(H) has been discharged from the Armed Services of the United States under dishonorable conditions.

“(3) The term ‘alien’ has the same meaning as in section 1010(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

“(4) The term ‘lawfully admitted for permanent residence’ has the same meaning as in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

“(c) Whoever knowingly violates this section shall be fined as provided in this title, imprisoned not more than 10 years, or both, but the prohibition contained in this section shall not apply with respect to any duly authorized United States governmental activity.”; and

(3) in the chapter analysis, by inserting after the item relating to section 175a the following:

“175b. Possession by restricted persons.”.

#### **SEC. 803. DEFINITION OF DOMESTIC TERRORISM.**

(a) DOMESTIC TERRORISM DEFINED.—Section 2331 of title 18, United States Code, is amended—

(1) in paragraph (1)(B)(iii), by striking “by assassination or kidnapping” and inserting “by mass destruction, assassination, or kidnapping”;

(2) in paragraph (3), by striking “and”;

(3) in paragraph (4), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(5) the term ‘domestic terrorism’ means activities that—

“(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;

“(B) appear to be intended—

“(i) to intimidate or coerce a civilian population;

“(ii) to influence the policy of a government by intimidation or coercion; or

“(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

“(C) occur primarily within the territorial jurisdiction of the United States.”.

(b) CONFORMING AMENDMENT.—Section 3077(1) of title 18, United States Code, is amended to read as follows:

“(1) ‘act of terrorism’ means an act of domestic or international terrorism as defined in section 2331.”.

#### **SEC. 804. PROHIBITION AGAINST HARBORING TERRORISTS.**

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2338 the following new section:

##### **“§ 2339. Harboring or concealing terrorists**

“(a) Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe, has committed, or is about to commit, an offense under section 32 (relating to destruction of aircraft or aircraft facilities), section 175 (relating to biological weapons), section 229 (relating to chemical weapons), section 831 (relating to nuclear materials), paragraph (2) or (3) of section 844(f) (relating to arson and bombing of government property risking or causing injury or death), section 1366(a) (relating to the destruction of an energy facility), section 2280 (relating to violence against maritime navigation), section 2332a (relating to weapons of mass destruction), or section 2332b (relating to acts of terrorism transcending national boundaries) of this title, section 236(a) (relating to sabotage of nuclear facilities or fuel)

of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)), or section 46502 (relating to aircraft piracy) of title 49, shall be fined under this title or imprisoned not more than ten years, or both.”.

“(b) A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.”.

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113B of title 18, United States Code, is amended by inserting after the item for section 2338 the following:

“2339. Harboring or concealing terrorists.”.

#### **SEC. 805. JURISDICTION OVER CRIMES COMMITTED AT U.S. FACILITIES ABROAD.**

Section 7 of title 18, United States Code, is amended by adding at the end the following:

“(9) With respect to offenses committed by or against a United States national, as defined in section 1203(c) of this title—

“(A) the premises of United States diplomatic, consular, military or other United States Government missions or entities in foreign States, including the buildings, parts of buildings, and land appurtenant or ancillary thereto or used for purposes of those missions or entities, irrespective of ownership; and

“(B) residences in foreign States and the land appurtenant or ancillary thereto, irrespective of ownership, used for purposes of those missions or entities or used by United States personnel assigned to those missions or entities.

Nothing in this paragraph shall be deemed to supersede any treaty or international agreement in force on the date of enactment of this paragraph with which this paragraph conflicts. This paragraph does not apply with respect to an offense committed by a person described in section 3261(a) of this title.”.

#### **SEC. 806. MATERIAL SUPPORT FOR TERRORISM.**

(a) IN GENERAL.—Section 2339A of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “, within the United States.”;

(B) by inserting “229,” after “175.”;

(C) by inserting “1993,” after “1992.”;

(D) by inserting “, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284),” after “of this title”;

(E) by inserting “or 60123(b)” after “46502”; and

(F) by inserting at the end the following:

“A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.”; and

(2) in subsection (b)—

(A) by striking “or other financial securities” and inserting “or monetary instruments or financial securities”; and

(B) by inserting “expert advice or assistance,” after “training.”.

(b) TECHNICAL AMENDMENT.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting “or 2339B” after “2339A”.

#### **SEC. 807. ASSETS OF TERRORIST ORGANIZATIONS.**

Section 981(a)(1) of title 18, United States Code, is amended by inserting at the end the following:

“(G) All assets, foreign or domestic—

“(i) of any person, entity, or organization engaged in planning or perpetrating any act of domestic or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property, and all assets, foreign or domestic, affording any person a source of influence over any such entity or organization;

“(ii) acquired or maintained by any person for the purpose of supporting, planning, conducting, or concealing an act of domestic or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property; or

“(iii) derived from, involved in, or used or intended to be used to commit any act of domestic or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property.”.

#### **SEC. 808. TECHNICAL CLARIFICATION RELATING TO PROVISION OF MATERIAL SUPPORT TO TERRORISM.**

No provision of the Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX of Public Law 106-387) shall be construed to limit or otherwise affect section 2339A or 2339B of title 18, United States Code.

#### **SEC. 809. DEFINITION OF FEDERAL CRIME OF TERRORISM.**

Section 2332b of title 18, United States Code, is amended—

(1) in subsection (f), by inserting after “terrorism” the following: “and any violation of section 351(e), 844(e), 844(f)(1), 956(b), 1361, 1366(b), 1366(c), 1751(e), 2152, or 2156 of this title,” before “and the Secretary”; and

(2) in subsection (g)(5)(B), by striking clauses (i) through (iii) and inserting the following:

“(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 or 175b (relating to biological weapons), 229 (relating to chemical weapons), 351 (a) through (d) (relating to congressional, cabinet, and Supreme Court assassination and kidnapping), 831 (relating to nuclear materials), 842(m) or (n) (relating to plastic explosives), 844(f) (2) through (3) (relating to arson and bombing of Government property risking or causing death), 844(i) (relating to arson and bombing of property used in interstate commerce), 930(c) (relating to killing or attempted killing during an attack on a Federal facility with a dangerous weapon), 956(a)(1) (relating to conspiracy to murder, kidnap, or maim within special maritime and territorial jurisdiction of the United States), 1030(a)(1) (relating to protection of computers), 1030(a)(5)(A)(i) resulting in damage as defined in 1030(a)(5)(B)(ii) through (v) (relating to protection of computers), 1114 (relating to killing or attempted killing of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366(a) (relating to destruction of an energy facility), 1751 (a) through (d) (relating to Presidential and Presidential staff assassination and kidnapping), 1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems), 2155 (relating to destruction of national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339 (relating to harboring terrorists), 2339A (relating to providing material support to terrorists), 2339B (relating to



providing material support to terrorist organizations), or 2340A (relating to torture) of this title;

“(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

“(iii) section 46502 (relating to aircraft piracy), the second sentence of section 46504 (relating to assault on a flight crew with a dangerous weapon), section 46505(b)(3) or (c) (relating to explosive or incendiary devices, or endangerment of human life by means of weapons, on aircraft), section 46506 if homicide or attempted homicide is involved (relating to application of certain criminal laws to acts on aircraft), or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.”.

#### SEC. 810. NO STATUTE OF LIMITATION FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Section 3286 of title 18, United States Code, is amended to read as follows:

##### “§ 3286. Extension of statute of limitation for certain terrorism offenses.

“(a) EIGHT-YEAR LIMITATION.—Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any non-capital offense involving a violation of any provision listed in section 2332b(g)(5)(B) other than a provision listed in section 3295, or a violation of section 112, 351(e), 1361, or 1751(e) of this title, or section 46504, 46505, or 46506 of title 49, unless the indictment is found or the information is instituted within 8 years after the offense was committed.

“(b) NO LIMITATION.—Notwithstanding any other law, an indictment may be found or an information instituted at any time without limitation for any offense listed in section 2332b(g)(5)(B), if the commission of such offense resulted in, or created a foreseeable risk of, death or serious bodily injury to another person.”.

(b) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of enactment of this section.

#### SEC. 811. ALTERNATE MAXIMUM PENALTIES FOR TERRORISM OFFENSES.

(a) ARSON.—Section 81 of title 18, United States Code, is amended in the second undesignated paragraph by striking “not more than twenty years” and inserting “for any term of years or for life”.

(b) DESTRUCTION OF AN ENERGY FACILITY.—Section 1366 of title 18, United States Code, is amended—

(1) in subsection (a), by striking “ten” and inserting “20”; and

(2) by adding at the end the following:

“(d) Whoever is convicted of a violation of subsection (a) or (b) that has resulted in the death of any person shall be subject to imprisonment for any term of years or life.”.

(c) MATERIAL SUPPORT TO TERRORISTS.—Section 2339A(a) of title 18, United States Code, is amended—

(1) by striking “10” and inserting “15”; and

(2) by striking the period and inserting “and, if the death of any person results, shall be imprisoned for any term of years or for life.”.

(d) MATERIAL SUPPORT TO DESIGNATED FOREIGN TERRORIST ORGANIZATIONS.—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking “10” and inserting “15”; and

(2) by striking the period after “or both” and inserting “and, if the death of any person results, shall be imprisoned for any term of years or for life.”.

(e) DESTRUCTION OF NATIONAL-DEFENSE MATERIALS.—Section 2155(a) of title 18, United States Code, is amended—

(1) by striking “ten” and inserting “20”; and

(2) by striking the period at the end and inserting “, and, if death results to any person, shall be imprisoned for any term of years or for life.”.

(f) SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), is amended—

(1) by striking “ten” each place it appears and inserting “20”; and

(2) in subsection (a), by striking the period at the end and inserting “, and, if death results to any person, shall be imprisoned for any term of years or for life.”; and

(3) in subsection (b), by striking the period at the end and inserting “, and, if death results to any person, shall be imprisoned for any term of years or for life.”.

(g) SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES.—Section 46505(c) of title 49, United States Code, is amended—

(1) by striking “15” and inserting “20”; and

(2) by striking the period at the end and inserting “, and, if death results to any person, shall be imprisoned for any term of years or for life.”.

(h) DAMAGING OR DESTROYING AN INTERSTATE GAS OR HAZARDOUS LIQUID PIPELINE FACILITY.—Section 60123(b) of title 49, United States Code, is amended—

(1) by striking “15” and inserting “20”; and

(2) by striking the period at the end and inserting “, and, if death results to any person, shall be imprisoned for any term of years or for life.”.

#### SEC. 812. PENALTIES FOR TERRORIST CONSPIRACIES.

(a) ARSON.—Section 81 of title 18, United States Code, is amended in the first undesignated paragraph—

(1) by striking “, or attempts to set fire to or burn”; and

(2) by inserting “or attempts or conspires to do such an act,” before “shall be imprisoned”.

(b) KILLINGS IN FEDERAL FACILITIES.—

(1) Section 930(c) of title 18, United States Code, is amended—

(A) by striking “or attempts to kill”; and

(B) by inserting “or attempts or conspires to do such an act,” before “shall be punished”; and

(C) by striking “and 1113” and inserting “1113, and 1117”.

(2) Section 1117 of title 18, United States Code, is amended by inserting “930(c),” after “section”.

(c) COMMUNICATIONS LINES, STATIONS, OR SYSTEMS.—Section 1362 of title 18, United States Code, is amended in the first undesignated paragraph—

(1) by striking “or attempts willfully or maliciously to injure or destroy”; and

(2) by inserting “or attempts or conspires to do such an act,” before “shall be fined”.

(d) BUILDINGS OR PROPERTY WITHIN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—Section 1363 of title 18, United States Code, is amended—

(1) by striking “or attempts to destroy or injure”; and

(2) by inserting “or attempts or conspires to do such an act,” before “shall be fined” the first place it appears.

(e) WRECKING TRAINS.—Section 1992 of title 18, United States Code, is amended by adding at the end the following:

“(c) A person who conspires to commit any offense defined in this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.”.

(f) MATERIAL SUPPORT TO TERRORISTS.—Section 2339A of title 18, United States Code, is amended by inserting “or attempts or conspires to do such an act,” before “shall be fined”.

(g) TORTURE.—Section 2340A of title 18, United States Code, is amended by adding at the end the following:

“(c) CONSPIRACY.—A person who conspires to commit an offense under this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.”.

(h) SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), is amended—

(1) in subsection (a)—

(A) by striking “, or who intentionally and willfully attempts to destroy or cause physical damage to”; and

(B) in paragraph (4), by striking the period at the end and inserting a comma; and

(C) by inserting “or attempts or conspires to do such an act,” before “shall be fined”; and

(2) in subsection (b)—

(A) by striking “or attempts to cause”; and

(B) by inserting “or attempts or conspires to do such an act,” before “shall be fined”.

(i) INTERFERENCE WITH FLIGHT CREW MEMBERS AND ATTENDANTS.—Section 46504 of title 49, United States Code, is amended by inserting “or attempts or conspires to do such an act,” before “shall be fined”.

(j) SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES.—Section 46505 of title 49, United States Code, is amended by adding at the end the following:

“(e) CONSPIRACY.—If two or more persons conspire to violate subsection (b) or (c), and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in such subsection.”.

(k) DAMAGING OR DESTROYING AN INTERSTATE GAS OR HAZARDOUS LIQUID PIPELINE FACILITY.—Section 60123(b) of title 49, United States Code, is amended—

(1) by striking “, or attempting to damage or destroy,”; and

(2) by inserting “, or attempting or conspiring to do such an act,” before “shall be fined”.

#### SEC. 813. POST-RELEASE SUPERVISION OF TERRORISTS.

Section 3583 of title 18, United States Code, is amended by adding at the end the following:

“(j) SUPERVISED RELEASE TERMS FOR TERRORISM PREDICATES.—Notwithstanding subsection (b), the authorized term of supervised release for any offense listed in section 2332b(g)(5)(B), the commission of which resulted in, or created a foreseeable risk of, death or serious bodily injury to another person, is any term of years or life.”.

#### SEC. 814. INCLUSION OF ACTS OF TERRORISM AS RACKETEERING ACTIVITY.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking “or (F)” and inserting “(F)”; and

(2) by inserting before the semicolon at the end the following: “, or (G) any act that is indictable as an offense listed in section 2332b(g)(5)(B)”.

#### SEC. 815. DETERRENCE AND PREVENTION OF CYBERTERRORISM.

(a) CLARIFICATION OF PROTECTION OF PROTECTED COMPUTERS.—Section 1030(a)(5) of title 18, United States Code, is amended—

(1) by inserting “(i)” after “(A)”; and

(2) by redesignating subparagraphs (B) and (C) as clauses (ii) and (iii), respectively;

(3) by adding “and” at the end of clause (iii), as so redesignated; and

(4) by adding at the end the following:

“(B) caused (or, in the case of an attempted offense, would, if completed, have caused) conduct described in clause (i), (ii), or (iii) of subparagraph (A) that resulted in—

“(i) loss to 1 or more persons during any 1-year period (including loss resulting from a related course of conduct affecting 1 or more other protected computers) aggregating at least \$5,000 in value;

“(ii) the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of 1 or more individuals;

“(iii) physical injury to any person;

“(iv) a threat to public health or safety; or

“(v) damage affecting a computer system used by or for a Government entity in furtherance of the administration of justice, national defense, or national security.”

(b) **PENALTIES.**—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)—

(A) in subparagraph (A) —

(i) by inserting “except as provided in subparagraph (B),” before “a fine”;

(ii) by striking “(a)(5)(C)” and inserting “(a)(5)(A)(iii)”;

(iii) by striking “and” at the end;

(B) in subparagraph (B), by inserting “or an attempt to commit an offense punishable under this subparagraph,” after “subsection (a)(2),” in the matter preceding clause (i); and

(C) in subparagraph (C), by striking “and” at the end;

(2) in paragraph (3)—

(A) by striking “, (a)(5)(A), (a)(5)(B),” both places it appears; and

(B) by striking “and” at the end; and

(3) by striking “(a)(5)(C)” and inserting “(a)(5)(A)(iii)”;

(4) by adding at the end the following new paragraphs:

“(4)(A) a fine under this title, imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(5)(A)(i), or an attempt to commit an offense punishable under that subsection;

“(B) a fine under this title, imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(5)(A)(ii), or an attempt to commit an offense punishable under that subsection;

“(C) a fine under this title, imprisonment for not more than 20 years, or both, in the case of an offense under subsection (a)(5)(A)(i) or (a)(5)(A)(ii), or an attempt to commit an offense punishable under either subsection, that occurs after a conviction for another offense under this section.”

(c) **DEFINITIONS.**—Subsection (e) of section 1030 of title 18, United States Code is amended—

(1) in paragraph (2)(B), by inserting “, including a computer located outside the United States” before the semicolon;

(2) in paragraph (7), by striking “and” at the end;

(3) by striking paragraph (8) and inserting the following new paragraph (8):

“(8) the term ‘damage’ means any impairment to the integrity or availability of data, a program, a system, or information;”;

(4) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following new paragraphs:

“(10) the term ‘conviction’ shall include a conviction under the law of any State for a crime punishable by imprisonment for more than 1 year, an element of which is unauthorized access, or exceeding authorized access, to a computer;

“(11) the term ‘loss’ includes any reasonable cost to any victim, including the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service;

“(12) the term ‘person’ means any individual, firm, corporation, educational institution, financial institution, governmental entity, or legal or other entity;”

(d) **DAMAGES IN CIVIL ACTIONS.**—Subsection (g) of section 1030 of title 18, United States Code is amended—

(1) by striking the second sentence and inserting the following new sentences: “A suit for a violation of subsection (a)(5) may be brought only if the conduct involves one of the factors enumerated in subsection (a)(5)(B). Damages for a violation involving only conduct described in subsection (a)(5)(B)(i) are limited to economic damages.”; and

(2) by adding at the end the following: “No action may be brought under this subsection for the negligent design or manufacture of computer hardware, computer software, or firmware.”

(e) **AMENDMENT OF SENTENCING GUIDELINES RELATING TO CERTAIN COMPUTER FRAUD AND ABUSE.**—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to ensure that any individual convicted of a violation of section 1030 of title 18, United States Code, can be subjected to appropriate penalties, without regard to any mandatory minimum term of imprisonment.

#### **SEC. 816. ADDITIONAL DEFENSE TO CIVIL ACTIONS RELATING TO PRESERVING RECORDS IN RESPONSE TO GOVERNMENT REQUESTS.**

Section 2707(e)(1) of title 18, United States Code, is amended by inserting after “or statutory authorization” the following: “(including a request of a governmental entity under section 2703(f) of this title)”.

#### **SEC. 817. DEVELOPMENT AND SUPPORT OF CYBERSECURITY FORENSIC CAPABILITIES.**

(a) **IN GENERAL.**—The Attorney General shall establish such regional computer forensic laboratories as the Attorney General considers appropriate, and provide support to existing computer forensic laboratories, in order that all such computer forensic laboratories have the capability—

(1) to provide forensic examinations with respect to seized or intercepted computer evidence relating to criminal activity (including cyberterrorism);

(2) to provide training and education for Federal, State, and local law enforcement personnel and prosecutors regarding investigations, forensic analyses, and prosecutions of computer-related crime (including cyberterrorism);

(3) to assist Federal, State, and local law enforcement in enforcing Federal, State, and local criminal laws relating to computer-related crime;

(4) to facilitate and promote the sharing of Federal law enforcement expertise and information about the investigation, analysis, and prosecution of computer-related crime with State and local law enforcement personnel and prosecutors, including the use of multijurisdictional task forces; and

(5) to carry out such other activities as the Attorney General considers appropriate.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **AUTHORIZATION.**—There is hereby authorized to be appropriated in each fiscal year \$50,000,000 for purposes of carrying out this section.

(2) **AVAILABILITY.**—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

### **TITLE IX—IMPROVED INTELLIGENCE**

#### **SEC. 901. RESPONSIBILITIES OF DIRECTOR OF CENTRAL INTELLIGENCE REGARDING FOREIGN INTELLIGENCE COLLECTED UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.**

Section 103(c) of the National Security Act of 1947 (50 U.S.C. 403-3(c)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following new paragraph (6):

“(6) establish requirements and priorities for foreign intelligence information to be collected under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), and provide assistance to the Attorney General to ensure that information derived from electronic surveillance or physical searches under that Act is disseminated so it may be used efficiently and effectively for foreign intelligence purposes, except that the Director shall have no authority to direct, manage, or undertake electronic surveillance operations pursuant to that Act unless otherwise authorized by statute or executive order.”

#### **SEC. 902. INCLUSION OF INTERNATIONAL TERRORIST ACTIVITIES WITHIN SCOPE OF FOREIGN INTELLIGENCE UNDER NATIONAL SECURITY ACT OF 1947.**

Section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended—

(1) in paragraph (2), by inserting before the period the following: “, or international terrorist activities”; and

(2) in paragraph (3), by striking “and activities conducted” and inserting “, and activities conducted.”

#### **SEC. 903. SENSE OF CONGRESS ON THE ESTABLISHMENT AND MAINTENANCE OF INTELLIGENCE RELATIONSHIPS TO ACQUIRE INFORMATION ON TERRORISTS AND TERRORIST ORGANIZATIONS.**

It is the sense of Congress that officers and employees of the intelligence community of the Federal Government, acting within the course of their official duties, should be encouraged, and should make every effort, to establish and maintain intelligence relationships with any person, entity, or group for the purpose of engaging in lawful intelligence activities, including the acquisition of information on the identity, location, finances, affiliations, capabilities, plans, or intentions of a terrorist or terrorist organization, or information on any other person, entity, or group (including a foreign government) engaged in harboring, comforting, financing, aiding, or assisting a terrorist or terrorist organization.

#### **SEC. 904. TEMPORARY AUTHORITY TO DEFER SUBMITTAL TO CONGRESS OF REPORTS ON INTELLIGENCE AND INTELLIGENCE-RELATED MATTERS.**

(a) **AUTHORITY TO DEFER.**—The Secretary of Defense, Attorney General, and Director of Central Intelligence each may, during the effective period of this section, defer the date of submittal to Congress of any covered intelligence report under the jurisdiction of such official until February 1, 2002.

(b) **COVERED INTELLIGENCE REPORT.**—Except as provided in subsection (c), for purposes of subsection (a), a covered intelligence report is as follows:

(1) Any report on intelligence or intelligence-related activities of the United States Government that is required to be submitted to Congress by an element of the intelligence community during the effective period of this section.

(2) Any report or other matter that is required to be submitted to the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of

the House of Representatives by the Department of Defense or the Department of Justice during the effective period of this section.

(c) **EXCEPTION FOR CERTAIN REPORTS.**—For purposes of subsection (a), any report required by section 502 or 503 of the National Security Act of 1947 (50 U.S.C. 413a, 413b) is not a covered intelligence report.

(d) **NOTICE TO CONGRESS.**—Upon deferring the date of submittal to Congress of a covered intelligence report under subsection (a), the official deferring the date of submittal of the covered intelligence report shall submit to Congress notice of the deferral. Notice of deferral of a report shall specify the provision of law, if any, under which the report would otherwise be submitted to Congress.

(e) **EXTENSION OF DEFERRAL.**—(1) Each official specified in subsection (a) may defer the date of submittal to Congress of a covered intelligence report under the jurisdiction of such official to a date after February 1, 2002, if such official submits to the committees of Congress specified in subsection (b)(2) before February 1, 2002, a certification that preparation and submittal of the covered intelligence report on February 1, 2002, will impede the work of officers or employees who are engaged in counterterrorism activities.

(2) A certification under paragraph (1) with respect to a covered intelligence report shall specify the date on which the covered intelligence report will be submitted to Congress.

(f) **EFFECTIVE PERIOD.**—The effective period of this section is the period beginning on the date of the enactment of this Act and ending on February 1, 2002.

(g) **ELEMENT OF THE INTELLIGENCE COMMUNITY DEFINED.**—In this section, the term “element of the intelligence community” means any element of the intelligence community specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

**SEC. 905. DISCLOSURE TO DIRECTOR OF CENTRAL INTELLIGENCE OF FOREIGN INTELLIGENCE-RELATED INFORMATION WITH RESPECT TO CRIMINAL INVESTIGATIONS.**

(a) **IN GENERAL.**—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended—

(1) by redesignating subsection 105B as section 105C; and

(2) by inserting after section 105A the following new section 105B:

“**DISCLOSURE OF FOREIGN INTELLIGENCE ACQUIRED IN CRIMINAL INVESTIGATIONS; NOTICE OF CRIMINAL INVESTIGATIONS OF FOREIGN INTELLIGENCE SOURCES**

“**SEC. 105B.** (a) **DISCLOSURE OF FOREIGN INTELLIGENCE.**—(1) Except as otherwise provided by law and subject to paragraph (2), the Attorney General, or the head of any other department or agency of the Federal Government with law enforcement responsibilities, shall expeditiously disclose to the Director of Central Intelligence, pursuant to guidelines developed by the Attorney General in consultation with the Director, foreign intelligence acquired by an element of the Department of Justice or an element of such department or agency, as the case may be, in the course of a criminal investigation.

“(2) The Attorney General by regulation and in consultation with the Director of Central Intelligence may provide for exceptions to the applicability of paragraph (1) for one or more classes of foreign intelligence, or foreign intelligence with respect to one or more targets or matters, if the Attorney General determines that disclosure of such foreign intelligence under that paragraph would jeopardize an ongoing law enforcement investigation or impair other significant law enforcement interests.

“(b) **PROCEDURES FOR NOTICE OF CRIMINAL INVESTIGATIONS.**—Not later than 180 days after the date of enactment of this section, the Attorney General, in consultation with the Director of Central Intelligence, shall develop guidelines to ensure that after receipt of a report from an element of the intelligence community of activity of a foreign intelligence source or potential foreign intelligence source that may warrant investigation as criminal activity, the Attorney General provides notice to the Director of Central Intelligence, within a reasonable period of time, of his intention to commence, or decline to commence, a criminal investigation of such activity.

“(c) **PROCEDURES.**—The Attorney General shall develop procedures for the administration of this section, including the disclosure of foreign intelligence by elements of the Department of Justice, and elements of other departments and agencies of the Federal Government, under subsection (a) and the provision of notice with respect to criminal investigations under subsection (b).”

(b) **CLERICAL AMENDMENT.**—The table of contents in the first section of that Act is amended by striking the item relating to section 105B and inserting the following new items:

“**Sec. 105B.** Disclosure of foreign intelligence acquired in criminal investigations; notice of criminal investigations of foreign intelligence sources.

“**Sec. 105C.** Protection of the operational files of the National Imagery and Mapping Agency.”

**SEC. 906. FOREIGN TERRORIST ASSET TRACKING CENTER.**

(a) **REPORT ON RECONFIGURATION.**—Not later than February 1, 2002, the Attorney General, the Director of Central Intelligence, and the Secretary of the Treasury shall jointly submit to Congress a report on the feasibility and desirability of reconfiguring the Foreign Terrorist Asset Tracking Center and the Office of Foreign Assets Control of the Department of the Treasury in order to establish a capability to provide for the effective and efficient analysis and dissemination of foreign intelligence relating to the financial capabilities and resources of international terrorist organizations.

(b) **REPORT REQUIREMENTS.**—(1) In preparing the report under subsection (a), the Attorney General, the Secretary, and the Director shall consider whether, and to what extent, the capacities and resources of the Financial Crimes Enforcement Center of the Department of the Treasury may be integrated into the capability contemplated by the report.

(2) If the Attorney General, Secretary, and the Director determine that it is feasible and desirable to undertake the reconfiguration described in subsection (a) in order to establish the capability described in that subsection, the Attorney General, the Secretary, and the Director shall include with the report under that subsection a detailed proposal for legislation to achieve the reconfiguration.

**SEC. 907. NATIONAL VIRTUAL TRANSLATION CENTER.**

(a) **REPORT ON ESTABLISHMENT.**—(1) Not later than February 1, 2002, the Director of Central Intelligence shall, in consultation with the Director of the Federal Bureau of Investigation, submit to the appropriate committees of Congress a report on the establishment and maintenance within the intelligence community of an element for purposes of providing timely and accurate translations of foreign intelligence for all other elements of the intelligence community. In the report, the element shall be referred to

as the “National Virtual Translation Center”.

(2) The report on the element described in paragraph (1) shall discuss the use of state-of-the-art communications technology, the integration of existing translation capabilities in the intelligence community, and the utilization of remote-connection capacities so as to minimize the need for a central physical facility for the element.

(b) **RESOURCES.**—The report on the element required by subsection (a) shall address the following:

(1) The assignment to the element of a staff of individuals possessing a broad range of linguistic and translation skills appropriate for the purposes of the element.

(2) The provision to the element of communications capabilities and systems that are commensurate with the most current and sophisticated communications capabilities and systems available to other elements of intelligence community.

(3) The assurance, to the maximum extent practicable, that the communications capabilities and systems provided to the element will be compatible with communications capabilities and systems utilized by the Federal Bureau of Investigation in securing timely and accurate translations of foreign language materials for law enforcement investigations.

(4) The development of a communications infrastructure to ensure the efficient and secure use of the translation capabilities of the element.

(c) **SECURE COMMUNICATIONS.**—The report shall include a discussion of the creation of secure electronic communications between the element described by subsection (a) and the other elements of the intelligence community.

(d) **DEFINITIONS.**—In this section:

(1) **FOREIGN INTELLIGENCE.**—The term “foreign intelligence” has the meaning given that term in section 3(2) of the National Security Act of 1947 (50 U.S.C. 401a(2)).

(2) **ELEMENT OF THE INTELLIGENCE COMMUNITY.**—The term “element of the intelligence community” means any element of the intelligence community specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

**SEC. 908. TRAINING OF GOVERNMENT OFFICIALS REGARDING IDENTIFICATION AND USE OF FOREIGN INTELLIGENCE.**

(a) **PROGRAM REQUIRED.**—The Attorney General shall, in consultation with the Director of Central Intelligence, carry out a program to provide appropriate training to officials described in subsection (b) in order to assist such officials in—

(1) identifying foreign intelligence information in the course of their duties; and

(2) utilizing foreign intelligence information in the course of their duties, to the extent that the utilization of such information is appropriate for such duties.

(b) **OFFICIALS.**—The officials provided training under subsection (a) are, at the discretion of the Attorney General and the Director, the following:

(1) Officials of the Federal Government who are not ordinarily engaged in the collection, dissemination, and use of foreign intelligence in the performance of their duties.

(2) Officials of State and local governments who encounter, or may encounter in the course of a terrorist event, foreign intelligence in the performance of their duties.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is hereby authorized to be appropriated for the Department of Justice such sums as may be necessary for purposes of carrying out the program required by subsection (a).

By Mr. SPECTER:

S.J. Res. 24. A joint resolution honoring Maureen Reagan on the occasion of her death and expressing condolences to her family, including her husband Dennis Revell and her daughter Rita Revell; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

#### S.J. RES. 24

Whereas the Congress is greatly saddened by the tragic death of Maureen Reagan on August 8, 2001;

Whereas Maureen Reagan's love of life and countless contributions to family and the Nation serve as an inspiration to millions;

Whereas Maureen Reagan was a remarkable advocate for a number of causes and had many passions, the greatest being her dedication to addressing the scourge of Alzheimer's disease;

Whereas in 1994 when former President Ronald Reagan announced that he had been diagnosed with Alzheimer's disease, Maureen Reagan joined her father and Nancy Reagan in the fight against Alzheimer's disease and became a national spokesperson for the Alzheimer's Association;

Whereas Maureen Reagan served as a tireless advocate to raise public awareness about Alzheimer's disease, support care givers, and substantially increase the Nation's commitment to research on Alzheimer's disease;

Whereas Maureen Reagan helped inspire the Congress to increase Federal research funding for Alzheimer's disease by amounts proportionate to increases in research funding for other major diseases;

Whereas Maureen Reagan went far beyond merely lending her name to the work of the Alzheimer's Association: she was a hands-on activist on the association's board of directors, a masterful fund-raiser, a forceful advocate, and a selfless and constant traveler to anywhere and everywhere Alzheimer's advocates needed help;

Whereas at every stop she made and every event she attended in her efforts to eradicate Alzheimer's disease through research, Maureen Reagan emphasized that researchers are in a "race against time before Alzheimer's reaches epidemic levels" with the aging of the Baby Boomers;

Whereas Maureen Reagan stated before the Congress in 2000 that "14 million Baby Boomers are living with a death sentence of Alzheimer's today";

Whereas despite her declining health, Maureen Reagan never decreased her efforts in her battle to eliminate Alzheimer's disease;

Whereas during the last six months of her life, from her hospital bed and home, Maureen Reagan urged the Congress to invest \$1,000,000,000 to fund research at the National Institutes of Health focused on Alzheimer's disease;

Whereas Maureen Reagan said, "The best scientific minds have been brought into the race against Alzheimer's, a solid infrastructure is in place, and the path for further investigations is clear. What's missing is the money, especially the Federal investment, to keep up the pace."; and

Whereas Maureen Reagan's remarkable advocacy for the millions affected and afflicted by Alzheimer's disease will forever serve as an inspiration to continue and ultimately win the battle against the illness: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress, on the occasion of the tragic and untimely death of Maureen Reagan—

(1) recognizes Maureen Reagan as one of the Nation's most beloved and forceful champions for action to cure Alzheimer's disease and treat those suffering from the illness; and

(2) expresses deep and heartfelt condolences to the family of Maureen Reagan, including her husband Dennis Revell and her daughter Rita Revell.

#### STATEMENTS ON SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 168—CONGRATULATING AND HONORING CAL RIPKEN, JR. FOR HIS AMAZING AND STORYBOOK CAREER AS A PLAYER FOR THE BALTIMORE ORIOLES AND THANKING HIM FOR HIS CONTRIBUTIONS TO BASEBALL, THE STATE OF MARYLAND, AND THE UNITED STATES

Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. BINGAMAN, Mr. HATCH, Mr. HUTCHINSON, and Mr. REID) submitted the following resolution; which was considered and agreed to:

#### S. RES. 168

Whereas Calvin (Cal) Edwin Ripken, Jr. was born in Havre de Grace, Maryland on August 24th, 1960;

Whereas Cal Ripken, Jr. was raised in Aberdeen, Maryland and taught baseball by his father, Cal Ripken Sr., who spent his career with the Baltimore Orioles where he developed the Ripken Way;

Whereas Cal Ripken, Jr. entered the major leagues in 1981 as a Baltimore Oriole and played his entire 21 year career for the Orioles, ranking third all-time in Major League Baseball for years played with 1 team and first during the period of free agency;

Whereas Cal Ripken, Jr. redefined the shortstop position, both offensively by hitting the most home runs as a shortstop in major league history and receiving the most Silver Slugger Awards by a shortstop, and defensively by setting 11 different fielding records;

Whereas on May 30th, 1982, Cal Ripken, Jr. played in the first game of his Iron Man Streak;

Whereas Cal Ripken, Jr. was named the American League (AL) Rookie of the Year in 1982;

Whereas Cal Ripken, Jr. led the Baltimore Orioles to a World Championship Season in 1983, winning the AL Most Valuable Player (MVP) award, becoming the first and only player to win the Rookie of the Year and MVP awards in back-to-back seasons;

Whereas in 1987, Cal Ripken, Jr. ended his consecutive innings played streak with a record 8,243;

Whereas in 1987, Cal Ripken, Jr., playing with brother Billy Ripken at second base and father Cal Ripken, Sr. as manager, became a part of the first pair of brothers to play together for their father in the history of Major League Baseball, making the name Ripken synonymous with the Baltimore Orioles;

Whereas Cal Ripken, Jr. was the first recipient of the Bart Giamatti Caring Award in 1989;

Whereas in 1990, Cal Ripken, Jr. had the greatest defensive single season of any short-

stop, setting major league records in fielding percentage (.996), fewest errors committed (3), and consecutive games without an error (95);

Whereas in 1991, Cal Ripken, Jr. won his second AL MVP award, becoming 1 of only 22 major leaguers to win multiple MVP awards, won the first of 2 Golden Glove awards, and became the first player in baseball history to win the All-Star MVP and Home Run Contest in the same season as winning the MVP award;

Whereas in 1992, Cal Ripken, Jr. was awarded the Roberto Clemente Award, presented annually to the player who best exemplifies the game of baseball both on and off the field;

Whereas on September 6th, 1995, Cal Ripken, Jr. played in his 2131st consecutive game, breaking the record of the great and honorable Lou Gehrig;

Whereas in Cal Ripken Jr.'s 14 seasons of pursuit of Lou Gehrig's record, Cal Ripken, Jr. conducted himself with complete dignity, humility, and honor that attracted the attention of both baseball fans and all Americans and played a crucial role in bringing baseball back as America's national pastime after the labor problems of baseball in 1994;

Whereas in 1995, Cal Ripken, Jr. earned the following awards: the Associated Press and United Press International Male Athlete of the Year; The Sporting News Award Major League Player of the Year; and the Sports Illustrated Sportsman of the Year;

Whereas on September 20th, 1998, Cal Ripken, Jr. voluntarily ended his consecutive games streak at 2632;

Whereas in 1999, Cal Ripken, Jr. became 1 of 32 players to hit over 400 home runs;

Whereas in 2000, Cal Ripken, Jr. became 1 of 24 players with 3,000 hits, joining only 6 other players with over 400 home runs and 3,000 hits and becoming only the second infielder and first shortstop or third baseman to be in this club, along with fellow Baltimore Oriole first baseman and good friend Eddie Murray;

Whereas Cal Ripken, Jr. was named to Major League Baseball's All-Century Team in 2000;

Whereas Cal Ripken, Jr. won his second All-Star Game MVP award in 2001, becoming the first American League player to win 2 such MVP awards, and setting baseball records for most All-Star appearances at 19, All-Star starts at 17, All-star starts at shortstop at 14, and consecutive starts at 16;

Whereas Cal Ripken, Jr. is retiring from the game that he loves to continue his other passions, the teaching of baseball to children and charitable work through the "Reading, Runs, and Ripken" program, the Cal Ripken Little League Division which has over 700,000 children, the Kelly and Cal Ripken, Jr. Foundation, and the Cal Ripken, Jr./Lou Gehrig ALS Research Fund;

Whereas Cal Ripken, Jr. has pledged \$9,000,000 for the construction of a baseball facility in Harford County, Maryland; and

Whereas Cal Ripken, Jr. transcended the game of baseball and became a symbol of excellence, reliability, consistency, and served as a role model for the children of his hometown of Aberdeen, Maryland, the city of Baltimore, Maryland, all Maryland residents, and all Americans: Now, therefore, be it

*Resolved,*

#### SECTION 1. HONORING CAL RIPKEN, JR.

The Senate—

(1) honors and congratulates Cal Ripken, Jr. for—

(A) his contributions to both baseball and America as an exemplar of endurance, professionalism, and the American work ethic;

(B) his entire career as a Baltimore Oriole, a major league baseball player, and for his conduct both on and off the field;

(C) his excellent treatment of all baseball fans in all stadiums and his community service both in the State of Maryland and throughout America; and

(D) all of his qualities and traits that helped him serve as a role model for all Americans; and

(2) wishes Cal Ripken, Jr. the best for what will undoubtedly be a productive and giving retirement.

#### SEC. 2. TRANSMISSION.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to—

(1) the legendary Baltimore Oriole Cal Ripken, Jr.; and

(2) the Baltimore Orioles' owner, Peter Angelos.

SENATE CONCURRENT RESOLUTION 75—TO EXPRESS THE SENSE OF THE CONGRESS THAT THE PUBLIC SAFETY OFFICER MEDAL OF VALOR SHOULD BE PRESENTED TO PUBLIC SAFETY OFFICERS KILLED OR SERIOUSLY INJURED AS A RESULT OF THE TERRORIST ATTACKS PERPETRATED AGAINST THE UNITED STATES ON SEPTEMBER 11, 2001, AND TO THOSE WHO PARTICIPATED IN THE SEARCH, RESCUE, AND RECOVERY EFFORTS IN THE AFTERMATH OF THOSE ATTACKS

Mr. HARKIN (for himself, Mr. SCHUMER, Mr. WARNER, Mrs. CLINTON, Mr. ALLEN, Mr. HELMS, Mr. CORZINE, Ms. SNOWE, Mr. VOINOVICH, and Mr. LIEBERMAN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

#### S. CON. RES. 75

Whereas on September 11, 2001, terrorists hijacked and destroyed 4 civilian aircraft, crashing 2 of them into the towers of the World Trade Center in New York City, a third into the Pentagon, and a fourth in rural southwest Pennsylvania;

Whereas thousands of innocent Americans and many foreign nationals were killed and injured as a result of the surprise terrorist attacks, including the passengers and crews of the 4 aircraft, workers in the World Trade Center and the Pentagon, firefighters, law enforcement officers, emergency assistance personnel, and bystanders;

Whereas hundreds of public safety officers were killed and injured as a result of the terrorist attacks, many of whom would perish when the twin towers of the World Trade Center collapsed upon them after they rushed to the aid of innocent civilians who were imperiled when the terrorists first launched their attacks;

Whereas thousands more public safety officers continued to risk their own lives and long-term health in sifting through the aftermath and rubble of the terrorist attacks to rescue those who may have survived and to recover the dead;

Whereas the Public Safety Officer Medal of Valor Act of 2001 (Public Law 107-12, 115 Stat. 20) authorizes the President to award and present in the name of Congress, a Medal of Valor to public safety officers for extraordinary valor above and beyond the call of duty;

Whereas the Attorney General of the United States has discretion to increase the number of recipients of the Medal of Valor under that Act beyond that recommended by

the Medal of Valor Review Board in extraordinary cases in any given year;

Whereas the terrorist attacks against the United States on September 11, 2001 and their aftermath constitute the single most deadly assault on our American homeland in our Nation's history; and

Whereas those public safety officers who perished and were injured, and all those who participated in the efforts to rescue whom-ever may have survived the terrorist attacks and recover those whose lives were taken so suddenly and violently are the first casualties and veterans of America's new war against terrorism, which was unanimously authorized by the Authorization for Use of Military Force (Senate Joint Resolution 23, enacted September 14, 2001): Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—*

(1) the President should award and present in the name of Congress a Public Safety Officer Medal of Valor to every public safety officer who was killed or seriously injured as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, and to deserving public safety officers who participated in the search, rescue, and recovery efforts in the aftermath of those attacks; and

(2) such assistance and compensation as may be needed should be provided to the public safety officers who were injured or whose health was otherwise adversely affected as a result of their participation in the search, rescue, and recovery efforts undertaken in the aftermath of the terrorist attacks of September 11, 2001.

Mr. HARKIN. Mr. President, I stand today with my colleagues from New York and Virginia to honor those public safety officials, our police, firefighters, and emergency services personnel, who were lost, or seriously wounded in the attacks of September 11 and to public safety officers who participated in the subsequent search, rescue, and recovery efforts.

In a tragedy so horrific, when so many were lost so unexpectedly, there is little we can do to console a grieving family. A thank you won't console a child whose father won't be there to say good night. It's little solace to the men and women of a firehouse who even now are waiting to welcome their brothers and sisters home. But by showing our gratitude for their sacrifice, by saying a simple thank you, we can help heal the hearts of the men, women, and children who were left behind, or who struggled to save their friends and neighbors.

Today, my colleagues and I hope to be part of this process of healing by introducing a resolution recommending that the President award the Congressional Medal of Valor for Public Safety Officers to those public safety officials killed or seriously wounded in the September 11 attacks and to deserving public safety officers who participated in the subsequent search, rescue and recovery efforts.

These medals will serve as a thank you to those still with us. But I think they can do much more for the families who lost loved ones. I've seen how medals awarded in combat can help tell a story to a child about a lost loved one.

They can show a child and an entire family that their loved one did not die in vain. These medals can say that these men and women gave their lives in service to their neighbors and to their nation, and that nation is a grateful one.

History will mark September 11, 2001 as one of the darkest days in our Nation's history. In less than two hours, more Americans were killed than those who died during the Revolutionary War or the surprise attack on Pearl Harbor. Words cannot begin to capture our grief, our loss, or our resolve to strike back against global terrorism.

But in that darkest of hours, the bravery and selflessness of our public safety officials shined a light of hope for us all to follow. You see it reflected back in towns large and small across America. You see it in flag-lined streets, lines of blood donors, and in the millions contributed to help care for the victims families. The example set by our police, firefighters and emergency services personnel steeled the resolve of every American.

I would be remiss if I did not thank my colleague and the senior Senator from Alaska Senator STEVENS. Earlier this year the Congress passed, the president signed, the Public Safety Officer Medal of Valor Act, which was authorized by my friend from Alaska. That earlier recognition of the need to honor the heroism of public service officers makes today's resolution possible, and I thank my colleague from Alaska.

I should also note that Senator STEVENS has also introduced a resolution similar to the one we offer today. My resolution goes somewhat further by calling on the President to award the Congressional Medal of Valor to those killed and those seriously injured in the attacks and to deserving public safety officers who participated in the subsequent search, rescue, and recovery efforts.

The men and women this resolution would honor are the first victims of America's first war of the 21st century. My solemn prayer is that they will be the final casualties of a final war. But then I remember the destruction of the past century, how we spoke of a War to End All Wars, only to see the century unfold with more destruction. As we move closer to some form of military action, I hope for a day when we can stop throwing more young lives into the breach and instead repair the breach itself.

But today, to these new fellow veterans, we say thank you. A grateful Nation has drawn its strength from the courageous firefighters, police officers, and emergency services personnel who have sacrificed so much without hesitation. It is my privilege to have this chance to say thank you in this small way. I want to thank my colleagues from New York and Virginia. I hope we can move this resolution forward with the help of all of my colleagues.

**SENATE CONCURRENT RESOLUTION 76—HONORING THE LAW ENFORCEMENT OFFICERS, FIREFIGHTERS, EMERGENCY RESCUE PERSONNEL, AND HEALTH CARE PROFESSIONALS WHO HAVE WORKED TIRELESSLY TO SEARCH FOR AND RESCUE THE VICTIMS OF THE HORRIFIC ATTACKS ON THE UNITED STATES ON SEPTEMBER 11, 2001**

Mr. FEINGOLD (for himself, Mr. ALLEN, Mr. WARNER, Mrs. CLINTON, and Mr. SCHUMER) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

**S. CON. RES. 76**

Whereas on September 11, 2001, terrorists hijacked and destroyed 4 civilian aircraft, crashing 2 of the planes into the towers of the World Trade Center in New York City and a third plane into the Pentagon in northern Virginia, and resulting in the crash of a fourth plane in Somerset County, Pennsylvania;

Whereas these attacks destroyed both towers of the World Trade Center, as well as adjacent buildings, and seriously damaged the Pentagon;

Whereas thousands of innocent Americans and foreign nationals were killed or injured as a result of these attacks;

Whereas police officers, firefighters, public safety officers, and medical response crews were thrown into extraordinarily dangerous situations, responding to these horrendous events, acting heroically, and trying to help and to save as many of the lives of others as possible in the impact zones, in spite of the clear danger to their own lives;

Whereas some of these rescue workers, police officers, and firefighters have died or are missing at the site of the World Trade Center;

Whereas firefighters, rescue personnel, and police officers have been working above and beyond the call of duty, putting their lives at risk, working overtime, going without proper sleep, and spending time away from their families and loved ones;

Whereas the United States Capitol Police, United States Secret Service, the Police Department of Metropolitan Washington, D.C., the Arlington County Police Department, and other law enforcement agencies have put in extra hours to ensure the safety of all Americans, particularly the President, members of Congress, and other United States Government officials; and

Whereas since the morning of September 11, 2001, police officers and public safety officers throughout the United States have been called upon to put in extra time to ensure the safe and security of Americans: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress commends—*

(1) the firefighters, police officers, rescue personnel, and health care professionals who have selflessly dedicated themselves to the search, rescue, and recovery efforts in New York City, northern Virginia, and Pennsylvania; and

(2) the efforts of law enforcement and public safety personnel throughout the nation for their service at a time when their call to serve and protect their nation is even more essential than ever before.

**AMENDMENTS SUBMITTED AND PROPOSED**

SA 1846. Mr. FEINGOLD (for himself, Mr. BROWNBAC, and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill H.R. 2506, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

**TEXT OF AMENDMENTS**

**SA 1846.** Mr. FEINGOLD (for himself, Mr. BROWNBAC, and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill H.R. 2506, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS.**

Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2002.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ARMED SERVICES**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, October 4, 2001, at 11 a.m., in open session to receive testimony on the Department of Defense's Quadrennial Defense Review (QDR).

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

**COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, October 4, 2001, to conduct a mark-up of the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001.

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

**COMMITTEE ON FINANCE**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, October 4, 2001 at 10:00 a.m. to consider the Nomination of JoAnne Barnhart, to be Commissioner of the Social Security Administration.

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

**COMMITTEE ON FOREIGN RELATIONS**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 4, 2001 at 11:30 a.m. to hold a Business Meeting.

The Committee will consider and vote on the following agenda:

Legislation: S. 1465 a bill to authorize the President to provide assistance to Pakistan and India through September 30, 2003, with a substitute amendment.

Nominee: Mr. Patrick F. Kennedy, of Illinois, to be Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America to the United Nations for U.N. Management and Reform.

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

**COMMITTEE ON GOVERNMENTAL AFFAIRS**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Government Affairs be authorized to meet on Thursday, October 4, 2001 at 9:30 a.m. for a hearing entitled "Critical Infrastructure Protection: Who's In Charge?"

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 Job Training: Helping Workers in a Fragile Economy during the session of the Senate on Thursday, October 4, 2001. At 10:00 a.m.

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 markup on Thursday, October 4, 2001 at 12:00 p.m. in room S-216.

**AGENDA**

**I. Nominations:**

Barrington Parker, Jr. to be U.S. Circuit Court Judge for the 2nd Circuit.

Michael P. Mills to be District Court Judge for the Northern District of Mississippi.

Jay Stephens to be Associate Attorney General.

Benigno G. Reyna to be Director of the U.S. Marshal Service.

**To Be United States Attorney:**

Susan W. Brooks, Southern District of Indiana,

John L. Brownlee, Western District of Virginia,

Timothy M. Burgess, District of Arkansas,

Steven M. Colloton, Southern District of Iowa,

Todd Peterson Graves, Western District of Missouri,

Terrell Lee Harris, Western District of Tennessee,

David C. Iglesias, District of New Mexico,

Charles W. Larson, Sr., Northern District of Iowa,

Gregory G. Lockhart, Southern District of Ohio,

Henry S. Mattice, Jr., Eastern District of Tennessee,

Robert G. McCampbell, Western District of Oklahoma,



Matthew H. Mead, District of Wyoming,

Michael Mosman, District of Oregon,  
John Suthers, District of Colorado.

## II. Resolutions:

S.J. Res. 18—A joint resolution memorializing fallen firefighters by lowering the United States flag to half-staff on the day of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland.

S. Con. Res. 74—A concurrent resolution condemning bigotry and violence against Sikh-Americans in the wake of terrorist attacks in New York City and Washington, D.C. on September 11, 2001.

S. Res. 164—A resolution designating October 19, 2001, as “National Mam-mography Day.”

S. Res. 166—“National Childhood Lead Poisoning Week.”

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 nominations hearing on Thursday, October 4, 2001, at 2:00 p.m. in Dirksen Room 226.

### TENTATIVE WITNESS LIST

Panel I: Senator Don Nickles (R-OK), Senator James M. Inhofe (R-OK), and Senator Mary Landrieu (D-LA).

Panel II: Edith Brown Clement to be United States Circuit Judge for the Fifth Circuit.

Panel III: Karen K. Caldwell to be United States District Judge for the Eastern District of Kentucky; Laurie Smith Camp to be United States District Judge for the District of Nebraska; Claire V. Eagan to be United States District Judge of the Northern District of Oklahoma; and James H. Payne to be United States District Judge for the Northern, Eastern and Western Districts of Kentucky.

Panel IV: Jay S. Bybee to be Assistant Attorney General for the Office of Legal Counsel.

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

### SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, October 4, 2001, to conduct an oversight hearing on “Transit Safety in the Wake of September 11.”

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

### AUTHORITY FOR INTRODUCTION OF COUNTERTERRORISM BILL

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the adjournment of the Senate today it be in order for a bipartisan counterterrorism bill to be introduced today by Senators DASCHLE and LOTT

and others and that it be considered as having had its first reading, with an objection to the second reading.

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

### CONGRATULATING AND HONORING BALTIMORE ORIOLE CAL RIPKEN, JR.

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 168, submitted earlier today by Senators SARBANES and MIKULSKI, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 168) congratulating and honoring Cal Ripken, Jr., for his amazing and storybook career as a player for the Baltimore Orioles and thanking him for his contributions to baseball, the State of Maryland, and the United States.

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

Mr. SARBANES. Mr. President, I submitted S. Res. 168 with my colleague, Senator MIKULSKI, honoring Cal Ripken, Jr.

On Saturday October 6, 2001, at Oriole Park at Camden Yards, not far from my home in Baltimore, Cal Ripken, Jr. will play in his final baseball game. Cal Ripken's career will have spanned 21 seasons in the major leagues, every one of them with the Baltimore Orioles. In fact, beginning with Cal's father, Cal Ripken, Sr., there has been a Ripken in the Orioles organization for 45 consecutive years. Over the past 21 years, Cal Ripken, Jr. has built what will be a lasting legacy not only as one of the greatest players in the history of professional baseball, but as a true ambassador of the game and a shining example of sportsmanship, character, and the American work ethic.

An entire generation was born and grew up watching Cal Ripken play baseball every day the right way. Many of my constituents in Maryland have rooted for the Orioles knowing beyond a shadow of a doubt that Cal Ripken would be playing, first at Memorial Stadium and then later at Camden Yards, and that they would be able to see Cal give that one game everything that he had. Not only will the city of Baltimore miss Cal's number 8 on the left-side of the infield and in the heart of the line-up, but all residents of Maryland, and millions of Americans, from die-hard baseball fans, to those who have only seen one game, will always associate the Baltimore Orioles with their legendary shortstop, Cal Ripken.

Cal Ripken's achievements on the field of play are legendary: Ripken is one of only seven players in history to record both 400 home runs and 3,000 hits and along with fellow Oriole, long-time teammate, and good friend, Eddie Murray, they are the only infielders to

accomplish this feat. Simply put, Cal redefined the position of shortstop in every respect: offense, defense, durability, consistency, and popularity.

Listing all of Cal's baseball accomplishments could go on forever, but there is one record for which he is best known, and that in Maryland is simply referred to as “The Streak.” For 17 straight years, Ripken played in every single game on the Baltimore Orioles' schedule, never succumbing to injury or weakness, always willing to do his best to help the Orioles over an amazing 2,632 consecutive games. It is this consistency and work ethic that has so endeared him to the American public, and was so stirringly celebrated on the evening of September 6, 1995, the day that he played his 2,131st consecutive game, surpassing the record set by the “Iron Horse,” Hall-of-Famer Lou Gehrig. I will repeat what I said on this very floor on September 7, 1995: throughout both “The Streak” and the rest of Cal's storybook career, Cal played baseball for one reason and one reason only: because he loves the game. And, Cal, the game loves you.

When Cal was approaching Mr. Gehrig's record in 1995, it was a turbulent time in the history of Major League Baseball; the sport was trying to recover from the damage done by a players' strike in the 1994 season that canceled the World Series for the first time in history. There was a breach of trust between the sport and its fans, but there is no doubt in anyone's mind that Cal Ripken's journey toward this great record was a focus point in the healing process that ultimately restored much of the good will lost for America's pastime.

Ripken, over the course of 21 consecutive seasons, spent hours before and after games signing autographs for countless fans. There were jokes in the Baltimore clubhouse that if anything were to end “The Streak,” it would be an injury to his right hand from signing too many autographs. But it is this willingness to go the extra mile, to not treat his fame and influence as a burden but to welcome his responsibility to the public, particularly to children, as a role model that distinguishes Cal Ripken from even the greatest athletes and enables him to transcend his sport.

Unlike so many of our modern athletes, Cal Ripken embraced his status as a role model. With his wife Kelly by his side, the Ripkens engaged in charity work ranging from literacy programs to fighting Lou Gehrig's disease, as well as working tirelessly to promote the game of baseball to all children, especially those that are disadvantaged. Fittingly, one of the many tasks that Cal will devote himself to in his retirement is the Cal Ripken Little League Division of Babe Ruth Baseball, which has over 700,000 children learning the fundamentals of baseball. Another project that Cal will be working on is that of building Inspiration Field in his home community of Harford County, Maryland. Cal has always been devoted

to his Maryland roots, but beyond that is his devotion to his family, his mother Vi, his late father Cal Ripken, Sr., his wife Kelly, and his children Ryan and Rachel. Cal has shown this devotion countless times, and I know that in his retirement, Cal, will have more time to enjoy the loving family that we are all proud to know simply as the Ripkens.

But here, as with the statistics and records, listing Cal's charitable programs and donations and noting his loving role as son, husband, and father, can not fully capture the phenomenal manner in which Cal Ripken has lived his life and given back to his community. Cal was born in Havre de Grace, MD, and was raised in the neighboring City of Aberdeen. He was drafted by the Baltimore Orioles organization in 1978, and spent every year of his professional career, except one, playing baseball in the State of Maryland. Cal Ripken's career has been the fulfillment of the childhood dream of so many of us, to become an athletic superstar and play your entire career for your hometown team. And beyond that, Cal Ripken has lived this dream with the dignity, honor, humility, charity, passion, and pure love of baseball that make myself, the City of Aberdeen, the City of Baltimore, the State of Maryland, and the United States of America proud to call Cal a legend and a role model for us all. I urge my colleagues to join us in honoring and congratulating Cal Ripken's amazing and storied career by saying thank you Cal.

Ms. MIKULSKI. Mr. President, I rise today to celebrate the life and career of Cal Ripken. He has given us 21 glorious years—and I know that we have seen nothing yet. The resolution that I am introducing with Senator SARBANES seeks to commemorate one of the great careers in baseball—and one of the great role models of our time.

Most Marylanders will confess to some sadness about what will happen this weekend. We will see the Iron Man take the field for the last time at Camden Yards. But I promise my colleagues—this is not the last you will hear of Cal Ripken. He will go on to other careers and other challenges. He will continue his extraordinary service to his community. He will continue to be someone we can all look up to and respect.

We all know the amazing statistics he compiled in his career. In 1982, he won Rookie of the Year—and after that, the records kept breaking. He set a record for most home runs by a shortstop. He received the most Silver Slugger Awards of any shortstop and set eleven different fielding records. He was MVP twice during the regular season twice, and twice during the All-Star Games. He also amassed over three thousand hits and four hundred home runs.

He is best known for setting the record for most consecutive games played. It is unlikely that his record of 2,632 games will ever be broken.

Cal did not do this just for the sake of breaking a record; he broke that record because that is how he lives. He gives 100 percent every day. Ask any of the hundreds of Baltimore Orioles who played with him over the last twenty-one years.

Ask Cal's coaches who have seen him rededicate himself every day. Ask any of the thousands and thousands and even millions of Orioles fans for whom he stayed at the ballpark late at night, willing to sign autographs. Ask the community and charitable organizations who he volunteered for. Ask the thousands of children who he helps through his foundations.

Athletes of Cal's caliber often move from town to town and team to team. Yet Cal spent his entire career here in Baltimore. He did it for his family—his father Cal, Sr.—the great former manager of the Orioles. He did it for his children—to enable them to grow up as he did—in a community that values faith, family, community and patriotism.

Cal always puts these values into action. He has a passion for teaching baseball to children and for his charitable organizations. He created "Reading, Runs and Ripken" program, the Cal Ripken Little League Division, the Kelly and Cal Ripken, Jr., Foundation, and the Cal Ripken, Jr./Lou Gehrig ALS Research Fund. These service organizations will continue—serving children into the future.

Cal Ripken is the Iron Man, not because of his streak but because of his values, the Oriole way—showing up every day, working hard, playing by the rules, putting the team first. Cal will have lots of adulation over the next few days—and he absolutely deserves it. But Cal would want us to honor him not only with resolutions and parades and cheers from the grandstand. He would want us to practice the Oriole way: show up, work hard, play by the rules—and put your family and team first.

Mr. REID. Mr. President, I ask unanimous consent that I be added as a cosponsor to the resolution.

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

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 168) was agreed to.

The preamble was agreed to.

(The text of S. Res. 168 is printed in today's RECORD under "Statements on Submitted Resolutions.")

#### MEMORIALIZING FALLEN FIREFIGHTERS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed

to the immediate consideration of Cal-endar No. 181, S.J. Res. 18.

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

The legislative clerk read as follows:

A joint resolution (S.J. Res. 18) memorializing fallen firefighters by lowering the United States flag to half-staff on the day of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. Mr. President, I ask unanimous consent that the joint resolution be read the third time and passed, the motion to reconsider be laid upon the table, and any statement relating to the joint resolution be printed in the RECORD.

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

The joint resolution (S.J. Res. 18) was read the third time and passed, as follows:

#### S.J. RES. 18

Whereas 1,200,000 men and women comprise the fire service in the United States;

Whereas the fire service is considered one of the most dangerous jobs in the United States;

Whereas fire service personnel selflessly respond to over 16,000,000 emergency calls annually, without reservation and with an unwavering commitment to the safety of their fellow citizens;

Whereas fire service personnel are the first to respond to an emergency, whether it involves a fire, medical emergency, spill of hazardous materials, natural disaster, act of terrorism, or transportation accident; and

Whereas approximately 100 fire service personnel die annually in the line of duty: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That each year, the United States flags on all Federal facilities will be lowered to half-staff on the day of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland.

#### MEMORIALIZING FALLEN FIREFIGHTERS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 42, which is at the desk.

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

The legislative clerk read as follows:

A joint resolution (H.J. Res. 42) memorializing fallen firefighters by lowering the American flag to half-staff in honor of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. SARBANES. Mr. President, I rise in strong support of House Joint Resolution 42, a bill to memorialize our Nation's fallen firefighters by lowering the American flag to half-staff in honor of the National Fallen Firefighters Memorial Service in Emmitsburg, MD. This measure is similar to legislation

that I introduced earlier this year. Both bills seek to recognize the courage and commitment of America's fire service and to pay this special tribute to those firefighters who have made the ultimate sacrifice in the line of duty.

Our Nation's firefighters are among our most dedicated public servants. From major cities such as New York to our smaller rural communities, every day America's firefighters answer emergency calls, willing to sacrifice their own lives to protect the lives and property of their fellow citizens. Sadly, this dedication to service can result in tragedy.

Few would question the fact that our fallen firefighters are heroes. Throughout our Nation's history, we have recognized the passing of our public servants by lowering our Nation's flag to half-staff in their honor. In the past, this list has included elected officials, members of the Armed Services, and America's peace officers. In my view, our fallen firefighters are equally deserving of this high honor.

For the past 19 years, a memorial service has been held on the campus of the National Fire Academy in Emmitsburg to honor those firefighters who have given their lives while protecting the lives and property of their fellow citizens. Since 1981, the names of 2,081 fallen firefighters have been inscribed on plaques surrounding the National Fallen Firefighters Memorial, Congressionally designated monument to these brave men and women. On October 7, at the 20th Annual National Memorial Service, an additional 101 names will be added. I am pleased that President and Mrs. Bush will be present this year to lead the Nation in honoring these fallen fire heroes and to pay special tribute to those firefighters who perished as a result of the events of September 11.

Over the years, I have worked very closely with the National Fallen Firefighters Foundation to ensure that National Memorial Service is an occasion befitting the sacrifices that these individuals have made. In my view, lowering the United States flag to half-staff is an essential component of this "Day of Remembrance." It will be a fitting tribute to the men and women who die each year performing their duties as our nation's career and volunteer firefighters. It will also serve to remind us of the critical role played by the 1.2 million fire service personnel who risk their lives every day to ensure our safety and that of our communities.

I express my gratitude to those Senators who agreed to cosponsor my legislation, S.J. Res. 18, and urge my colleagues to support the swift passage of H.J. Res. 42.

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

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

The joint resolution (H.J. Res. 42) was read the third time and passed.

#### PROVIDING ASSISTANCE TO PAKISTAN AND INDIA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of Calendar No. 180, S. 1465.

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

The legislative clerk read as follows:

A bill (S. 1465) to authorize the President to provide assistance to Pakistan and India through September 30, 2003.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations, with an amendment and an amendment to the title.

(Strike out all after the enacting clause and insert the part printed in italic.)

#### SECTION. 1. EXEMPTIONS AND WAIVER OF APPROPRIATIONS ACT PROHIBITIONS WITH RESPECT TO PAKISTAN.

(a) FISCAL YEAR 2002 AND PRIOR FISCAL YEARS.—

(1) EXEMPTIONS.—Any provision of the foreign operations, export financing, and related programs appropriations Act for fiscal year 2002, or any provision of such Act for a prior fiscal year, that prohibits direct assistance to a country whose duly elected head of government was deposed by decree or military coup shall not apply with respect to Pakistan.

(2) PRIOR CONSULTATION REQUIRED.—Not less than 5 days prior to the obligation of funds for Pakistan under paragraph (1), the President shall consult with the appropriate congressional committees with respect to such obligation.

(b) FISCAL YEAR 2003.—

(1) WAIVER.—The President is authorized to waive, with respect to Pakistan, any provision of the foreign operations, export financing, and related programs appropriations Act for fiscal year 2003 that prohibits direct assistance to a country whose duly elected head of government was deposed by decree or military coup, if the President determines and certifies to the appropriate congressional committees that such waiver—

(A) would facilitate the transition to democratic rule in Pakistan; and

(B) is important to United States efforts to respond to, deter, or prevent acts of international terrorism.

(2) PRIOR CONSULTATION REQUIRED.—Not less than 5 days prior to the exercise of the waiver authority under paragraph (1), the President shall consult with the appropriate congressional committees with respect to such waiver.

#### SEC. 2. INCREASED FLEXIBILITY IN THE EXERCISE OF WAIVER AUTHORITY OF MTCR AND EXPORT ADMINISTRATION ACT SANCTIONS WITH RESPECT TO PAKISTAN.

Any waiver under 73(e) of the Arms Export Control Act (22 U.S.C. 2797b(e)), or under section 11B(b)(5) of the Export Administration Act of 1979 (50 U.S.C. App. 2410b(b)(5)) (or successor statute), with respect to a sanction that was imposed on foreign persons in Pakistan prior to January 1, 2001, may be exercised—

(1) only after consultation with the appropriate congressional committees; and

(2) without regard to the notification periods set forth in the respective section authorizing the waiver.

#### SEC. 3. EXEMPTION OF PAKISTAN FROM FOREIGN ASSISTANCE PROHIBITIONS RELATING TO FOREIGN COUNTRY LOAN DEFAULTS.

The following provisions of law shall not apply with respect to Pakistan:

(1) Section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)).

(2) Such provision of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002, as is comparable to section 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (Public Law 106-429; 114 Stat. 1900A-25).

#### SEC. 4. MODIFICATION OF NOTIFICATION DEADLINES FOR DRAWDOWNS AND TRANSFER OF EXCESS DEFENSE ARTICLES TO RESPOND TO, DETER, OR PREVENT ACTS OF INTERNATIONAL TERRORISM.

(a) DRAWDOWNS.—Notwithstanding the second sentence of section 506(b)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(b)(1)), each notification under that section with respect to any drawdown authorized by subclause (III) of subsection (a)(2)(A)(i) that the President determines is important to United States efforts to respond to, deter, or prevent acts of international terrorism shall be made at least 5 days in advance of the drawdown in lieu of the 15-day requirement in that section.

(b) TRANSFERS OF EXCESS DEFENSE ARTICLES.—Notwithstanding section 516(f)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321(f)(1)), each notification under that section with respect to any transfer of an excess defense article that the President determines is important to United States efforts to respond to, deter, or prevent acts of international terrorism shall be made at least 15 days in advance of the transfer in lieu of the 30-day requirement in that section.

#### SEC. 5. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

In this Act, the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

#### SEC. 6. TERMINATION DATE.

Except as otherwise provided in section 1 or 3, the provisions of this Act shall terminate on October 1, 2003.

Amend the title so as to read: "A bill to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes."

Mr. BIDEN. Mr. President, I am pleased that the Senate is considering this legislation, which was reported by the Committee on Foreign Relations earlier today. The bill addresses an urgent priority in the fight against terrorism by clearing the way for U.S. assistance to Pakistan. After the attacks of September 11, we asked the world to choose sides. Pakistan has chosen to stand with the United States.

We need to assist this important front-line state. The President has already done so by committing \$100 million in economic assistance to Pakistan under the extraordinary authority of Section 614 of the Foreign Assistance Act. But to provide additional assistance requires Congress to amend several laws restricting such assistance. The bill before the Senate therefore provides the following authority.

First, the bill waives, for Fiscal Year 2002, the restriction in law against assistance to countries where a democratic government has been overthrown by military coup. The President may waive the restriction in Fiscal Year 2003, but only if he determines that doing so would facilitate the transition to democratic rule in Pakistan and if it is important to the fight against terrorism. As we all know, there was a military coup in Pakistan in 1999. The current government has pledged to hold elections next fall. This provision keeps the focus on the U.S. policy objective that elections should be held in Pakistan.

Second, the bill permits an expeditious waiver of sanctions imposed last fall against the Pakistani Ministry of Defense for violations of the Missile Technology Control Regime. Current law permits the President to waive these sanctions if it is essential to the national security. But he is required to notify Congress 45 working days before doing so. The bill allows the President to exercise the waiver without waiting those nine weeks.

Third, the bill waives provisions of law which restrict assistance to nations in arrears on their payments of official debt to the United States. The United States just rescheduled some of Pakistan's debt, but that rescheduling does not take effect for several weeks, so this provision allows assistance to flow to Pakistan in the meantime.

Finally, the bill provides additional flexibility in providing emergency military assistance to any country assisting us in the campaign against terrorism by reducing, but not eliminating, the notification periods for these authorities for two years.

The bill makes no other changes to current law. Rather than provide broad waiver authority to override the significant structure of laws we have enacted in recent decades, as the State Department asked, we have narrowly tailored the legislation to address the specific provisions of law that were obstacles to helping Pakistan. In so doing, we are not foregoing any of the important policy objectives we have in Pakistan, particularly our non-proliferation objectives.

I should emphasize that this provision has broad support. It was negotiated on a bipartisan basis within the Committee on Foreign Relations, and with the Chairman and Ranking Mem-

ber of the Foreign Operations Subcommittee, Senator LEAHY and Senator MCCONNELL. Because of the urgency of trying to get this legislation to the President, we have agreed to "double-track" the bill. We will move it free-standing today, and the Appropriations Committee will incorporate it into the foreign operations appropriations bill when that is considered in the Senate.

Mr. President, as we have since September 11, we stand united in support of the President. We stand ready to assist the Administration in the campaign against terrorism. I hope my colleagues will support this legislation.

Mr. REID. I ask unanimous consent that the committee amendment be agreed to, the bill be read a third time and passed, the title amendment be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1465), as amended, was read the third time and passed.

The title amendment was agreed to.

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#### MEASURE READ THE FIRST TIME—S. 1499

Mr. REID. Mr. President, I understand that S. 1499, introduced earlier today by Senator KERRY and others, is at the desk, and I ask for its first reading.

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

The legislative clerk read as follows:

A bill (S. 1499) to provide assistance to small business concerns adversely impacted by the terrorist attacks perpetrated against the United States on September 11, 2001, and for other purposes.

Mr. REID. I now ask for its second reading and object to my own request on behalf of the other side.

The PRESIDING OFFICER. The bill will remain at the desk.

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#### MEASURES INDEFINITELY POSTPONED—S. 985 and S. 1181

Mr. REID. Mr. President, I ask unanimous consent that Calendar Nos. 127 and 130 be indefinitely postponed.

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

#### ORDERS FOR FRIDAY, OCTOBER 5, AND TUESDAY, OCTOBER 9, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. Friday, October 5, for a pro forma session, and that following the pro forma session, the Senate adjourn until Tuesday, October 9, at 9:30 a.m.

Further, on Tuesday, immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business with Senators permitted to speak for up to 5 minutes each, with the following exception: Senator BYRD of West Virginia, 30 minutes; further, that at 10 a.m., the Senate resume consideration of the motion to proceed to S. 1447, the aviation security bill, with 30 minutes of debate equally divided between the majority leader and the Republican leader, or their designees, prior to a 10:30 a.m. rollover vote on cloture on the motion to proceed, with the mandatory quorum waived.

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

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#### PROGRAM

Mr. REID. Mr. President, the Senate will convene on Friday for a pro forma session and adjourn until Tuesday at 9:30 a.m. On Tuesday, there will be a period of morning business until 10 a.m. The Senate will vote on cloture on the motion to proceed to the aviation safety bill at 10:30 a.m. on Tuesday. We hope cloture will be invoked so the Senate may begin consideration of the aviation bill next week.

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#### ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:30 p.m., adjourned until Friday, October 5, 2001, at 10 a.m.