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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. BYRD.)

The PRESIDENT pro tempore. The prayer will be led by our guest Chaplain, Rabbi Mark S. Miller.

PRAYER

The guest Chaplain, Rabbi Mark S. Miller of Temple Bat Yahm in Newport Beach, CA, offered the following prayer:

The universal genius, Issac Newton, referring to his predecessors said, ''If I have seen further, it is by standing on the shoulders of Giants.''

The 100 who grace this Chamber today stand on the shoulders of those many Senators whose vision elevated our national life and whose courage enriched humankind. We hear the frozen echoes of their lofty debates. We see them arising to confront the issues of their day. We note them chasing not the ''bubble popularity'' but seeking the shield of God's favor.

During their tenure, many a Senator answered the rollcall of glory. What an example they set! They were faithful in fearful times, commanding in common times, staunch in shaken times, persevering in perilous times, true in trying times.

We remember their statesmanship and stewardship with ongoing indebtedness. How we need a measure of their stoutness of spirit. How we need the inspiration of their steadying hand on the tiller as we awaken to war's alarms and deadly pestilence.

Soon we ourselves will become the ones who have gone before. May the generations to come stand upon our shoulders. May our careers be of such significance that those who succeed us throughout this century see even further into the future.

By our governance, may that future exalt God's blessings for all Americans; by our goodness, may that future extol God's design for this land of freedom; by our greatness, may that future enlarge God's plan for the safety and security of His world. Amen.

PLEDGE OF ALLEGIANCE

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 10 minutes each.

SCHEDULE

Mr. REID. Mr. President, as has been announced, we will begin consideration of the counterterrorism act as soon as the morning business is completed. There is approximately 5 hours of debate set aside for that.

Senator DASCHLE, the majority leader, indicated following that vote on the counterterrorism act, the Senate will begin consideration of the Agriculture Appropriations Act. The leader has said if we are able to complete our work on that bill tonight, there will be no session tomorrow. If we are unable to do that, we will work tomorrow until we complete that bill. I have conferred with the Presiding Officer, the chairman of the Appropriations Committee, and have been advised that the D.C. appropriations bill is ready to go. We are hopeful and confident we can complete that bill on Monday. We have a lot of work to do but we are moving. I express appreciation on behalf of the leader that we are able to move as quickly as we have been able to these past few days.

I ask unanimous consent Senator HUTCHISON and Senator MIKULSKI be given whatever time they may consume that does not exceed one-half hour before the debate starts on the counterterrorism bill.

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

The Senator from Texas, Mrs. HUTCHISON, is recognized to speak for up to 30 minutes in conjunction with the remarks of the Senator from Maryland.

MEASURE READ THE FIRST TIME—S. 1573

Mrs. HUTCHISON. Mr. President, I send a bill to the desk and ask it be placed on the calendar, and I ask for its first reading.

The PRESIDENT pro tempore. The clerk will read the title of the bill.

The legislative clerk read as follows:

A bill (S. 1573)) to authorize the provision of educational and health care assistance to women and children of Afghanistan.

Mrs. HUTCHISON. Mr. President, I ask for the second reading.

The PRESIDENT pro tempore. Is there an objection to the Senator's request?

Mrs. HUTCHISON. Mr. President, I object to my own request.

The PRESIDENT pro tempore. The objection is heard. This bill will be read for the second time on the next legislative day.

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, thank you.

(The remarks of Mrs. HUTCHISON, Ms. MIKULSKI, Mrs. BOXER, Ms. STABENOW, and Ms. SNOWE pertaining to the introduction of S. 1573 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.)

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business?

If there is no further morning business, morning business is closed.

USA PATRIOT ACT OF 2001

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to consideration of H.R. 3162, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 3162) to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes.

The PRESIDENT pro tempore. The senior Senator from Vermont, Mr. LEAHY, is recognized.

Mr. LEAHY. Mr. President, what is the time agreement that we now have before us?

The PRESIDENT pro tempore. The chairman and ranking member of the Judiciary Committee have 90 minutes each; the Senator from Michigan, Mr. LEVIN, has 10 minutes; the Senator from Minnesota, Mr. WELLSTONE, has 10 minutes; the Senator from Maryland, Mr. SARBANES, has 20 minutes; the Senator from Wisconsin, Mr. FEINGOLD, has 1 hour; the Senator from Florida, Mr. GRAHAM, has 15 minutes; and the Senator from Pennsylvania, Mr. SPECTER, has 15 minutes.

Mr. LEAHY. I thank the Presiding Officer, the President pro tempore of the Senate.

Mr. President, I yield myself such time as I may need out of my 90 minutes.

Mr. REID. Will the Senator yield?

Mr. LEAHY. Of course.

Mr. REID. Mr. President, I ask unanimous consent that during the day, when quorum calls are initiated, the time be charged proportionately, not only against the person who asked for the quorum to be initiated, but that it be charged proportionately against all people who have time under the agreement that is now in effect.

The PRESIDENT pro tempore. Is there objection?

The Chair hears no objection. That will be the order of the Senate.

The Senator from Vermont, Mr. LEAHY, is recognized.

(Mrs. CLINTON assumed the chair.)

Mr. LEAHY. Thank you, Mr. President. I agree with the distinguished Democratic leader in his request because we do want to have discussion of this piece of legislation, but there is no question we will vote on this piece of legislation today and we will pass this legislation today.

I think it is only fitting the Senator from New York is now in the chair as we begin discussion of this legislation because her State was one of those that was badly impacted, terribly impacted, tragically impacted on September 11, as were the people of New Jersey and Connecticut, who worked in the World Trade Towers, and, of course, those at the Pentagon in Virginia, including those in Maryland and the District of Columbia, and actually the whole Nation.

Today we consider H.R. 3162, the second House-passed version of the ''Uniting and Strengthening of America Act'' or ''USA Act of 2001.'' Senate passage of this measure without amendment will amount to final passage of this important legislation, and the bill will be sent to the President for his signature. We complete our work six weeks after the September 11 attacks and months ahead of final action following the destruction of the Federal Building in Oklahoma City in 1995. The American people and the Members of this body deserve fast work and final action.

On October 4, I was pleased to introduce with the Majority Leader, Senator DASCHLE, and the Chairmen of the Banking and Intelligence Committees, as well as the Republican Leader, Senator LOTT, and Senator HATCH and Senator SHELBY, the Uniting and Strengthening America, or USA Act. This was not the bill that I, or any of the sponsors, would have written if compromise was unnecessary. Nor was it the bill the Administration had initially proposed and the Attorney General delivered to us on September 19, at a meeting in the Capitol.

We were able to refine and supplement the Administration's original proposal in a number of ways in the original USA Act, and have continued that process in the development of H.R. 3162. The Administration accepted a number of the practical steps I had originally proposed on September 19 to improve our security on the Northern Border, assist our Federal, State and local law enforcement officers, and provide compensation to the victims of terrorist acts and to the public safety officers who gave their lives to protect ours. This final version of the USA Act further improves the compromise by including additional important checks on the proposed expansion of government powers that were not contained in the Attorney General's initial proposal.

Let me outline just ten ways in which we in the bicameral, bipartisan negotiations were able to supplement and improve this legislation from the original proposal we received from the Administration.

We improved security on the Northern Border;

We added money laundering;

We added programs to enhance information sharing and coordination with State and local law enforcement, grants to State and local governments to respond to bioterrorism, and to increase payments to families of fallen firefighters, police officers and other public safety workers;

We added humanitarian relief to immigrant victims of the September 11 terrorist attacks;

We added help to the FBI to hire translators;

We added more comprehensive victims assistance;

We added measures to fight cybercrime;

We added measures to fight terrorism against mass transportation systems;

We added important measures to use technology to make our borders more secure;

Finally, and most importantly, we were able to include additional important checks on the proposed expansion of government powers contained in the Attorney General's initial proposal.

In negotiations with the Administration, I did my best to strike a reasonable balance between the need to address the threat of terrorism, which we all keenly feel at the present time, and the need to protect our constitutional freedoms. Despite my misgivings, I acquiesced in some of the Administration's proposals to move the legislative process forward. That progress has been rewarded by a bill we have been able to improve further during discussions over the last two weeks.

The Senate passed the original version of the USA Act, S. 1510, by a vote of 96–1 on October 11. The House passed a similar bill, based largely on the USA Act, the following day. The Majority Leader and I both strongly believed that a conference would have been the better and faster way to reconcile the differences between the bills, and to consider the proposals that had been included in the managers' amendment to S. 1510, which Republicans did not approve in time for consideration and passage with the Senate bill. The House did not request a conference when it passed the bill, however, and despite the understanding among House and Senate leadership, the House leadership abruptly incorporated the product of our discussions in a new bill rather than proceed to a quick conference.

Yesterday, the House passed H.R. 3162, which was based upon informal agreements reached by Senate and House negotiators, but which did not include additional important provisions to make the Justice Department more efficient and effective in its anti-terrorism efforts and to reduce domestic demand for illegal drugs, some of which are produced and supplied from Taliban-controlled regions of Afghanistan. I am disappointed that the commitment we received to hold a conference—at which these proposals could have been considered more fully—was not honored. Nonetheless, H.R. 3162, which the House passed yesterday, contains additional improvements to the USA Act that had been negotiated on a bicameral, bipartisan basis, and deserves the support of the Senate.

I do believe that some of the provisions contained both in this bill and the original USA Act will face difficult tests in the courts, and that we in Congress may have to revisit these issues at some time in the future when the present crisis has passed, the sunset has expired or the courts find an infirmity in these provisions. I also intend

as Chairman of the Judiciary Committee to exercise careful oversight of how the Department of Justice, the FBI and other executive branch agencies are using the newly-expanded powers that this bill will give them. I know that other members of the Judiciary Committee—including Senator SPECTER, Senator GRASSLEY, and Senator DURBIN—appreciate the importance of such oversight.

The negotiations on anti-terrorism legislation have not been easy. Within days of the September 11 attacks, I began work on legislation to address security needs on the Northern Border, the needs of victims and State and local law enforcement, and criminal law improvements. A week after the attack, on September 19, the Attorney General and I exchanged the outlines of the legislative proposals and pledged to work together toward our shared goal of putting tools in the hands of law enforcement that would help prevent another terrorist attack.

Let me be clear: No one can guarantee that Americans will be free from the threat of future terrorist attacks, and to suggest that this legislation—or any legislation—would or could provide such a guarantee would be a false promise. I will not engage in such false promises, and those who make such assertions do a disservice to the American people.

I have also heard claims that if certain powers had been previously authorized by the Congress, we could somehow have prevented the September 11 attacks. Given this rhetoric it may be instructive to review efforts that were made a few years ago in the Senate to provide law enforcement with greater tools to conduct surveillance of terrorists and terrorist organizations. In May 1995, Senator LIEBERMAN offered an amendment to the bill that became the Antiterrorism and Effective Death Penalty Act of 1996 that would have expanded the government's authority to conduct emergency wiretaps to cases of domestic or international terrorism and added a definition of domestic terrorism to include violent or illegal acts apparently intended to ''intimidate, or coerce the civilian population.'' The consensus, bipartisan bill that we consider today contains a very similar definition of domestic terrorism.

In 1995, however, a motion to table Senator LIEBERMAN's amendment was agreed to in a largely party-line vote, with Republicans voting against the measure. In fact, then Senator ASHCROFT voted to table that amendment, and one Republican colleague spoke against it and opined, ''I do not think we should expand the wiretap laws any further.'' He further said that ''We must ensure that in our response to recent terrorist acts, we do not destroy the freedoms that we cherish.'' I have worked very hard to maintain that balance in negotiations concerning the current legislation.

Following the exchange on September 19 of our legislative proposals, we have worked over the last month around the clock with the Administration to put together the best legislative package we could. I share the Administration's goal of providing promptly the legal tools necessary to deal with the current terrorist threat. While some have complained publicly that the negotiations have gone on for too long, the issues involved are of great importance, and we will have to live with the laws we enact for a long time to come. Demands for action are irresponsible when the roadmap is pointed in the wrong direction. As Ben Franklin once noted, ''if we surrender our liberty in the name of security, we shall have neither.''

Moreover, our ability to make rapid progress was impeded because the negotiations with the Administration did not progress in a straight line. On several key issues that are of particular concern to me, we had reached an agreement with the Administration on Sunday, September 30. Unfortunately, over the next two days, the Administration announced that it was reneging on the deal. I appreciate the complex task of considering the concerns and missions of multiple Federal agencies, and that sometimes agreements must be modified as their implications are scrutinized by affected agencies. When agreements made by the Administration must be withdrawn and negotiations on resolved issues reopened, those in the Administration who blame the Congress for delay with what the New York Times described as ''scurrilous remarks,'' do not help the process move forward.

We expedited the legislative process in the Judiciary Committee to consider the Administration's proposals. In daily news conferences prior to the original passage of the USA Act, the Attorney General referred to the need for such prompt consideration. He made time to appear before the Judiciary Committee at a hearing September 25 to respond to questions that Members from both parties had about the Administration's initial legislative proposals. I thank the Attorney General for extending the hour and a half he was able to make in his schedule for the hearing for another 15 minutes so that Senator FEINSTEIN and Senator SPECTER were able to ask questions before his departure. I regret that the Attorney General did not have the time to respond to questions from all the Members of the Committee either on September 25 or at any time since. He promised to answer the written questions Members submitted about the legislation promptly, but we did not receive any answers before passage of S. 1510, H.R. 2975, or H.R. 3162. I will make those answers a part of the hearing record whenever they are received even after final passage of the legislation.

The Chairman of the Constitution Subcommittee, Senator FEINGOLD, also held an important hearing on October 3 on the civil liberties ramifications of the expanded surveillance powers requested by the Administration. I thank him for his assistance in illuminating these critical issues for the Senate.

To accede to the Administration's request for prompt consideration of the USA Act, the Leaders decided to hold the bill at the desk rather than refer it to the Committee for markup, as is regular practice. Senator HATCH specifically urged that this occur. Indeed, when the Senate considered the antiterrorism act in 1995 after the Oklahoma City bombing, we bypassed the Committee in order to deal with the legislation more promptly on the floor.

After Senate consideration and passage on the one-month anniversary of the terrorist attack, the House Republican leadership decided to proceed with a version of the Senate-passed bill rather than the bill reported by the House Judiciary Committee. H.R. 2975 passed the House with opposition on October 12. Unfortunately, the House did not take the traditional step of requesting a conference to reconcile the bills. In an apparent effort by the Administration and House Republican leadership to try to pressure the Senate to accept that version of the bill, without strong money laundering or biological weapons provisions and with a 5-year sunset, the House failed to take the procedural steps necessary to convene a conference. Had a conference been requested and begun, a final bill would have been passed last week. Instead, without a structure or process, discussions were less concentrated and it was only after a leadership meeting late last week that the major outline of the measure was agreed upon.

During the negotiations over the past two weeks, the Administration sought to eliminate the sunset altogether, but that effort failed. The House insisted that the amendments to the so-called ''McDade law'' be dropped, and the Administration acquiesced. Eventually, the House accepted the Senate's position on the need to include both money laundering and biological weapons provisions. Even then, the House Republican leadership reneged on the agreement to proceed by way of a traditional House-Senate conference. Instead, they opted to proceed by a new bill passed by the House in short order and sent to the Senate as an amendable measure. That brings us to today.

Given the expedited process that has been used to move this legislation through the House and now to the Senate, I will take more time than usual to detail its provisions.

This bill has raised serious and legitimate concerns about the expansion of authorities for government surveillance and intelligence gathering within this country. Indeed, this bill will change surveillance and intelligence procedures for all types of criminal and foreign intelligence investigations, not just for terrorism cases. Significantly, the sunset provision included in the final bill calls for vigilant legislative oversight, so that the Congress will know how these legal authorities are

used and whether they are abused over the next four years.

We should be clear at the outset that while the sunset applies to the expanded surveillance authorities under FISA, it does not apply to other controversial provisions in the bill. As originally passed by the House, the sunset did not apply to the provisions on sharing grand jury information with intelligence agencies, in section 203(a), and the so-called ''sneak and peak'' authority for surreptitious search and seizure, in section 213. The final bill, H.R. 3162, removes two more provisions from the sunset—the expanded scope of subpoenas for records of electronic communications, in section 210, and the new authority for pen registers and trap and trace devices in criminal investigations, in section 216.

Congressional oversight is especially necessary to monitor the implementation of these new authorities. I agree with Leader ARMEY that the sunset will help ensure that law enforcement is responsive to congressional oversight and inquiries on use of these new authorities and that a full record is developed on their efficacy and necessity. The Senate Judiciary Committee has the challenging duty to establish and maintain an oversight regime that allows the Congress to know how these powers are exercised.

This bill will authorize the expanded sharing with intelligence agencies of information collected as part of a criminal investigation, and the expanded use of foreign intelligence surveillance tools and information in criminal investigations. Where foreign-sponsored terrorism is the target of an investigation, criminal and foreign intelligence jurisdictions clearly overlap and agencies must coordinate their efforts accordingly. This bill enters new and uncharted territory by breaking down traditional barriers between law enforcement and foreign intelligence. This is not done just to combat international terrorism, but for any criminal investigation that overlaps a broad definition of ''foreign intelligence.''

Yet, before final passage of this bill, the Senate should recall our nation's unfortunate experience with domestic surveillance and intelligence abuses that came to light in the mid-1970s. Until Watergate and the Vietnam war, Congress allowed the Executive branch virtually a free hand in using the FBI, the CIA, and other intelligence agencies to conduct domestic surveillance in the name of national security. It was the Cold War, Members of Congress were reluctant to take on FBI Director J. Edgar Hoover, and oversight was non-existent. One of the few safeguards enacted into law drew a sharp line between foreign intelligence and law enforcement. The National Security Act of 1947, which established the Central Intelligence Agency, said—and still says today—that the CIA ''shall have no police, subpoena, or law enforcement powers or internal security functions.''

The provisions on the disclosure of ''foreign intelligence'' from Federal criminal investigations make fundamental changes in the rules for the handling of highly sensitive personal, political and business information acquired for law enforcement purposes. Such information may now be disclosed to intelligence, defense, and national security agencies. The law is changed not only to permit the wider sharing of information from grand juries, domestic law enforcement wiretaps, and criminal investigations generally (in section 203), but also to require Federal law enforcement agencies to share this information with intelligence agencies through the Director of Central Intelligence, unless the Attorney General makes exceptions (in section 905).

There would be far less controversy if these provisions were limited to information about domestic or international terrorism or espionage. Instead, they potentially authorize the disclosure throughout intelligence, military, and national security organizations of a far broader range information about United States persons, including citizens, permanent resident aliens, domestic political groups, and companies incorporated in the United States. The information may be shared if it fits the broad definitions of ''foreign intelligence'' and ''foreign intelligence information.''

The term ''foreign intelligence'' is defined to mean ''information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.'' The term ''foreign intelligence information'' is defined to include information about a United States person that concerns a foreign power or foreign territory and ''that relates to the national defense or the security of the United States'' or ''the conduct of the foreign affairs of the United States.'' Therefore, potentially, whenever a criminal investigation acquires information about an American citizen's relationship with a foreign country or its government, that information is eligible to be disseminated widely as ''foreign intelligence information''—even if the information is about entirely lawful activities, business transactions, political relationships, or personal opinions.

Criminal investigations acquire voluminous information about persons who are not involved in illegal activity. Many individuals are investigated and later cleared. Many cases are investigated and never prosecuted. Many witnesses are interviewed whose testimony never surfaces at trial. Immunity is granted to compel testimony before grand juries about people who are never indicted. Wiretaps and microphone ''bugs'' and computer communications intercepts pick up extensive information about activities and opinions and personal lives that have no relevance to the criminal activity that they are authorized to detect or monitor. Where regulatory or tax laws carry criminal penalties, investigators probe the confidential financial details of business transactions and records. Federal criminal investigators have enormous discretion, with little statutory or constitutional guidance for how they interview people, conduct physical surveillance, recruit informants in organizations, and request access to records they consider ''relevant'' to an investigation. All that information would be eligible to be disseminated widely within the government, beyond the purposes of the criminal investigation, if it meets the definition of ''foreign intelligence'' or ''foreign intelligence information.''

The risks of misusing this information were documented 25 years ago, when the Congress made public the record of Cold War abuses of investigative powers by Federal agencies acting in the name of national security. The Senate created a Select Committee To Study Governmental Affairs With Respect to Intelligence Communities, chaired by Senator Frank Church, to conduct a year-long investigation with extensive public hearings and detailed reports on the investigations of lawful political dissent and protest. The Church Committee found that the FBI's internal security and domestic intelligence programs compiled massive files on activities protected by the First Amendment and the political opinions of Americans.

During the height of antiwar protest and urban unrest in the late 1960's, Army intelligence joined the FBI in monitoring domestic political activity. National intelligence agencies such as CIA and NSA received extensive reporting from the FBI and the military, as well as from their own intelligence gathering on critics of government policy. Other law enforcement agencies such as the Internal Revenue Service were used to selectively investigate organizations based on their political views. Under President's of both parties, these agencies disseminated information to the White House about the lawful political activities and opinions of critics of Administration policy—all under the rubric of protecting the national security. The scope of intelligence gathering swept up environmental groups, women's liberation activists, and virtually any organization that mounted peaceful protest demonstrations.

During this unfortunate period in our history, the government did more than just gather information about protest and dissent. The FBI developed a systematic program to disrupt domestic groups and discredit their leaders, known as ''COINTELPRO.'' The FBI's efforts included the selective sharing of information from its investigations to deny people employment and smear their reputations. Beginning with Communist and socialist groups, the FBI's COINTELPRO operations spread in the 1960s to the Klan, the ''new left,'' and black militants. Elements of the civil

rights and antiwar movements were targeted for disruption because of suspicion that they were ''influenced'' by communists; others because of their strident rhetoric. When some targets were suspected of engaging in violence, the FBI's tactics went so far as to place lives in jeopardy by passing false allegations that individuals were government informants.

The most notorious case was J. Edgar Hoover's vendetta against Dr. Martin Luther King, Jr. The Church Committee documented the FBI's effort to discredit Dr. King by disclosing confidential information that was obtained from wiretaps and microphones targeted against him. The wiretaps were justified to the Kennedy and Johnson Administrations on the grounds that some of Dr. King's advisors were Communists, but this excuse allowed the FBI to mount continuous political surveillance to undermine Dr. King's effectiveness. The FBI disseminated allegedly derogatory information not only within the government, but to media and other private organizations including efforts to deny Dr. King the Nobel Peace Prize. Most vicious of all was the FBI's preparation of a composite tape recording that was sent to him anonymously with an apparent invitation to commit suicide. During the 1964 Democratic National Convention in Atlantic City where the greatest controversy involved seating the Mississippi Freedom Democratic Party delegates, the FBI provided the Johnson White House a continuous flow of political intelligence from the wiretaps on Dr. King's telephones in Atlantic City.

These methods of domestic political surveillance and covert manipulation and disruption have no place in a free society. They are lawful for the CIA to use against terrorists abroad, under Presidential authorization and oversight by the Intelligence Committees. In the United States, however, such surveillance activities by our government offends our fundamental First Amendment rights of speech and association, and undermines our democratic values. Since the Church Committee investigation, one of the main reasons for maintaining barriers between domestic criminal investigations and foreign intelligence operations has been a concern that the no-hold-barred methods used abroad must not be brought back into this country.

The Church Committee recommended a series of safeguards to restrict the collection of information about Americans by the CIA, the National Security Agency, and other U.S. intelligence agencies. The Attorney General issued guidelines for FBI investigations and Presidents issued Executive Orders requiring procedures approved by the Attorney General for the collection and retention of information about Americans by U.S. intelligence agencies. These guidelines and procedures have served for the past 25 years as a stable framework that, with rare exceptions, has not allowed previous abuses to recur.

The most significant legislative result of the Church Committee investigation was the Foreign Intelligence Surveillance Act of 1978 which required court orders for national security electronic surveillance in the United States. No longer did the Executive branch have exclusive control over the vast powers of U.S. intelligence to conduct wiretapping, bugging, and other communications monitoring in this country. Surveillance was limited to foreign powers and agents of foreign powers, and the statutory probable cause standard for targeting an American as an ''agent of a foreign power'' required a showing of clandestine intelligence activities, sabotage, or international terrorist activities on behalf of a foreign power. Americans could not be targeted solely on the basis of activities protected by the First Amendment. Surveillance of Americans under FISA was limited to counterintelligence purposes to defend the nation against foreign spying and terrorism. Americans could not be considered ''agents of a foreign power'' on the basis of their lawful business or political relationships with foreign governments or organizations.

The Congress has been cautious in the decades following the revelations of the Church Committee about allowing use of criminal justice information for other purposes and, specifically, on sharing such information with intelligence agencies. In 1979 Attorney General Benjamin Civiletti testified before the House Judiciary Subcommittee on Constitutional Rights that the guidelines for ''any dissemination outside the Bureau . . . will have to be very, very specific. We will have to be very certain the dissemination is lawful, meets the same standards of certainty, of intent, which is the basic reason for the collection of the information and the investigation. . . .'' On the issue of FBI sharing with the CIA, Attorney General Civiletti said ''you have to be extremely careful in working out, pursuant to the law, the information which is being exchanged, what its purpose is, how it was obtained and collected, so that you are not inadvertently, out of a sense of cooperation or efficiency, perverting or corrupting the fact that the CIA's main duty is foreign intelligence, and they have no charter, no responsibility, and not duty performance, no mission to investigate criminal acts in the United States.''

The bill we are passing today makes potentially sweeping changes in the relationships between the law enforcement and intelligence agencies. In the current crisis, there is justification for expanding authority specifically for counterintelligence to detect and prevent international terrorism. I support the FBI request for broader authority under FISA for pen registers and access to records without having to meet the statutory ''agent of a foreign power'' standard, because the Fourth Amendment does not normally apply to such techniques and the FBI has comparable authority in its criminal investigations. However, I have insisted that this authority to investigate U.S. persons be limited to counterintelligence investigations conducted to protect against international terrorism and spying activities and that such investigations may not be based solely on activities protected by the First Amendment. None of the changes in FISA would authorize investigations of Americans for the broader, more ambiguous purpose of collecting ''foreign intelligence'' generally. In that respect, the bill adheres to the basic principles recommended by the Church Committee.

The gravest departure from that framework, and the one with most potential for abuses, is the new and unprecedented statutory authority for sharing of ''foreign intelligence'' from criminal investigations with ''any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official.'' The Church Committee warned of the political abuse of the dissemination of intelligence from domestic investigations. Intelligence was disseminated to the White House to track the contacts of members of Congress with particular foreign embassies. Information was volunteered to the White House about Administration critics and other political figures. The Church Committee found ''excessive dissemination of large amounts of relatively useless or totally irrelevant information'' to the White House that was not evaluated and ''thus exaggerated the dangers.''

The Church Committee recommended permitting FBI dissemination of personally identifiable information about Americans to intelligence, military and other national security agencies in two areas—''preventive criminal investigations of terrorist activities'' and ''preventive intelligence investigations of hostile foreign intelligence activities.'' This has been substantially the practice under the Attorney General's guidelines and Executive order procedures since then.

The new authority to disseminate ''foreign intelligence'' from criminal investigations, including grand juries and law enforcement wiretaps, is an invitation to abuse without special safeguards. Fortunately, the final bill includes a provision, which was not in the Administration's original proposal, to maintain some degree of judicial oversight of the dissemination of grand jury information. Within a ''reasonable time'' after the disclosure of grand jury information, a government attorney ''shall file under seal a notice with the court stating the fact that such information was disclosed and the departments, agencies, or entities to which the disclosure was made.'' No such judicial role is provided for the disclosure of information from wiretaps and

other criminal investigative techniques including the infiltration of organizations with informants. However, that authority to disclose without judicial review is subject to the sunset in four years.

Other safeguards can, if used properly, minimize the unnecessary disclosure of ''foreign intelligence'' that identifies an American. When the information comes from grand juries or wiretaps, the Attorney General is required under the bill to establish procedures for the disclosure of information that identifies a United States person. The Senate Judiciary Committee will want to take a very close look at these procedures. Although not required under the bill, such procedures would also be desirable for disclosure of information from criminal investigations generally, as permitted under section 203(d). In section 905, where the bill requires disclosure to intelligence agencies from criminal investigations, the Attorney General is authorized to make exceptions and must issue implementing procedures. Again, these procedures will be closely examined by the Senate Judiciary Committee.

These procedures will be critical in determining the scope and impact of these provisions. Will they focus the sharing of information on international terrorism, which is the immediate and compelling need before us, or will they sweep more broadly? Will they permit automatic dissemination to intelligence agencies of any information about foreign governments, foreign organizations, or foreign persons that is obtained in FBI investigations of international organized crime and white collar crime? What are the specific circumstances under which confidential information collected by particular agencies, such as the Internal Revenue Service or the Bureau of Alcohol, Tobacco and Firearms, will be disseminated to the U.S. Military or other agencies? What will be the guidelines for including information that identifies United States persons? How will need-to-know decisions be made on the handling of this information, and how will access be controlled? What will be done to ensure compliance with the 1947 ban on CIA having ''police, subpoena, or law enforcement powers or internal security functions?''

These and many other questions must be the subject of the Judiciary Committee's oversight of the implementation of the surveillance and intelligence provisions of this bill. Our government is entering uncharted territory. Much of the government's experience from the Cold War era before the mid-1970s warns us of the risks of abuse. Reasonable measures that we are taking to protect against international terrorism may have far-reaching ramifications beyond the immediate crisis. There has never been a greater need for Congressional vigilance to ensure against unnecessary and improper use of the wide discretion being granted by a new law. I intend to ask the Attorney General and the Director of Central Intelligence to advise the Judiciary Committee of their implementation plans and practices every step of the way.

The final bill includes a long overdue remedy for unauthorized disclosure of information obtained from electronic surveillance under FISA and under criminal procedures. If the government monitors the conversations of a person under the electronic surveillance procedures of title 18 or FISA and that information is disclosed without proper authority, the aggrieved person may recover money damages from the Federal Government. Such improper disclosure is what happened in the past when the FBI passed information from the electronic surveillance of Dr. Martin Luther King to selected private individuals and organizations in an effort to discredit Dr. King. The government itself would be liable, in addition to individual employees, if something like this ever happens again.

This provision is especially valuable in this bill, because of the expanded sharing of information from electronic surveillance in criminal cases to agencies with intelligence, military, and other national security responsibilities. When this kind of sensitive information is disseminated more widely, the risk increases that it will be leaked.

As a deterrent against malicious leaks, this provision wisely includes procedures for administrative discipline as well as the civil remedy against the Government. When a court or the appropriate agency determines that there is serious question about whether or not an employee willfully disclosed information without proper authority, disciplinary proceedings must be initiated. If the agency head decides that discipline is not warranted, he or she must notify the Inspector General with jurisdiction over the agency and provide the reasons for the decision not to impose discipline.

Representative BARNY FRANK deserves credit for developing this proposal, and the Department of Justice has worked with Representative FRANK to ensure that the procedures for civil discovery take into account the needs for protecting related criminal investigations or prosecutions and classified operations under the Foreign Intelligence Surveillance Act.

When Congress authorized electronic surveillance in 1968 under title 18 and in 1978 under FISA, the legislation imposed civil and criminal sanctions for violations by individuals. This bill takes the law two steps forward by adding government liability and administrative discipline against government employees. Along with the sunset provision, judicial oversight of the sharing of grand jury information, and other improvements, the Frank amendment reflects the valuable contribution of the House of Representatives towards making this a balanced bill.

The heart of every American aches for those who died or have been injured because of the tragic terrorist attacks in New York, Virginia, and Pennsylvania on September 11. Even now, we cannot assess the full measure of this attack in terms of human lives, but we know that the number of casualties is extraordinarily high.

Congress acted swiftly to help the victims of September 11. Within 10 days, we passed legislation to establish a Victims Compensations Program, which will provide fair compensation to those most affected by this national tragedy. I am proud of our work on that legislation, which will expedite payments to thousands of Americans whose lives were so suddenly shattered.

But now more than ever, we should remember the tens of thousands of Americans whose needs are not being met—the victims of crimes that have not made the national headlines. Just one day before the events that have so transformed our nation, I came before this body to express my concern that we were not doing more for crime victims. I noted that the pace of victims legislation had slowed, and that many opportunities for progress had been squandered. I suggested that this year, we had a golden opportunity to make significant progress in this area by passing S. 783, the Leahy-Kennedy Crime Victims Assistance Act of 2001.

I am pleased, therefore, that the antiterrorism package now before the Senate contains substantial portions of S. 783 aimed at refining the Victims of Crime Act of 1984 (VOCA), and improving the manner in which the Crime Victims Fund is managed and preserved. Most significantly, section 621 of the USA Act will eliminate the cap on VOCA spending, which has prevented more than $700 million in Fund deposits from reaching victims and supporting essential services.

Congress has capped spending from the Fund for the last two fiscal years, and President Bush has proposed a third cap for fiscal year 2002. These limits on VOCA spending have created a growing sense of confusion and unease by many of those concerned about the future of the Fund.

We should not be imposing artificial caps on VOCA spending while substantial unmet needs continue to exist. Section 621 of the USA Act replaces the cap with a self-regulating system that will ensure stability and protection of Fund assets, while allowing more money to be distributed to the States for victim compensation and assistance.

Other provisions included from S. 783 will also make an immediate difference in the lives of victims, including victims of terrorism. Shortly after the Oklahoma City bombing, I proposed and the Congress adopted the Victims of Terrorism Act of 1995. This legislation authorized the Office for Victims of Crime (OVC) to set aside an emergency reserve of up to $50 million as part of the Crime Victims Fund. The emergency reserve was intended to serve as a ''rainy day'' fund to supplement compensation and assistance

grants to States to provide emergency relief in the wake of an act of terrorism or mass violence that might otherwise overwhelm the resources of a State's crime victim compensation program and crime victim assistance services. Last month's disaster created vast needs that have all but depleted the reserve. Section 621 of the USA Act authorizes OVC to replenish the reserve with up to $50 million, and streamlines the mechanism for replenishment in future years.

Another critical provision of the USA Act will enable OVC to provide more immediate and effective assistance to victims of terrorism and mass violence occurring within the United States. I proposed this measure last year as an amendment to the Justice for Victims of Terrorism Act, but was compelled to drop it to achieve bipartisan consensus. I am pleased that we are finally getting it done this year.

These and other VOCA reforms in the USA Act are long overdue. Yet, I regret that we are not doing more. In my view, we should pass the Crime Victims Assistance Act in its entirety. In addition to the provisions that are included in today's bill, this legislation provides for comprehensive reform of Federal law to establish enhanced rights and protections for victims of Federal crime. It also proposes several programs to help States provide better assistance for victims of State crimes.

I also regret that we have not done more for other victims of recent terrorist attacks. While all Americans are numbed by the heinous acts of September 11, we should not forget the victims of the 1998 embassy bombings in East Africa. Eleven Americans and many Kenyan and Tanzanian nationals employed by the United States lost their lives in that tragic incident. It is my understanding that compensation to the families of these victims has in many instances fallen short. It is my hope that OVC will use a portion of the newly replenished reserve fund to remedy any inequity in the way that these individuals have been treated.

We cannot speak of the victims of the September 11 without also noting that Arab-Americans and Muslims in this country have become the targets of hate crimes, harassment, and intimidation. I applaud the President for speaking out against and condemning such acts, and for visiting a mosque to demonstrate by action that all religions are embraced in this country. I also commend the FBI Director for his periodic reports on the number of hate crime incidents against Arab-American and Muslims that the FBI is aggressively investigating and making clear that this conduct is taken seriously and will be punished.

The USA Act contains, in section 102, a sense of the Congress that crimes and discrimination against Arab and Muslim Americans are condemned, and in section 1002, a provision suggested by Senator DURBIN that condemns violence and discrimination against Sikh Americans. Many of us would like to do more, and finally enact effective hate crimes legislation, but the Administration has asked that the debate on that legislation be postponed. One of my greatest regrets regarding the negotiations in this bill was that objections prevented the Local Law Enforcement Enhancement Act, S. 625, from being included in the USA Act.

The Administration's initial proposal was entirely focused on Federal law enforcement. Yet, we must remember that State and local law enforcement officers have critical roles to play in preventing and investigating terrorist acts. I am pleased that the bill we consider today recognizes this fact.

As a former State prosecutor, I know that State and local law enforcement officers are often the first responders to a crime. On September 11, the nation saw that the first on the scene were the heroic firefighters, police officers and emergency personnel in New York City. These New York public safety officers, many of whom gave the ultimate sacrifice, remind us of how important it is to support our State and local law enforcement partners. The USA Act provides three critical measures of Federal support for our State and local law enforcement officers in the war against terrorism.

We streamline and expedite the Public Safety Officers' Benefits application process for family members of fire fighters, police officers and rescue workers who perish or suffer a disabling injury in connection with prevention, investigation, rescue or recovery efforts related to a future terrorist attack.

The Public Safety Officers' Benefits Program provides benefits for each of the families of law enforcement officers, firefighters, and emergency response crew members who are killed or disabled in the line of duty. Current regulations, however, require the families of public safety officers who have fallen in the line of duty to go through a cumbersome and time-consuming application process. In the face of our national fight against terrorism, it is important that we provide a quick process to support the families of brave Americans who selflessly give their lives so that others might live before, during, and after a terrorist attack.

This provision builds on the new law championed by Senator CLINTON, Senator SCHUMER and Congressman NADLER to speed the benefit payment process for families of public safety officers killed in the line of duty in New York City, Virginia, and Western Pennsylvania, on September 11.

We have raised the total amount of Public Safety Officers' Benefit Program payments from approximately $150,000 to $250,000. This provision retroactively goes into effect to provide much-needed relief for the families of the brave men and women who sacrificed their own lives for their fellow Americans during the year. Although this increase in benefits can never replace a family's tragic loss, it is the right thing to do for the families of our fallen heroes. I want to thank Senator BIDEN and Senator HATCH for their bipartisan leadership on this provision.

We expand the Department of Justice Regional Information Sharing Systems Program to promote information sharing among Federal, State and local law enforcement agencies to investigate and prosecute terrorist conspiracies and activities and authorize a doubling of funding for this year and next year. The RISS Secure Intranet is a nationwide law enforcement network that already allows secure communications among the more than 5,700 Federal, State and local law enforcement agencies. Effective communication is key to effective law enforcement efforts and will be essential in our national fight against terrorism.

The RISS program enables its member agencies to send secure, encrypted communications—whether within just one agency or from one agency to another. Federal agencies, such as the FBI, do not have this capability, but recognize the need for it. Indeed, on September 11, immediately after the terrorist attacks, FBI Headquarters called RISS officials to request ''Smartgate'' cards and readers to secure their communications systems. The FBI agency in Philadelphia called soon after to request more Smartgate cards and readers as well.

The Regional Information Sharing Systems Program is a proven success that we need to expand to improve secure information sharing among Federal, State and local law enforcement agencies to coordinate their counterterrorism efforts.

During negotiations following initial passage of the Senate and House bills, we added two new provisions to support State and local governments in the final legislation. At Senator BIDEN's request, the First Responders Assistance Act, was added as section 1005 of H.R. 3062. This provision authorizes a $25 million Department of Justice program to authorize grants to State and local authorities to respond to and prevent acts of terrorism.

I authored section 1014 of H.R. 3062 to authorize a Department of Justice grant program for State and local domestic preparedness support. These grants will help each State prepare for and respond to terrorist acts including but not limited to events of terrorism involving weapons of mass destruction and biological, nuclear, radiological, incendiary, chemical, and explosive devices. This provision improves an appropriated program to provide: 1, additional flexibility to purchase needed equipment; 2, training and technical assistance to State and local first responders; and 3, a more equitable allocation of funds to all States.

Our State and local law enforcement partners welcome the challenge to join in our national mission to combat terrorism. We cannot ask State and local

law enforcement officers to assume these new national responsibilities without also providing new Federal support. This bill provides five key provisions for necessary Federal support for our State and local law enforcement officers to serve as full partners in our fight against terrorism.

I am deeply troubled by continuing reports that critical information is not being shared with State and local law enforcement. In particular, the recent testimony of Baltimore Police Chief Ed Norris before the House Government Reform Committee highlighted the current problem. I have also spoken to Mayor Giuliani and to Senator SCHUMER and Senator CLINTON about the need for better coordination and information sharing between the FBI and State and local law enforcement authorities who are being called upon to assist in the current terrorism investigations. This is no time for turf battles. The FBI must recognize the contributions of other law enforcement authorities and facilitate their continued cooperation in this national effort.

The unfolding facts about how the terrorists who committed the September 11 attack were able to enter this country without difficulty are chilling. Since the attacks many have pointed to our northern border as vulnerable to the entry of future terrorists. This is not surprising when a simple review of the numbers shows that the northern border has been routinely short-changed in personnel. While the number of border patrol agents along the southern border has increased over the last few years to over 8,000, the number at the northern border has remained the same as a decade ago at 300. This remains true despite the fact that Admad Ressam, the Algerian who planned to blow up the Los Angeles International Airport in 1999, and who has been linked to those involved in the September 11 attacks, chose to enter the United States at our northern border. That border will remain an inviting target until we dramatically improve our security.

The USA Act includes my proposals to provide the substantial and long overdue assistance for our law enforcement and border control efforts along the Northern Border. My home State of Vermont has seen huge increases in Customs and INS activity since the signing of the North American Free Trade Agreement. The number of people coming through our borders has risen steeply over the years, but our staff and our resources have not.

I proposed—and this legislation authorizes in section 402—tripling the number of Border Patrol, INS inspectors, and Customs Service employees in each of the States along the 4,000-mile Northern Border. I was gratified when 22 Senators—Democrats and Republicans—wrote to the President supporting such an increase, and now hope that the Administration will fully fund this critical law enforcement improvement.

Senators CANTWELL and SCHUMER in the Committee and Senators MURRAY and DORGAN have been especially strong advocates of these provisions and I thank them for their leadership. In addition, the USA Act, in section 401, authorizes the Attorney General to waive the FTE cap on INS personnel in order to address the national security needs of the United States on the northern border. Now more than ever, we must patrol our border vigilantly and prevent those who wish America harm from gaining entry. At the same time, we must work with the Canadians to allow speedy crossing to legitimate visitors and foster the continued growth of trade which is beneficial to both countries.

In addition to providing for more personnel, this bill also includes, in section 402(4), my proposal to provide $100 million in funding for both the INS and the Customs Service to improve the technology used to monitor the Northern Border and to purchase additional equipment. The bill also includes, in section 403(c), an important provision from Senator CANTWELL directing the Attorney General, in consultation with other agencies, to develop a technical standard for identifying electronically the identity of persons applying for visas or seeking to enter the United States. In short, this bill provides a comprehensive high-tech boost for the security of our nation.

This bill also includes important proposals to enhance data sharing. The bill, in section 403, directs the Attorney General and the FBI Director to give the State Department and INS access to the criminal history information in the FBI's National Crime Information Center (NCIC) database, as the Administration and I both proposed. The Attorney General is directed to report back to the Congress in two years on progress in implementing this requirement. We have also adopted the Administration's language, in section 413, to make it easier for the State Department to share information with foreign governments for aid in terrorist investigations.

The USA Act contains a number of provisions intended to improve and update the Federal criminal code to address better the nature of terrorist activity and assist the FBI in translating foreign language information collected. I will mention just a few of these provisions.

The truth certainly seems self-evident that all the best surveillance techniques in the world will not help this country defend itself from terrorist attack if the information cannot be understood in a timely fashion. Indeed, within days of September 11, the FBI Director issued an employment ad on national TV calling upon Arabic speakers to apply for a job as an FBI translator. This is a dire situation that needs attention. I am therefore gratified that the final bill contains my proposal, in section 205, to waive any Federal personnel requirements and limitations imposed by any other law in order to expedite the hiring of translators at the FBI.

This bill also directs the FBI Director to establish such security requirements as are necessary for the personnel employed as translators. We know the effort to recruit translators has a high priority, and the Congress should provide all possible support. Therefore, the bill calls on the Attorney General to report to the Judiciary Committees on the number of translators employed by the Justice Department; 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 the needs of the FBI for specific translation services in certain languages, and recommendations for meeting those needs.

The Administration's initial proposal assembled a laundry list of more than 40 Federal crimes ranging from computer hacking to malicious mischief to the use of weapons of mass destruction, and designated them as ''Federal terrorism offenses,'' regardless of the circumstances under which they were committed. For example, a teenager who spammed the NASA website and, as a result, recklessly caused damage, would be deemed to have committed this new ''terrorism'' offense. Under the Administration's proposal, the consequences of this designation were severe. Crimes on the list would carry no statute of limitations. The maximum penalties would shoot up to life imprisonment, and those released earlier would be subject to a lifetime of supervised release. Moreover, anyone who harbored a person whom he had ''reasonable grounds to suspect'' had committed, or was about to commit, a ''Federal terrorism offense''—whether it was the Taliban or the mother of my hypothetical teenage computer hacker—would be subject to stiff criminal penalties. I worked closely with the Administration to ensure that the definition of ''terrorism'' in the USA Act fit the crime.

First, we have trimmed the list of crimes that may be considered as terrorism predicates in section 808 of the bill. This shorter, more focused list, to be codified at 18 U.S.C. §2332(g)(5)(B), more closely reflects the sorts of offenses committed by terrorists.

Second, we have provided, in section 809, that the current 8-year limitations period for this new set of offenses will remain in place, except where the commission of the offense resulted in, or created a risk of, death or serious bodily injury.

Third, rather than make an across-the-board, one-size-fits-all increase of the penalties for every offense on the list, without regard to the severity of the offense, we have made, in section 810, more measured increases in maximum penalties where appropriate, including life imprisonment or lifetime supervised release in cases in which the offense resulted in death. We have also

added, in section 811, conspiracy provisions to a few criminal statutes where appropriate, with penalties equal to the penalties for the object offense, up to life imprisonment.

Finally, we have more carefully defined the new crime of harboring terrorists in section 803, so that it applies only to those harboring people who have committed, or are about to commit, the most serious of Federal terrorism-related crimes, such as the use of weapons of mass destruction. Moreover, it is not enough that the defendant had ''reasonable grounds to suspect'' that the person he was harboring had committed, or was about to commit, such a crime; the government must prove that the defendant knew or had ''reasonable grounds to believe'' that this was so.

I am deeply disappointed that the amendments to the so-called McDade law, which were included in the original USA Act, S. 1510, which passed the Senate, are not included in the bill before the Senate today. Well before September 11, the Justice Department has said that the McDade law—which subjects Federal prosecutors to multiple and potentially conflicting State bar rules—has delayed important criminal investigations, prevented the use of effective and traditionally-accepted investigative techniques, and served as the basis of litigation to interfere with legitimate Federal prosecutions. Despite this record of opposition, and the increasing demands upon Federal prosecutors in the wake of the terrorist attacks, the Administration simply acceded to House demands to remove this provision of the USA Act. This abandonment has removed a critical law enforcement provision from the bill. No one in the Senate knows more about the importance of this provision than Senator WYDEN, who worked strenuously to include the McDade law in this bill. But his efforts and mine proved unavailing without Administration backing through the entire process.

The McDade law has a dubious history, to say the least. At the end of the 105th Congress, it was slipped into an omnibus appropriations bill over the objection of every member of the Senate Judiciary Committee. Since it was adopted, it has caused numerous problems for Federal prosecutors, and we must find a way to amend it before more cases are compromised. At a time when we need Federal law enforcement authorities to move quickly to catch those responsible for the September 11 attacks, and to prevent further attacks on our country, we can no longer tolerate the drag on Federal investigations and prosecutions caused by this ill-considered legislation.

Another provision of the USA Act that was not included in the Administration's initial proposal is section 801, which targets acts of terrorism and other violence against mass transportation systems. Earlier this month, a Greyhound bus crashed in Tennessee after a deranged passenger slit the driver's throat and then grabbed the steering wheel, forcing the bus into oncoming traffic. Six people were killed in the crash. Because there are currently no Federal laws addressing terrorism of mass transportation systems, however, there may be no Federal jurisdiction over such a case, even if it were committed by suspected terrorists. Clearly, there is an urgent need for strong criminal legislation to deter attacks against mass transportation systems. Section 801 will fill this gap.

The Computer Fraud and Abuse Act, 18 U.S.C. § 1030, is the primary Federal criminal statute prohibiting computer frauds and hacking. I worked with Senator HATCH in the last Congress to make improvements to this law in the Internet Security Act, which passed the Senate as part of another bill. Our work is included in section 814 of the USA Act. This section would amend the statute to clarify the appropriate scope of Federal jurisdiction. (1) The bill adds a definition of ''loss'' to cover any reasonable cost to the victim in responding to a computer hacker. Calculation of loss is important both in determining whether the $5,000 jurisdictional hurdle in the statute is met, and, at sentencing, in calculating the appropriate guideline range and restitution amount.

(2) The bill amends the definition of ''protected computer,'' to include qualified computers even when they are physically located outside of the United States. This clarification will preserve the ability of the United States to assist in international hacking cases and finally, this section eliminates the current directive to the Sentencing Commission requiring that all violations, including misdemeanor violations, of certain provisions of the Computer Fraud and Abuse Act be punished with a term of imprisonment of at least six months.

Borrowing from a bill introduced in the last Congress by Senator BIDEN, the USA Act contains a provision in section 817 to strengthen our Federal laws relating to the threat of biological weapons. At a time when the national headlines are filled with news about anthrax and other biological threats, it is fitting that the House added this provision back to the bill after dropping it from H.R. 2975. Unfortunately, the bill does not contain certain regulatory provisions that the Administration initially proposed and later withdrew, apparently due to its inability to resolve inter-agency conflicts. Given the grave importance of this issue, I urge the Administration to resolve these disputes and work with the Congress to provide these additional protections.

Current law prohibits the possession, development, or acquisition of biological agents or toxins ''for use as a weapon.'' Section 817 amends the definition of ''for use as a weapon'' to include all situations in which it can be proven that the defendant had any purpose other than a peaceful purpose. This will enhance the government's ability to prosecute suspected terrorists in possession of biological agents or toxins, and conform the scope of the criminal offense in 18 U.S.C. § 175 more closely to the related forfeiture provision in 18 U.S.C. § 176. This section also contains a new statute, 18 U.S.C. § 175b, which generally makes it an offense for certain restricted persons, including non-resident aliens from countries that support international terrorism, to possess a listed biological agent or toxin.

Of greater consequence, section 817 defines another additional offense, punishable by up to 10 years in prison, of possessing a biological agent, toxin, or delivery system ''of a type or in a quantity that, under the circumstances,'' is not reasonably justified by a peaceful purpose. As originally proposed by the Administration, this provision specifically stated that knowledge of whether the type or quantity of the agent or toxin was reasonably justified was not an element of the offense. Thus, although the burden of proof is always on the government, every person who possesses a biological agent, toxin, or delivery system was at some level of risk. At my urging, the Administration agreed to drop this portion of the provision.

Nevertheless, I remain troubled by the subjectivity of the substantive standard for violation of this new criminal prohibition, and question whether it provides sufficient notice under the Constitution. I also share the concerns of the American Society for Microbiology and the Association of American Universities that this provision will have a chilling effect upon legitimate scientific inquiry that offsets any benefit in protecting against terrorism. While we have tried to prevent against this by creating an explicit exclusion for ''bona fide research,'' this provision may yet prove unworkable, unconstitutional, or both. I urge the Justice Department and the research community to work together on substitute language that would provide prosecutors with a more workable tool.

Two sections of the USA Act were added at the request of the United States Secret Service, with the support of the Administration. I was pleased to accommodate the Secret Service by including these provisions in the bill to expand Electronic Crimes Task Forces and to clarify the authority of the Secret Service to investigate computer crimes.

The Secret Service is committed to the development of new tools to combat the growing areas of financial crime, computer fraud, and cyberterrorism. Recognizing a need for law enforcement, private industry and academia to pool their resources, skills, and vision to combat criminal elements in cyberspace, the Secret Service created the New York Electronic Crimes Task Force (NYECTF). This highly successful model includes

over 250 individual members, including 50 different Federal, State and local law enforcement agencies, 100 private companies, and 9 universities. Since its inception in 1995, the NYECTF has successfully investigated a range of financial and electronic crimes, including credit card fraud, identity theft, bank fraud, computer systems intrusions, and e-mail threats against protectees of the Secret Service. Section 105 of the USA Act authorizes the Secret Service to develop similar task forces in cities and regions across the country where critical infrastructure may be vulnerable to attacks from terrorists or other cyber-criminals.

Section 506 of the USA Act gives the Secret Service concurrent jurisdiction to investigate offenses under 18 U.S.C. § 1030 relating to fraud and related activity in connection with computers. Prior to the 1996 amendments to the Computer Fraud and Abuse Act, the Secret Service was authorized to investigate any and all violations of section 1030, pursuant to an agreement between the Secretary of Treasury and the Attorney General. The 1996 amendments, however, concentrated Secret Service jurisdiction on certain specified subsections of section 1030. The current amendment would return full jurisdiction to the Secret Service and would allow the Justice and Treasury Departments to decide on the appropriate work-sharing balance between the two. This will enable the Secret Service to investigate a wide range of potential White House network intrusions, as well as intrusions into remote sites (outside of the White House) that could impact the safety and security of its protectees, and to continue its missions to protect the nation's critical infrastructure and financial payment systems.

The USA Act also authorizes, for the first time, a counter-terrorism fund in the Treasury of the United States to reimburse Justice Department for any costs incurred in connection with the fight against terrorism. I first authored this counter-terrorism fund in S. 1319, the 21st Century Department of Justice Appropriations Authorization Act, which Senator HATCH and I introduced in August.

Specifically, this counter-terrorism fund may be used: (1) to reestablish an office or facility that has been damaged as the result of any domestic or international terrorism incident; (2) to provide support to counter, investigate, or prosecute domestic or international terrorism, including paying rewards in connection with these activities; (3) to conduct terrorism threat assessments of Federal agencies; and (4) for costs incurred in connection with detaining individuals in foreign countries who are accused of acts of terrorism in violation of United States law.

This bill provides enhanced surveillance procedures for the investigation of terrorism and other crimes. The challenge before us has been to strike a reasonable balance to protect both the security and the liberties of our people. In some respects, the changes made are appropriate and important ones to update surveillance and investigative procedures in light of new technology and experience with current law. Yet, as I noted at the beginning of my statement, in other respects, I have deep concerns that we may be increasing surveillance powers and the sharing of criminal justice information without adequate checks on how information may be handled and without adequate accountability in the form of judicial review.

The bill contains a number of sensible proposals that should not be controversial.

For example, sections 201 and 202 of the USA Act would add to the list of crimes that may be used as predicates for wiretaps certain offenses which are specifically tailored to the terrorist threat. In addition to crimes that relate directly to terrorism, the list would include crimes of computer fraud and abuse which are committed by terrorists to support and advance their illegal objectives.

The bill, in section 206, would authorize the use of roving wiretaps in the course of a foreign intelligence investigation and brings FISA into line with criminal procedures that allow surveillance to follow a person, rather than requiring a separate court order identifying each telephone company or other communication common carrier whose assistance is needed. This is a matter on which the Attorney General and I reached early agreement. This is the kind of change that has a compelling justification, because it recognizes the ease with which targets of investigations can evade surveillance by changing phones. In fact, the original roving wiretap authority for use in criminal investigations was enacted as part of the Electronic Communications Privacy Act, ECPA, in 1986. I was proud to be the primary Senate sponsor of that earlier law.

Paralleling the statutory rules applicable to criminal investigations, the formulation I originally proposed made clear that this roving wiretap authority must be requested in the application before the FISA court was authorized to order such roving surveillance authority. Indeed, the Administration agrees that the FISA court may not grant such authority sua sponte. Nevertheless, we have accepted the Administration's formulation of the new roving wiretap authority, which requires the FISA court to make a finding that the actions of the person whose communications are to be intercepted could have the effect of thwarting the identification of a specified facility or place. While no amendment is made to the statutory directions for what must be included in the application for a FISA electronic surveillance order, these applications should include the necessary information to support the FISA court's finding that roving wiretap authority is warranted.

Section 220 of this bill authorizes nationwide service of search warrants in terrorism investigations. This will allow the judge who is most familiar with the developments in a fast-breaking and complex terrorism investigation to make determinations of probable cause, no matter where the property to be searched is located. This will not only save time by avoiding having to bring up-to-speed another judge in another jurisdiction where the property is located, but also serves privacy and Fourth Amendment interests in ensuring that the most knowledgeable judge makes the determination of probable cause. The bill, in section 209, also authorizes voice mail messages to be seized on the authority of a probable cause search warrant rather than through the more burdensome and time-consuming process of a wiretap.

The bill updates the laws pertaining to electronic records in three primary ways. First, in section 210, the bill authorizes the nationwide service of subpoenas for subscriber information and expands the list of items subject to subpoena to include the means and source of payment for the service.

In section 211, the bill equalizes the standard for law enforcement access to cable subscriber records on the same basis as other electronic records. The Cable Communications Policy Act, passed in 1984 to regulate various aspects of the cable television industry, did not take into account the changes in technology that have occurred over the last fifteen years. Cable television companies now often provide Internet access and telephone service in addition to television programming. This amendment clarifies that a cable company must comply with the laws governing the interception and disclosure of wire and electronic communications just like any other telephone company or Internet service provider. The amendments would retain current standards that govern the release of customer records for television programming.

Finally, the bill, in section 212, permits, but does not require, an electronic communications service to disclose the contents of and subscriber information about communications in emergencies involving the immediate danger of death or serious physical injury. Under current law, if an ISP's customer receives an e-mail death threat from another customer of the same ISP, and the victim provides a copy of the communication to the ISP, the ISP is limited in what actions it may take. On one hand, the ISP may disclose the contents of the forwarded communication to law enforcement (or to any other third party as it sees fit). See 18 U.S.C. §2702(b)(3). On the other hand, current law does not expressly authorize the ISP to voluntarily provide law enforcement with the identity, home address, and other subscriber information of the user making the threat. See 18 U.S.C. §2703(c)(1)(B),(C) (permitting disclosure

to government entities only in response to legal process). In those cases where the risk of death or injury is imminent, the law should not require providers to sit idly by. This voluntary disclosure, however, in no way creates an affirmative obligation to review customer communications in search of such imminent dangers.

Also, under existing law, a provider (even one providing services to the public) may disclose the contents of a customer's communications—to law enforcement or anyone else—in order to protect its rights or property. See 18 U.S.C. §2702(b)(5). However, the current statute does not expressly permit a provider voluntarily to disclose non-content records (such as a subscriber's login records) to law enforcement for purposes of self-protection. See 18 U.S.C. §2703(c)(1)(B). Yet the right to disclose the content of communications necessarily implies the less intrusive ability to disclose non-content records. Cf. *United States* v. *Auler*, 539 F.2d 642, 646 n.9 (7th Cir. 1976) (phone company's authority to monitor and disclose conversations to protect against fraud necessarily implies right to commit lesser invasion of using, and disclosing fruits of, pen register device) (citing *United States* v. *Freeman*, 524 F.2d 337, 341 (7th Cir. 1975)). Moreover, as a practical matter providers must have the right to disclose the facts surrounding attacks on their systems. When a telephone carrier is defrauded by a subscriber, or when an ISP's authorized user launches a network intrusion against his own ISP, the provider must have the legal ability to report the complete details of the crime to law enforcement. The bill clarifies that service providers have the statutory authority to make such disclosures.

There is consensus that the existing legal procedures for pen register and trap-and-trace authority are antiquated and need to be updated. I have been proposing ways to update the pen register and trap and trace statutes for several years, but not necessarily in the same ways as the Administration initially proposed. In fact, in 1998, I introduced with then-Senator Ashcroft, the E-PRIVACY Act, S. 2067, which proposed changes in the pen register laws. In 1999, I introduced the E-RIGHTS Act, S. 934, also with proposals to update the pen register laws.

Again, in the last Congress, I introduced the Internet Security Act, S. 2430, on April 13, 2000, that proposed: 1, changing the pen register and trap and trace device law to give nationwide effect to pen register and trap and trace orders obtained by Government attorneys and obviate the need to obtain identical orders in multiple Federal jurisdictions; 2, clarifying that such devices can be used for computer transmissions to obtain electronic addresses, not just on telephone lines; and 3, as a guard against abuse, providing for meaningful judicial review of government attorney applications for pen registers and trap and trace devices.

As the outline of my earlier legislation suggests, I have long supported modernizing the pen register and trap and trace device laws by modifying the statutory language to cover the use of these orders on computer transmissions; to remove the jurisdictional limits on service of these orders; and to update the judicial review procedure, which, unlike any other area in criminal procedure, bars the exercise of judicial discretion in reviewing the justification for the order. The USA Act, in section 216, updates the pen register and trap and trace laws only in two out of three respects I believe are important, and without allowing meaningful judicial review. Yet, we were able to improve the Administration's initial proposal, which suffered from the same problems as the provision that was hastily taken up and passed by the Senate, by voice vote, on September, 13, 2001, as an amendment to the Commerce Justice State Appropriations Act.

The existing legal procedures for pen register and trap-and-trace authority require service of individual orders for installation of pen register or trap and trace device on the service providers that carried the targeted communications. Deregulation of the telecommunications industry has had the consequence that one communication may be carried by multiple providers. For example, a telephone call may be carried by a competitive local exchange carrier, which passes it at a switch to a local Bell Operating Company, which passes it to a long distance carrier, which hands it to an incumbent local exchange carrier elsewhere in the U.S., which in turn may finally hand it to a cellular carrier. If these carriers do not pass source information with each call, identifying that source may require compelling information from a host of providers located throughout the country.

Under present law, a court may only authorize the installation of a pen register or trap device ''within the jurisdiction of the court.'' As a result, when one provider indicates that the source of a communication is a carrier in another district, a second order may be necessary. The Department of Justice has advised, for example, that in 1996, a hacker (who later turned out to be launching his attacks from a foreign country) extensively penetrated computers belonging to the Department of Defense. This hacker was dialing into a computer at Harvard University and used this computer as an intermediate staging point in an effort to conceal his location and identity. Investigators obtained a trap and trace order instructing the phone company, Nynex, to trace these calls, but Nynex could only report that the communications were coming to it from a long-distance carrier, MCI. Investigators then applied for a court order to obtain the connection information from MCI, but since the hacker was no longer actually using the connection, MCI could not identify its source. Only if the investigators could have served MCI with a trap and trace order while the hacker was actively on-line could they have successfully traced back and located him.

In another example provided by the Department of Justice, investigators encountered similar difficulties in attempting to track Kevin Mitnick, a criminal who continued to hack into computers attached to the Internet despite the fact that he was on supervised release for a prior computer crime conviction. The FBI attempted to trace these electronic communications while they were in progress. In order to evade arrest, however, Mitnick moved around the country and used cloned cellular phones and other evasive techniques. His hacking attacks would often pass through one of two cellular carriers, a local phone company, and then two Internet service providers. In this situation, where investigators and service providers had to act quickly to trace Mitnick in the act of hacking, only many repeated attempts—accompanied by an order to each service provider—finally produced success. Fortunately, Mitnick was such a persistent hacker that he gave law enforcement many chances to complete the trace.

This duplicative process of obtaining a separate order for each link in the communications chain can be quite time-consuming, and it serves no useful purpose since the original court has already authorized the trace. Moreover, a second or third order addressed to a particular carrier that carried part of a prior communication may prove useless during the next attack: in computer intrusion cases, for example, the target may use an entirely different path (i.e., utilize a different set of intermediate providers) for his or her subsequent activity.

The bill would modify the pen register and trap and trace statutes to allow for nationwide service of a single order for installation of these devices, without the necessity of returning to court for each new carrier. I support this change.

The language of the existing statute is hopelessly out of date and speaks of a pen register or trap and trace ''device'' being ''attached'' to a telephone ''line.'' However, the rapid computerization of the telephone system has changed the tracing process. No longer are such functions normally accomplished by physical hardware components attached to telephone lines. Instead, these functions are typically performed by computerized collection and retention of call routing information passing through a communications system.

The statute's definition of a ''pen register'' as a ''device'' that is ''attached'' to a particular ''telephone line'' is particularly obsolete when applied to the wireless portion of a cellular phone call, which has no line to which anything can be attached. While courts have authorized pen register orders for wireless phones based on the

notion of obtaining access to a ''virtual line,'' updating the law to keep pace with current technology is a better course.

Moreover, the statute is ill-equipped to facilitate the tracing of communications that take place over the Internet. For example, the pen register definition refers to telephone ''numbers'' rather than the broader concept of a user's communications account. Although pen register and trap orders have been obtained for activity on computer networks, Internet service providers have challenged the application of the statute to electronic communications, frustrating legitimate investigations. I have long supported updating the statute by removing words such as ''numbers . . . dialed'' that do not apply to the way that pen/trap devices are used and to clarify the statute's proper application to tracing communications in an electronic environment, but in a manner that is technology neutral and does not capture the content of communications. That being said, I have been concerned about the FBI and Justice Department's insistence over the past few years that the pen/trap devices statutes be updated with broad, undefined terms that continue to flame concerns that these laws will be used to intercept private communications content.

The Administration's initial pen/trap device proposal added the terms ''routing'' and ''addressing'' to the definitions describing the information that was authorized for interception on the low relevance standard under these laws. The Administration and the Department of Justice flatly rejected my suggestion that these terms be defined to respond to concerns that the new terms might encompass matter considered content, which may be captured only upon a showing of probable cause, not the mere relevancy of the pen/trap statute. Instead, the Administration agreed that the definition should expressly exclude the use of pen/trap devices to intercept ''content,'' which is broadly defined in 18 U.S.C. 2510(8).

While this is an improvement, the FBI and Justice Department are shortsighted in their refusal to define these terms. We should be clear about the consequence of not providing definitions for these new terms in the pen/trap device statutes. These terms will be defined, if not by the Congress, then by the courts in the context of criminal cases where pen/trap devices have been used and challenged by defendants. If a court determines that a pen register has captured ''content,'' which the FBI admits such devices do, in violation of the Fourth Amendment, suppression may be ordered, not only of the pen register evidence by any other evidence derived from it. We are leaving the courts with little or no guidance of what is covered by ''addressing'' or ''routing.''

The USA Act also requires the government to use reasonably available technology that limits the interceptions under the pen/trap device laws ''so as not to include the contents of any wire or electronic communications.'' This limitation on the technology used by the government to execute pen/trap orders is important since, as the FBI advised me in June 2000, pen register devices ''do capture all electronic impulses transmitted by the facility on which they are attached, including such impulses transmitted after a phone call is connected to the called party.'' The impulses made after the call is connected could reflect the electronic banking transactions a caller makes, or the electronic ordering from a catalogue that a customer makes over the telephone, or the electronic ordering of a prescription drug.

This transactional data intercepted after the call is connected is ''content.'' As the Justice Department explained in a May 1998 letter to then-House Judiciary Committee Chairman HENRY HYDE, ''the retrieval of the electronic impulses that a caller necessarily generated in attempting to direct the phone call'' does not constitute a ''search'' requiring probable cause since ''no part of the substantive information transmitted after the caller had reached the called party'' is obtained. But the Justice Department made clear that ''all of the information transmitted after a phone call is connected to the called party . . . is substantive in nature. These electronic impulses are the 'contents' of the call: They are not used to direct or process the call, but instead convey certain messages to the recipient.''

When I added the direction on use of reasonably available technology (codified as 18 U.S.C. 3121(c)) to the pen register statute as part of the Communications Assistance for Law Enforcement Act (CALEA) in 1994, I recognized that these devices collected content and that such collection was unconstitutional on the mere relevance standard. Nevertheless, the FBI advised me in June 2000, that pen register devices for telephone services ''continue to operate as they have for decades'' and that ''there has been no change . . . that would better restrict the recording or decoding of electronic or other impulses to the dialing and signaling information utilized in call processing.'' Perhaps, if there were meaningful judicial review and accountability, the FBI would take the statutory direction more seriously and actually implement it.

Due in significant part to the fact that pen/trap devices in use today collect ''content,'' I have sought in legislation introduced over the past few years to update and modify the judicial review procedure for pen register and trap and trace devices. Existing law requires an attorney for the government to certify that the information likely to be obtained by the installation of a pen register or trap and trace device will be relevant to an ongoing criminal investigation. The court is required to issue an order upon seeing the prosecutor's certification. The court is not authorized to look behind the certification to evaluate the judgement of the prosecutor.

I have urged that government attorneys be required to include facts about their investigations in their applications for pen/trap orders and allow courts to grant such orders only where the facts support the relevancy of the information likely to be obtained by the orders. This is not a change in the applicable standard, which would remain the very low relevancy standard. Instead, this change would simply allow the court to evaluate the facts presented by a prosecutor, and, if it finds that the facts support the government's assertion that the information to be collected will be relevant, issue the order. Although this change will place an additional burden on law enforcement, it will allow the courts a greater ability to assure that government attorneys are using such orders properly.

Some have called this change a ''rollback'' in the statute, as if the concept of allowing meaningful judicial review was an extreme position. To the contrary, this is a change that the Clinton Administration supported in legislation transmitted to the Congress last year. This is a change that the House Judiciary Committee also supported last year. In the Electronic Communications Privacy Act, H.R. 5018, that Committee proposed that before a pen/trap device ''could be ordered installed, the government must first demonstrate to an independent judge that 'specific and articulable facts reasonably indicate that a crime has been, is being, or will be committed, and information likely to be obtained by such installation and use . . . is relevant to an investigation of that crime.'' (Report 106–932, 106th Cong. 2d Sess., Oct. 4, 2000, p. 13). Unfortunately, the Bush Administration has taken a contrary position and has rejected this change in the judicial review process.

Currently, an owner or operator of a computer that is accessed by a hacker as a means for the hacker to reach a third computer, cannot simply consent to law enforcement monitoring of the computer. Instead, because the owner or operator is not technically a party to the communication, law enforcement needs wiretap authorization under Title III to conduct such monitoring. I have long been interested in closing this loophole. Indeed, when I asked about this problem, the FBI explained to me in June 2000 that:

> This anomaly in the law creates an untenable situation whereby providers are sometimes forced to sit idly by as they witness hackers enter and, in some situations, destroy or damage their systems and networks while law enforcement begins the detailed process of seeking court authorization to assist them. In the real world, the situation is akin to a homeowner being forced to helplessly watch a burglar or vandal while police seek a search warrant to enter the dwelling.

I therefore introduced as part of the Internet Security Act, S. 2430, in 2000,

an exception to the wiretap statute that would explicitly permit such monitoring without a wiretap if prior consent is obtained from the person whose computer is being hacked through and used to send ''harmful interference to a lawfully operating computer system.''

The Administration initially proposed a different formulation of the exception that would have allowed an owner/operator of any computer connected to the Internet to consent to FBI wiretapping of any user who violated a workplace computer use policy or online service term of service and was thereby an ''unauthorized'' user. The Administration's proposal was not limited to computer hacking offenses under 18 U.S.C. 1030 or to conduct that caused harm to a computer or computer system. The Administration rejected these refinements to their proposed wiretap exception, but did agree, in section 217 of the USA Act, to limit the authority for wiretapping with the consent of the owner/operator to communications of unauthorized users without an existing subscriber or other contractual relationship with the owner/operator.

This bill will make significant changes in the sharing of confidential criminal justice information with various Federal agencies. For those of us who have been concerned about the leaks from the FBI that can irreparably damage reputations of innocent people and frustrate investigations by alerting suspects to flee or destroy material evidence, the Administration's insistence on the broadest authority to disseminate such information, without any judicial check, is disturbing. Nonetheless, I believe we have improved the Administration's initial proposal in responsible ways. Only time will tell whether the improvements we were able to reach agreement on are sufficient.

At the outset, we should be clear that current law allows the sharing of confidential criminal justice information, but with close court supervision. Federal Rule of Criminal Procedure 6(e) provides that matters occurring before a grand jury may be disclosed only to an attorney for the government, such other government personnel as are necessary to assist the attorney and another grand jury. Further disclosure is also allowed as specifically authorized by a court.

Similarly, section 2517 of title 18, United States Code provides that wiretap evidence may be disclosed in testimony during official proceedings and to investigative or law enforcement officers to the extent appropriate to the proper performance of their official duties. In addition, the wiretap law allows disclosure of wiretap evidence ''relating to offenses other than specified in the order'' when authorized or approved by a judge. Indeed, just last year, the Justice Department assured us that ''law enforcement agencies have authority under current law to share title III information regarding terrorism with intelligence agencies when the information is of overriding importance to the national security.'' (Letter from Robert Raben, Assistant Attorney General, September 28, 2000).

For this reason, and others, the Justice Department at the time opposed an amendment proposed by Senators KYL and FEINSTEIN to S. 2507, the Intelligence Authorization Act for FY 2001, that would have allowed the sharing of foreign intelligence and counterintelligence information collected from wiretaps with the intelligence community. I deferred to the Justice Department on this issue and sought changes in the proposed amendment to address the Department's concern that this provision was not only unnecessary but also ''could have significant implications for prosecutions and the discovery process in litigation,'' ''raises significant issues regarding the sharing with intelligence agencies of information collected about United States persons,'' and jeopardized ''the need to protect equities relating to ongoing criminal investigations.'' In the end, the amendment was revised to address the Justice Department's concerns and passed the Senate as a free-standing bill, S. 3205, the Counterterrorism Act of 2000. The House took no action on this legislation.

The Administration initially proposed adding a sweeping provision to the wiretap statute that broadened the definition of an ''investigative or law enforcement officer'' who may receive disclosures of information obtained through wiretaps to include Federal law enforcement, intelligence, national security, national defense, protective and immigration personnel and the President and Vice President. This proposal troubled me because information intercepted by a wiretap has enormous potential to infringe upon the privacy rights of innocent people, including people who are not even suspected of a crime and merely happen to speak on the telephone with the targets of an investigation. For this reason, the authority to disclose information obtained through a wiretap has always been carefully circumscribed in law.

While I recognize that appropriate officials in the executive branch of government should have access to wiretap information that is important to combating terrorism or protecting the national security, I proposed allowing such disclosures where specifically authorized by a court order. Further, with respect to information relating to terrorism, I proposed allowing the disclosure without a court order as long as the judge who authorized the wiretap was notified as soon as practicable after the fact. This would have provided a check against abuses of the disclosure authority by providing for review by a neutral judicial official. At the same time, there was a little likelihood that a judge would deny any requests for disclosure in cases where it was warranted.

On Sunday, September 30, the Administration agreed to my proposal, but within two days, it backed away from its agreement. I remain concerned that the resulting provision will allow the unprecedented, widespread disclosure of this highly sensitive information without any notification to or review by the court that authorizes and supervises the wiretap. This is clearly an area where our Committee will have to exercise close oversight to make sure that the newly-minted disclosure authority is not being abused.

The Administration offered three reasons for reneging on the original deal. First, they claimed that the involvement of the court would inhibit Federal investigators and attorneys from disclosing information needed by intelligence and national security officials. Second, they said the courts might not have adequate security and therefore should not be told that information was disclosed for intelligence or national security purposes. And third, they said the President's constitutional powers under Article II give him authority to get whatever foreign intelligence he needs to exercise his national security responsibilities.

I believe these concerns are unfounded. Federal investigators and attorneys will recognize the need to disclose information relevant to terrorism investigations. Courts can be trusted to keep secrets and recognize the needs of the President.

Current law requires that such information be used only for law enforcement purposes. This provides an assurance that highly intrusive invasions of privacy are confined to the purpose for which they have been approved by a court, based on probable cause, as required by the Fourth Amendment. Current law calls for minimization procedures to ensure that the surveillance does not gather information about private and personal conduct and conversations that are not relevant to the criminal investigation.

When the Administration reneged on the agreement regarding court supervision, we turned to other safeguards and were more successful in changing other questionable features of the Administration's bill. The Administration accepted my proposal to strike the term ''national security'' from the description of wiretap information that may be shared throughout the executive branch and replace it with ''foreign intelligence'' information. This change is important in clarifying what information may be disclosed because the term ''foreign intelligence'' is specifically defined by statute whereas ''national security'' is not.

Moreover, the rubric of ''national security'' has been used to justify some particularly unsavory activities by the government in the past. We must have at least some assurance that we are not embarked on a course that will lead to a repetition of these abuses because the statute will now more clearly define what type of information is subject to disclosure. In addition, Federal officials who receive the information

may use it only as necessary to the conduct of their official duties. Therefore, any disclosure or use outside the conduct of their official duties remains subject to all limitations applicable to their retention and dissemination of information of the type of information received. This includes the Privacy Act, the criminal penalties for unauthorized disclosure of electronic surveillance information under chapter 119 of title 18, and the contempt penalties for unauthorized disclosure of grand jury information. In addition, the Attorney General must establish procedures for the handling of information that identifies a United States person, such as the restrictions on retention and dissemination of foreign intelligence and counterintelligence information pertaining to United States persons currently in effect under Executive Order 12333.

While these safeguards do not fully substitute for court supervision, they can provide some assurance against misuse of the private, personal, and business information about Americans that is acquired in the course of criminal investigations and that may flow more widely in the intelligence, defense, and national security worlds.

The wiretap statute was not the only provision in which the Administration sought broader authority to disclose highly sensitive investigative information. It also proposed broadening Rule 6(e) of the Federal Rules of Criminal Procedure to allow the disclosure of information relating to terrorism and national security obtained from grand jury proceedings to a broad range of officials in the executive branch of government. As with wiretaps, few would disagree that information learned in a criminal investigation that is necessary to combating terrorism or protecting the national security ought to be shared with the appropriate intelligence and national security officials. The question is how best to regulate and limit such disclosures so as not to compromise the important policies of secrecy and confidentiality that have long applied to grand jury proceedings.

I proposed that we require judicial review of requests to disclose terrorism and foreign intelligence information to officials in the executive branch beyond those already authorized to receive such disclosures. Once again, the Administration agreed to my proposal on Sunday, September 30, but reneged within two days. As a result, the bill does not provide for any judicial supervision of the new authorization for dissemination of grand jury information throughout the executive branch. The bill does contain the safeguards that I have discussed with respect to law enforcement wiretap information. However, as with the new wiretap disclosure authority, I am troubled by this issue and plan to exercise the close oversight of the Judiciary Committee to make sure it is not being abused.

The Administration also sought a provision that would allow the sharing of foreign intelligence information throughout the executive branch of the government notwithstanding any current legal prohibition that may prevent or limit its disclosure. I have resisted this proposal more strongly than anything else that still remains in the bill. What concerns me is that it is not clear what existing prohibitions this provision would affect beyond the grand jury secrecy rule and the wiretap statute, which are already covered by other provisions in the bill. Even the Administration, which wrote this provision, has not been able to provide a fully satisfactory explanation of its scope.

If there are specific laws that the Administration believes impede the necessary sharing of information on terrorism and foreign intelligence within the executive branch, we should address those problems through legislation that is narrowly targeted to those statutes. Tacking on a blunderbuss provision whose scope we do not fully understand can only lead to consequences that we cannot foresee. Further, I am concerned that such legislation, broadly authorizing the secret sharing of intelligence information throughout the executive branch, will fuel the unwarranted fears and dark conspiracy theories of Americans who do not trust their government. This was another provision on which the Administration reneged on its agreement with me; it agreed to drop it on September 30, but resurrected it within two days, insisting that it remain in the bill. I have made efforts to mitigate its potential for abuse somewhat by adding the same safeguards that apply to disclosure of law enforcement wiretap and grand jury information.

Another issue that has caused serious concern relates to the Administration's proposal for so-called ''sneak and peek'' search warrants. The House Judiciary Committee dropped this proposal entirely from its version of the legislation. Normally, when law enforcement officers execute a search warrant, they must leave a copy of the warrant and a receipt for all property seized at the premises searched. Thus, even if the search occurs when the owner of the premises is not present, the owner will receive notice that the premises have been lawfully searched pursuant to a warrant rather than, for example, burglarized.

Two circuit courts of appeal, the Second and the Ninth Circuits, have recognized a limited exception to this requirement. When specifically authorized by the issuing judge or magistrate, the officers may delay providing notice of the search to avoid compromising an ongoing investigation or for some other good reason. However, this authority has been carefully circumscribed.

First, the Second and Ninth Circuit cases have dealt only with situations where the officers search a premises without seizing any tangible property. As the Second Circuit explained, such searches are ''less intrusive than a conventional search with physical seizure because the latter deprives the owner not only of privacy but also of the use of his property.'' *United States* v. *Villegas*, 899 F.2d 1324, 1337 (2d Cir. 1990).

Second, the cases have required that the officers seeking the warrant must show good reason for the delay. Finally, while the courts have allowed notice of the search may be delayed, it must be provided within a reasonable period thereafter, which should generally be no more than seven days. The reasons for these careful limitations were spelled out succinctly by Judge Sneed of the Ninth Circuit: ''The mere thought of strangers walking through and visually examining the center of our privacy interest, our home, arouses our passion for freedom as does nothing else. That passion, the true source of the Fourth Amendment, demands that surreptitious entries be closely circumscribed.'' *United States* v. *Freitas*, 800 F.2d 1451, 1456 (9th Cir. 1986).

The Administration's original proposal would have ignored some of the key limitations created by the case law for sneak and peek search warrants. First, it would have broadly authorized officers not only to conduct surreptitious searches, but also to secretly seize any type of property without any additional showing of necessity. This type of warrant, which has never been addressed by a published decision of a Federal appellate court, has been referred to in a law review article written by an FBI agent as a ''sneak and steal'' warrant. See K. Corr, ''Sneaky But Lawful: The Use of Sneak and Peek Search Warrants,'' 43 U. Kan. L. Rev. 1103, 1113 (1995). Second, the proposal would simply have adopted the procedural requirements of 18 U.S.C. § 2705 for providing delayed notice of a wiretap. Among other things, this would have extended the permissible period of delay to a maximum of 90 days, instead of the presumptive seven-day period provided by the caselaw on sneak and peek warrants.

I was able to make significant improvements in the Administration's original proposal that will help to ensure that the government's authority to obtain sneak and peek warrants is not abused. First, the provision that is now in section 213 of the bill prohibits the government from seizing any tangible property or any wire or electronic communication or stored electronic information unless it makes a showing of reasonable necessity for the seizure. Thus, in contrast to the Administration's original proposal, the presumption is that the warrant will authorize only a search unless the government can make a specific showing of additional need for a seizure. Second, the provision now requires that notice be given within a reasonable time of the execution of the warrant rather than giving a blanket authorization for up to a 90-day delay. What constitutes a reasonable time, of course, will depend upon the circumstances of the particular case. But I would expect courts

to be guided by the teachings of the Second and the Ninth Circuits that, in the ordinary case, a reasonable time is no more than seven days.

Several changes in the Foreign Intelligence Surveillance Act, FISA, are designed to clarify technical aspects of the statutory framework and take account of experience in practical implementation. These changes are subject to the four-year sunset.

The USA Act, in section 207, changes the duration of electronic surveillance under FISA in cases of an agent of a foreign power, other than a United States persons, who acts in the United States as an officer or employee of a foreign power or as a member of an international terrorist group. Current law limits court orders in these cases to 90 days, the same duration as for United States persons. Experience indicates, however, that after the initial period has confirmed probable cause that the foreign national meets the statutory standard, court orders are renewed repeatedly and the 90-day renewal becomes an unnecessary procedural for investigators taxed with far more pressing duties.

The Administration proposed that the period of electronic surveillance be changed from 90 days to one year in these cases. This proposal did not ensure adequate review after the initial stage to ensure that the probable cause determination remained justified over time. Therefore, the bill changes the initial period of the surveillance from 90 to 120 days and changes the period for extensions from 90 days to one year. The initial 120-day period provides for a review of the results of the surveillance or search directed at an individual before one-year extensions are requested. These changes do not affect surveillance of a United States person.

The bill also changes the period for execution of an order for physical search under FISA from 45 to 90 days. This change applies to United States persons as well as foreign nationals. Experience since physical search authority was added to FISA in 1994 indicates that 45 days is frequently not long enough to plan and carry out a covert physical search. There is no change in the restrictions which provide that United States persons may not be the targets of search or surveillance under FISA unless a judge finds probable cause to believe that they are agents of foreign powers who engage in specified international terrorist, sabotage, or clandestine intelligence activities that may involve a violation of the criminal statutes of the United States.

The bill, in section 208, seeks to ensure that the special court established under FISA has sufficient judges to handle the workload. While changing the duration of orders and extensions will reduce the number of cases in some categories, the bill retains the court's role in pen register and trap and trace cases and expands the court's responsibility for issuing orders for records and other tangible items needed for counterintelligence and counter terrorism investigations. Upon reviewing the court's requirements, the Administration requested an increase in the number of Federal district judges designated for the court from seven to 11 of whom no less than three shall reside within 20 miles of the District of Columbia. The latter provision ensures that more than one judge is available to handle cases on short notice and reduces the need to invoke the alternative of Attorney General approval under the emergency authorities in FISA.

Other changes in FISA and related national security laws are more controversial. In several areas, the bill reflects a serious effort to accommodate the requests for expanded surveillance authority with the need for safeguards against misuse, especially the gathering of intelligence about the lawful political or commercial activities of Americans. One of the most difficult issues was whether to eliminate the existing statutory ''agent of a foreign power'' standards for surveillance and investigative techniques that raise important privacy concerns, but not at the level that the Supreme Court has held to require a court order and a probable cause finding under the Fourth Amendment. These include pen register and trap and trace devices, access to business records and other tangible items held by third parties, and access to records that have statutory privacy protection. The latter include telephone, bank, and credit records.

The ''agent of a foreign power'' standard in existing law was designed to ensure that the FBI and other intelligence agencies do not use these surveillance and investigative methods to investigate the lawful activities of Americans in the name of an undefined authority to collect foreign intelligence or counterintelligence information. The law has required a showing of reasonable suspicion, less than probable cause, to believe that a United States person is an ''agent of a foreign power'' engaged in international terrorism or clandestine intelligence activities.

However, the ''agent of a foreign power'' standard is more stringent than the standard under comparable criminal law enforcement procedures which require only a showing of relevance to a criminal investigation. The FBI's experience under existing laws since they were enacted at various time over the past 15 years has been that, in practice, the requirement to show reasonable suspicion that a person is an ''agent of a foreign power'' has been almost as burdensome as the requirement to show probable cause required by the Fourth Amendment for more intrusive techniques. The FBI has made a clear case that a relevance standard is appropriate for counterintelligence and counterterrorism investigations, as well as for criminal investigations.

The challenge, then, was to define those investigations. The alternative proposed by the Administration was to cover any investigation to obtain foreign intelligence information. This was extremely broad, because the definition includes any information with respect to a foreign power that relates to, and if concerning a United States person is necessary to, the national defense or the security of the United States or the conduct of the foreign affairs of the United States. This goes far beyond FBI counterintelligence and counterterrorism requirements. Instead, the bill requires that use of the surveillance technique or access to the records concerning a United States person be relevant to an investigation to protect against international terrorism or clandestine intelligence activities.

In addition, an investigation of a United States person may not be based solely on activities protected by the First Amendment. This framework applies to pen registers and trap and trace under section 215, access to records and other items under section 215, and the national security authorities for access to telephone, bank, and credit records. Lawful political dissent and protest by American citizens against the government may not be the basis for FBI counterintelligence and counterterrorism investigations under these provisions.

A separate issue for pen registers and trap and trace under FISA is whether the court should have the discretion to make the decision on relevance. The Administration has insisted on a certification process. I discussed this issue as it comes up in the criminal procedures for pen registers and trap and trace under title 18, and my concerns apply to the FISA procedures as well.

Among the more controversial changes in FISA requested by the Administration was the proposal to allow surveillance and search when ''a purpose'' is to obtain foreign intelligence information. Current law requires that the secret procedures and different probable cause standards under FISA be used only if a high-level executive official certifies that ''the purpose'' is to obtain foreign intelligence formation. The Administration's aim was to allow FISA surveillance and search for law enforcement purposes, so long as there was at least some element of a foreign intelligence purpose. This proposal raised constitutional concerns, which were addressed in a legal opinion provided by the Justice Department.

The Justice Department opinion did not defend the constitutionality of the original proposal. Instead, it addressed a suggestion made by Senator FEINSTEIN to the Attorney General at the Judiciary Committee hearing to change ''the purpose'' to ''a significant purpose.'' No matter what statutory change is made even the Department concedes that the court may impose a constitutional requirement of ''primary purpose'' based on the appellate court decisions upholding FISA against constitutional challenges over the past 20 years.

Section 218 of the bill adopts ''significant purpose,'' and it will be up to the courts to determine how far law enforcement agencies may use FISA for criminal investigation and prosecution beyond the scope of the statutory definition of ''foreign intelligence information.''

In addition, I proposed and the Administration agreed to an additional provision in Section 505 that clarifies the boundaries for consultation and coordination between officials who conduct FISA search and surveillance and Federal law enforcement officials including prosecutors. Such consultation and coordination is authorized for the enforcement of laws that protect against international terrorism, clandestine intelligence activities of foreign agents, and other grave foreign threats to the nation. Protection against these foreign-based threats by any lawful means is within the scope of the definition of ''foreign intelligence information,'' and the use of FISA to gather evidence for the enforcement of these laws was contemplated in the enactment of FISA. The Justice Department's opinion cites relevant legislative history from the Senate Intelligence Committee's report in 1978, and there is comparable language in the House report.

The Administration initially proposed that the Attorney General be authorized to detain any alien indefinitely upon his certification that the alien met the criteria of the terrorism grounds of the Immigration and Nationality Act, or was engaged in any other activity endangering the national security of the United States. Under close questioning by both Senator KENNEDY and Senator SPECTER at the Committee hearing on September 25, the Attorney General said that his proposal was intended only to allow the government to hold an alien suspected of terrorist activity while deportation proceedings were ongoing. In response to a question by Senator SPECTER, the Attorney General said: ''Our intention is to be able to detain individuals who are the subject of deportation proceedings on other grounds, to detain them as if they were the subject of deportation proceedings on terrorism.'' The Justice Department, however, continued to insist on broader authority, including the power to detain even if the alien was found not to be deportable.

I remain concerned about the provision, in section 412, but I believe that we have twice improved it from the original proposal offered by the Administration, first in S. 1510 and second in the bill we pass today. S. 1510 provided that the Justice Department had to charge an alien with an immigration or criminal violation within seven days of taking custody, and that the merits of the Attorney General's certification were subject to judicial review. The bill we vote on today is further improved. First, if an alien is found not to be removable, he must be released from custody. Second, the Attorney General can only delegate the power to certify an alien to the Deputy Attorney General, ensuring greater accountability and preventing the certification decision from being made by low-level officials. Third, the Attorney General must review his certification of an alien every six months. Fourth, an alien who is found to be removable but has not been removed, and whose removal is unlikely in the reasonably foreseeable future, may be detained only if the Attorney General demonstrates that release of the alien will adversely affect national security or the safety of the community or any person. This improvement is essential to preserve the constitutionality of the bill. Fifth, habeas corpus review of detention is made available in the District where the detention is occurring, instead of only in the District Court in the District of Columbia. Despite these improvements, this remains a major and controversial new power for the Attorney General, and I would urge him and his successors to employ great discretion in using it.

In addition, the Administration initially proposed a sweeping definition of terrorist activity and new powers for the Secretary of State to designate an organization as a terrorist organization for purposes of immigration law. We were able to work with the Administration to refine this definition to limit its application to individuals who had innocent contacts with non-designated organizations. We also limited the retroactive effect of these new definitions. If an alien solicited funds or membership, or provided material support for an organization that was not designated at that time by the Secretary of State, the alien will have the opportunity to show that he did not know and should have known that his acts would further the organization's terrorist activity. This is substantially better than the administration's proposal, which by its terms, would have empowered the INS to deport someone who raised money for the African National Congress in the 1980s.

Throughout our negotiations on these issues, Senator KENNEDY provided steadfast leadership. Although neither of us are entirely pleased with the final product, it is far better than it would have been without his active involvement.

I was disappointed that the Administration's initial proposal authorizing the President to impose unilateral food and medical sanctions would have undermined a law we passed last year with overwhelming bipartisan support.

Under that law, the President already has full authority to impose unilateral food and medicine sanctions during this crisis because of two exceptions built into the law that apply to our current situation. Nevertheless, the Administration sought to undo this law and obtain virtually unlimited authority in the future to impose food and medicine embargoes, without making any effort for a multi-lateral approach in cooperation with other nations. Absent such a multi-lateral approach, other nations would be free to step in immediately and take over business from American firms and farmers that they are unilaterally barred from pursuing.

Over 30 farm and export groups, including the American Farm Bureau Federation, the Grocery Manufacturers of America, the National Farmers Union, and the U.S. Dairy Export Council, wrote to me and explained that the Administration proposal would ''not achieve its intended policy goal.''

I worked with Senator ENZI, and other Senators, on substitute language to give the Administration the tools it needs in this crisis. This substitute has been carefully crafted to avoid needlessly hurting American farmers in the future, yet it will assure that the U.S. can engage in effective multilateral sanctions.

This bipartisan agreement limits the authority in the bill to existing laws and executive orders, which give the President full authority regarding this conflict, and grants authority for the President to restrict exports of agricultural products, medicine or medical devices. I continue to agree with then-Senator Ashcroft, who argued in 1999 that unilateral U.S. food and medicine sanctions simply do not work when he introduced the ''Food and Medicine for the World Act.'' As recently as October 2000, then-Senator Ashcroft pointed out how broad, unilateral embargoes of food or medicine are often counterproductive. Many Republican and Democratic Senators made it clear just last year that the U.S. should work with other countries on food and medical sanctions so that the sanctions will be effective in hurting our enemies, instead of just hurting the U.S. I am glad that with Senator ENZI's help, we were able to make changes in the trade sanctions provision to both protect our farmers and help the President during this crisis.

Title III of this bill contains money laundering provisions agreed upon by the relevant House and Senate committees. I commend the Chairman of the Senate Banking Committee, Senator SARBANES, for working with the House to produce a balanced and effective package of measures to combat international money laundering and the financing of terrorism.

The Senate included money laundering provisions in the original USA Act, but those provisions were removed from the bill the House passed the following day. Instead, the House passed a separate money laundering bill, H.R. 3004, on October 17. House and Senate negotiators then met to resolve the differences between the bills and produce the language contained in the bill the Senate considers today.

I am very pleased that the House has agreed to include money laundering provisions in anti-terrorism legislation. Preventing money laundering is a

crucial part of our efforts to defeat terrorism, and it was important for Congress to develop a bipartisan approach to strengthening our laws. This bill contains such an approach.

I am also pleased that a number of provisions that would have undermined the Civil Asset Forfeiture Act of 2000, which I sponsored in the Senate, have been removed. In addition, this bill does not include language that would have unduly expanded administrative subpoena powers in all money laundering cases. A more targeted approach was necessary, and has been produced.

This measure could not be considered today and would not be in the improved condition it is without the steadfast commitment of our Majority Leader. Senator DASCHLE deserves all the credit for all that is good in this bill. Without his commitment and focus, we simply would not be in the position to pass this bill today.

On my behalf and more importantly on behalf of the American people, I want to publicly acknowledge his vital role in this legislation.

I have done my best under the circumstances and want to thank especially Senator KENNEDY for his leadership on the Immigration parts of the bill. My efforts have not been completely successful and there are a number of provisions on which the Administration has insisted with which I disagree. Frankly, the agreement of September 30, 2001 on the sharing of criminal justice information would have led to a better balanced bill. I could not stop the Administration from reneging on the agreement any more than I could have sped the process to reconstitute this bill in the aftermath of those breaches. In these times we need to work together to face the challenges of international terrorism. I have sought to do so in good faith.

We have worked around the clock for the past month to put forward the best legislative package we could. While I share the administration's goal of promptly providing the tools necessary to deal with the current terrorist threat, I feel strongly that our responsibilities include equipping such tools with safety features to ensure that these tools do not cause harm and are not misused.

I want to conclude my remarks with thanks for the efforts of many staff members who have worked tirelessly under unusual and enormously inconvenient circumstances to help us craft the legislation before us today. In particular, I want to thank Mark Childress and Andrea LaRue on the staff of Majority Leader DASCHLE, and David Hoppe on the staff of Republican Leader LOTT. I would also like to thank Makan Delrahim, Jeff Taylor, Stuart Nash, and Leah Belaire with Senator HATCH, the Ranking Member of the Judiciary Committee, Melody Barnes and Esther Olavarria with Senator KENNEDY, Neil McBride and Eric Rosen with Senator BIDEN, Bob Schiff with Senator FEINGOLD, and Stacy Baird and Beth Stein with Senator CANTWELL. Finally, I would like to thank my own Judiciary Committee staff, especially Bruce Cohen, Beryl Howell, Julie Katzman, Ed Pagano, John Elliff, David James, Ed Barron, Tim Lynch, Susan Davies, Manu Bhardwaj, Liz McMahon, and Tara Magner.

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

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

THE UNITING AND STRENGTHENING AMERICA BY PROVIDING APPROPRIATE TOOLS REQUIRED TO INTERCEPT AND OBSTRUCT TERRORISM (USA PATRIOT) ACT OF 2001, H.R. 3162—SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title and table of contents. Both S. 1510 passed by the Senate on October 11, 2001 (the ''Senate bill''), and H.R. 2975 passed by the House of Representatives on October 12, 2001, included this section containing the short title ''Uniting and Strengthening America (USA) Act of 2001'' and the table of contents for the Act. H.R. 3162, the bill subsequently passed by the House on October 24, 2001 (the ''House bill''), changed the title to the ''Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001.''

Sec. 2. Construction; severability. Both the House and Senate bills included this rule of construction to provide that any portion of this Act found to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed to give it the maximum effect permitted by law and that any portion found invalid or unenforceable in its entirety shall be severable from the rest of the Act.

TITLE I—ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

Sec. 101. Counterterrorism fund. Both the House and Senate bills included this provision to establish a counterterrorism fund in the Treasury of the United States, without affecting prior appropriations, to reimburse Department of Justice components for costs incurred in connection with terrorism and terrorism prevention, rebuild any Justice Department component damaged or destroyed as a result of a terrorism incident, pay terrorism-related rewards, conduct terrorism threat assessments, and reimburse Federal agencies for costs incurred in connection with detaining suspected terrorists in foreign countries. Not in original Administration proposal.

Sec. 102. Sense of Congress condemning discrimination against Arab and Muslim Americans. Both the House and Senate bills included this provision to condemn acts of violence and discrimination against Arab Americans, American Muslims, and Americans from South Asia, and to declare that every effort must be taken to protect their safety. Not in original Administration proposal.

Sec. 103. Increased funding for the technical support center at the Federal Bureau of Investigation. Both the House and Senate bills included this provision to authorize $200,000,000 per year for fiscal years 2002, 2003 and 2004 for the Technical Support Center established in section 811 of the Antiterrorism and Effective Death Penalty Act of 1996 to help meet the demands of activities to combat terrorism and enhance the technical support and tactical operations of the FBI. Not in original Administration proposal.

Sec. 104. Requests for Military Assistance to Enforce Prohibition in Certain Emergencies. Both the House and Senate bills included this provision to authorize the Attorney General to request military assistance in support of Department of Justice activities relating to the enforcement of 18 U.S.C. § 2332a during an emergency situation involving a weapon of mass destruction. Current law references a statute that was repealed in 1998, relating to chemical weapons. Not in original Administration proposal.

Sec. 105. Expansion of National Electronic Crime Task Force Initiative. Both the House and Senate bills included this provision to allow the Secret Service to develop a national network of electronic crime task forces, based on the highly successful New York Electronic Crimes Task Force model, for the purpose of preventing, detecting, and investigating various forms of electronic crimes, including potential terrorist attacks against critical infrastructure and financial payment systems. Not in original Administration proposal.

Sec. 106. Presidential authority. Both the House and Senate bills included this provision to give to the President, in limited circumstances involving armed hostilities or attacks against the United States, the power to confiscate and vest in the United States the property of enemies of the United States during times of national emergency, which was permitted by the Trading with the Enemy Act, 50 app. U.S.C. § 5(b), until 1977, when the International Economic Emergency Act was passed. The new provision permits the President, when the United States is engaged in military hostilities or has been subject to attack, to confiscate property of any foreign country, person or organization involved in hostilities or attacks on the United States. This section also permits courts, when reviewing determinations made by the executive branch, to consider classified evidence ex parte and in camera. Same as original Administration proposal.

TITLE II—ENHANCED SURVEILLANCE PROCEDURES

[Note: Elimination of original Administration proposal to allow government use of wiretap information on U.S. citizens obtained illegally overseas in violation of the Fourth Amendment and of foreign government laws.]

Sec. 201. Authority to intercept wire, oral, and electronic communications relating to terrorism. Both the House and Senate bills included this provision to add criminal violations relating to terrorism to the list of predicate statutes in the criminal procedures for interception of communications under chapter 119 of title 18, United States Code. Not in original Administration proposal.

Sec. 202. Authority to intercept wire, oral, and electronic communications relating to computer fraud and abuse offenses. Both the House and Senate bills included this provision to add criminal violations relating to computer fraud and abuse to the list of predicate statutes in the criminal procedures for interception of communications under chapter 119 of title 18, United States Code. Not in original Administration proposal.

Sec. 203. Authority to share criminal investigative information. Both the House and Senate bills included provisions amending the criminal procedures for interception of communications under chapter 119 of title 18, United States Code, and the grand jury procedures under Rule 6(e) of the Federal Rules of Criminal Procedures to authorize disclosure of foreign intelligence information obtained by such interception or by a grand jury to any Federal law enforcement, intelligence, national security, national defense, protective or immigration personnel to assist the official receiving that information in

the performance of his official duties. Section 203(a) requires that within a reasonable time after disclosure of any grand jury information, an attorney for the government notify the court of such disclosure and the departments, agencies or entities to which disclosure was made. Section 203(b) pertains to foreign intelligence information obtained by intercepting communications pursuant to a court-ordered wiretap. Section 203(c) also authorizes such disclosure of information obtained as part of a criminal investigation notwithstanding any other law.

The information must meet statutory definitions of foreign intelligence or counterintelligence or foreign intelligence information. Recipients may use that information only as necessary for their official duties, and use of the information outside those limits remains subject to applicable penalties, such as penalties for unauthorized disclosure under chapter 119, contempt penalties under Rule 6(e) and the Privacy Act. The Attorney General must establish procedures for disclosure of information that identifies a United States person, such as the current procedures established under Executive Order 12333 for the intelligence community. Modified Administration proposal to limit scope of personnel eligible to receive information. In case of grand jury information, limited proposal to require notification to court after disclosure.

Sec. 204. Clarification of intelligence exceptions from limitations on interception and disclosure of wire, oral, and electronic communications. Both the House and Senate bills included this provision to amend the criminal procedures for interception of wire, oral, and electronic communications in title 18, United States Code, to make clear that these procedures do not apply to the collection of foreign intelligence information under the statutory foreign intelligence authorities. Not in original Administration proposal.

Sec. 205. Employment of translators by the Federal Bureau of Investigation. Both the House and Senate bills included this provision to authorize the FBI Director to expedite the employment of personnel as translators to support counterterrorism investigations and operations without regard to applicable Federal personnel requirements and limitations. Not in original Administration proposal.

Sec. 206. Roving surveillance authority under the Foreign Intelligence Surveillance Act of 1978. Both the House and Senate bills included this provision to modify the Foreign Intelligence Surveillance Act (''FISA'') to allow surveillance to follow a person who uses multiple communications devices or locations, a modification which conforms FISA to the parallel criminal procedure for electronic surveillance in 18 U.S.C. §2518(11)(b). The court order need not specify the person whose assistance to the surveillance is required (such as a particular communications common carrier), where the court finds that the actions of the target may have the effect of thwarting the identification of a specified person. Same as original Administration proposal.

Sec. 207. Duration of FISA surveillance of non-United States persons who are agents of foreign power. Both the House and Senate bills included this provision to change the initial period of a FISA order for a surveillance or physical search targeted against an agent of a foreign power from 90 to 120 days, and changes the period for extensions from 90 days to one year. One-year extensions for physical searches are subject to the requirement in current law that the judge find ''probable cause to believe that no property of any United States person will be acquired during the period.'' Section 207 also changes the ordinary period for physical searches under FISA from 45 to 90 days. Narrower than Administration proposal which sought to eliminate the initial 90-day limitation and authorize surveillance for up to one year from the outset.

Sec. 208. Designation of judges. Both the House and Senate bills included this provision to increase the number of Federal district judges designated to serve on the FISA court from seven to 11, and requires that no less that 3 of the judges reside within 20 miles of the District of Columbia. Not in original Administration proposal.

Sec. 209. Seizure of voice-mail messages pursuant to warrants. Both the House and Senate bills included this provision to authorize government access to voice mails with a court order supported by probable cause in the same way e-mails currently may be accessed, and authorizes nationwide service with a single search warrant for voice mails. Current law, 18 U.S.C. §2510(1), defines ''wire communication'' to include ''any electronic storage of such communication,'' with the result that the government must apply for a Title III wiretap order before it may obtain unopened voice mail messages held by a service provider. This section amends the definition of ''wire communication'' so that it no longer includes stored communications. It also amends 18 U.S.C. §2703 to specify that the government may use a search warrant (instead of a wiretap order) to compel the production of unopened voicemail, thus harmonizing the rules applicable to stored voice and non-voice (e.g., e-mail) communications. Same as Administration proposal.

Sec. 210. Scope of subpoenas for records of electronic communications. Both the House and Senate bills included this provision to broaden the types of records that law enforcement may obtain, pursuant to a subpoena, from electronic communications service providers by requiring providers to disclose the means and source of payment, including any bank account or credit card numbers. Current law allows the government to use a subpoena to compel communications providers to disclose a small class of records that pertain to electronic communications, limited to such records as the customer's name, address, and length of service. 18 U.S.C. §2703(c)(1)(C). Investigators may not use a subpoena to obtain such records as credit card number or other form of payment and must use a court order. In many cases, users register with Internet service providers using false names, making the form of payment critical to determining the user's true identity. Same as original Administration proposal.

Sec. 211. Clarification of scope. Both the House and Senate bills included provisions to amend the Cable Communications Policy Act to clarify that when a cable company acts as a telephone company or an Internet service provider, it must comply with the same laws governing the interception and disclosure of wire and electronic communications that apply to any other telephone company or Internet service provider. This section also expressly provides, however, that authorized disclosures under this provision do not include records that reveal customer cable viewing activity. Modified original Administration proposal to specify that targets do not receive advance notice of wiretap order and amends title 47 to accomplish same purpose as administration proposal.

Sec. 212. Emergency disclosure of electronic communications to protect life and limb. Both the House and Senate bills included this provision to amend 18 U.S.C. §2702 to authorize providers of electronic communications services to disclose the communications (or records of such communications) of their subscribers if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person requires the disclosure of the information without delay. This section also corrects an anomaly in the current law by clearly permitting a provider to disclose non-content records (such as a subscriber's log-in records) as well as the contents of the customer's communications to protect their computer systems. Same as original Administration proposal.

Sec. 213. Authority for delaying notice of the execution of a warrant. Both the House and Senate bills included this provision to amend 18 U.S.C. §3103a to authorize a court to issue a search warrant in which the government is permitted to delay providing notice of the warrant's execution. Consistent with the requirements of case law from the Second and Ninth Circuits, this section also provides several limitations on this authority. See *United States* v. *Villegas*, 899 F.2d 1324 (2d Cir. 1990); *United States* v. *Freitas*, 800 F.2d 1451 (9th Cir. 1986). First, delayed notice is authorized only in cases where the government has demonstrated reasonable cause to believe that providing immediate notice would have an adverse result as defined in 18 U.S.C. §2705. Second, the provision prohibits the government from seizing any tangible property or any wire or electronic communication or stored wire or electronic communication unless it makes a showing of reasonable necessity for the seizure. Third, the warrant must require the giving of notice within a reasonable time of the execution of the search. Narrower than original Administration proposal, which would have permitted delay as law enforcement saw fit.

Sec. 214. Pen register and trap and trace authority under FISA. Both the House and Senate bills included this provision to modify FISA provisions for pen register and trap and trace to eliminate the requirement to show to the court that the target is in contact with an ''agent of a foreign power.'' It replaces this requirement with a determination that the pen register or trap and trace is relevant to an investigation to protect against international terrorism or clandestine intelligence activities or to obtain foreign intelligence information not concerning U.S. persons. Any investigation of a United States person may not be based solely on activities protected by the First Amendment. Narrower than original Administration proposal, which would simply have removed the ''agent of a foreign power'' requirement.

Sec. 215. Access to records and other items under the FISA. Both the House and Senate bills included this provision to remove the ''agent of a foreign power'' standard for court-ordered access to certain business records under FISA and expands the scope of court orders to include access to other records and tangible items. The authority may be used for an investigation to protect against international terrorism or clandestine intelligence activities or to obtain foreign intelligence information not concerning U.S. persons. An investigation of a United States person may not be based solely on activities protected by the First Amendment. Narrower than original Administration proposal, which would have removed requirements of court order and the ''agent of a foreign power'' showing.

Sec. 216. Modification of authorities relating to use of pen registers and trap and trace devices. Both the House and Senate bills included this provision to authorize courts to grant pen register and trap and trace orders that are valid anywhere in the nation. It also ensures that the pen register and trap and trace provisions apply to facilities other than telephone lines (e.g., the Internet). It specifically provides, however, that the grant of authority to capture ''routing'' and

''addressing'' information for Internet users does not authorize the interception of the content of any such communications. It further requires the government to use the latest available technology to insure that a pen register or trap and trace device does not intercept the content of any communications. Finally, it provides for a report to the court on each use of ''Carnivore''-like devices on packet-switched data networks. Makes a number of improvements over Administration proposal, including exclusion of content, exclusion of ISP liability, and Carnivore report.

Sec. 217. Interception of computer trespasser communications. Both the House and Senate bills included this provision to allow computer service providers who are victims of attacks by computer trespassers to authorize persons acting under color of law to monitor trespassers on their computer systems in a narrow class of cases. A computer trespasser is defined as a person who accesses a protected computer without authorization and thus has no reasonable expectation of privacy in any communications transmitted to, through, or from the protected computer. However, it 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 for access to all or part of the protected computer. Narrower than original Administration proposal, which did not exclude service provider subscribers from definition of trespasser and did not limit interception authority to only those communications through the computer in question.

Sec. 218. Foreign intelligence information. Both the House and Senate bills included this provision to amend FISA to require a certification that ''a significant purpose'' rather than ''the purpose'' of a surveillance or search under FISA is to obtain foreign intelligence information. Narrower than Administration proposal, which would have allowed FISA surveillance if intelligence gathering was merely ''a'' purpose.

Sec. 219. Single-jurisdiction search warrants for terrorism. Both the House and Senate bills included this provision to amend Federal Rule of Criminal Procedure 41(a) to provide that warrants relating to the investigation of terrorist activities may be obtained in any district in which the activities related to the terrorism may have occurred, regardless of where the warrants will be executed. Same as Administration proposal.

Sec. 220. Nationwide service of search warrants for electronic surveillance. Both the House and Senate bills included this provision to amend 18 U.S.C. §2703(a) to authorize courts with jurisdiction over the offense to issue search warrants for electronic communications in electronic storage anywhere in the United States, without requiring the intervention of their counterparts in the districts where Internet service providers are located. Narrower than Administration proposal in that it limits forum shopping problem by limiting to courts with jurisdiction over the offense.

Sec. 221. Trade sanctions. Both the House and Senate bills included this provision to authorize the President unilaterally to restrict exports of agricultural products, medicine or medical devices to the Taliban or the territory of Afghanistan controlled by the Taliban. Narrower than original Administration proposal which would have undermined the congressional approval requirement, conferring upon the President control of agricultural and medical exports ''to all designated terrorists and narcotics entities wherever they are located.''

Sec. 222. Assistance to law enforcement agencies. Both the House and Senate bills included this provision that this Act does not impose any additional technical requirements on a provider of a wire or electronic communication service and that 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 expenditures incurred in providing such facilities or assistance. Not in original Administration proposal.

Sec. 223. Civil liability for certain unauthorized disclosures. H.R. 2975 included this provision to create civil liability for violations, including unauthorized disclosures, by law enforcement authorities of the electronic surveillance procedures set forth in title 18, United States Code (e.g., unauthorized disclosure of pen trap, wiretap, stored communications), or FISA information. Also requires administrative discipline of officials who engage in such unauthorized disclosures. Not in original Administration proposal.

Sec. 224. Sunset. H.R. 2975 included a provision to sunset certain amendments made by this title in 3 to 5 years. H.R. 3162 provides a 4-year sunset for sections 206, 201, 202, 203(b), 204, 206, 207, 209, 210, 212, 214, 215, 217, 218, 220, 223—at the end December 31, 2005, with the authorities ''grandfathered'' as to particular investigations based on offenses occurring prior to sunset. No sunset provided in original Administration proposal or S. 1510, and four-year sunset shorter than the five-year sunset in H.R. 2975.

TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT AND ANTI-TERRORIST FINANCING ACT OF 2001

[Note: Elimination of original Administration proposals to allow broad disclosure of individual tax return information; pre-trial restraint of legitimately obtained property in all criminal forfeiture cases; carve-out of tobacco companies from RICO liability for foreign excise taxes; and creation of new criminal offense to misrepresent identification when opening bank account. The Administration bill contained none of the money laundering provisions contained in either the Senate bill or H.R. 3004.]

Sec. 301. Short title. This section contains the short title of Title III, ''International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001,'' which merges the short title of Title III of the Senate bill with the short title of H.R. 3004, which passed the House of Representatives on October 17, 2001 (''H.R. 3004''). This section also contains the table of contents for Title III.

Sec. 302. Findings and purposes. The Senate bill included this provision, which states the legislative findings and purposes in support of Title III.

Sec. 303. 4-Year congressional review; expedited consideration. Section 303, included in the Senate bill, provides that the provisions added and amendments made by Title III will terminate after September 30, 2004, if the Congress enacts a joint resolution to that effect, and that any such joint resolution will be given expedited consideration by the Congress.

Subtitle A—International Counter-Money Laundering and Related Measures

Sec. 311. Special measures for jurisdictions, financial institutions, or international transactions or accounts of primary money laundering concern. Section 311, included in both the Senate bill and H.R. 3004, adds a new section 5318A to the Bank Secrecy Act, to give the Secretary of the Treasury, in consultation with other senior government officials, authority (in the Secretary's discretion), to impose one or more of five new ''special measures'' against foreign jurisdictions, foreign financial institutions, transactions involving such jurisdictions or institutions, or one more types of accounts, that the Secretary, after consultation with Secretary of State and the Attorney General, determines to pose a ''primary money laundering concern'' to the United States. The special measures include: (1) requiring additional recordkeeping or reporting for particular transactions; (2) requiring the identification of the foreign beneficial owners of certain accounts at a U.S. financial institution; (3) requiring the identification of customers of a foreign bank who use an interbank payable-through account opened by that foreign bank at a U.S. bank; (4) requiring the identification of customers of a foreign bank who use an interbank correspondent account opened by that foreign bank at a U.S. bank; and (5) after consultation with the Secretary of State, the Attorney General, and the Chairman of the Federal Reserve Board, restricting or prohibiting the opening or maintaining of certain interbank correspondent or payable-through accounts. Measures (1) through (4) may not be imposed for more than 120 days except by regulation, and measure (5) may only be imposed by regulation.

Sec. 312. Special due diligence for correspondent accounts and private banking accounts. Section 312, included in both the Senate bill and H.R. 3004, adds a new subsection (i) to 31 U.S.C. §5318, to require a U.S. financial institution that maintains a correspondent account or private banking account for a non-United States person to establish appropriate and, if necessary, enhanced due diligence procedures to detect and report instances of money laundering. The new provision also creates minimum anti-money laundering due diligence standards for U.S. financial institutions that enter into correspondent banking relationships with banks that operate under offshore banking licenses or under banking licenses issued by countries that (1) have been designated as noncooperative with international counter money laundering principles by an international body with the concurrence of the U.S. representative to that body, or (2) have been the subject of special measures authorized by section 311. Finally, the new provision creates minimum anti-money laundering due diligence standards for maintenance of private banking accounts by U.S. financial institutions. New section 31 U.S.C §5318(i) will take effect 270 days after the date of enactment; the Secretary of the Treasury is required to issue regulations (in consultation with the appropriate Federal functional regulators) within 180 days of enactment further delineating the requirements of the new subsection, but the statute is to take effect whether or not such regulations are issued, and failure to issue final regulations shall in no way affect the enforceability of §5318(i) as added by section 312.

Sec. 313. Prohibition on United States correspondent accounts with foreign shell banks. Section 313, included in both the Senate bill and H.R. 3004, adds a new subsection (j) to 31 U.S.C. §5318, to bar depository institutions and brokers and dealers in securities operating in the United States from establishing, maintaining, administering, or managing correspondent accounts for foreign shell banks, other than shell bank vehicles affiliated with recognized and regulated depository institutions. The new 31 U.S.C. §5318(j) takes effect 60 days after enactment. The House receded to the Senate with respect to differences in the language of the versions of the provision in the Senate bill and H.R. 3004.

Sec. 314. Cooperative efforts to deter money laundering. Section 314, contained in the Senate bill, requires the Secretary of the Treasury to issue regulations, within 120 days of the date of enactment, to encourage

cooperation among financial institutions, financial regulators and law enforcement officials, and to permit the sharing of information by law enforcement and regulatory authorities with such institutions regarding persons reasonably suspected, based on credible evidence, of engaging in terrorist acts or money laundering activities. This section also allows (with notice to the Secretary of the Treasury) the sharing of information among banks involving possible terrorist or money laundering activity, and requires the Secretary of the Treasury to publish, at least semiannually, a report containing a detailed analysis of patterns of suspicious activity and other appropriate investigative insights derived from suspicious activity reports and law enforcement investigations. The final text of this section includes section 203 (Reports to the Financial Services Industry on Suspicious Financial Activities) and portions of section 205 (Public-Private Task Force on Terrorist Financing Issues) of H.R. 3004.

Sec. 315. Inclusion of foreign corruption offenses as money laundering crimes. Section 315, included in both the Senate bill and H.R. 3004 in somewhat different language, amends 18 U.S.C. §1956 to include foreign corruption offenses, certain U.S. export control violations, certain customs and firearm offenses, certain computer fraud offenses, and felony violations of the Foreign Agents Registration Act of 1938, to the list of crimes that constitute ''specified unlawful activities'' for purposes of the criminal money laundering provisions.

Sec. 316. Anti-terrorist forfeiture protection. Section 316, included in the Senate bill, establishes procedures to protect the rights of persons whose property may be subject to confiscation in the exercise of the government's anti-terrorism authority.

Sec. 317. Long-arm jurisdiction over foreign money launderers. Section 317, which was included in both the Senate bill and H.R. 3004, amends 18 U.S.C. §1956 to give United States courts ''long-arm'' jurisdiction over foreign persons committing money laundering offenses in the United States, over foreign banks opening U.S. bank accounts, and over foreign persons who convert assets ordered forfeited by a U.S. court. It also permits a Federal court dealing with such foreign persons to issue a pre-trial restraining order or take other action necessary to preserve property in the United States to satisfy an ultimate judgment. The Senate, but not the House, bill included language permitting the appointment by a Federal court of a receiver to collect and take custody of assets of a defendant to satisfy criminal or civil money laundering or forfeiture judgments; with respect to the latter provision, the House receded to the Senate.

Sec. 318. Laundering money through a foreign bank. Section 318, included in both the Senate bill and H.R. 3004, expands the definition of financial institution for purposes of 18 U.S.C. §§1956 and 1957 to include banks operating outside of the United States.

Sec. 319. Forfeiture of funds in United States interbank accounts. Section 319 combines sections 111, 112, and 113 of H.R. 3004 with section 319 of the Senate bill. This section amends 18 U.S.C. §981 to treat amounts deposited by foreign banks in interbank accounts with U.S. banks as having been deposited in the United States for purposes of the forfeiture rules, but grants the Attorney General authority, in the interest of justice and consistent with the United States' national interest, to suspend a forfeiture proceeding, based on that presumption. This section also adds a new subsection (k) to 31 U.S.C. §5318 to require U.S. financial institutions to reply to a request for information from a U.S. regulator relating to anti-money laundering compliance within 120 hours of receipt of such a request, and to require foreign banks that maintain correspondent accounts in the United States to appoint agents for service of process within the United States. The new 31 U.S.C. 5318(k) authorizes the Attorney General and the Secretary of the Treasury to issue a summons or subpoena to any such foreign bank seeking records, wherever located, relating to such a correspondent account, and it requires U.S. banks to sever correspondent arrangements with foreign banks that do not either comply with or contest any such summons or subpoena. Finally, section 319 amends section 413 of the Controlled Substances Act to authorize United States courts to order a convicted criminal to return property located abroad and to order a civil forfeiture defendant to return property located abroad pending trial on the merits. With respect to the provisions requiring a response to certain requests for information by U.S. regulators within 120 hours of receipt and the requirement that correspondent relationships with foreign banks that do not either respond or challenge subpoenas issued under new 31 U.S.C. §5318(k) must be terminated, the House receded to the Senate. With respect to the power to order convicted criminals to return property located abroad, the Senate receded to the House.

Sec. 320. Proceeds of foreign crimes. Section 320, included in both the Senate bill and H.R. 3004, amends 18 U.S.C. §981 to permit the United States to institute forfeiture proceedings against the proceeds of foreign criminal offenses found in the United States.

Sec. 321. Financial institutions specified in subchapter II of chapter 53 of Title 31, United States Code. Section 321, included in H.R. 3004, amends 31 U.S.C. §5312(2) to add credit unions, futures commission merchants, commodity trading advisors, or commodity pool operators to the definition of financial institution for purposes of the Bank Secrecy Act, and to provide that the term ''Federal functional regulator'' includes the Commodity Futures Trading Commission for purposes of the Bank Secrecy Act.

Sec. 322. Corporation represented by a fugitive. Section 322, included in both the Senate bill and H.R. 3004, extends the prohibition against the maintenance of a forfeiture proceeding on behalf of a fugitive to include a proceeding by a corporation whose majority shareholder is a fugitive and a proceeding in which the corporation's claim is instituted by a fugitive.

Sec. 323. Enforcement of foreign judgments. Section 323, included in both the Senate bill and H.R. 3004, permits the government to seek a restraining order to preserve the availability of property subject to a foreign forfeiture or confiscation judgment.

Sec. 324. Report and recommendation. Section 324, included in the Senate bill, directs the Secretary of the Treasury, in consultation with the Attorney General, the Federal banking agencies, the SEC, and other appropriate agencies to evaluate operation of the provisions of subtitle A of Title III of the Act and recommend to Congress any relevant legislative action, within 30 months of the date of enactment.

Sec. 325. Concentration accounts at financial institutions. Section 325, included in both the Senate bill and H.R. 3004, authorizes the Secretary of the Treasury to issue regulations concerning the maintenance of concentration accounts by U.S. depository institutions, to prevent an institution's customers from anonymously directing funds into or through such accounts.

Sec. 326. Verification of identification. Section 326(a), included in H.R. 3004, adds a new subsection (l) to 31 U.S.C. §5318 to require the Secretary of the Treasury to prescribe by regulation, jointly with each Federal functional regulator, minimum standards for financial institutions and their customers regarding the identity of the customer that shall apply in connection with the opening of an account at a financial institution; the minimum standards shall require financial institutions to implement, and customers (after being given adequate notice) to comply with, reasonable procedures concerning verification of customer identity, maintenance of records of identity verification, and consultation at account opening of lists of known or suspected terrorists provided to the financial institution by a government agency. The required regulations are to be issued within one year of the date of enactment.

Section 326(b), included in both the Senate bill and H.R. 3004, requires the Secretary of the Treasury, again in consultation with the Federal functional regulators (as well as other appropriate agencies), to submit a report to Congress within six months of the date of enactment containing recommendations about the most effective way to require foreign nationals to provide financial institutions in the United States with accurate identity information, comparable to that required to be provided by U.S. nationals, and to obtain an identification number that would function similarly to a U.S. national's tax identification number.

Sec. 327. Consideration of anti-money laundering record. Section 327, included in H.R. 3004, amends section 3(c) of the Bank Holding Company Act of 1956, and section 18(c) of the Federal Deposit Insurance Act to require the Federal Reserve Board and the Federal Deposit Insurance Corporation, respectively, to consider the effectiveness of a bank holding company or bank (within the jurisdiction of the appropriate agency) in combating money laundering activities, including in overseas branches, in ruling on any merger or similar application by the bank or bank holding company. The Senate receded to the House, with the agreement that the amendments will apply only to applications submitted after December 31, 2001.

Sec. 328. International cooperation on identification of originators of wire transfers. Section 328, included in H.R. 3004, requires the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to take all reasonable steps to encourage foreign governments to require the inclusion of the name of the originator in wire transfer instructions sent to the United States, and to report annually to the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs concerning progress toward that goal.

Sec. 329. Criminal penalties. Section 329, included in the Senate bill, provides criminal penalties for officials who violate their trust in connection with the administration of Title III.

Sec. 330. International cooperation in investigations of money laundering, financial crimes, and the finances of terrorist groups. Section 330, included in H.R. 3004, states the sense of the Congress that the President should direct the Secretary of State, the Attorney General, or the Secretary of the Treasury, as appropriate and in consultation with the Federal Reserve Board, to seek negotiations with foreign financial supervisory agencies and other foreign officials, to ensure that foreign financial institutions maintain adequate records relating to any foreign terrorist organization or its membership, or any person engaged in money laundering or other financial crimes, and make such records available to U.S. law enforcement and financial supervisory personnel when appropriate.

Subtitle B—Bank Secrecy Act Amendments and Related Improvements

Sec. 351. Amendments relating to reporting of suspicious activities. Section 351, included in both the Senate bill and H.R. 3004, restates 31 U.S.C. §5318(g)(3) to clarify the terms of the safe harbor from civil liability for financial institutions filing suspicious activity reports pursuant to 31 U.S.C. §5318(g). The amendments to subsection (g)(3) also create a safe harbor from civil liability for banks that provide information in employment references sought by other banks pursuant to the amendment to the Federal Deposit Insurance Act made by section 355. The House receded to the Senate with respect to minor differences in wording between the House and Senate versions of the provision.

Sec. 352. Anti-money laundering programs. Section 352, included in both the Senate bill and H.R. 3004, amends 31 U.S.C. §5318(h) to require financial institutions to establish anti-money laundering programs and grants the Secretary of the Treasury authority to set minimum standards for such programs. The Senate recedes to the House with respect to a provision in H.R. 3004 that the anti-money laundering program requirement take effect at the end of the 180-day period beginning on the date of enactment of the Act and a related provision that the Secretary of the Treasury shall prescribe regulations before the end of that 180-day period that consider the extent to which the requirements imposed under amended §5318(h) are commensurate with the size, location, and activities of the financial institutions to which the regulations apply.

Sec. 353. Penalties for violations of geographic targeting orders and certain recordkeeping requirements, and lengthening effective period of geographic targeting orders. Section 353, included generally in both the Senate bill and H.R. 3004, amends 31 U.S.C. §§5321, 5322, and 5324 to clarify that penalties for violation of the Bank Secrecy Act and its implementing regulations also apply to violations of Geographic Targeting Orders issued under 31 U.S.C. §3526, and to certain recordkeeping requirements relating to funds transfers. The House receded to a provision in the Senate bill that also amends 31 U.S.C. §5326 to make the period of a geographic target order 180 days.

Sec. 354. Anti-money laundering strategy. Section 354, included in the Senate bill, amends 31 U.S.C. §5341(b) to add ''money laundering related to terrorist funding'' to the list of subjects to be dealt with in the annual National Money Laundering Strategy prepared by the Secretary of the Treasury pursuant to the Money Laundering and Financial Crimes Strategy Act of 1998.

Sec. 355. Authorization to include suspicions of illegal activity in written employment references. Section 355, included in both the Senate bill and H.R. 3004, amends §18 of the Federal Deposit Insurance Act to permit (but not require) a bank to include information, in a response to a request for an employment reference by a second bank, about the possible involvement of a former institution-affiliated party in potentially unlawful activity. The House receded to the Senate with respect to a provision that the safe harbor from civil liability for a bank that provides information to a second bank applies unless the first bank acts with malicious intent.

Sec. 356. Reporting of suspicious activities by securities brokers and dealers; investment company study. Section 356(a), included generally in both the Senate bill and H.R. 3004, directs the Secretary of the Treasury, after consultation with the Securities and Exchange Commission and the Federal Reserve Board, to publish proposed regulations, on or before December 31, 2001, and final regulations on or before July 1, 2002, requiring broker-dealers to file suspicious activity reports. The Senate receded to the House with respect to the specific time requirements in section 356(a).

Sec. 356(b), included in H.R. 3004, authorizes the Secretary of the Treasury, in consultation with the Commodity Futures Trading Commission, to prescribe regulations requiring futures commission merchants, commodity trading advisors, and certain commodity pool operators to submit suspicious activity reports under 31 U.S.C. §5318(g).

Sec. 356(c), included in the Senate bill, requires the Secretary of the Treasury, the SEC and Federal Reserve Board to submit jointly to Congress, within one year of the date of enactment, recommendations for effective regulations to apply the provisions of 31 U.S.C. §§5311–30 to both registered and unregistered investment companies, as well as recommendations as to whether the Secretary should promulgate regulations treating personal holding companies as financial institutions that must disclose their beneficial owners when opening accounts or initiating funds transfers at any domestic financial institution.

Sec. 357. Special report on administration of bank secrecy provisions. Section 357, included in the Senate bill, directs the Secretary of the Treasury to submit a report to Congress, six months after the date of enactment, on the role of the IRS in the administration of the Bank Secrecy Act, with emphasis on whether IRS Bank Secrecy Act information processing responsibility (for reports filed by all financial institutions) or Bank Secrecy Act audit and examination responsibility (for certain non-bank financial institutions) should be retained or transferred.

Sec. 358. Bank Secrecy provisions and activities of the United States intelligence agencies. Section 358, included in the same general terms in both the Senate bill and H.R. 3004, contains amendments to various provisions of the Bank Secrecy Act, the Right to Financial Privacy Act, and the Fair Credit Reporting Act, to permit information to be used in the conduct of United States intelligence or counterintelligence activities to protect against international terrorism. This section combines the Senate and House provisions, with each body receding to the other in the case of particular language included in one version of the provision but not the other.

Sec. 359. Reporting of suspicious activities by underground banking systems. Section 359, included in both the Senate bill and H.R. 3004, clarifies that the Bank Secrecy Act treats certain underground banking systems as financial institutions, and that the funds transfer recordkeeping rules applicable to licensed money transmitters also apply to such underground systems. This section also directs the Secretary of the Treasury to report to Congress, within one year of the date of enactment, on the need for additional legislation or regulatory controls relating to underground banking systems. The House receded to the Senate with respect to certain technical changes in the definition of the underground banking systems at issue.

Sec. 360. Use of authority of the United States Executive Directors. Section 360, included in Senate bill, authorizes the Secretary of the Treasury to instruct the United States Executive Director of each of the international financial institutions (for example, the IMF and the World Bank) to use such Director's ''voice and vote'' to support loans and other use of resources to benefit nations that the President determines to be contributing to United States efforts to combat international terrorism, and to require the auditing of each international financial institution to ensure that funds are not paid to persons engaged in or supporting terrorism.

Sec. 361. Financial crimes enforcement network. Section 361, included in H.R. 3004, adds a new §310 to subchapter I of chapter 3 of title 31, United States Code, to make the Financial Crimes Enforcement Network (''FinCEN'') a bureau within the Department of the Treasury, to specify the duties of FinCEN's Director, and to require the Secretary of the Treasury to establish operating procedures for the government-wide data access service and communications center that FinCEN maintains. Section 361 also authorizes appropriations for FinCEN for fiscal years 2002 through 2005. Finally, this section requires the Secretary to study methods for improving compliance with the reporting requirements for ownership of foreign bank and brokerage accounts by U.S. nationals imposed by regulations issued under 31 U.S.C. §5314. The required report is to be submitted within six months of the date of enactment and annually thereafter.

Sec. 362. Establishment of highly secure network. Section 362, included in H.R. 3004, directs the Secretary of the Treasury to establish, within nine months of enactment, a secure network with FinCEN that will allow financial institutions to file suspicious activity reports and provide such institutions with information regarding suspicious activities warranting special scrutiny.

Sec. 363. Increase in civil and criminal penalties for money laundering. Section 363, included in the Senate bill, increases from $100,000 to $1,000,000 the maximum civil and criminal penalties for a violation of provisions added to the Bank Secrecy Act by sections 311 and 312 of this Act.

Sec. 364. Uniform protection authority for Federal Reserve facilities. Section 364, included in H.R. 3004, authorizes certain Federal Reserve personnel to act as law enforcement officers and carry firearms to protect and safeguard Federal Reserve employees and premises.

Sec. 365. Reports relating to coins and currency received in nonfinancial trade or business. Section 365, included in H.R. 3004, adds 31 U.S.C. §5331 (and makes related and conforming changes) to the Bank Secrecy Act to require any person who receives more than $10,000 in coins or currency, in one transaction or two or more related transactions in the course of that person's trade or business, to file a report with respect to such transaction with FinCEN. Regulations implementing the new reporting requirement are to be promulgated within six months of enactment.

Sec. 366. Efficient use of currency transaction report system. Section 366, included in H.R. 3004, requires the Secretary of the Treasury to report to the Congress before the end of the one year period beginning on the date of enactment containing the results of a study of the possible expansion of the statutory system for exempting transactions from the currency transaction reporting requirements and ways to improve the use by financial institutions of the statutory exemption system as a way of reducing the volume of unneeded currency transaction reports.

Subtitle C—Currency Crimes

Sec. 371. Bulk cash smuggling into or out of the United States. Section 371, included in both the Senate bill and H.R. 3004, but with different language relating to forfeiture, creates a new Bank Secrecy Act offense, 31 U.S.C. §5332, involving the bulk smuggling of more than $10,000 in currency in any conveyance, article of luggage or merchandise or

container, either into or out of the United States, and related forfeiture provisions. The Senate receded to the House language.

Sec. 372. Forfeiture in currency reporting cases. Section 372, included in the Senate bill and H.R. 3004 with different language concerning mitigation, amends 31 U.S.C. §5317 to permit confiscation of funds in connection with currency reporting violations consistent with existing civil and criminal forfeiture procedures. The Senate receded to the House language.

Sec. 373. Illegal money transmitting businesses. Section 373, included in H.R. 3004, amends 18 U.S.C. §1960 to clarify the terms of the offense stated in that provision, relating to knowing operation of an unlicensed (under state law) or unregistered (under Federal law) money transmission business. This section also amends 18 U.S.C. §981(a) to authorize the seizure of funds involved in a violation of 18 U.S.C. §1960.

Sec. 374. Counterfeiting domestic currency and obligations. Section 374, included in H.R. 3004, makes a number of changes to the provisions of 18 U.S.C. §§470–473 relating to the maximum sentences for various counterfeiting offenses, and adds to the definition of counterfeiting in 18 U.S.C. §474 the making, acquiring, etc. of an analog, digital, or electronic image of any obligation or other security of the United States.

Sec. 375. Counterfeiting Foreign Currency and Obligations. Section 375, included in H.R. 3004, makes a number of changes to the provisions of 18 U.S.C. §§478–480 relating to the maximum sentences for various counterfeiting offenses involving foreign obligations or securities and adds to the definition of counterfeiting in 18 U.S.C. §481 the making, acquiring, etc. of an analog, digital, or electronic image of any obligation or other security of a foreign government.

Sec. 376. Laundering the proceeds of terrorism. This provision expands the scope of predicate offenses for laundering the proceeds of terrorism to include ''providing material support or resources to terrorist organizations,'' as that crime is defined in 18 U.S.C. §2339B of the criminal code. Same as original Administration proposal.

Sec. 377. Extraterritorial jurisdiction. This provision applies the financial crimes prohibitions to conduct committed abroad in situations where the tools or proceeds of the offense pass through or are in the United States. Same as original Administration proposal.

TITLE IV—PROTECTING THE BORDER

Subtitle A—Protecting the Northern Border

Sec. 401. Ensuring adequate personnel on the Northern border. Both the House and Senate bills included this provision to authorize the Attorney General to waive any cap on the number of full time employees assigned to the INS on the northern border. Not in original Administration proposal.

Sec. 402. Northern border personnel. Both the House and Senate bills included this provision to authorize additional appropriations to allow for a tripling in personnel for the Border Patrol, INS Inspectors, and the US Customs Service in each State along the northern border, and an additional $50 million each to the INS and the US Customs Service to improve technology and acquire additional equipment for use at the northern border. Not in original Administration proposal.

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. Both the House and Senate bills included this provision to give the State Department and INS access to the criminal history record information contained in the National Crime Information Center's Interstate Identification Index, Wanted Persons File, and any other information mutually agreed upon between the Attorney General and the agency receiving access. Same as original Administration proposal.

Sec. 404. Limited authority to pay overtime. Both the House and Senate bills included this provision to allow the Attorney General to authorize overtime pay for INS employees in an amount in excess of $30,000 during calendar year 2001, to ensure that experienced personnel are available to handle the increased workload generated by the events of September 11, 2001. Same as original Administration proposal but based on a Leahy-Conyers proposal.

Sec. 405. Report on the integrated automated fingerprint identification system for points of entry and overseas consular posts. Both the House and Senate bills included this provision to require the Attorney General to report to Congress on the feasibility of enhancing the FBI's Integrated Automated Fingerprint Identification System or other identification systems to identify foreign passport and visa holders who may be wanted in connection with a criminal investigation in the United States or abroad before issuing a visa to that person or their entry or exit from the United States. Not in original Administration proposal.

Subtitle B—Enhanced Immigration Provisions

Sec. 411. Definitions relating to terrorism. Both the House and Senate bills included this provision to amend the definition of ''engage in terrorist activity'' to clarify that an alien who solicits funds or membership or provides material support to a certified terrorist organization is inadmissible and removable. Aliens who solicit funds or membership or provide material support to organizations not designated as terrorist organizations have the opportunity to show that they did not know and should not have known that their actions would further terrorist activity. This section also creates a definition of ''terrorist organization,'' which is not defined under current law, for purposes of making an alien inadmissible or removable. It defines a terrorist organization as one that is (1) designated by the Secretary of State as a terrorist organization under the process supplied by current law; (2) designated by the Secretary of State as a terrorist organization for immigration purposes; or (3) a group of two or more individuals that commits terrorist activities or plans or prepares to commit (including locating targets for) terrorist activities. The changes made by this section will apply to actions taken by an alien before enactment with respect to any group that was at that time certified by the Secretary of State. Narrower than original Administration proposal by allowing an alien to show support for non-designated organization was offered without knowledge of organization's terrorist activity.

Sec. 412. Mandatory detention of suspected terrorists; habeas corpus; judicial review. Both the House- and Senate-passed bills included provisions to grant the Attorney General the authority to certify that an alien meets the criteria of the terrorism grounds of the Immigration and Nationality Act, or is engaged in any other activity that endangers the national security of the United States, upon a ''reasonable grounds to believe'' standard, and take such aliens into custody. This authority is delegable only to the Deputy Attorney General. The Attorney General must either begin removal proceedings against such aliens or bring criminal charges within seven days, or release them from custody. An alien who is charged but ultimately found not to be removable is to be released from custody. An alien who is found to be removable but has not been removed, and whose removal is unlikely in the reasonably foreseeable future, may be detained if the Attorney General demonstrates that release of the alien will adversely affect national security or the safety of the community or any person. Judicial review of any action taken under this section, including review of the merits of the certification, is available through habeas corpus proceedings, with appeal to the U.S. Court of Appeals for the D.C. Circuit. The Attorney General shall review his certification of an alien every six months. Narrower than original Administration proposal in numerous ways, including placing a 7-day limit on detention without charge, ordering release of aliens found not to be removable, and more meaningful judicial review of Attorney General's determination of national security risk posed by alien.

Sec. 413. Multilateral cooperation against terrorists. Both the House and Senate bills included this provision to provide new exceptions to the laws regarding disclosure of information from State Department records pertaining to the issuance of or refusal to issue visas to enter the U.S., and allows the sharing of this information with a foreign government on a case-by-case basis for the purpose of preventing, investigating, or punishing acts of terrorism. Based on original Administration proposal.

Sec. 414. Visa integrity and security. This section expresses the sense of the Congress that the Attorney General, in consultation with the Secretary of State, should fully implement the entry/exit system as expeditiously as practicable. Particular focus should be given to the utilization of biometric technology and the development of tamper-resistant documents. Not in original Administration proposal.

Sec. 415. Participation of Office of Homeland Security on Entry-Exit Task Force. This section includes the new Office of Homeland Security as a participant in the Entry and Exit Task Force established by the Immigration and Naturalization Service Data Management Improvement Act of 2000. Not in original Administration proposal.

Sec. 416. Foreign student monitoring program. This section seeks to implement the foreign student monitoring program created in 1996 by temporarily supplanting the collection of user fees mandated by the statute with an appropriation of $36,800,000 for the express purpose of fully and effectively implementing the program through January 2003. Thereafter, the program would be funded by user fees. Currently, all institutions of higher education that enroll foreign students or exchange visitors are required to participate in the monitoring program. This section expands the list of institutions to include air flight schools, language training schools, and vocational schools. Not in original Administration proposal.

Sec. 417. Machine readable passports. This section requires the Secretary of State to conduct an annual audit to assess precautionary measures taken to prevent the counterfeiting and theft of passports among countries that participate in the visa waiver program, and ascertain that designated countries have established a program to develop tamper-resistant passports. Results of the audit will be reported to Congress. This provision would advance the deadline for participating nations to develop machine readable passports to October 1, 2003, but permit the Secretary of State to waive the requirements imposed by the deadline if he finds that the program country is making sufficient progress to provide their nationals with machine-readable passports. Not in original Administration proposal.

Sec. 418. Prevention of consulate shopping. This section directs the State Department to examine what concerns, if any, are created by the practice of certain aliens to ''shop'' for a visa between issuing posts. Not in original Administration proposal.

Subtitle C—Preservation of Immigration Benefits for Victims of Terrorism

[Note: This subtitle was not in original Administration proposal. It is certain that some aliens fell victim to the terrorist attacks on the U.S. on September 11. For many families, these tragedies will be compounded by the trauma of husbands, wives, and children losing their immigration status due to the death or serious injury of a family member. These family members are facing deportation because they are out of status: they no longer qualify for their current immigration status or are no longer eligible to complete the application process because their loved one was killed or injured in the September 11 terrorist attack. Others are threatened with the loss of their immigration status, through no fault of their own, due to the disruption of communication and transportation that has resulted directly from the terrorist attacks. Because of these disruptions, people have been and will be unable to meet important deadlines, which will mean the loss of eligibility for certain benefits and the inability to maintain lawful status, unless the law is changed.

At the request of Congressman Conyers and Senator Leahy, this new subtitle (sections 421–428) was included in the final bill to modify the immigration laws to provide the humanitarian relief to these victims and their family members in preserving their immigration status.]

Sec. 421. Special immigrant status. This section provides permanent resident status to an alien who was the beneficiary of a petition filed (on or before September 11) to grant the alien permanent residence as a family-sponsored immigrant or employer-sponsored immigrant, or of an application for labor certification (filed on or before September 11), if the petition or application was rendered null because of the disability of the beneficiary or loss of employment of the beneficiary due to physical damage to, or destruction of, the business of the petitioner or applicant as a direct result of the terrorist attacks on September 11, or because of the death of the petitioner or applicant as a direct result of the terrorist attacks. Permanent residence would be granted to an alien who was the spouse or child of an alien who was the beneficiary of a petition filed on or before September 11 to grant the beneficiary permanent residence as a family-sponsored immigrant (as long as the spouse or child follows to join not later than September 11, 2003). Permanent residence would be granted to the beneficiary of a petition for a nonimmigrant visa as the spouse or the fiancé (and their children) of a U.S. citizen where the petitioning citizen died as a direct result of the terrorist attack. This section also provides permanent resident status to the grandparents of a child both of whose parents died as a result of the terrorist attacks, if either of such deceased parents was a U.S. citizen or a permanent resident. Not in original Administration proposal.

Sec. 422. Extension of filing or reentry deadlines. This section provides that an alien who was legally in a nonimmigrant status and was disabled as a direct result of the terrorist attacks on September 11 (and his or her spouse and children) may remain lawfully in the United States (and receive work authorization) until the later of the date that his or her status normally terminates or September 11, 2002. Such status is also provided to the nonimmigrant spouse and children of an alien who died as a direct result of the terrorist attacks. The Act provides that an alien who was lawfully present as a nonimmigrant at the time of the terrorist attacks will be granted 60 additional days to file an application for extension or change of status if the alien was prevented from so filing as a direct result of the terrorist attacks. Also, an alien who was lawfully present as a nonimmigrant at the time of the attacks but was then unable to timely depart the United States as a direct result of the attacks will be considered to have departed legally and will not be considered to have been unlawfully present for the purposes of section 212(a)(9) of the INA if departure occurs before November 11. Not in original Administration proposal.

Sec. 423. Humanitarian relief for certain surviving spouses and children. Current law provides that an alien who was the spouse of a U.S. citizen for at least 2 years before the citizen died shall remain eligible for immigrant status as an immediate relative. This also applies to the children of the alien. This section provides that if the citizen died as a direct result of the terrorist attacks, the 2-year requirement is waived. This section provides that if an alien spouse, child, or unmarried adult son or daughter had been the beneficiary of an immigrant visa petition filed by a permanent resident who died as a direct result of the terrorist attacks, the alien will still be eligible for permanent residence. In addition, if an alien spouse, child, or unmarried adult son or daughter of a permanent resident who died as a direct result of the terrorist attacks was present in the United States on September 11 but had not yet been petitioned for permanent residence, the alien can self-petition for permanent residence. The section also provides that an alien spouse or child of an alien who (1) died as a direct result of the terrorist attacks and (2) was a permanent resident (petitioned-for by an employer) or an applicant for adjustment of status for an employment-based immigrant visa, may have his or her application for adjustment adjudicated despite the death (if the application was filed prior to the death). Not in original Administration proposal.

Sec. 424. ''Age-out'' protection for children. Under current law, certain visas are only available to an alien until the alien's 21st birthday. This section provides that an alien whose 21st birthday occurs this September and who is a beneficiary for a petition or application filed on or before September 11 shall be considered to remain a child for 90 days after the alien's 21st birthday. For an alien whose 21st birthday occurs after this September, (and who had a petition for application filed on his or her behalf on or before September 11) the alien shall be considered to remain a child for 45 days after the alien's 21st birthday. Not in original Administration proposal.

Sec. 425. Temporary administrative relief. This section provides that temporary administrative relief may be provided to an alien who was lawfully present on September 10, was on that date the spouse, parent or child of someone who died or was disabled as a direct result of the terrorist attacks, and is not otherwise entitled to relief under any other provision of this legislation. Not in original Administration proposal.

Sec. 426. Evidence of death, disability, or loss of employment. This section instructs the Attorney General to establish appropriate standards for evidence demonstrating that a death, disability, or loss of employment due to physical damage to, or destruction of, a business, occurred as a direct result of the terrorist attacks on September 11. The Attorney General is not required to promulgate regulations prior to implementing this subtitle. Not in original Administration proposal.

Sec. 427. No Benefits to Terrorists or Family Members of Terrorists. This section states that no benefit under this subtitle shall be provided to anyone culpable for the terrorist attacks on September 11 or to any family member of such an individual. Not in original Administration proposal.

Sec. 428. Definitions. This section defines the term 'specified terrorist activity' as any terrorist activity conducted against the Government or the people of the United States on September 11, 2001. Not in original Administration proposal.

TITLE V—REMOVING OBSTACLES TO INVESTIGATING TERRORISM

Sec. 501. Attorney General's authority to pay rewards to combat terrorism. Both the House and Senate bills included this provision to authorize the Attorney General to offer rewards—payments to individuals who offer information pursuant to a public advertisement—to gather information to combat terrorism and defend the nation against terrorist acts without any dollar limitation (Current law limits rewards to $2 million). Rewards of $250,000 or more require the personal approval of the Attorney General or President and notice to Congress. Narrower than original Administration proposal.

Sec. 502. Secretary of State's authority to pay rewards. Both the House and Senate bills included this provision to authorize the Secretary of State to offer rewards—payments to individuals who offer information pursuant to a public advertisement—to gather information to combat terrorism and defend the nation against terrorist acts without any dollar limitation (Current law limits rewards to $5 million). Rewards of $100,000 or more require the personal approval of the Secretary of State and notice to Congress. Narrower than original Administration proposal.

Sec. 503. DNA identification of terrorists and other violent offenders. Both the House and Senate bills included this provision to authorize the collection of DNA samples from any person convicted of certain terrorism-related offenses and other crimes of violence, for inclusion in the national DNA database. Modified from original Administration proposal.

Sec. 504. Coordination with law enforcement. Both the House and Senate bills included this provision to amend FISA to authorize consultation between FISA officers and law enforcement officers to coordinate efforts to investigate or protect against international terrorism, clandestine intelligence activities, or other grave hostile acts of a foreign power or an agent of a foreign power. Not in original Administration proposal.

Sec. 505. Miscellaneous national security authorities. Both the House and Senate bills included this provision to modify current statutory provisions on access to telephone, bank, and credit records in counterintelligence investigations to remove the ''agent of a foreign power'' standard. The authority may be used only for investigations to protect against international terrorism or clandestine intelligence activities, and an investigation of a United States person may not be based solely on activities protected by the First Amendment. Narrower than original Administration proposal which simply removed ''agent of foreign power'' requirement.

Sec. 506. Extension of Secret Service jurisdiction. Both the House and Senate bills included this provision to give the Secret Service concurrent jurisdiction to investigate offenses relating to fraud and related activity in connection with computers, and permanently extends its current authority to investigate financial institution fraud. Not in original Administration proposal.

Sec. 507. Disclosure of educational records. Both the House and Senate bills included this provision to require application to a court to obtain educational records in the possession of an educational agency or institution if it is determined by the Attorney General or Secretary of Education (or their designee) that doing so could reasonably be expected to assist in investigating or preventing a federal terrorism offense or domestic or international terrorism. Limited immunity is given to persons producing such information acting in good faith, and the Attorney General is directed to issue guidelines to protect confidentiality. Narrower than original Administration proposal.

Sec. 508. Disclosure of information from NCES surveys. Both the House and Senate bills included this provision to require application to a court to obtain reports, records and information in the possession of the National Center for Educational Statistics that are relevant to an authorized investigation or prosecution of terrorism. Limited immunity is given to persons producing such information acting in good faith, and the Attorney General is directed to issue guidelines to protect confidentiality. Narrower than original Administration proposal.

TITLE VI—PROVIDING FOR VICTIMS OF TERRORISM, PUBLIC SAFETY OFFICERS, AND THEIR FAMILIES

Subtitle A—Aid for 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. Both the House and Senate bills included this provision to streamline the Public Safety Officers Benefits Program application process for family members of law enforcement officers, firefighters, and emergency personnel who perished or suffered serious injury in connection with prevention, investigation, rescue or recovery efforts related to a terrorist attack. The Public Safety Officers Benefits Program provides benefits for each of the families of law enforcement officers, fire fighters, emergency response squad members, ambulance crew members who are killed or permanently and totally disabled in the line of duty ($151,635 in FY 2001). Current regulations, however, require the families of public safety officers who have fallen in the line of duty to go through a cumbersome and time-consuming application process. Not in original Administration proposal.

Sec. 612. Technical correction with respect to expedited payments for heroic public safety officers. Both the House and Senate bills included this provision to make technical corrections to Public Law 107–37 to provide sufficient information to make expedited Public Safety Officers Benefits Program payments to the fallen firefighters, emergency personnel and law enforcement officers who perished or were disabled during the rescue and recovery efforts related to the terrorist attacks of September 11, 2001. Modified from original Administration proposal.

Sec. 613. Public safety officers benefits program payment increase. Both the House and Senate-passed bills included this provision to raise the total amount of Public Safety Officers Benefits Program payment to $250,000 and is effective for any death or disability occurring on or after January 1, 2001. Not in original Administration proposal.

Sec. 614. Office of Justice programs. Both the House and Senate bills included this provision to amend the Office of Justice Program's authorities to enhance the authority of the Assistant Attorney General to coordinate and manage emergency response activities of its various components including the Public Safety Officers Benefits Program. Modified from original Administration proposal.

Subtitle B—Amendments to the Victims of Crime Act of 1984

[Note: The original Administration proposal did not include most of the provisions of this subtitle to streamline the administration of the Crime Victims Fund.]

Sec. 621. Crime victims fund. Both the House and Senate bills included this provision to authorize the Office for Victims of Crime (OVC) to replenish the antiterrorism emergency reserve with up to $50 million and establishes a mechanism to allow for replenishment in future years. Funds added to the Crime Victims Fund to respond to the September 11 attacks shall not be subject to the cap or the new formula provisions. A technical clarification includes the September 11th Victim Compensation Fund established in Public Law 107–42 as one of the Federal benefits that should be a primary payer to the States. This section also replaces the annual cap on the Fund with a self-regulating system that ensures stability in the amounts distributed while preserving the amounts remaining for use in future years; it authorizes private gift-giving to the Fund; and it increases the portion of the Fund available for discretionary grants and assistance to victims of Federal crime. Significant expansion of original Administration proposal.

Sec. 622. Crime victim compensation. Both the House and Senate bills included this provision to increase the minimum threshold for the annual grant to State compensation programs. It clarifies that a payment of compensation to a victim shall not used in means tests for Federal benefit programs. A technical clarification removes the dual requirement that State crime victim compensation programs cover victims of terrorism occurring outside the United States. Not in original Administration proposal.

Sec. 623. Crime victim assistance. Both the House and Senate bills included this provision to authorize States to give VOCA funds to U.S. Attorney's Offices in jurisdictions where the U.S. Attorney is the local prosecutor. It prohibits victim assistance programs from discriminating against certain victims; authorizes grants to eligible victim assistance programs for program evaluation and compliance efforts; and allows use of funds for fellowships, clinical internships and training programs. Not in original Administration proposal.

Sec. 624. Victims of terrorism. Both the House and Senate bills included this provision to conform VOCA's domestic terrorism section to the international terrorism section, giving OVC the flexibility to deliver timely and critically-needed assistance to victims of terrorism and mass violence occurring within the United States. It also makes a technical correction to recent legislation that inadvertently reversed the existing exclusion under VOCA of individuals eligible for other Federal compensation under the Omnibus Diplomatic Security and Antiterrorism Act of 1986. Expansion of original Administration proposal.

TITLE VII—INCREASED INFORMATION SHARING FOR CRITICAL INFRASTRUCTURE PROTECTION

[Note: The original Administration proposal did not include this subtitle to expand regional information sharing to facilitate Federal-state-local law enforcement responses to terrorism.]

Sec. 701. Expansion of regional information sharing system to facilitate Federal-State-local law enforcement response related to terrorist attacks. Both the House and Senate bills included this provision to expand the Department of Justice Regional Information Sharing Systems (RISS) Program to facilitate information sharing among Federal, State and local law enforcement agencies to investigate and prosecute terrorist conspiracies and activities and doubles its authorized funding for FY2002 and FY2003. Currently, 5,700 Federal, State and local law enforcement agencies participate in the RISS Program. Not in original Administration proposal.

TITLE VIII—STRENGTHENING THE CRIMINAL LAWS AGAINST TERRORISM

Sec. 801. Terrorist attacks and other acts of violence against mass transportation systems. Both the House and Senate bills included this provision to create a new statute (to be codified at 18 U.S.C. §1993) to make punishable acts of terrorism and other violence against mass transportation vehicles, systems, facilities, employees and passengers; the reporting of false information about such activities; and attempts and conspiracies to commit such offenses. Violations are punishable by a fine and term imprisonment of 20 years; however, the mass transportation vehicle was carrying a passenger at the time of the attack, or if death resulted from the offense, the maximum term of imprisonment is increased to life. Not in original Administration proposal.

Sec. 802. Definition of domestic terrorism. Both the House and Senate bills included this provision to define the term ''domestic terrorism'' as a counterpart to the current definition of ''international terrorism'' in 18 U.S.C. §2331. The new definition for ''domestic terrorism'' is for the limited purpose of providing investigative authorities (i.e., court orders, warrants, etc.) for acts of terrorism within the territorial jurisdiction of the United States. Such offenses are those that are ''(1) dangerous to human life and violate the criminal laws of the United States or any state; and (2) appear to be intended (or have the effect)—to intimidate a civilian population; influence government policy intimidation or coercion; or affect government conduct by mass destruction, assassination, or kidnapping (or a threat of).'' Same as Administration proposal.

Sec. 803. Prohibition against harboring terrorists. Both the House and Senate bills included this provision to establish a new criminal prohibition against harboring terrorists, similar to the current prohibition in 18 U.S.C. §792 against harboring spies, and makes it an offense when someone harbors or conceals another they know or should have known had engaged in or was about to engage in federal terrorism offenses. Narrower than Administration's proposal except that the final bill removes the Administration's original proposal to make it an offense to harbor someone merely suspected of engaging in terrorism.

Sec. 804. Jurisdiction over crimes committed at U.S. facilities abroad. Both the House and Senate bills included this provision to extend the special maritime and territorial jurisdiction of the United States to cover, with respect to offenses committed by or against a U.S. national, U.S. diplomatic, consular and military missions, and residences used by U.S. personnel assigned to such missions. Based on original Administration proposal.

Sec. 805. Material support for terrorism. Both the House and Senate bills included this provision to amend 18 U.S.C. §2339A, which prohibits providing material support to terrorists, in four respects. First, it adds three terrorism-related offenses to the list of §2339A predicates. Second, it provides that §2339A violations may be prosecuted in any Federal judicial district in which the predicate offense was committed. Third, it clarifies that monetary instruments, like currency and other financial securities, may constitute ''material support or resources''

for purpose of §2339A. Fourth, it explicitly prohibits providing terrorists with ''expert advice or assistance,'' such as flight training, knowing or intending that it will be used to prepare for or carry out an act of terrorism. Same as original Administration proposal.

Sec. 806. Assets of terrorists organizations. Both the House and Senate bills included this provision to provide that the assets of individuals and organizations engaged in planning or perpetrating acts of terrorism against the United States, as well as the proceeds and instrumentalities of such acts, are subject to civil forfeiture. Same as original Administration proposal.

Sec. 807. Technical clarification relating to provision of material support to terrorism. Both the House and Senate bills included this provision to clarify that the provisions of the Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX of Public Law 106–387) do not limit or otherwise affect the criminal prohibitions against providing material support to terrorists or designated terrorist organizations, 18 U.S.C. §§2339A & 2339B. Same as original Administration proposal.

Sec. 808. Definition of Federal crime of terrorism. Both the House and Senate bills included this provision to update the list of predicate offenses under the current definition of ''Federal crime of terrorism,'' 18 U.S.C. §2332b(g)(5). Narrower than original Administration proposal.

Sec. 809. No statute of limitation for certain terrorism offenses. Both the House and Senate bills included this provision to eliminate the statute of limitations for certain terrorism-related offenses, if the commission of such offense resulted in, or created a foreseeable risk of, death or serious bodily injury to another person. Narrower than original Administration proposal.

Sec. 810. Alternative maximum penalties for terrorism offenses. Both the House and Senate bills included this provision to raise the maximum prison terms to 15 or 20 years or, if death results, life, in the following criminal statutes: 18 U.S.C. §81 (arson within the special maritime and territorial jurisdiction of the United States); 18 U.S.C. §1366 (destruction of an energy facility); 18 U.S.C. §2155(a) (destruction of national-defense materials); 18 U.S.C. §§2339A & 2339B (provision of material support to terrorists and terrorist organizations); 42 U.S.C. §2284 (sabotage of nuclear facilities or fuel); 19 U.S.C. §46505(c) (killings on aircraft); 49 U.S.C. §60123(b) (destruction of interstate gas or hazardous liquid pipeline facility). Narrower than original Administration proposal.

Sec. 811. Penalties for terrorist conspiracies. Both the House and Senate-passed bills included this provision to ensure adequate penalties for certain terrorism-related conspiracies by adding conspiracy provisions to the following criminal statutes: 18 U.S.C. §81 (arson within the special maritime and territorial jurisdiction of the United States); 18 U.S.C. §930(c) (killings in Federal facilities); 18 U.S.C. §1362 (destruction of communications lines, stations, or systems); 18 U.S.C. §1363 (destruction of property within the special maritime and territorial jurisdiction of the United States); 18 U.S.C. §1992 (wrecking trains); 18 U.S.C. §2339A (material support to terrorists); 18 U.S.C. §2340A (torture); 42 U.S.C. §2284 (sabotage of nuclear facilities or fuel); 49 U.S.C. §46504 (interference with flight crews); 49 U.S.C. §46505 (carrying weapons or explosives on aircraft); 49 U.S.C. §60123 (destruction of interstate gas or hazardous liquid pipeline facility). Narrower than original Administration proposal.

Sec. 812. Post-release supervision of terrorists. Both the House and Senate bills included this provision to authorize extended period of supervised release for certain terrorism-related offenses that resulted in, or created a foreseeable risk of, death or serious bodily injury to another person. Narrower than original Administration proposal.

Sec. 813. Inclusion of acts of terrorism as racketeering activity. Both the House and Senate bills included this provision to amend the RICO statute to include certain terrorism-related offenses within the definition of ''racketeering activity,'' thus allowing multiple acts of terrorism to be charged as a pattern of racketeering for RICO purposes. This section expands the ability of prosecutors to prosecute members of established, ongoing terrorist organizations that present the threat of continuity that the RICO statute was designed to permit prosecutors to combat. Narrower than original Administration proposal.

Sec. 814. Deterrence and prevention of cyberterrorism. Both the House and Senate bills included this provision to clarify the criminal statute prohibiting computer hacking, 18 U.S.C. §1030, to cover computers located outside the United States when used in a manner that affects the interstate commerce or communications of this country, update the definition of ''loss'' to ensure full costs to victims of hacking offenses are counted, clarify the scope of civil liability and eliminate the current mandatory minimum sentence applicable in some cases. Not in original Administration proposal.

Sec. 815. Additional defense to civil actions relating to preserving records in response to Government requests. Both the House and Senate bills included this provision to provide an additional defense under 18 U.S.C. §2707(e)(1) to civil actions relating to preserving records in response to Government requests. Not in original Administration proposal.

Sec. 816. Development and support of cybersecurity forensic capabilities. Both the House and Senate bills included this provision to require the Attorney General to establish regional computer forensic laboratories and to support existing computer forensic laboratories to help combat computer crime. Not in original Administration proposal.

Sec. 817. Expansion of the biological weapons statute. The Senate-passed bill included this provision to amend the definition of ''for use as a weapon'' in the current biological weapons statute, 18 U.S.C. §175, to include all situations in which it can be proven that the defendant had any purpose other than a prophylactic, protective, or peaceful purpose. This section also creates a new criminal statute, 18 U.S.C. §175b, which generally makes it an offense for certain restricted persons, including non-resident foreign nationals of countries that support international terrorism, to possess a listed biological agent or toxin. Finally, this section provides that the Department of Health and Human Services enhance its role in bioterrorism prevention by establishing and enforcing standards and procedures governing the possession, use, and transfer of certain biological agents that have a high national security risk, including safeguards to prevent access to such agents for use in domestic or international terrorism. Modified from original Administration proposal, which did not require the government to establish the mens rea of the defendant to prove the crime of possession of the biological weapon.

TITLE IX—IMPROVED INTELLIGENCE

Sec. 901. Responsibilities of Director of Central Intelligence regarding foreign intelligence collected under the Foreign Intelligence Surveillance Act of 1978. Both the House and Senate bills included this provision to clarify the role of the Director of Central Intelligence (''DCI'') with respect to the overall management of collection goals, analysis and dissemination of foreign intelligence gathered pursuant to the Foreign Intelligence Surveillance Act, in order to ensure that FISA is properly and efficiently used for foreign intelligence purposes. It requires the DCI to assist the Attorney General in ensuring that FISA efforts are consistent with constitutional and statutory civil liberties. The DCI will have no operational authority with respect to implementation of FISA, which will continue to reside with the FBI. Not in original Administration proposal.

Sec. 902. Inclusion of international terrorism activities within scope of foreign intelligence under National Security Act of 1947. Both the House and Senate bills included this provision to revise the National Security Act definitions section to include ''international terrorism'' as a subset of ''foreign intelligence.'' This change will clarify the DCI's responsibility for collecting foreign intelligence related to international terrorism. Not in original Administration proposal.

Sec. 903. Sense of Congress on the establishment and maintenance of intelligence relationships to acquire information on terrorists and terrorist organizations. Both the House and Senate bills included this provision to express the Sense of Congress that the CIA should make efforts to recruit informants to fight terrorism. Not in original Administration proposal.

Sec. 904. Temporary authority to defer submittal to Congress of reports on intelligence and intelligence-related matters. Both the House and Senate bills included this provision to allow the Secretary of Defense, the Attorney General and the DCI to defer the submittal of certain reports to Congress until February 1, 2002. Not in original Administration proposal.

Sec. 905. Disclosure to Director of Central Intelligence of foreign intelligence-related information with respect to criminal investigations. Both the House and Senate bills included this provision to create a responsibility for law enforcement agencies to notify the Intelligence Community when a criminal investigation reveals information of intelligence value. Regularizes existing ad hoc notification, and makes clear that constitutional and statutory prohibitions of certain types of information sharing apply. Not in original Administration proposal.

Sec. 906. Foreign Terrorist Asset Tracking Center. Both the House and Senate bills included this provision to regularize the existing Foreign Terrorist Asset Tracking Center by creating an element within the Department of Treasury designed to review all-source intelligence in support of both intelligence and law enforcement efforts to counter terrorist financial support networks. Not in original Administration proposal.

Sec. 907. National Virtual Translation Center. Both the House and Senate bills included this provision to direct the submission of a report on the feasibility of establishing a virtual translation capability, making use of cutting-edge communications technology to link securely translation capabilities on a nationwide basis. Not in original Administration proposal.

Sec. 908. Training of government officials regarding identification and use of foreign intelligence. Both the House and Senate bills included this provision to direct the Attorney General, in consultation with the DCI, to establish a training program for Federal, State and local officials on the recognition and appropriate handling of intelligence information discovered in the normal course of their duties. Not in original Administration proposal.

TITLE X—MISCELLANEOUS

Sec. 1001. Review of the Department of Justice. This provision authorizes the Inspector General of the Department of Justice to designate one official to review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department of Justice. Not in original Administration proposal.

Sec. 1002. Sense of Congress. This provision condemns discrimination and acts of violence against Sikh-Americans. Not in original Administration proposal.

Sec. 1003. Definition of ''electronic surveillance.'' This provision authorizes the use of the new computer trespass authority under FISA. Not in original Administration proposal.

Sec. 1004. Venue in money laundering cases. This provision clarifies the judicial districts in which money laundering prosecutions under 18 U.S.C. §§1956 and 1957 may be brought. Not in original Administration proposal.

Sec. 1005. First responders assistance act. This provision authorizes grants to State and local authorities to respond to and prevent acts of terrorism. Not in original Administration proposal.

Sec. 1006. Inadmissibility of aliens engaged in money laundering. This provision makes inadmissible to the United States any alien who a consular officer or the Attorney General knows, or has reason to believe, is involved in a Federal money laundering offense. Not in original Administration proposal.

Sec. 1007. Authorization of funds for DEA police training in South and Central Asia. This provision authorizes money for antidrug training in the Republic of Turkey, and for increased precursor chemical control efforts in the South and Central Asia region. Not in original Administration proposal.

Sec. 1008. Feasibility study on use of biometric identifier scanning system with access to the FBI Integrated automated fingerprint identification system at overseas consular posts and points of entry to the United States. This provision directs the Attorney General to report to Congress on the feasibility of using a biometric identifier (fingerprint) scanning system, with access to the FBI fingerprint database, at consular offices abroad and at points of entry into the United States. Not in original Administration proposal.

Sec. 1009. Study of access. This provision directs the FBI to report to Congress on the feasibility of providing airlines with computer access to the names of suspected terrorists. Not in original Administration proposal.

Sec. 1010. Temporary authority to contract with local and State governments for performance of security functions at United States military installations. This provision provides temporary authority for the Department of Defense to enter contracts for the performance of security functions at any military installation of facility in the United States with a proximately located local or State government. Not in original Administration proposal.

Sec. 1011. Crimes against charitable Americans. This provision amends the Telemarketing and Consumer Fraud and Abuse Prevention Act to require any person engaged in telemarketing for the solicitation of charitable contributions to disclose to the person receiving the call that the purpose of the call is to solicit charitable contributions, and to make such other disclosures as the FTC considers appropriate. Not in original Administration proposal.

Sec. 1012. Limitation on issuance of hazmat licenses. This provision allows the Department of Transportation to obtain background records checks for any individual applying for a license to transport hazardous materials in interstate commerce. Not in original Administration proposal.

Sec. 1013. Expressing the sense of the Senate concerning the provision of funding for bioterrorism preparedness and response. This provision expresses the sense of the Senate that the United States should make a substantial new investment this year toward improving State and local preparedness to respond to potential bioterrorism attacks. Not in original Administration proposal.

Sec. 1014. Grant program for State and local domestic preparedness support. This provision authorizes an appropriated Department of Justice program to provide grants to States to prepare for and respond to terrorist acts including but not limited to events of terrorism involving weapons of mass destruction and biological, nuclear, radiological, incendiary, chemical, and explosive devices. The authorization revises this grant program to provide: (1) additional flexibility to purchase needed equipment; (2) training and technical assistance to State and local first responders; and (3) a more equitable allocation of funds to all States. Not in original Administration proposal.

Sec. 1015. Expansion and reauthorization of the Crime Identification Technology Act for antiterrorism grants to States and localities. This provision adds an additional antiterrorism purpose for grants under the Crime Identification Technology Act, and authorizes grants under that Act through fiscal year 2007. Not in original Administration proposal.

Sec. 1016. Critical infrastructures protection. This provision establishes a National Infrastructure Simulation and Analysis Center (NISAC) to address critical infrastructure protection and continuity through support for activities related to counterterrorism, threat assessment, and risk mitigation. Not in original Administration proposal.

Mr. LEAHY. After that terrible day of September 11, we began looking at our laws, and what we might do. Unfortunately, at first, rhetoric overcame reality. We had a proposal sent up, and we were asked to pass it within a day or so. Fortunately for the country, and actually ironically beneficial to both the President and the Attorney General who asked for such legislation, we took time to look at it, we took time to read it, and we took time to remove those parts that were unconstitutional and those parts that would have actually hurt liberties of all Americans.

I say that because I think of what Benjamin Franklin was quoted as saying at a time when he literally had his neck on the line, where he would have been hanged if our revolution had failed. He said: A people who would give up their liberty for security deserve neither.

What we have tried to do in this legislation is to balance the liberties we enjoy as Americans and those liberties that have made us the greatest democracy in history but at the same time to enhance our security so we can maintain that democracy and maintain the leadership we have given the rest of the world.

We completed our work 6 weeks after the September 11 attacks. I compare this to what happened after the bombing of the Federal Building in Oklahoma City in 1995. It took a year to complete the legislation after that. We have done this in 6 weeks. But there has been a lot of cooperation. There have been a lot of Senators and a lot of House Members in both parties and dedicated staff who have worked around the clock.

I think of my own staff—and this could be said of many others, including the Presiding Officer's staff and the ranking member's staff—who were forced out of their offices because of the recent scares on Capitol Hill, and they continue to work literally in phone booths and in hallways and from their homes and off laptops and cell phones.

I made a joke in my own hide-away office. To those who have ever watched ''The X-Files,'' there is a group called ''the lone gunmen,'' who are sort of these computer nerds who meet in a small house trailer. I am seeing some puzzled looks around the Senate as I say this. But they have all these wires hanging from the ceiling and laptops and all, and they do great things. That is the way our office looked. But they were working around the clock on this legislation to get something better. There was some unfortunate rhetoric along the way, but again, the reality overcame it. We have a good piece of legislation.

As we look back to when we began discussions with the administration about this bill, there were sound and legitimate concerns on both sides of the Capitol, both sides of the aisle, about the legislation's implication for America's rights and freedoms. There was also a sincere and committed belief that we needed to find a way to give law enforcement authority new tools in fighting terrorism.

This is a whole new world. It is not similar to the days of the cold war where we worried about armies marching against us or air forces flying against us or navies sailing against us. This is not that world. Nobody is going to do that because we are far too powerful. Since the end of the cold war, with the strength of our military, nobody is going to do a frontal attack. But as the Presiding Officer and everyone else knows, a small dedicated group of terrorists, with state-supported efforts, can wreak havoc in an open and democratic Nation such as ours.

Anybody who has visited the sites of these tragedies doesn't need to be told the results. We know our Nation by its very nature will always be vulnerable to these types of attacks. None of us serving in the Senate today will, throughout our service, no matter how long it is, see a day where we are totally free of such terrorist attacks. That is the sad truth. Our children and our grandchildren will face the possibilities of such terrorist attacks because that is the only way the United States can be attacked. But that doesn't mean we are defenseless. It doesn't mean we suddenly surrender.

We have the ability, with our intelligence agencies and our law enforcement, to seek out and stop people before this happens. We are in an open session today, so I won't go into the number of times we have done that. But in the last 10 years, we have had, time and time again, during the former Bush administration, during the Clinton administration, and in the present administration, potential terrorist attacks thwarted. People have either been apprehended or eliminated.

Everybody in America knows our life has changed. Whether the security checks and the changes in our airlines are effective or not, we know they are reality. We know travel is not as easy as it once was. We will be concerned about opening mail. We will worry when we hear the sirens in the night. But we are not going to retreat into fortress America. We are going to remain a beacon of democracy to the rest of the world. Americans don't run and hide. Americans face up, as we have, to adversities, whether they be economic or wars or anything else.

We began this process knowing how we had to protect Americans. It was not that we were intending to see how much we could take out of the administration's proposal, but it was with a determination to find sensible, workable ways to do the same things to protect America the administration wanted but with checks and balances against abuse. We have seen at different times in this Nation's history how good intentions can be abused. We saw it during the McCarthy era.

Following the death of J. Edgar Hoover, we found how much totalitarian control of the FBI hurt so many innocent people without enhancing our security. We saw it during the excesses of the special prosecutor law enacted with good intentions.

We wanted to find checks and balances. We wanted to make sure we could go after terrorism. We wanted to make sure we could go after those who would injure our society, those who would strike at the very democratic principles that ironically make us a target. But we wanted to do it with checks and balances against abuse. That is what we did. In provision after provision, we added those safeguards that were missing from the administration's plan.

By taking the time to read and improve the antiterrorism bill, Congress has done the administration a great favor in correcting the problems that were there. We have used the time wisely. We have produced a far better bill than the administration proposed. Actually, it is a better bill than either this body or the House initially proposed. The total is actually greater than the sum of the parts.

We have done our utmost to protect Americans against abuse of these new law enforcement tools, and there are new law enforcement tools involved. In granting these new powers, the American people but also we, their representatives in Congress, grant the administration our trust that they are not going to be misused. It is a two-way street. We are giving powers to the administration; we will have to extend some trust that they are not going to be misused.

The way we guarantee that is congressional oversight. Congressional oversight is going to be crucial in enforcing this compact. If I might paraphrase former President Reagan: We will entrust but with oversight.

We will do this. The Republican chairman and his ranking member in the House of Representatives intend to have very close oversight. I can assure you that I and our ranking member will have tight oversight in the Senate.

Interestingly enough, the 4-year sunset provision included in this final agreement will be an enforcement mechanism for adequate oversight.

We did not have a sunset provision in the Senate bill. The House included a 5-year provision. The administration wanted even 10 years. We compromised on 4. It makes sense. It makes sense because with everybody knowing there is that sunset provision, everybody knows they are going to have to use these powers carefully and in the best way. If they do that, then they can have extensions. If they don't, they won't. It also enhances our power for oversight.

This is not precisely the bill that Senator HATCH would have written. It is not precisely the bill I would have written, or not precisely the bill the Presiding Officer or others on the floor would have written. But it is a good bill. It is a balanced bill. It is a greatly improved piece of legislation. It is one that sets up the checks and balances necessary in a democratic society that allow us to protect and preserve our security but also protect and preserve our liberties.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, shortly after the September 11 attack on America, the President of the United States asked Congress to pass legislation that would provide our law enforcement and intelligence agencies the tools they needed to wage war on the terrorists in our midst. These tools represent the domestic complement to the weapons our military currently is bringing to bear on the terrorists' associates overseas. At the same time, the President asked that, in crafting these tools, we remain vigilant in protecting the constitutional freedoms of all Americans—certainly of all law-abiding Americans.

After several weeks of negotiations with Chairman LEAHY, the House of Representatives, and the administration, we have developed bipartisan consensus legislation that will accomplish both of these goals. It enhances our ability to find, track, monitor, and prosecute terrorists operating here in the U.S. without in any way undermining civil liberties.

We can never know whether these tools would have prevented the attack on America, but, as the Attorney General has said, it is certain that without these tools we did not stop the vicious acts of last month.

I personally believe that if these tools had been in law—and we have been trying to get them there for years—we would have caught those terrorists. If these tools could help us now to track down the perpetrators—if they will help us in our continued pursuit of terrorists—then we should not hesitate to enact these measures into law. God willing, the legislation we pass today will enhance our abilities to protect and prevent the American people from ever again being violated as we were on September 11.

This legislation truly represents the product of intense, yet bipartisan, negotiations. Senator LEAHY and I carried out a painstaking review of the antiterrorism proposal submitted by the administration. There have been several hearings on this legislation in the Senate—not just this year, but in prior years—on some of the provisions and features that we have in here, including discussions during the enactment of the 1996 Antiterrorism Effective Death Penalty Act, called the Dole-Hatch bill.

We have heard from countless experts and advocates on all sides of this issue in this debate. Of late, we have also worked closely with Chairman SENSENBRENNER in the House, Mr. CONYERS, the ranking member on the House Judiciary Committee, and others in our effort to complete legislation that could receive near unanimous approval and support in the Congress. Although I do not expect every Senator to vote in favor of this legislation, Senator LEAHY and I have worked tirelessly to accommodate every concern. While Members ultimately may differ on some of these proposals, I know we all share the same overriding concern, and that is protecting our country from further harm.

The bill before us, which I hope we will pass today, differs in several respects from the legislation we passed in the Senate 2 weeks ago. These changes result from negotiations with our House counterparts, and some of the changes are certainly not objectionable. For example, we have included language requiring prosecutors to notify Federal courts when they have disclosed grand jury information to other Federal agencies for national security purposes. Also, the bill includes a provision requiring law enforcement to provide detailed reports concerning their use of the FBI's so-called Carnivore computer surveillance system. These changes will properly encourage the law enforcement community to use these tools responsibly.

Unfortunately, not all of the changes are welcome. For instance, our effort to mitigate the unforeseen problems created by a change in the law governing the discipline of Federal prosecutors was rebuffed by the House of

Representatives. As a result, Federal prosecutors will continue to be hampered by the myriad and often contradictory State bar rules, and sometimes very politicized State bar rules. Even more alarming, Federal law enforcement authorities in the State of Oregon will continue to be prohibited from engaging in legitimate undercover activity—even undercover activity designed to infiltrate a terrorist cell. That is ridiculous. Nevertheless, we could not get our House counterparts to resolve that problem.

Another troublesome change concerns the 4-year sunset provision. As my colleagues know, the legislation that passed the Senate 2 weeks ago by a vote of 96–1 did not contain a sunset. This omission was intentional and wise. In my opinion, a sunset will undermine the effectiveness of the tools we are creating here and send the wrong message to the American public that somehow these tools are extraordinary.

One hardly understands the need to sunset legislation that both provides critically necessary tools and protects our civil liberties. Furthermore, as the Attorney General stated, how can we sunset these tools when we know full well that the terrorists will not sunset their evil intentions? I sincerely hope we undertake a thorough review and further extend the legislation once the 4-year period expires. At least, we will have 4 years of effective law enforcement against terrorism that we currently do not have.

Despite these provisions, the legislation before us today deserves unanimous support. The core provisions of the legislation we passed in the Senate 2 weeks ago remain firmly in place. For instance, in the future, our law enforcement and intelligence communities will be able to share information and cooperate fully in protecting our Nation against terrorist attacks.

Our laws relating to electronic surveillance also will be updated. Electronic surveillance conducted under the supervision of a Federal judge happens to be one of the most powerful tools at the disposal of our law enforcement community. We now know that e-mail, cellular telephones, and the Internet have been the principal tools used by terrorists to coordinate their attacks, and our law enforcement and intelligence agencies have been hamstrung by laws that were enacted long before the advent of these technologies. This bill will modernize our laws so our law enforcement agencies can deal with the world as it is, rather than with the world as it existed 20 years ago.

Also, the legislation retains the compromise immigration proposals that I negotiated with Senator LEAHY, Senator KENNEDY, Senator KYL, Senator BROWNBACK, and also Senator FEINSTEIN, who has played a significant role. She and Senator KYL have both played significant roles leading up to this particular bill, and over the last 5 years in particular. We have worked hard to craft language that allows the Attorney General to be proactive, rather than reactive, without sacrificing the civil liberties of noncitizens.

In total, the amendments made by this legislation to the Immigration and Nationality Act reflect, and account for, the complex and often mutating nature of terrorist groups by expanding the class of inadmissible and deportable aliens and providing a workable mechanism by which the Attorney General may take into custody suspected alien terrorists. Further, the legislation breaks down some of the barriers that have in the past prevented the State Department, the Immigration and Naturalization Service, the FBI, and others from effectively communicating with each other. If we are to fight terrorism, we cannot allow terrorists, or those who support terrorists, to enter or to remain in our country.

Finally, the bill provides the administration with powerful tools to attack the financial infrastructure of terrorism. For instance, the legislation expands the President's authority to freeze the assets of terrorists and terrorist organizations and provides for the eventual seizure of such assets. These financial tools will give our Government the ability to choke off the financing that these dangerous organizations need in order to survive.

The legislation provides numerous other tools—too many to mention here—to aid our war against terrorism. Many of these were added at the request of our Senate colleagues, and I commend all of them for their input.

Before I yield the floor, I must take a moment to acknowledge the hard work by my staff, the staff of Senator LEAHY, and the representatives of the administration, from the White House and the Justice Department and elsewhere, who were involved in the negotiation of this bill. These people have engaged in discussions literally around the clock over the 6 weeks to produce this legislation. So I thank everybody who has worked on this legislation.

This is a major anticrime, antiterrorism bill. It is probably the most important bill we will enact this year, certainly with regard to national security and terrorism. I thank everybody involved, and I will make further remarks about that later in the debate.

With that, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Madam President, it is my hope that today as we pass this antiterrorism legislation and as we will in future days take action on issues of resources to fight antiterrorism and changes in organizational structure, we will be making as significant a national statement about our will and determination to eliminate the scourge of global terrorism as previous generations did about other scourges that afflicted our country.

It was not that long ago that America was beset by the scourge of organized crime. Many of our communities had been seriously invaded by these insidious influences of organized crime. People, many of whom occupy the chairs that we now occupy in this very Chamber, decided a half century or more ago that was intolerable and we would take the necessary steps to recapture the essential values of our country.

I think it is fair to say we live in a much safer and more secure America because of those efforts. I hope that in years in the future those who occupy this Chamber will look back with a similar belief that the actions we are taking now have had a similar effect in terms of making this a more secure, not just America but world for our children and grandchildren.

With that hope, I wish to talk about a few of the provisions of this legislation that relate directly to America's intelligence community and the role it will play in securing that future.

First, a bit of history. For most of America's history, we have been extremely uncomfortable with the idea of clandestine intelligence. It ran contrary to our basic spirit of national openness. While the British have had a well-developed intelligence system since the Napoleonic wars, our first adventure in this field really is a product of the Second World War, and as soon as the war was over, the military intelligence services were essentially collapsed.

Two years later, President Truman recognized that with the advent of the Soviet Union and the development of what we came to know as the Iron Curtain that separated the Soviet Union from the free world, we were going to have to have some capability to understand what this large adversary was about and therefore prepare ourselves. So in 1947 the National Security Act was adopted which created the Central Intelligence Agency and from that the other intelligence agencies which now constitute America's intelligence community.

For 40 years that intelligence community was focused on one target: the Soviet Union and its Warsaw Pact allies. We knew that community. The United States had been dealing with Russia since even before John Quincy Adams was our Ambassador in St. Petersburg. It was a homogenous enemy. Most of the countries spoke Russian, and therefore if we had command of that language, we could understand what most of the Warsaw Pact nations were saying. It was also an old style symmetrical enemy: We were matching tanks for tanks, nukes for nukes.

With the fall of the Berlin Wall, the world changed in terms of intelligence requirements. Suddenly, instead of one enemy, we had dozens of enemies. Suddenly, instead of having command of one language which made us linguistically competent, there were scores of languages we had to learn to speak. In

Afghanistan alone, there are more than a half dozen languages with which one must have some familiarity in order to understand what is being said there. And instead of symmetrical relationships, we now have small groups of a dozen or a hundred or a thousand or so against a nation the size of the United States of America. So our intelligence community has been challenged to respond to this new reality. This legislation is going to accelerate that response.

Let me focus, in my limited time, on three areas within this legislation that I think will be significantly beneficial.

The first goes to the reality that we have had, in large part, out of this history of unease with dealing with clandestine information, an orientation to treat terrorist activities as crimes and put up yellow tape, secure the crime scene, hold the information very close because we did not want to have it infected so that the evidence could not be used at a subsequent trial that would lead to the conviction of the perpetrator. In the course of that, we also shut off the ability to share information which might allow us to anticipate the future actions of those same perpetrators and interdict an act of terrorism before it had occurred.

We take some significant steps to overcome that orientation by the provisions contained in this legislation which will require the sharing of criminal justice information with intelligence agencies. I underscore the word ''require'' because even as recently as today's Washington Post, there is an article describing the legislation which uses the term ''the authority to share,'' as if this were a permissive requirement.

In fact, the legislation very explicitly makes it mandatory. I refer to page 308 beginning at line 9 where it states that the Attorney General or the head of any other Department or Agency of the Federal Government with law enforcement responsibilities shall —shall—expeditiously disclose to the Director of Central Intelligence pursuant to guidelines developed foreign intelligence acquired by an element of the Department of Justice or any element of such Department or Agency, as the case may be, in the course of a criminal investigation.

We are closing that gap which has in the past been a major source of limitation and frustration to our ability to predict and interdict future actions.

Second, we are dealing with the issue of the empowerment of the Director of Central Intelligence. We tend to think of the CIA as being the lead agency for our intelligence community. In fact, that is not correct. If one looks at an organizational chart, across the top is the Director of Central Intelligence. Under the Director of Central Intelligence is a series of agencies, of which the CIA is one, which have operational responsibility.

If one looks at that chart, one assumes the Director of Central Intelligence is the head coach, the leader with the ability to command and control the intelligence community. In fact, because of other authorities, including budget authority and personnel authorities and some culture of individuality by agencies, the Director of Central Intelligence has not been fully empowered.

We take a step in this legislation towards giving the Director of Central Intelligence greater authority and in a very significant area. We have a limited capability to eavesdrop on the communication of potential adversaries, including terrorists. Under the current structure, it is primarily the responsibility of the Federal Bureau of Investigation, which actually operates and targets our electronic surveillance, as to which target will be listened to first if we cannot listen to everybody because we do not have, for instance, enough people who can understand the exotic language in which the communication is being spoken.

This legislation will establish the fact it is the Director of Central Intelligence who will decide what the strategic priorities for the use of our electronic surveillance will be. So if the Director of Central Intelligence is aware we face a terrorist attack from a specific terrorist organization which speaks a specific language, those communications will be given the priority for purposes of how we will use our available electronic surveillance capability.

The Director of Central Intelligence will then also, at the back end of that process, have the primary responsibility for determining how to disseminate that information. The nightmare that exists, and will exist until we complete a full review of what happened on September 11, is we are going to find someplace a tape of a conversation we secured which will disclose what would have been key information as to what was being prepared, what plot was being matured which resulted in the terror of September 11.

These provisions are intended to prioritize, on the front end, what we will gather information against and, on the back end, who will be first in line to get the information that has come from that surveillance.

A third provision goes to the criticism that the intelligence community has become risk adverse; that we have been reticent to take on the hardest targets because they are hard, because they may result in failure and nonaccomplishment of the mission. As President Kennedy said as we started our space program, we start this not because it is easy but because it is hard and it will challenge us to our fullest.

One of the areas in which we have become risk adverse has been the area of hiring foreign nationals to do work which it is very difficult for Americans to do, not because we are not smart, capable people, but if we are going to hire someone or secure the services of someone who can get close to an ominous figure such as Osama bin Laden, frankly, it is probably somebody who is pretty similar to bin Laden. It is someone who can gain his confidence. That may well mean he has been an associate of bin Laden in the past, has engaged in some of the activities we so abhor.

Today there is a sense within the intelligence community we should not hire people who have that kind of background because they are potentially unreliable but also because they bring a dirty background.

This legislation, through a sense-of-the-Congress statement, reverses that and says our priority goal in employing persons to assist in our antiterrorism activity should be to acquire services of persons who can be of greatest assistance to us in determining the plans and intentions of the terrorists, even if it means we might have to hire someone with whom we would not personally like to have a social or other relationship.

That is a statement of our commitment to this intelligence community; that we, the Congress, are prepared to back them up when they take some of these high-risk undertakings and that we will understand there is the risk of failure but it is better to risk failure than to be cowered by the unwillingness to engage in important but high-risk ventures.

So those are three illustrative provisions which are in the intelligence section of this legislation, which I think have the potential of the same impact on our capacity to rid the world of the scourge of terrorism as similar actions have so contributed to our ability to reduce the influence of organized crime within this Nation.

I urge the adoption of this conference report.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Madam President, I yield 5 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I thank my colleague, Senator HATCH of Utah, for giving me time to speak in support of the bill. I want to particularly direct attention to the immigration provisions in the bill.

Last month, our Nation was attacked by extremists who hoped to undermine our way of life and the liberties we enjoy. These individuals and the groups they represent want our country to recoil in terror and capitulate to fear. This we will not do.

We have before us today legislation that stands firm before those who mean us harm. This antiterrorism package, the product of an earnest bipartisan effort, is an intelligent and thorough response to the immediate security needs of our Nation. I commend in particular the immigration provisions of this legislation, which will strengthen our immigration laws to better combat terrorism.

My heartfelt gratitude is to my colleagues on the Immigration Subcommittee and to the committee's leadership—Senator HATCH, Senator LEAHY, and others—for their dedication and diligence in crafting what I think is fine legislation.

This antiterrorist package will enhance the ability of our consuls overseas and our immigration officers at home to intercept and remove both alien terrorists and those who support them. This is a daunting task.

We had a hearing last week on trying to intercept people coming into this country who mean us harm, and it is difficult in the sense we have nearly 350 million people a year, non-U.S. citizens, who enter this country, and we are looking for those few who mean us harm. This is a difficult task. This legislation helps to make it easier. We are looking for a needle in a haystack, and this legislation helps us in finding that or gives us a bigger magnet to be able to find it.

This legislation will capture not only those individuals who commit acts of terror but also those who enhance, enable, and finance them. It does so through several forceful changes to our current immigration laws. Among those changes is an expanded definition of terrorism, one that encompasses not only the acts of terrorism but the network of terrorism.

This legislation will also permit the Attorney General to promptly take into custody and detain those aliens who pose a threat to the safety or security of this Nation. At the same time, it will provide the Secretary of State with better information and better tools to identify terrorists and to deny them access to our country.

Perhaps most important of all, this legislation will improve the flow of information between the Immigration and Naturalization Service, the Department of State, and the law enforcement and intelligence communities. This is important. What we have is several stovepipes of information, and we need to be able to get those collected to be able to stop the terrorists before they enter our land.

This increased flow of information will allow those agencies tasked with protecting our borders to better coordinate and thereby thwart any terrorist seeking to reach our shores. This is not to say this legislation is unmindful of innocent visitors or the lawful permanent residents of our country. To the contrary. These immigration provisions contain appropriate safeguards to protect the liberties of persons whom we want in this country.

I am pleased to report this legislation is carefully crafted to combat terrorism without compromising the values or the economy of the United States or the values that guide our immigration laws. This legislation represents a profound and essential improvement in our immigration laws. We need these changes if our immigration laws are to be an effective defense against the threat of terrorism we face today.

I urge my colleagues to support the legislation and note as well we are continuing to refine further other potential areas where we can make changes in our immigration laws to better be able to catch those who seek to enter our country to do us harm. Senator KENNEDY and I are working on bipartisan legislation to do just that. We hope to introduce this next week.

I appreciate the opportunity to address my colleagues on this important legislation. I reserve the remainder of our time, and I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I yield myself such time as I may need.

I see the Senator from Wisconsin, so I am only going to take 2 or 3 minutes at this point.

A number of Senators have asked some of the areas where this changes. We had a separate, bipartisan, bicameral negotiation, and we shaped and changed the legislation as originally proposed by the Attorney General and the administration. I will speak at greater length as we go on.

We improved security on the northern border, the 4,000-mile wonderful border between our country and Canada, another democratic nation. The State of the Presiding Officer borders Canada, as does mine. It is just a short drive from the Canadian border. Many members of my wife's family came from Canada. We have always had historic and economic ties with Canada. Partly because we have taken so much for granted, we have also shortchanged this relationship. We should look at the border for our sake and for the sake of Canada. We have greatly improved security on the northern border by adding better technology, more Customs and INS agents. That helps.

We added something the administration did not include—money laundering. I learned as a prosecutor—and most Members know this—if you want to learn something, follow the money. If you want to stop terrorism, one way is to cut off the money supply.

Third, we have added programs to enhance information sharing in coordination with State and local law enforcement, grants for local governments to respond to bioterrorism, to increase payments to families of fallen firefighters, police officers, and other public safety officers. That is important.

Cooperation is necessary. The mayor of New York City, Mayor Giuliani, called me saying the police commissioner has justifiable concerns about the previous lack of cooperation from the Federal Government in their own antiterrorism efforts, although New York City has one of the best antiterrorist units in the country. The mayor of Baltimore has called, as have other mayors.

I ask unanimous consent to have printed in the RECORD the Washington Post op-ed piece by Robert D. Novak in today's paper entitled ''Same Old FBI.''

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

SAME OLD FBI

Behind the facade of cooperation following the Sept. 11 attacks, less than amicable relations between New York Mayor Rudolph Giuliani and the FBI have further deteriorated. According to New York City sources, the mayor has engaged in more than one shouting match with FBI Assistant Director Barry Mawn.

It's the same old problem because it's the same old FBI. Newly appointed, much acclaimed Director Robert Mueller makes little difference. The bureau refuses to share information with local police agencies. It won't permit security clearances for high local officials. Law enforcement officers around the country say that attitude lent itself to catastrophe on Sept. 11 and could permit further disasters.

Last Friday in Washington, Mueller—amiable and agreeable—sat down with big city police chiefs and promised things will get better. The chiefs doubt whether Mueller or Tom Ridge, the new homeland security director, can change the bureau's culture, described to me by one police chief as ''elitist and arrogant.'' Efforts to enlist members of Congress into pressing for reform find politicians awed by the FBI mystique.

The FBI's big national security section in New York City long has grappled with the New York Police Department. ''the FBI's attitude has been that if you need to know, we'll tell you,'' one New York police source told me. That ''need'' never occurs, with the FBI adamant against any local anti-terrorism activity. The locals, in turn, complain about the feds failing to follow important leads.

Giuliani is not venting his outrage in this time of crisis, but sources report a high private decibel level by the mayor. The complaint to Mawn is that the NYPD is out of the loop, its senior officers not even granted security clearances.

Such complaints are common across the country, but only a few police chiefs speak publicly—notably Edward Norris of Baltimore (who complained in congressional testimony), Michael Chitwood of Portland, Maine, and Dan Oates of Ann Arbor, Mich.

Chitwood's experience is most bizarre. He was infuriated to learn that the FBI knew of a visit to Portland by two Sept. 11 hijackers but did not inform him. When his police pursued a witness of that visit, the FBI threatened to arrest the chief. ''I ignored them,'' Chitwood told me. Has cooperation with the bureau improved? ''Not a bit,'' he said. Only Tuesday he learned from reading his local newspaper about a plane under federal surveillance parked at the Portland airport for seven weeks.

Oates is familiar with the FBI, having tried to work with the feds during 21 years with the NYPD before retiring this year to go to Ann Arbor. As a deputy chief who was commanding officer of NYPD intelligence, he describes the FBI as ''obsessed with turf.''

Closing doors to police officers particularly infuriates Oates. ''The security clearance issue is a tired old excuse that allows the FBI not to share,'' he told me. ''They should hand out 10,000 security clearances to cops around the country.'' Oates and other police chiefs believe Sept. 11 might have been averted had the FBI alerted local police agencies about a Minnesota flight school's report of an Arab who wanted instructions for steering a big jet but not for landing or taking off.

Police chiefs would open the FBI to the same probing of decisions and actions that they routinely perform after the fact. They

also would like the same rules for the bureau that govern most of the nation's police departments. In the FBI, nobody takes the fall for blundering.

A promise that things will change in the FBI was implicit in Director Mueller's remarks to city police chiefs last Friday. Philadelphia Police Commissioner John Timoney, another NYPD veteran who is more cautious in his criticism of the feds than his former colleague Oates, sounded skeptical after the meeting. ''I'm hopeful,'' he told me, but he would make no predictions.

What he hopes for is the safety of the American people. The police chiefs of America want a top-to-bottom cleaning of the FBI that will require leadership from the Oval Office. If George W. Bush doubts the urgency, he should talk to Rudy Giulianai.

Mr. LEAHY. We have to dramatically increase that cooperation or stop the noncooperation and start cooperating.

We have added humanitarian relief to immigrant victims of the September 11 terrorist attacks. A lot of immigrants became victims of that attack. They suddenly became orphans or were spouses of people killed.

We added help to the FBI to hire translators. I shudder to think how much information was available before September 11 that was never translated that might have prevented this.

We have added more comprehensive victims assistance; measures to fight cyber-crime; measures to fight terrorism against mass transportation systems; important measures to use technology to make our borders more secure.

Last, Madam President, and I cannot emphasize this enough, the Senate should never give a blank check to our law enforcement or to any President or Attorney General of either party. We have to protect the liberties of our people. Who watches the watchers? We watch.

I said earlier, as Benjamin Franklin once said, a nation that would trade its liberties for security deserves neither.

We can have our security and we can protect our liberties but only if we have adequate checks and balances. People who are professional law enforcement say give us the checks and balances. We give enormous power to Federal, State, and local law enforcement, but with that there have to be checks and balances. We have all seen times where if law enforcement is unchecked, innocent people can be hurt.

I was a prosecutor for 8 years, and I know we have to have checks and balances. We have done that. You cannot simply have a case and say: Do this, we will set aside this pesky Constitution for the moment.

We cannot do that. We built in checks and balances that were not in the original proposal. Ultimately, that will be the best thing for the country.

We will give law enforcement translators, tools, computers, and other things necessary to help them. We stand united as a nation. We know the only way to protect ourselves is to stop the terrorists before they strike. Going to the funerals after the strike is too late. We will do that, but we will do it protecting the foundations of our Constitution and freedom which made us such a great democracy in the first place.

None of us have any idea how long we will be in the Senate. I hope my colleagues are willing to stay here as long as they can. When I leave the Senate, as I will, I want to leave knowing I have done my best to protect our freedoms. I have said over and over again, the Senate is the conscience of the Nation. As much as any piece of legislation, this has to reflect our conscience.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I have asked for this time to speak about the antiterrorism bill, H.R. 3162. As we address this bill, of course, we are especially mindful of the terrible events of September 11 and beyond, which led to this bill's proposal and its quick consideration in the Congress.

This has been a tragic time in our country. Before I discuss this bill, let me first pause to remember, through one small story, how September 11 has irrevocably changed so many lives. In a letter to the Washington Post recently, a man, as he went jogging near the Pentagon, came across the makeshift memorial built for those who lost their lives. He slowed to a walk as he took in the sight before him, the red, white, and blue flowers covering the structure. Off to the side, was a smaller memorial with a card that read: Happy birthday, Mommy. Although you died and are no longer with me, I feel as if I still have you in my life. I think about you every day.

After reading the card, the man felt as if he were ''drowning in the names of dead mothers, fathers, sons, and daughters.'' The author of this letter shared a moment in his own life that so many of us have had, the moment where televised pictures of the destruction are made painfully real to us. You read a card, see the anguished face of a loved one, and then, suddenly, we feel the enormity of what has happened to so many American families and to all of us as a people.

We also had our initial reactions to the attack. My first and most powerful emotion was a solemn resolve to stop these terrorists. That remains my principal reaction to these events. But I also quickly realized, as many did, that two cautions were necessary. I raised them on the Senate floor the day after the attacks.

The first caution was that we must continue to respect our Constitution and protect our civil liberties in the wake of the attacks.

As the chairman of the Constitution subcommittee of the Judiciary Committee I recognize fully that this is a different world, with different technologies, different issues, and different threats.

Yet we must examine every item that is proposed in response to these events to be sure we are not rewarding these terrorists and weakening ourselves by giving up the cherished freedoms that they seek to destroy.

The second caution I issued was a warning against the mistreatment of Arab Americans, Muslim Americans, South Asians, or others in this country. Already, one day after the attacks, we were hearing news reports that misguided anger against people of these backgrounds had led to harassment, violence, and even death.

I suppose I was reacting instinctively to the unfolding events in the spirit of the Irish statesman John Philpot Curran, who said:

> The condition upon which God hath given liberty to man is eternal vigilance.

During those first few hours after the attacks, I kept remembering a sentence from a case I had studied in law school. Not surprisingly, I didn't remember which case it was, who wrote the opinion, or what it was about, but I did remember these words:

> While the Constitution protects against invasions of individual rights, it is not a suicide pact.

I took these words as a challenge to my concerns about civil liberties at such a momentous time in our history; that we must be careful to not take civil liberties so literally that we allow ourselves to be destroyed.

But upon reviewing the case itself, Kennedy v. Mendoza-Martinez, I found that Justice Arthur Goldberg had made this statement but then ruled in favor of the civil liberties position in the case, which was about draft evasion. He elaborated:

> It is fundamental that the great powers of Congress to conduct war and to regulate the Nation's foreign relations are subject to the constitutional requirements of due process. The imperative necessity for safeguarding these rights to procedural due process under the gravest of emergencies has existed throughout our constitutional history, for it is then, under the pressing exigencies of crisis, that there is the greatest temptation to dispense with fundamental constitutional guarantees which, it is feared, will inhibit governmental action.

The Justice continued:

> The Constitution of the United States is a law for rulers and people, equally in war and peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances . . . In no other way can we transmit to posterity unimpaired the blessings of liberty, consecrated by the sacrifices of the Revolution.

I have approached the events of the past month and my role in proposing and reviewing legislation relating to it in this spirit. I believe we must, we must, redouble our vigilance. We must redouble our vigilance to ensure our security and to prevent further acts of terror. But we must also redouble our vigilance to preserve our values and the basic rights that make us who we are.

The Founders who wrote our Constitution and Bill of Rights exercised that vigilance even though they had recently fought and won the Revolutionary War. They did not live in comfortable and easy times of hypothetical

enemies. They wrote a Constitution of limited powers and an explicit Bill of Rights to protect liberty in times of war, as well as in times of peace.

Of course, there have been periods in our nation's history when civil liberties have taken a back seat to what appeared at the time to be the legitimate exigencies of war. Our national consciousness still bears the stain and the scars of those events: The Alien and Sedition Acts, the suspension of habeas corpus during the Civil War, the internment of Japanese-Americans, German-Americans, and Italian-Americans during World War II, the blacklisting of supposed communist sympathizers during the McCarthy era, and the surveillance and harassment of antiwar protesters, including Dr. Martin Luther King Jr., during the Vietnam War. We must not allow these pieces of our past to become prologue.

Even in our great land, wartime has sometimes brought us the greatest tests of our Bill of Rights. For example, during the Civil War, the Government arrested some 13,000 civilians, implementing a system akin to martial law. President Lincoln issued a proclamation ordering the arrest and military trial of any persons ''discouraging volunteer enlistments, or resisting militia drafts.'' Wisconsin provided one of the first challenges of this order. Draft protests rose up in Milwaukee and Sheboygan. And an anti-draft riot broke out among Germans and Luxembourgers in Port Washington, WI. When the government arrested one of the leaders of the riot, his attorney sought a writ of habeas corpus. His military captors said that the President had abolished the writ. The Wisconsin Supreme Court was among the first to rule that the President had exceeded his authority.

In 1917, the Postmaster General revoked the mailing privileges of the newspaper the Milwaukee Leader because he felt that some of its articles impeded the war effort and the draft. Articles called the President an aristocrat and called the draft oppressive. Over dissents by Justices Brandeis and Holmes, the Supreme Court upheld the action.

We all know during World War II, President Roosevelt signed orders to incarcerate more than 110,000 people of Japanese origin, as well as some roughly 11,000 of German origin and 3,000 of Italian origin.

Earlier this year, I introduced legislation to set up a commission to review the wartime treatment of Germans, Italians, and other Europeans during that period. That bill came out of heartfelt meetings in which constituents told me their stories. They were German-Americans, who came to me with some trepidation. They had waited 50 years to raise the issue with a member of Congress. They did not want compensation. But they had seen the Government's commission on the wartime internment of people of Japanese origin, and they wanted their story to be told, and an official acknowledgment as well with regard to what had happened to them. I hope, that we will move to pass this important legislation early next year. We must deal with our nation's past, even as we move to ensure our nation's future.

(Mrs. STABENOW assumed the chair.)

Mr. FEINGOLD. Now some may say, indeed we may hope, that we have come a long way since those days of infringements on civil liberties. But there is ample reason for concern. And I have been troubled in the past 6 weeks by the potential loss of commitment in the Congress and the country to traditional civil liberties.

As it seeks to combat terrorism, the Justice Department is making extraordinary use of its power to arrest and detain individuals, jailing hundreds of people on immigration violations and arresting more than a dozen ''material witnesses'' not charged with any crime. Although the Government has used these authorities before, it has not done so on such a broad scale. Judging from Government announcements, the Government has not brought any criminal charges related to the attacks with regard to the overwhelming majority of these detainees.

For example, the FBI arrested as a material witness the San Antonio radiologist Albader Al-Hazmi, who has a name like two of the hijackers, and who tried to book a flight to San Diego for a medical conference. According to his lawyer, the Government held Al-Hazmi incommunicado after his arrest, and it took 6 days for lawyers to get access to him. After the FBI released him, his lawyer said:

> This is a good lesson about how frail our processes are. It's how we treat people in difficult times like these that is the true test of the democracy and civil liberties that we brag so much about throughout the world.

I agree with those statements.

Now, it so happens—and I know the Presiding Officer is aware of that because she has been very helpful on this issue—that since early 1999, I have been working on another bill that is poignantly relevant to recent events: legislation to prohibit racial profiling, especially the practice of targeting pedestrians or drivers for stops and searches based on the color of their skin. Before September 11, people spoke of the issue mostly in the context of African-Americans and Latino-Americans who had been profiled. But after September 11, the issue has taken on a new context and a new urgency.

Even as America addresses the demanding security challenges before us, we must strive mightily also to guard our values and basic rights. We must guard against racism and ethnic discrimination against people of Arab and South Asian origin and those who are Muslim.

We who do not have Arabic names or do not wear turbans or headscarves may not feel the weight of these times as much as Americans from the Middle East and South Asia do. But as the great jurist Learned Hand said in a speech in New York's Central Park during World War II:

> The spirit of liberty is the spirit which seeks to understand the minds of other men and women; the spirit of liberty is the spirit which weighs their interests alongside its own without bias. . . .

Was it not at least partially bias, however, when passengers on a Northwest Airlines flight in Minneapolis a month ago insisted that Northwest remove from the plane three Arab men who had cleared security?

Of course, given the enormous anxiety and fears generated by the events of September 11, it would not have been difficult to anticipate some of these reactions, both by our government and some of our people. Some have said rather cavalierly that in these difficult times we must accept some reduction in our civil liberties in order to be secure.

Of course, there is no doubt that if we lived in a police state, it would be easier to catch terrorists. If we lived in a country that allowed the police to search your home at any time for any reason; if we lived in a country that allowed the government to open your mail, eavesdrop on your phone conversations, or intercept your email communications; if we lived in a country that allowed the government to hold people in jail indefinitely based on what they write or think, or based on mere suspicion that they are up to no good, then the government would no doubt discover and arrest more terrorists.

But that probably would not be a country in which we would want to live. And that would not be a country for which we could, in good conscience, ask our young people to fight and die. In short, that would not be America.

Preserving our freedom is one of the main reasons we are now engaged in this new war on terrorism. We will lose that war without firing a shot if we sacrifice the liberties of the American people.

That is why I found the antiterrorism bill originally proposed by Attorney General Ashcroft and President Bush to be troubling.

The administration's proposed bill contained vast new powers for law enforcement, some seemingly drafted in haste and others that came from the FBI's wish list that Congress has rejected in the past. You may remember that the Attorney General announced his intention to introduce a bill shortly after the September 11 attacks. He provided the text of the bill the following Wednesday, and urged Congress to enact it by the end of the week. That was plainly impossible, but the pressure to move on this bill quickly, without deliberation and debate, has been relentless ever since.

It is one thing to shortcut the legislative process in order to get Federal financial aid to the cities hit by terrorism. We did that, and no one complained that we moved too quickly. It

is quite another to press for the enactment of sweeping new powers for law enforcement that directly affect the civil liberties of the American people without due deliberation by the peoples' elected representatives.

Fortunately, cooler heads prevailed at least to some extent, and while this bill has been on a fast track, there has been time to make some changes and reach agreement on a bill that is less objectionable than the bill that the administration originally proposed.

As I will discuss in a moment, I have concluded that this bill still does not strike the right balance between empowering law enforcement and protecting civil liberties. But that does not mean that I oppose everything in the bill. By no means. Indeed many of its provisions are entirely reasonable, and I hope they will help law enforcement more effectively counter the threat of terrorism.

For example, it is entirely appropriate that with a warrant the FBI be able to seize voice mail messages as well as tap a phone. It is also reasonable, even necessary, to update the federal criminal offense relating to possession and use of biological weapons. It made sense to make sure that phone conversations carried over cables would not have more protection from surveillance than conversations carried over phone lines. And it made sense to stiffen penalties and lengthen or eliminate statutes of limitation for certain terrorist crimes.

There are other non-controversial provisions in the bill that I support—those to assist the victims of crime, to streamline the application process for public safety officers benefits and increase those benefits, to provide more funds to strengthen immigration controls at our Northern borders—something that the Presiding Officer and I understand—to expedite the hiring of translators at the FBI, and many other such provisions.

In the end, however, my focus on this bill, as Chair of the Constitution Subcommittee of the Judiciary Committee in the Senate, was on those provisions that implicate our constitutional freedoms. And it was in reviewing those provisions that I came to feel that the administration's demand for haste was inappropriate; indeed, it was dangerous. Our process in the Senate, as truncated as it was, did lead to the elimination or significant rewriting of a number of audacious proposals that I and many other members found objectionable.

For example, the original administration proposal contained a provision that would have allowed the use in U.S. criminal proceedings against U.S. citizens of information obtained by foreign law enforcement agencies in wiretaps that would be illegal in this country. In other words, evidence obtained in an unconstitutional search overseas was to be allowed in a U.S. court.

Another provision would have broadened the criminal forfeiture laws to permit—prior to conviction—the freezing of assets entirely unrelated to an alleged crime. The Justice Department has wanted this authority for years, and Congress has never been willing to give it. For one thing, it touches on the right to counsel, since assets that are frozen cannot be used to pay a lawyer. The courts have almost uniformly rejected efforts to restrain assets before conviction unless they are assets gained in the alleged criminal enterprise. This proposal, in my view, was simply an effort on the part of the Department to take advantage of the emergency situation and get something that they've wanted to get for a long time.

As I have indicated, the foreign wiretap and criminal forfeiture provisions were dropped from the bill that we considered in the Senate. Other provisions were rewritten based on objections that I and others raised about them. For example, the original bill contained sweeping permission for the Attorney General to get copies of educational records without a court order. The final bill requires a court order and a certification by the Attorney General that he has reason to believe that the records contain information that is relevant to an investigation of terrorism.

So the bill before us is certainly improved from the bill that the administration sent to us on September 19, and wanted us to pass on September 21. But again, in my judgement, it does not strike the right balance between empowering law enforcement and protecting constitutional freedoms. Let me take a moment to discuss some of the shortcomings of the bill.

First, the bill contains some very significant changes in criminal procedure that will apply to every federal criminal investigation in this country, not just those involving terrorism. One provision would greatly expand the circumstances in which law enforcement agencies can search homes and offices without notifying the owner prior to the search. The longstanding practice under the fourth amendment of serving a warrant prior to executing a search could be easily avoided in virtually every case, because the government would simply have to show that it had ''reasonable cause to believe'' that providing notice 'may' seriously jeopardize an investigation.'' This is a significant infringement on personal liberty.

Notice is a key element of fourth amendment protections. It allows a person to point out mistakes in a warrant and to make sure that a search is limited to the terms of a warrant. Just think about the possibility of the police showing up at your door with a warrant to search your house. You look at the warrant and say, ''yes, that's my address, but the name on the warrant isn't me.'' And the police realize a mistake has been made and go away. If you're not home, and the police have received permission to do a ''sneak and peek'' search, they can come in your house, look around, and leave, and may never have to tell you that ever happened.

That bothers me. I bet it bothers most Americans.

Another very troubling provision has to do with the effort to combat computer crime. I want the effort to stop computer crime. The bill allows law enforcement to monitor a computer with the permission of its owner or operator, without the need to get a warrant or show probable cause.

I want to tell you, Madam President, I have been at pains to point out things I can support in this bill. I think that power is fine in a case of a so-called denial of service attack. What is that? That is plain old computer hacking. You bet. We need to be able to get at that kind of crime.

Computer owners should be able to give the police permission to monitor communications coming from what amounts to a trespasser on the computer, a real trespasser.

But we tried to point out as calmly and as constructively as possible on the floor that, as drafted in this bill, the provision might permit an employer to give permission to the police to monitor the e-mails of an employee who has used her computer at work to shop for Christmas gifts. She violated the rules of her employer regarding personal use of the computer. Or someone who uses a computer at a library or at a school and happens to go to a gambling or pornography site in violation of the Internet use policies of the library or the university might also be subjected to Government surveillance—without probable cause and without any time limit at all. With this one provision, fourth amendment protections are potentially eliminated for a broad spectrum of electronic communications.

I am also very troubled by the broad expansion of Government power under the Foreign Intelligence Surveillance Act, known as FISA. When Congress passed FISA in 1978, it granted to the executive branch the power to conduct surveillance in foreign intelligence investigations without having to meet the rigorous probable cause standard under the fourth amendment that is required for criminal investigations. There is a lower threshold for obtaining a wiretap order from the FISA court because the FBI is not investigating a crime, it is investigating foreign intelligence activities. But the law currently requires that intelligence gathering be the primary purpose of the investigation in order for this much lower standard to apply.

The bill changes that requirement. The Government now will only have to show that intelligence is a ''significant purpose'' of the investigation. So even if the primary purpose is a criminal investigation, the heightened protections of the fourth amendment will not apply.

It seems obvious that with this lower standard, the FBI will be able to try to

use FISA as much as it can. And, of course, with terrorism investigations, that won't be difficult because the terrorists are apparently sponsored or at least supported by foreign governments. So this means the fourth amendment rights will be significantly curtailed in many investigations of terrorist acts.

The significance of the breakdown of the distinction between intelligence and criminal investigations becomes apparent when you see other expansions of Government power under FISA in this bill.

Another provision that troubles me a lot is one that permits the Government, under FISA, to compel the production of records from any business regarding any person if that information is sought in connection with an investigation of terrorism or espionage.

I want to be clear here, as well, we are not talking about travel records directly pertaining to a terrorist suspect, which we can all see obviously can be highly relevant to an investigation of a terrorist plot. FISA already gives the FBI the power to get airline, train, hotel, car rental, and other records of a suspect.

But this bill does much more. Under this bill, the Government can compel the disclosure of the personal records of anyone—perhaps someone who worked with, or lived next door to, or went to school with, or sat on an airplane with, or had been seen in the company of, or whose phone number was called by—the target of the investigation.

Under this new provision, all business records can be compelled, including those containing sensitive personal information, such as medical records from hospitals or doctors, or educational records, or records of what books somebody has taken out from the library. We are not talking about terrorist suspects, we are talking about people who just may have come into some kind of casual contact with the person in that situation. This is an enormous expansion of authority under a law that provides only minimal judicial supervision.

Under this provision, the Government can apparently go on a fishing expedition and collect information on virtually anyone. All it has to allege, in order to get an order for these records from the court, is that the information is sought for an investigation of international terrorism or clandestine intelligence gathering. That is it. They just have to say that. On that minimal showing, in an ex parte application to a secret court, with no showing even that the information is relevant to the investigation, the Government can lawfully compel a doctor or a hospital to release medical records or a library to release circulation records. This is truly a breathtaking expansion of police power.

Let me turn to a final area of real concern about this legislation, which I think brings us full circle to the cautions I expressed on the day after the attacks. These are two very troubling provisions dealing with our immigration laws in the bill.

First, the administration's original proposal would have granted the Attorney General extraordinary powers to detain immigrants indefinitely, including legal permanent residents. The Attorney General could do so based on mere suspicion that the person is engaged in terrorism. I believe the administration was really overreaching here. I am pleased that our distinguished chairman of the Judiciary Committee, Senator LEAHY, was able to negotiate some protections. The bill now requires the Attorney General to charge the immigrant within 7 days with a criminal offense or immigration violation. In the event the Attorney General does not charge the immigrant, the immigrant must be released.

This protection is an improvement, but the provision remains fundamentally flawed. Even with this 7-day charging requirement, the bill would nevertheless continue to permit the indefinite detention in two situations. First, immigrants who win their deportation cases may be continued to be held if the Attorney General continues to have suspicions. Second, this provision creates a deep unfairness to immigrants who are found not to be deportable for terrorism but have an immigration status violation, such as overstaying a visa. If the immigration judge finds that they are eligible for relief from deportation, and therefore can stay in the country—for example, if they have longstanding family ties here—nonetheless, the Attorney General can continue to hold them indefinitely.

I am pleased that the final version of the legislation includes a few improvements over the bill that passed the Senate. In particular, the bill would require the Attorney General to review the detention decision every 6 months. And it would only allow the Attorney General or the Deputy Attorney General—not lower level officials—to make that determination.

While I am pleased these provisions are included in the bill, I believe it still falls short of meeting even basic constitutional standards of due process and fairness.

The bill continues to allow the Attorney General to detain persons based on mere suspicion. Our system normally requires higher standards of proof for a deprivation of liberty. For example, deportation proceedings themselves are subject to a clear and convincing evidence standard. And, of course, criminal convictions require proof beyond a reasonable doubt. The bill also continues to deny detained persons a trial or a hearing where the Government would be required to prove that that person is, in fact, engaged in terrorist activity. I think this is unjust and inconsistent with the values of our system of justice that we hold dearly.

Another provision in the bill that deeply troubles me allows the detention and deportation of people engaging in innocent associational activity. It would allow for the detention and deportation of individuals who provide lawful assistance to groups that are not even designated by the Secretary of State as terrorist organizations but instead have engaged in something vaguely defined as ''terrorist activity'' sometime in the past. To avoid deportation, the immigrant is required to prove a negative: That he or she did not know, and should not have known, that the assistance would further terrorist activity.

I think this language creates a very real risk that truly innocent individuals could be deported for innocent associations with humanitarian or political groups that the Government later chooses to regard as terrorist organizations. Groups that could fit this definition could include Operation Rescue, Greenpeace, and even the Northern Alliance fighting the Taliban in northern Afghanistan. So this really amounts to a provision of ''guilt by association,'' which I think violates the first amendment.

Speaking of the first amendment, under this bill, a lawful permanent resident who makes a controversial speech that the Government deems to be supportive of terrorism might be barred from returning to his or her family after taking a trip abroad.

Despite assurances from the administration at various points in this process that these provisions that implicate associational activity would be improved, there have been no changes in the bill on these points since it passed the Senate.

Here is where my caution in the aftermath of the terrorist attacks and my concern about the reach of the antiterrorism bill come together. To the extent that the expansion of new immigration powers that the bill grants the Attorney General are subject to abuse, who do we think is most likely to bear the brunt of that abuse? It probably won't be immigrants from Ireland. It probably won't be immigrants from El Salvador or Nicaragua or immigrants from Haiti or Africa. Most likely it will be immigrants from Arab, Muslim and South Asian countries.

In the wake of these terrible events, our Government has been given vast new powers, and they may fall most heavily on a minority of our population who already feel particularly, acutely the pain of this disaster.

Concerns of this kind have been raised with the administration. Supporters of this bill have just told us: Don't worry, the FBI would never do that. I call on the Attorney General and the Justice Department to ensure that my fears are not borne out.

The antiterrorism bill we consider in the Senate today, of course, highlights the march of technology and how that march cuts both for and against personal liberty. But Justice Brandeis foresaw some of the future in a 1928 dissent when he wrote:

The progress of science in furnishing the Government with means of espionage is not likely to stop with wire-tapping. Ways may some day be developed by which the Government, without removing papers from secret drawers, can reproduce them in court, and by which it will be enabled to expose to a jury the most intimate occurrences of the home. . . . Can it be that the Constitution affords no protection against such invasions of individual security?

We must grant law enforcement the tools that it needs to stop this terrible threats, but we must give them only those extraordinary tools that they need and that relate specifically to the task at hand.

In the play, ''A Man for All Seasons,'' Sir Thomas More questions the bounder Roper whether he would level the forest of English laws to punish the Devil. ''What would you do?'' More asks, ''Cut a great road through the law to get after the Devil?'' Roper affirms, ''I'd cut down every law in England to do that.'' To which More replies:

And when the last law was down, and the Devil turned round on you—where would you hide, Roper, the laws all being flat? This country's planted thick with laws from coast to coast . . . and if you cut them down . . . d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil benefit of law, for my own safety's sake.

We must maintain our vigilance to preserve our laws and our basic rights. We in this body have a duty to analyze, to test, to weigh new laws that the zealous and often sincere advocates of security would suggest to us. That is what I have tried to do with the anti-terrorism bill, and that is why I will vote against this bill when the roll is called.

Protecting the safety of the American people is a solemn duty of the Congress. We must work tirelessly to prevent more tragedies like the devastating attacks of September 11. We must prevent more children from losing their mothers, more wives from losing their husbands, and more firefighters from losing their heroic colleagues. But the Congress will fulfill its duty only when it protects both the American people and the freedoms at the foundation of American society.

So let us preserve our heritage of basic rights. Let us practice as well as preach that liberty, and let us fight to maintain that freedom that we call America.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Madam President, on behalf of Senator LEAHY, I yield 10 minutes to the Senator from North Dakota.

Mr. HATCH. May I make a few comments before?

Mr. REID. When the Senator from Utah finishes his remarks, I ask that the Senator from North Dakota be recognized for 10 minutes.

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

The Senator from Utah.

Mr. HATCH. I rise to address briefly a couple of the points made by the distinguished Senator from Wisconsin.

First, what he called a ''sneak and peek'' search warrant, these warrants are already used throughout the United States, throughout our whole country. The bill simply codifies and clarifies the practice making certain that only a Federal court, not an agent or prosecutor, can authorize such a warrant.

Let me be clear. Courts already allow warrants under our fourth amendment. It is totally constitutional. It has been held so almost from the beginning of this country; some will say from the beginning of this country. Together with Senator LEAHY, we carefully drafted a provision that standardizes this widely accepted practice.

Second, to respond to the suggestion that the legislation is not properly mindful of our constitutional liberties—my friend from Wisconsin talks theoretically about maybe the loss of some civil liberties—I would like to talk concretely about the loss of liberty of almost 6,000 people because of the terrorist acts on September 11. I am a little bit more concerned right now about their loss of life. I am even more concerned now that they have lost their lives that thousands of other Americans don't lose their lives because we fail to act and fail to give law enforcement the tools that are essential.

It is a nice thing to talk about theory. But we have to talk about reality. We have written this bill so the constitutional realities are that the Constitution is not infringed upon and civil liberties are not infringed upon except to the extent that the Constitution permits law enforcement to correct difficulties.

Yes, I think we must protect the Constitution, and that has been at the top of my list all through my 25 years in the Congress. This bill does just that. Nothing in this bill undermines constitutional liberty. Nothing in this bill comes remotely close to the Alien and Sedition Act, which, of course, was held to be unconstitutional, or the internment of Japanese prisoners of war, which was a disgrace—there is no question about it, but at that point it was held to be constitutional—or the other outrages that have occurred in the past that were mentioned by the distinguished Senator from Wisconsin.

The tools we are promoting in this legislation have been carefully crafted to protect civil liberties. In addition to protecting civil liberties, give law enforcement the tools they need so we, to the extent we possibly can, will be able to protect our citizens from events and actions such as happened on September 11 of this year.

Thousands of Americans died that day, thousands. That is real. We have been told there may be some other actions taken by terrorists. That may be real. To the extent that may be real, we sure want to make sure our law enforcement people, within the constraints of the Constitution, have the optimum law enforcement tools they need to do the job.

As the past few weeks have made clear, these terrorists still have a gun pointed at the heads of all the American people. Under such circumstances, it is our sworn duty to do everything in our power, within the bounds of the Constitution, to protect and defend our people. That is what this bill does.

The Senator from Wisconsin worries about the ''possible'' loss of civil liberties. That is laudable. But I am more concerned about the actual loss of the thousands of lives that have been lost and the potential of other lives that may be lost because we don't give law enforcement the tools they need.

This bill protects us, to the extent that we possibly can, against further attacks such as occurred on September 11 and many, many other potential attacks as well.

I think most people in this country would be outraged to know that various agencies of Government, the intelligence community, and law enforcement community, under current law—until this bill is passed—cannot exchange information that might help interdict and stop terrorism. People are outraged when they hear this. And they ought to be.

The fact is that that is the situation. I know the heads of the Criminal Division of the Justice Department have said that: Unless we can share this information, we cannot pick up the people who are terrorists, whom we need to stop, in time to stop them. I think they would be outraged to know that, under title III, you cannot electronically surveil a terrorist unless there is some underlying criminal predicate. In many cases, there is no underlying criminal predicate, so you can't do to terrorists what we can do for health care fraud, or for sexual exploitation of children, or for the Mafia, or for drug dealers.

People would be amazed to know we treat terrorism with kid gloves in the current criminal code. This bill stops that. I think most people would be amazed to know that pen register trap-and-trace devices are not permitted against terrorists under provisions of the law today. You can't get the numbers called out of the phone and you can't get the numbers called into the phone. That is what that means. This bill remedies that so we can get these numbers and do what has to be done.

I think most people are shocked to find out that you can't electronically surveil the terrorists. You have to go after the phone, and then you have to get a warrant in every jurisdiction where that phone shows up. Terrorists don't pay any attention to those antiquated laws. They just buy 10 cell phones, talk for a while, and throw it out the window. We have to be able to track terrorists. Under current law, we cannot do that with the efficiency that needs to be used here. I don't see any

civil liberties violated there, but I see some of them protected. I think of the civil liberties of those approximately 6,000 people who lost their lives, and potentially many others if we don't give law enforcement the tools they need to do the job. That is what this bill does.

I will have more to say, perhaps, on this later. I wanted to make these particular points. I am happy to retain the remainder of my time.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. WELLSTONE. I ask unanimous consent that I may follow the Senator from North Dakota.

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

Mr. DORGAN. I understand we are under a time agreement and I am allotted 10 minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. Madam President, the legislation that is on the floor is legislation I will vote for and support. I think it advances our country's interests in dealing with the issue of terrorism. But I don't want to talk about what is in the bill; I want to talk about something that is not now in the bill and should be. I want to ask the question, Why?

I came to the floor an hour ago and was surprised to find out that something about which I care very much, something agreed to in the Senate, is now no longer in this legislation. Here is the issue. I held and chaired a hearing in my subcommittee on Appropriations a couple weeks ago. The Customs Service was there and Immigration was there. They said we have a system in this country called the advance passenger information system. It is a system under which international air carriers electronically transmit to the Customs Service passenger and cargo manifests, so that before they enter and are cleared for departure, we know who is on that plane and what is on that plane, so we can determine whether there are people who should not be allowed to enter this country. That is the advance passenger information system. It works, but it is voluntary and only 85 percent of the carriers are complying.

I asked at my hearing of Customs and Immigration: Should this be mandatory? They said: Absolutely, we need you to make this mandatory.

When we had the antiterrorism bill on the floor of the Senate, I had cleared an amendment in the managers' package that would make this mandatory. Let me tell you of the airlines that do not comply, for which we don't get advance passenger information: Saudi Arabia, Kuwait, Royal Jordanian, Pakistani International, to name a few airlines that do not comply under the voluntary standard and give us no advance passenger information.

Mr. HATCH. If the Senator will yield, I commend the Senator. I think he is absolutely right. We had it in the Senate bill. It was a worthwhile provision that I think we need to include later, since we can't do it on this bill at this point. I will support him in every way possible to get this done in the future. I commend the Senator for bringing this to the attention of this body because I have to say the House absolutely would not permit us to put that in the bill.

Mr. DORGAN. I inquire of the Senator from Utah, what possibly could be their motive to not want this in the antiterrorism bill?

Mr. HATCH. I think it came down to a jurisdictional argument. That is my opinion. We understand that around here, but we are trying to solve terrorism now. The Senator's point is a very good point. My main reason for interrupting him at this point is to commend him and tell him I will do everything in my power to get that passed. I think it is critical that the other 15 percent be made mandatory, that they have to comply, because most of the airlines comply on a voluntary basis.

I am sorry to interrupt the Senator. I reserve my time.

Mr. DORGAN. Madam President, I appreciate the comments of the Senator from Utah. It is not his fault. I understand he strongly supports this. I kind of felt blind-sided an hour ago when I was told this wasn't in the bill we are discussing because we had cleared it. Apparently, some folks from the other side of this Capitol have this notion of muscle flexing with respect to jurisdictional standards. Frankly, I don't understand that on an issue that is this important. We need advance passenger information clearing—not on a voluntary basis but on a mandatory basis. Somehow it got left out.

I thank the Senator from Utah for his cooperation because we are going to get this done. This needs to be done. If we have a few small-minded people in this Capitol simply protecting their turf and who don't seem to worry about combating terrorism, we will move beyond them and we are not going to pay much attention to their concerns.

If I might ask, how much time remains on my 10 minutes?

The PRESIDING OFFICER. The Senator has 6½ minutes.

Mr. DORGAN. I want to mention two other issues, and they don't relate directly to this bill. They are very important to me.

We are talking about antiterrorism activities. We have an organization down at the Treasury Department's Office of Foreign Asset Control. I happen to fund that area, as I am chairman of the Appropriations subcommittee that funds that. I want to say something I said before the terrorist attacks of September 11. OFAC, in my judgment, ought to be using its resources to track terrorists and track the trail left by terrorists with the movement of money around the globe.

But in August I pointed out that what OFAC was doing—at least with some of its resources—and it appears that 10 percent of the resources of OFAC is devoted to chasing little old ladies in tennis shoes from Illinois who join a bicycle club from Canada and go bicycling in Cuba and 15 months later get a letter from the Treasury Department that they have a $9,500 fine. That is one example of a retired teacher from Illinois. OFAC is chasing retired folks who go on a bicycling trip to Cuba with a Canadian bicycling Club, and she was fined $9,500. I talked to her and others who have been fined.

There was a $55,000 fine for someone who was with some friends in the Cayman Islands and they decided to go to Cuba for the weekend. This guy is wondering what on Earth has happened. He was not supposed to travel to Cuba, but he didn't know it. OFAC is supposed to be tracking terrorists, but they are chasing retired schoolteachers from Illinois for taking a bicycling trip in Cuba.

Let's stop this foolishness and track the trail of terrorists. It doesn't make sense to be doing what OFAC has been doing. First of all, it is embarrassing. I understand the restrictions on travel, which we should change and we will change, but should we be using 10 percent of the assets of OFAC to track these people down and levy civil fines at a time when terrorists are designing approaches to kill Americans? What on Earth is going on here?

I say to Treasury and OFAC, if they are listening: Get busy doing the right things. Get right about public policy initiatives that we are funding you to do.

Let me mention one additional item, if I may, and again it relates to antiterrorism, not necessarily just to this bill, and that is the issue of northern border security. We have a 4,000-mile border between the United States and Canada, with 128 ports of entry, and 100 of them are not staffed at night. At 10 o'clock at night, the security between the United States and Canada is an orange rubber cone, just a big old orange rubber cone. It cannot talk. It cannot walk. It cannot shoot. It cannot tell a terrorist from a tow truck. It is just a big fat dumb rubber cone sitting in the middle of the road.

Those who want to come in illegally at 11 or 12 o'clock at night and are polite about it will stop in front of the rubber cone, remove the rubber cone, drive through, and replace it. Those who do not care will shred it at 60 miles an hour. That is supposed to be security in this country.

We know a terrorist came across that northern border at Port Angeles. This particular Middle Eastern terrorist was going to create substantial bombing activities of public facilities at the turn of the millennium in Los Angeles. We know the terrorists know where it is easy to get through our border and where it is not.

Having said all that, that a rubber cone is no substitute for security, the Treasury Department has said to this

Congress that none of the $20 billion we appropriated for security is going to go for increased resources at the northern border for Customs. The other side, Immigration and Border Patrol, are going to get increased resources, but the Treasury Department says: No, we do not need additional resources with the Customs Service.

Nothing could be further from the truth. I am just asking these people who are thinking through these issues to start thinking the right way. We do need additional resources. That is why we provided the $20 billion. We do need additional security on the northern border. Yes, orange rubber cones are inexpensive. They are also ineffective. They are no substitute for security in this country. I know I am going a bit afield from this bill, but I wanted to make the other two points about OFAC and what it is doing and northern border security because that, too, relates to the issue of antiterrorism and this country's ability to deal with the terrorist threats.

I conclude by saying I came here to talk about the advance passenger information system. I, again, feel terrible it was left out of this bill because we had agreement in the Senate. I understand some folks in the House refused to move on this issue.

One way or another I am going to get this done in the next couple of weeks. I will find a bill, a vehicle. This is going to get done. I appreciate the willingness of the Senator from Vermont and the Senator from Utah to help me do that. That is a glaring omission from this bill, and if the House does not want to do it on this bill, we will force them to do it on another bill.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, on behalf of senator LEAHY, I yield 10 minutes to the Senator from Massachusetts, and I ask unanimous consent that his remarks follow—there is an order already in effect for Senator WELLSTONE to be heard now—the remarks of Senator WELLSTONE.

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

The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Madam President, this is one of the most important pieces of legislation we will consider during this Congress. The horrific loss of life and destruction that occurred on September 11, the crime against humanity, changed us as a country. The Uniting and Strengthening America Act is an opportunity to help ensure that such terrorist attacks do not occur again. We need to improve all aspects of our domestic security, including by enhancing our intelligence capacities so that we can identify possible future attacks in their planning stages and prevent them from happening. We must be vigilant and willing to invest the resources and time required to gather the information that we need to protect ourselves and our way of life.

I appreciate the enormous amount of time and energy that my colleagues in both Chambers have put into this legislation. They have done their best to balance the risk of further terrorist attacks with possible risks to civil liberties. This comprehensive bill includes measures to enhance surveillance; improve the working relationship among Federal, State, and local agencies; strengthen border control; permit the detention of certain suspects who may be the subject of investigative efforts; help crime victims; respond to bioterrorism; and crack down on money laundering.

I am especially supportive of two new important provisions added in conference that will enhance domestic preparedness against future attacks, at the local level: the First Responders Assistance Act, and the Grant Program for State and Local Domestic Preparedness Support. These provisions authorize grants to State and local authorities to respond and prevent acts of terrorism, particularly for terrorism involving weapons of mass destruction and biological, nuclear, and chemical devices; and revises an existing grant program to provide 1, additional flexibility to purchase needed equipment; 2, training and technical assistance to State and local first responders; and 3, a more equitable allocation of funds to all States.

Last week I traveled to Moorhead, Mankato and Rochester, MN and talked with firefighters and first-responders about this very issue. They told me they desperately need training and equipment to address our new terrorism risks. These local grants are extremely important to address the needs our most important asset in the fight against terrorism: those law enforcement and emergency personnel on the front lines.

Although I still have some reservations about certain provisions of the bill as they might affect civil liberties, and wish that it were more tightly targeted to address only actions directly related to terrorism or suspected terrorism, I am pleased with the inclusion of several key civil liberty safeguards. The bill requires certain electronic reports to go to a judge when pen registers are used on the internet; includes provisions requiring notification to a court when grand jury information is disclosed; and contains a 4-year sunset with limited grandfathering for several of the electronic surveillance provisions.

The bill expands the Regional Information Sharing Systems Program to promote information sharing among Federal, State, and local law enforcement have a critical role to play in preventing and investigating terrorism, and this bill provides them benefits appropriate to such duty. The bill streamlines and expedites the Public Safety Officers' Benefits application process for family members of fire fighters, police officers and other emergency personnel who are killed or suffer a disabling injury in connection with a future terrorist attack. And it raises the total amount of the Public Safety Officers' Benefit Program payments from approximately $150,000 to $250,000.

This bill will also make an immediate difference in the lives of victims of terrorism and their families. It refines the Victims of Crime Act and by doing so improves the way in which its crime fund is managed and preserved. It replenishes the emergency reserve of the Crime Victims Fund with up to $50 million and improves the mechanism to replenish the fund in future years. The USA Act also increases security on our northern border, including the border between Canada and my State of Minnesota. It triples the number of Border Patrol, Customs Service, and INS inspectors at the northern border and authorizes $100 million to improve old equipment and provide new technology to INS and the Customs Service at that Border.

On the criminal justice side, the bill clarifies existing ''cybercrime'' law to cover computers outside the United States that affect communications in this country and changes sentencing guidelines in some of these cases. It provides prosecutor better tools to go after those involved in money laundering schemes that are linked to terrorism, and it adds certain terrorism-related crime as predicates for RICO and money-laundering. At the same time, the bill establishes procedures to protect the rights of persons whose property may be subject to confiscation in the exercise of the government's antiterrorism authority. It strengths our Federal laws relating to the threat of biological weapons and enhances the Government's ability to prosecute suspected terrorists in possession of biological agents. It will prohibit certain persons, particularly those from countries that support terrorism, from possessing biological agents. And it will prohibit any person from possessing a biological agent of a type of quantity that is not reasonably justified by a peaceful purpose.

I support these much-needed measures. And I especially support the four-year sunset provision for several of the electronic surveillance provisions. I do wish, however, that some provisions were might tightly targeted to address only actions directly related to terrorism or suspected terrorism. It is for this reason, I believe we will need to monitor the use of new authorities provided to law enforcement agents to conduct surveillance. The bill broadens the Foreign Intelligence Surveillance Act, FISA, by extending FISA surveillance authority to criminal investigations, even when the primary purpose is not intelligence gathering. The bill limits this ability by authorizing surveillance only if a significant purpose of it is to gather intelligence information. I hope this new FISA authority will be used for the purpose of investigating and preventing terrorism or

suspected terrorism, and not for other domestic purposes. The bill also allow surveillance to follow a person who uses multiple communications devices or locations, the so-called ''roving-wiretap.'' Again, I am hopeful this new authority will not be abused.

We have done our best in this bill to maximize our security while minimizing the impact some of these changes may have on our civil liberties. Nearly all of us have probably said since September 11 that if that day's terror is allowed to undermine our democratic principles and practices, then the terrorists will have won a victory. We should pass this bill today. And we should also commit ourselves to monitoring its impact of civil liberties in the coming months and years.

Our challenge is to balance our security with our liberties. While it is not perfect, I believe we are doing that in this bill.

Madam President, it is a jarring analogy, but I use it to explain how I arrived at my decision on this legislation. In 1940 and 1941, the Germans engaged in an unprecedented attack on the civilian population of Great Britain. The goal was to weaken citizens in their fight against Nazism. At the end of that attack, 20,000 people were killed. On September 11 in our country, close to 6,000 innocent people were massacred.

It is absolutely the right thing to take the necessary steps to try to prevent this from happening and to provide protection to people in our country.

There are many provisions in this legislation with which I agree. They are important to people in Minnesota, Michigan, and around the country, by way of what we need to do to protect our citizens.

When it comes to electronic surveillance, as Senator FEINGOLD has stated with considerable eloquence, the legislation goes too far and goes beyond world terrorists, who I think are a real threat to people in our country and other nations as well.

How do I balance it out? My view is that I support this legislation because all of the positive issues, which I will go into in a moment, that are so important to the people I represent have to do with protecting the lives of people. If we do not take this action and we are not able to protect people, then more people can die, more people will be murdered. That is irreversible. We cannot bring those lives back.

This legislation has a 4-year sunset. I said when the Senate passed the bill that I would reserve final judgment as to whether I vote for the final product based on whether there will be a 4-year sunset when it comes to electronic surveillance. We can monitor—there will be some abuses, I think—we can monitor that, and if there are abuses, it is reversible; we can change it. That is why I err on the side of protecting people, and it is why I support this legislation.

The bill includes measures to enhance surveillance, to improve the working relationships of Federal, State, and local agencies—that has to happen—to strengthen control of the Canadian border. For our States up North, that is very important. When it comes to the detention of certain suspects who may be the subject of investigative efforts, there are safeguards against unlimited detention.

I thank Senator LEAHY and Senator HATCH and others for pulling back from some of the original proposals which made this a much better piece of legislation.

There is a crackdown on money laundering. I thank Senator SARBANES and Senator KERRY and others for their fine work.

There is another provision that is very important. The First Responders Assistance Act and grant program all go together. When I traveled to greater Minnesota last week, when I went to Moorhead, Mankato, Rochester, and Duluth, I spoke with fire chiefs and all said: We are the first responders. We know that from New York. Please get some resources back to the local level. It is a local public safety model where if you give us the resources, let us assess our needs—we have the training; we may need additional equipment—if you are going to talk about the ways we can best protect people, we are going to protect people where they live, where they work, or where their children go to school. Getting the resources to the local community, the fire chiefs, and police chiefs is critically important.

As I said, there are some key civil liberty safeguards. The bill requires certain electronic reports to go to a judge when pen registers are used on the Internet. It includes provisions requiring notification to a court when grand jury information is disclosed, and it contains the 4-year sunset when it comes to the electronics surveillance provisions. That is critically important.

The bill streamlines and expedites the public safety officers benefits application for the firefighters and the police officers and others who were killed and suffered disabling injuries.

It raises the total amount of the Public Safety Officers' Benefits Program.

The Victims Crime Act is in this bill.

It improves the way the crime fund is managed. It replenishes the emergency fund for crime victims up to $50 million. This is really important.

These are the important provisions.

On the other hand, I do wish some of the provisions were more tightly targeted to address only actions directly related to terrorism or suspected terrorism. It is for this reason that I think it is critically important each and every Senator and Representative monitor the use of new authorities provided to the law enforcement agency to conduct surveillance.

We are going to have to monitor this aspect very closely. It has been said, and it should be said, we do not want to pass legislation that undermines our democratic principles or practices. If we do that, the terrorists have won a victory. If I thought this was such legislation, I would not support it.

I will say this one more time: From my point of view, this legislation is better than it was when it passed the Senate. The sunset provision is critically important. Ultimately, where I come down is if we do not take some of these steps with some of the provisions I have outlined, which are very important, very positive in protecting people, and more people are killed and there is more loss of life of innocent people, you cannot bring those lives back.

I am not a lawyer, and this is my layperson way of analyzing this. If there are some abuses with the surveillance, we monitor it, we can pass new legislation, and we can change it. It sunsets in 4 years. That is reversible. I err on the side of protection for people.

I wish we did not even have to consider this legislation. I wish we were not even living in these times. I believe terrorism is going to be a part of our lives. I think it is going to be a part of our children's lives. I think it is going to be a part of our grandchildren's lives. I think this is going to be the struggle for several generations to come. No one action and no one step is going to end it. I think that is now the world, unfortunately, in which we live. That is now the world in which all of God's children live.

There are some things we are going to have to do differently and, as I said, we must be vigilant. Where there are excesses, we need to change that. I do believe this legislation is an important step in the direction of trying to prevent this and providing protection to our citizens.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I support the conference report before the Senate today. It reflects an enormous amount of hard work by the members of the Senate Banking Committee and the Senate Judiciary Committee. I congratulate them and thank them for that work.

I particularly thank Senator DASCHLE, Senator LEAHY, Senator SARBANES, Senator HATCH, and Senator LEVIN for their work in developing this legislation. I am pleased the Conference Report includes what I consider to be a very important provision regarding money laundering that has been hard fought over and, frankly, long awaited for. We have been working on this for quite a few years, almost 10 years or more when I was a member of the Banking Committee and within the Foreign Relations Committee where I was Chairman of the Subcommittee on Narcotics, Terrorism and International Operations. This really is the culmination of much of that work.

I am pleased at the compromise we have reached on the antiterrorism legislation, as a whole, which includes the sunset provision on the wiretapping and electronic surveillance component. It has been a source of considerable concern for people, and I think the sunset provision provides Congress a chance to come back and measure the record appropriately, and that is appropriate.

The reason I think the money-laundering provision is so important is it permits the United States—it really authorizes and gives to the Secretary of the Treasury the power to be able to enforce the interests of the United States. It allows the Secretary to deny banks and jurisdictions access to our economy if in the last measure they are not cooperative in other ways to prevent money laundering from being a tool available to terrorists.

This is a bill I introduced several years ago that assists our ability to be able to crack down on the capacity for criminal elements, not just terrorists, who are criminals themselves. But also narcotics traffickers, arms proliferators, people who traffic in people themselves. There are all kinds of criminal enterprises which benefit from access to the American financial system. All of these will now be on notice that our law enforcement community has additional tools to use to be able to close the incredible benefits of access to the American financial marketplace.

The global volume of laundered money staggers the imagination. It is estimated to be 2 to 5 percent of the gross domestic product of the United States. That is $600 billion to $1.5 trillion that is laundered, that comes into the country or passes through banks without accountability. Those funds escape the tax system, for one thing. So for legitimate governments struggling to fairly distribute the tax base while the average citizen who gets their paycheck deducted or those good corporate citizens and others who live by the rules, they are literally being required to assume a greater burden because other people using the laundering and lack of accountability escape that responsibility.

The effects of money laundering go far beyond the parameters of law enforcement, creating international political issues and generating very genuine domestic political crises. International criminals have taken advantage of the technology and the weak financial supervision in many jurisdictions to simply smuggle their funds into our system. Globalization and advances in communications and technologies have allowed them to move their illicit gains with much more secrecy, much faster, commingled, and in other ways that avoid or complicate significantly the ability of prosecutors to be able to do their job.

Many nations, some of them remote, small islands that have no real assets of their own, have passed laws solely for the purpose of attracting capital illicitly, as well as legally. By having the legal capital that is attracted by virtue of the haven that is created, they provide the cover for all of the illicit money. There are places not so far away from us, islands in the Caribbean and elsewhere, which at last count I remember $400 billion of assets that supposedly belong to this island in about 1 square mile of the downtown area, most of which was the property of entities that had a brass plate on a door and a fax machine inside, perhaps a telephone number, and that was sort of the full extent of the corporate entity.

So there is $400 billion on an island that everybody knows is not on the island. Where does it go? It goes back into the financial marketplace where it earns interest, is invested, goes into legitimate efforts, much of it legitimate money to begin with but a whole portion of it not. I might add, with the knowledge of people involved in those businesses and many of the banks that receive it.

So if one is going to cope with an al-Qaida, with a terrorist entity such as Osama bin Laden, who moves his money into this legitimate marketplace, law enforcement has to have the ability to be able to hold people accountable where it is legitimate to do so.

Now obviously we do not want to do that where there is a legitimate enterprise, and we do not want to create a crossing of the line of the corporate veil that has been protected for a long period of time, and I am not urging that we do that. But we do have to have a system in place, where probable cause exists, for law enforcement entities.

I spent a number of years as a prosecutor. We make pretty good judgments in the law enforcement community about probable cause. They are not always without question, and they are not, obviously, without error at times. We understand that. We have a pretty good system in the United States to protect against that. What we are trying to do with this legislation is to put those protections in place, but even as we put in a series of steps that allow the Secretary of the Treasury to be able to target a particular area as a known money-laundering problem, and then be able to require of the government of that entity, a cooperative effort. It is only if the entity or government's cooperative effort at several different stages is not forthcoming that the Secretary would ultimately consider exercising the power to denying that entity as a whole, or individual banks or other financial institutions, access to our financial marketplace and to its benefits.

I believe this leverage will be critical in our ability to wage a war on terrorism, as well as to be able to wage a sufficient law enforcement effort against the criminal enterprises that exist on a global basis.

I think the Secretary will have a number of different options and it will provide a transparency and an accountability that is absent today.

Let me comment on one criticism that is often raised by some opponents of this legislation who do not like the idea that the United States should somehow put in place sanctions against an entity that has a lower tax rate than we happen to have. I emphasize there is nothing in this legislation that empowers us to take action because another government has a lower tax rate. That is their privilege. It is healthy, as all Members know, to have competition in the marketplace of taxes, too. The Chair is a former Governor and he knows well the competition between States. States will say: We will not have a sales tax; we will not have an excise tax; we will try to make ourselves more business friendly. We want to be as competitive and as low tax as we conceivably can be.

We are not seeking to try to address those jurisdictions that simply make themselves more competitive on a tax basis. What we are trying to address are those jurisdictions that not only have lower taxes but use the lower taxes, coupled with a complete absence of accountability, a complete absence of transparency, a complete absence of living by the law enforcement standards of other parts of the world, to knowingly attract the illicit gains that come from criminal activity or that attract and move terrorist money through the world.

We are simply putting into place the standards by which most of the developed world is living. Ultimately we hope all countries will adopt appropriate money laundering standards so we can all live in a safer world.

Passage of this legislation is going to make it a lot more difficult for new terrorist organizations to develop. I can remember a number of years ago when I was chairing the subcommittee on Narcotics, Terrorism and International Operations, I conducted an investigation into a bank called BCCI, the Bank of Credit Commerce International. We uncovered a complex money-laundering scheme involving billions of dollars. Fortunately, BCCI was forced to close. We were able to bring many of those involved in it to justice. But we have learned since the closing that BCCI was a bank that had a number of Osama bin Laden's accounts. We learned when BCCI closed, we dealt Osama bin Laden a very serious blow.

So as the Congress gives final approval to this legislation in response to these attacks, we need to keep in our focus the benefits that will come to us by pressing these money laundering standards on banks. With the passage of this legislation, terrorist organizations will not be able to move funds as easily and they will not be able to have their people move within our country with bank accounts that we cannot

penetrate, with major sources of funding transferred to them from the Middle East or elsewhere to empower them to be able to do the kind of things they did on September 11.

I also point out this bill will require the U.S. financial institutions to use appropriate caution and diligence when opening and managing accounts for foreign financial institutions. It will actually prohibit foreign shell banks, those who have no physical location in any country, from opening an account in the United States. Think about that. We currently allow a bank that has no physical presence anywhere—a bank—to open an account in the United States. That is today. With this legislation, that will change. It is high time.

The conference report expands the list of money-laundering crimes and will assist our law enforcement efforts in making it easier to prosecute those crimes. It requires the Federal Reserve to take into consideration the effectiveness financial institutions in combating money-laundering activities before any merger is approved. We will have an ability to judge the road traveled before we open up new opportunities for financial institutions.

The following is a description of the legislative intent of the Counter Money Laundering and Foreign Anti-Corruption Act of 2001 which was included in section 311 of subtitle A—International Counter Money Laundering and Related Measures of the conference report. First, the Secretary of the Treasury determines whether ''reasonable grounds exist for concluding'' that a foreign jurisdiction, a financial institution operating in a foreign jurisdiction, or a type of international transaction, is of ''primary money laundering concern.'' In making this determination, the Secretary must consult with the Secretary of State, the Attorney General, the Secretary of Commerce, and the United States Trade Representative. The Secretary is also directed to consider any relevant factor, including the quality of a jurisdiction's bank secrecy, bank supervision, and anti-money laundering laws and administration, the extent to which a particular institution or type of transaction is involved in money laundering as compared to legitimate banking operations, whether the U.S. has a mutual legal assistance treaty with the jurisdiction and whether the jurisdiction has high levels of official or internal corruption.

Second, if a jurisdiction, institution, or transaction is found to be a ''primary money laundering concern,'' the Secretary then selects from a menu of five ''special measures'' to address the identified issue. these five special measures are: requiring additional record keeping and/or reporting on particular transactions; requiring reasonable and practicable steps to identify the beneficial foreign owner of an account opened or maintained in a domestic financial institution; requiring the identification of those using a foreign bank's payable-through account with a domestic financial institution; requiring the identification of those using a foreign bank's correspondent account with a domestic financial institution; and restricting or prohibiting the opening or maintaining of certain corresponding accounts for foreign financial institutions. The special measure relating to the restriction or prohibition of accounts can only be imposed by regulation. However, nothing in this legislation will in any way restrict the right of the Secretary of the Treasury to impose a rule immediately and to ask for comment at the same time. The other four special measures 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 the issuance of such order.

In choosing which ''special measure'' to impose and how to tailor it, the Secretary shall consider the extent to which they are used to facilitate or promote money laundering, the extent to which they are used for legitimate business purposes and the extent to which such action will sufficiently guard against money laundering. The Secretary is also to consult with the Chairman of the Board of Governors of the Federal Reserve. If the Secretary is considering prohibiting or restricting correspondent accounts, he is also to consult with the Secretary of State and the Attorney General. The Secretary is also obligated to consider three factors: whether other countries or multilateral groups are taking similar actions; whether the imposition of the measure would create a significant competitive disadvantage for U.S. firms, including any significant cost or compliance; the extent to which the action would have an adverse systemic impact on the payment system and legitimate business; and the effect of such action on United States national security and foreign policy.

Within 10 days of invoking any of the special measures against a primary money laundering concern, the Secretary must notify the House and Senate Banking Committees of any such action taken.

The conference report includes a provision within section 351 relating to reporting of suspicious transactions which clarifies that the ''safe harbor'' from civil liability for filing a Suspicious Activity Report (SAR) applies in any litigation, including suit for breach of contract or in an arbitration proceeding and clarifies the prohibition on disclosing that a SAR has been filed.

Section 353 of the conference report also includes a provision that increases penalties for violation of Geographic Targeting Orders (GTO) by making it a civil and criminal offense on par with existing law to file reports required by a Geographic Targeting Order; requiring structuring transactions to fall below a GTO-lowered threshold a civil and criminal offense on par with structuring generally; and extends the presumptive GTO period from 60 to 180 days.

Finally, section 355 of the conference report includes a provision that grants financial institutions civil immunity for including suspicions of criminal wrongdoing in a written reference on a current or former employer.

It has been brought to my attention that this bill, as originally passed by the House, contained a rule of construction which could have limited our ability to provide assistance and cooperation to our foreign allies in their battle against money laundering. The House-passed rule of construction could have potentially limited the access of foreign jurisdictions to our courts and could have required them to negotiate a treaty in order to be able to take advantage of our money-laundering laws in their fight against crime and terrorism. The conference report did not include a rule of construction because the Congress has always recognized the fundamental right of friendly nations to have access to our courts to enforce their rights. Foreign jurisdictions have never needed a treaty to have access to our courts. Since some of the money-laundering conducted in the world today also defrauds foreign governments, it would be hostile to the intent of this bill for us to interject into the statute any rule of construction of legislative language which would in any way limit our foreign allies access to our courts to battle against money laundering. That is why we did not include a rule of construction in the conference report. That is why we today clarify that it is the intent of the legislature that our allies will have access to our courts and the use of our laws if they are the victims of smuggling, fraud, money laundering, or terrorism. I make these remarks today because there should be no confusion on this issue and comments made by others should not be construed as a reassertion of this rule of construction which we have soundly rejected. Our allies have had and must continue to have the benefit of U.S. laws in this fight against money laundering and terrorism.

Smuggling, money laundering, and fraud against our allies are an important part of the schemes by which terrorism is financed. It is essential that our money laundering statutes have appropriate scope so our law enforcement can fight money laundering wherever it is found and in any form it is found. By expanding the definition of ''Specified Unlawful Activity'' to include a wide range of offenses against friendly nations who are our allies in the war against terrorism, we are confirming that our money laundering statutes prohibit anyone from using the United States as a platform to commit money laundering offenses against foreign jurisdictions in whatever form that they occur. it should be clear that our intention that the

money laundering statues of the United States are intended to insure that all criminals and terrorists cannot circumvent our laws. We shall continue to give our full cooperation to our allies in their efforts to combat smuggling and money laundering, including access to our courts and the unimpeded use of our criminal and civil laws.

Ms. CANTWELL. Mr. President, we must act on many fronts to wage a successful fight against terrorism. The USA Patriot Act of 2001 will provide our law enforcement agencies with significant new tools to fight this battle on the home front. There are many good things in this bill. I am especially pleased that the bill includes language to allow the tripling of manpower on our northern border. The bill also includes a provision to set a new technology standard for our visa program so we can better identify people coming into this country. I am very proud of the many tools in the bill for law enforcement. This legislation increases the number of FISA judges to speed law enforcement's ability to get taps in place and going and contains excellent new provisions to help law enforcement and banks better track and freeze financial assets of terrorists. Further, the bill provides for expedited hiring and training of FBI translators. Finally, the legislation takes steps to allow better sharing of information between the law enforcement and intelligence communities, although I believe this sharing and coordination would be better accomplished with a process for judicial review.

But I have my concerns, as well, with the scope and the pace of these sweeping changes. We may have gone further than we really need to go to address terrorism. Thanks to the extremely hard work of Senator LEAHY and his staff, Senator HATCH and others in both houses of Congress, this legislation is much more carefully tailored to addressing terrorism than the legislation proposed by the Administration only a short month ago. But I remain concerned about several provisions such as those involving wiretap authorities, pen register and trap and trace, computer trespass, access to business records and other new legal authorities which will not require a showing by the government of probable cause or allow for any meaningful judicial review. The scope of these provisions may make them susceptible to abuse—allowing inappropriate, possibly unconstitutional, intrusion into the privacy of American citizens. I am pleased that some of the most disconcerting provisions of this legislation will expire in four years. This ''sunset'' provision will give Congress the opportunity to evaluate the implementation of these new laws, and reassess the need for the changes.

I would like to believe that the government's new ability to place wiretaps on the lines of American citizens—in secret with limited reporting and opportunity for oversight by Congress—will not be abused. I would like to believe that technologies like Carnivore will not be used to derive content from email communications. But I am skeptical.

Several other aspects of this bill, when taken together, could also interfere with Americans' enjoyment of their right to privacy without providing value in the fight against terrorists. Those of us who feel strongly about how new powers might chip away at traditional privacy rights will pay close attention to how law enforcement uses these tools.

The bill's ostensible purpose in regard to searches of personal communication is to facilitate the sharing of information gathered in a law enforcement context with the intelligence community. There is a difference, however, between facilitating the sharing of information between the law enforcement and intelligence communities, and blurring the line between the missions of the two communities. Where information is sought for the purpose of law enforcement, we must ensure that fourth amendment protections apply. Our fear about the legislation comes from a legitimate concern that information gathered ostensibly for intelligence and defense purposes could be used for law enforcement purposes. The intelligence community does not prosecute and lock up its targets; it uses information to intervene against foreign nationals seeking to harm America or Americans. But the law enforcement community has a different mission, to catch and prosecute criminals in our courts of law. Because law enforcement acts upon U.S. citizens, it must do so within the bounds of the Constitution. The differences in these missions must be acknowledged, and we must be vigilant to maintain the distinctions.

Last week, Senator LEAHY and I discussed here on the floor the need to maintain strict oversight of the law enforcement community's use of new authorities enumerated in this legislation. Today I want to reiterate the need for that oversight, the need for regular Government Accounting Office reports to Congress of the use of the new authorities under FISA and pen register and trap and trace law and the need for the Committee on the Judiciary to scrutinize the use of these new authorities regularly. I am pleased that many members of the Senate believe we must pursue this duty diligently.

I am also pleased that the final version of this legislation incorporates a four-year limit on the applicability of these and many other search authorities. With this ''sunset,'' law enforcement and intelligence agencies will be able to use new powers to identify and act on terrorist efforts and Congress will have the ability to review fully the implications of the new law.

We can all agree that the events on September 11 have focused America on the fight against terrorism, and we applaud the efforts of the administration in the weeks since that tragic day. Clearly, there were failures in our investigative network, and this legislation will help avoid such failures in the future, allowing greater sharing of information that could foil terrorists before they carry out their brutal schemes against innocent civilians.

The question then becomes how to make sure that the new authority isn't abused—in fact used for law enforcement purposes or fishing expeditions. Over many years and with great effort, we have crafted a careful balance in protecting personal privacy. The bottom line is this legislation could circumvent or supersede Federal and State privacy laws that have balanced law enforcement needs and privacy concerns, going well beyond the changes to the law needed for intelligence gathering. This is no ordinary time for our country. But in this process we must remember those Fourth Amendment rights that we have so diligently fought for in the past.

I am proud of this Congress for acting promptly and thoughtfully in response to the horrific events of September 11. That day was an awakening to Americans, signaling the urgency for this government to change how we deal with terrorism. This legislation does much to facilitate better information gathering and sharing between our law enforcement and intelligence communities and greater protection of our borders from the intrusion of terrorists. I am hopeful that those of us in government have the wisdom and prudence to use these new powers in such a way as to not undermine the freedoms we seek to protect.

Mr. President, currently, there is no single technology standard in place that allows the Federal Government to confirm with certainty the identity of aliens seeking entry into the United States through the visa program. Insufficient identification technology is available to our consular officers responsible for reviewing visa applications to facilitate a comprehensive background check of persons applying for a United States visa. Consular officers lack the technology to verify that a person seeking a visa has not previously sought or received a visa using another name or identity. Similarly, there is no widely implemented technology that allows United States border inspectors to confirm the identity of persons seeking admittance into the United States using a visa.

Pursuant to Section 403(c) of the USA PATRIOT Act of 2001, the Federal Government is required to develop and implement a technology standard that can facilitate extremely high confidence in confirming the identity of an alien seeking a visa or seeking entry into the United States pursuant to a visa.

The standard required by these provisions will facilitate the capture and sharing of all relevant identity information regarding the alien applicant,

including biometrics, and information relevant to determining the eligibility of such a person for entry into the United States from and between all relevant departments and agencies through compatible, interoperable systems.

The purpose of this subsection is to ensure that United States Government will establish a technology standard to allow: 1, the State Department, at the time a person applies for a United States visa, to do a comprehensive background check against databases of known aliens ineligible for entry into the United States; 2, the State Department to verify the identity of a person applying for a United States visa as a person who has not on a previous occasion sought a visa using a different name or identity; and 3, United States border inspectors and preclearance agents to confirm that a person seeking entry to the United States on the basis of a visa is the same person who obtained the visa from the Department of State.

Although it is understood by Congress that technological advances may require revisions to any standard adopted pursuant to this provision, it is expected that the standard will initially incorporate appropriate biometric technologies to compare identity information provided by the visa applicant to criminal, immigration and intelligence databases that use a fingerprint biometric or a facial recognition biometric.

Further, to obtain the greatest protection of United States citizens by excluding persons ineligible for entry into the United States, the Department of State, the Department of Justice and other appropriate departments of the Federal Government should work with the governments of other countries to encourage such countries to adopt the standard established pursuant to this subparagraph and to establish international interoperability of identity databases. In particular, it will be beneficial to the United States to facilitate adoption of this technology standard for appropriate identity information exchange with Canada and Mexico. It would further benefit the security of United States citizens to encourage adoption of this standard by those countries for whose citizens the United States, Canada or Mexico do not require a visa to enter the respective country.

Paragraph (1) requires the Department of Justice and Department of State, through the National Institute of Standards and Technology (NIST), and in consultation with other Federal law enforcement and intelligence agencies deemed appropriate by the Attorney General or the Secretary of State, to develop a technology standard to facilitate confirmation of the identity of persons seeking a visa or persons using a visa to enter the United States. The Departments of Justice and State shall also consult with Congress in the development of this standard through the reporting process described in paragraph (4) of this subsection.

This technology standard will enable the Department of State to confirm that a person seeking a visa is not known to the Federal Government as a person ineligible for a visa, or is a person who has sought or obtained a visa using a different name or identity. The technology standard will also enable Federal inspectors at all ports of entry and preclearance locations to confirm that a person seeking entry to the United States using a visa is the same as the person to which the Department of State issued the visa, and is not a person sought by the Federal Government to be excluded from entry to the United States.

The technology standard must be developed and certified by NIST within two years of the date of enactment of this subsection.

Paragraph (2) provides that the technology standard described in paragraph (1) shall be the basis for a cross-agency, cross-platform electronic database system that is a cost-effective, efficient, fully integrated means to share law enforcement and intelligence information necessary to confirm the identity of a person applying for a United States visa, or such a person seeking to enter the United States using a visa.

Paragraph (3) requires that the system described in paragraph (2) shall be implemented in a manner that is readily and easily accessible to all consular officers responsible for the issuance of United States visas; all Federal inspection agents at United States border inspection points (including any preclearance locations); and all law enforcement and intelligence officers responsible for investigation or identification of aliens admitted to the United States pursuant to a visa, provided that such officers are provided access to this system pursuant to regulation.

Paragraph (4) provides that the Attorney General and the Secretary of State jointly and in consultation with the Secretary of the Treasury, shall report to Congress within 18 months of the date of enactment of this Act, and every two years thereafter, describing the development, implementation and efficacy of the technology standard described in this subsection. The report must also consider the privacy implications and applicability of Federal privacy laws.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield the Senator as much time as he requires.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. I thank the Senator from Utah, the leader on our side on this committee.

I want to talk just in specifics about one area with which this bill deals. We know that as a result of the tragedy of September 11 and the continuing problems we are having with anthrax and other threats from abroad, we need to do a better job of seeing who comes into this country to make sure people who wish to do us harm are, if possible, screened out before they get here so people who are visitors from abroad who engage in things that are inappropriate, who violate the terms of their visas or their other status, can be removed.

So after the September 11 incident happened and people started talking about problems in immigration, I spent a full day traveling with representatives from the INS in my State. We are in the heartland, but Missouri is directly involved because many of these visitors come to Missouri as well. I know the people at our major ports have even greater problems, but we saw the problems firsthand.

I said: Why can't you get somebody out of the country if they overstay their visa?

And they asked a very logical question: How do you know where they are? We don't have a good system.

I said: Is it possible?

They said: You probably could not give us enough INS enforcement agents to make sure we could find every person. They come in, they say they are going to go to Branson, MO, or they are going to visit the Arch in Missouri, and they may go to one or two other lesser tourist attractions across the country, and we don't know where they are.

As a result of discussions with them and some great assistance I received from my cosponsors, Senator CONRAD and Senator SNOWE, we put together what we think are some significant improvements in the way we deal with visitors to this country to lessen the likelihood that they will be able to participate in causing harm to citizens of the United States. So we have put together the Visa Integrity and Security Act. I express our sincere appreciation to the managers of this bill and to our colleagues in the House for adopting these principles and putting them into the bill.

This is not going to be a total solution. Nobody can expect that we are going to do a 100-percent job. But when we look at what has happened in the past, we think this is going to be a significant improvement.

As Senator SNOWE pointed out, Sheik Rahman, who has been in prison for his part in the first bombing of the World Trade Center, had been on a watch list, the Foreign Intelligence Watch List, for years, and nobody told the State Department or the INS, and they gave him permanent status in the United States. That was after he had been identified.

We are saying the criminal agencies, the law enforcement agencies have to talk with the State Department, the people who are issuing these visas, and let them know we should not let this guy back into the United States. He came and went five times. That is just not acceptable.

I also trust the State Department will change the directions in their

manual which has said in recent years that merely urging terrorist activities or belonging to a terrorist organization do not disqualify you from coming to the United States. I mean, if you are a member of al-Qaida, you say: Oh, well, he may not be one of the murderers?

Give me a break. If there is any ground for keeping somebody out of the United States, it ought to be that they are a member of al-Qaida. I hope in the future we can share that information and make sure they do not come in.

So one of the things we require is that the FBI share the National Criminal Information System with the State Department and the INS. We are going to ask the Director of Homeland Security to report to Congress on the need for any other Federal agencies, intelligence agencies, to share or feed their information into this database.

One of the things we know now is that people can come in under one name and then change names and we don't know exactly who they are. We don't have a foolproof method of identifying these people who come into the United States. Isn't it about time we know for certain, before they even come in, who they are? Doesn't it make sense that we know for certain who they are when they are in the United States?

I talked with the dean of the engineering school at the University of Missouri at Columbia. He said 10 years ago it wouldn't be possible but now, clearly, we have the technology to do this. So this bill instructs the Attorney General to implement an automated system to track the entry and exit of visa holders, to make sure who they are, where they are, and what their status is.

Back in my time, we used to talk about fingerprints. Now the term is a biometric system. There are a number of different systems to review. There can be digitized facial profiles, digitized photos of the iris of the eye, whatever is most feasible and effective there—to select that. We need to put some money in putting the machinery in our consular offices overseas so when somebody comes in and presents himself to get a visa to get into the country, we can find out and make a record, permanently, of who they are. No more using stolen passports.

One of our partners in Western Europe who operates under the visa waiver system has a problem with 60,000 stolen passports. Right now, if you buy a passport or take somebody else's visa, we have a tough time tracking them. But once they get that biometric card, we know positively. We have a modern-day thumbprint on them. We can check them out overseas; we can check them in our records. When they come to the port of entry, we check them at the port of entry to make sure they are who they say they are. And if they do not get out of the country in time, we turn that information over to law enforcement agencies, so if there is a contact with a law enforcement agency, this rings a bell: You are out of status. You stayed too long. Or if a student leaves the school, departs the school which he or she is supposed to attend or an H–1B visa holder leaves the job he or she is supposed to have, that is reported to the INS and they can turn over that information. Any law enforcement official in the United States who comes in contact with him will know that person is out of status.

Somebody says: Why is it important to know if they are out of status? Many people who are out of status and performing activities that are highly suspicious may not rise to the level of criminal indictment or for a criminal information to be filed against them, but if they are involved in suspicious activities and they are out of status, they are violating the terms of their visa and they can be deported and we potentially can avoid problems before they actually occur.

This is not going to be 100 percent effective. But when people are out of status, particularly if they are acting suspiciously, we will have a record on them, and we need to tighten up the system to know when they leave. Right now, it just depends upon the airlines, making sure they tell us who leaves the country. That is not good enough. We need to keep a record of who comes in and who leaves so we know who is overstaying their visa. They say 4 to 6 million people are here illegally because they overstayed their visa, and we don't have any idea how to find them. At least if we have a biometric card, when they come in contact with a law enforcement agency, then we can do that.

Student visas are another thing. A lot of people focused on the student visas. That is a small portion of the people who come to the United States. There were a couple of people involved in the September 11 tragedy who were here on student visas.

Hanni Hanjour came here supposedly to study English in California and never showed up at school. The school didn't know he was coming. They didn't tell anybody. The next time we heard from him he was apparently piloting the plane that went into the Pentagon.

It is not the student visas that are the problem. All visas are problems. But in this bill we authorize almost $37 million to implement the system that Congress dictated 4 or 5 years ago to track the people who come into the United States and to get a solid tracking system to know if they are overstaying their visa. If they do not show up for school, then the schools would have to notify the INS. It would apply the same requirements to language schools, to vocational schools, and, yes, especially to flight schools. So we would know who was coming in.

This data system which has been put on the slow road is to be speeded up and to be fully in effect by the beginning of January 2003. So we will have a better system.

Let me say a brief word about student visa holders. The foreign students who come to this land are a vitally important part of our educational system. We are very proud in Missouri to have a number of schools with a significant number of foreign students who bring their culture, their experience, and their knowledge to this country. In my view, one of the best foreign relation tools we have is to share education with the future leaders of other countries.

I have traveled extensively in Asia. I have found that many of the governmental leaders, scientific leaders, and leaders in journalism have studied in my State. They come up to me and ask how the Missouri Tigers are doing. They know what we are about. We have a good basis to talk with them.

I was in Malaysia in August to talk about the potential that we have to gain great medical insight and perhaps advances through biotechnology using the information in genes in the Malaysian rain forest. Two of the leaders graduated from the University of Missouri.

These are in the bill. The visa waiver program needs to be tightened up so countries that just send their citizens into our country without going through the visa process—we need to work with them and negotiate with them so they have a strong, positive identifier, and so we have the same kind of identification with them as we do with these other states.

I know many people want to speak on this. I, again, express my appreciation to the managers of the bill. I thank my cosponsors, Senator CONRAD and Senator SNOWE. I urge adoption of this measure which I think is going to move us significantly in the right direction of preventing terrorist activities in the future.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I will take a moment. How much time is remaining to the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Vermont has 43 minutes remaining.

Mr. LEAHY. Mr. President, I know the distinguished senior Senator from New York has been waiting on the floor for some time. How much time is the Senator from New York going to want?

Mr. SCHUMER. I ask for 7 minutes.

Mr. LEAHY. I see the distinguished senior Senator from California. How much time does she want?

Mrs. FEINSTEIN. I will take 1 additional minute; 8 minutes.

That was meant to be a joke.

Mr. LEAHY. I am trying to think how to react to that, considering the size of the State of Vermont—other than to say that when Vermont was admitted to the Union it had twice the population of California when California was admitted to the Union. Every day now California gains the population of Vermont.

Mr. President, I ask that 8 minutes of my time be given to the Senator from

New York and 8 minutes to the Senator from California, both of whom are valued members of the Senate Judiciary Committee.

Mr. CONRAD. Mr. President, will the manager of the bill and others who are waiting permit me 15 seconds to mention what has occurred?

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

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the manager of the bill for including the provisions that Senator BOND, myself, and Senator SNOWE authored to tighten our borders, to provide coordination with schools and employers when visa holders come to this country, to coordinate the work of our intelligence agencies with the INS and the State Department so we are confident of who is coming in, and to impose these new provisions using biometrics so we really know who is coming to our country.

I thank the managers very much, and I thank Senator BOND for his leadership.

Mr. LEAHY. Mr. President, I thank Senator BOND. I thank Senator CONRAD and Senator BYRD.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Thank you, Mr. President.

Mr. President, first, let me thank our senior Senator from Vermont and our senior Senator from Utah for their leadership on this bill; and also the many who have worked on it.

It is good that we have brought this bill in a timely fashion before the Senate. On the one hand, we didn't rush so much that we did the bill in a day or two. On the other hand, we didn't have a great need to wait in terms of security. I think it is coming to the floor at the right time with enough deliberation and care but at the same time not delaying too much because the security problems America faces are large and at times seem almost overwhelming.

If there is one key word that underscores this bill, it is ''balance.'' In the new post-September 11 society that we face, balance is going to be a key word. Technology has forced us to recalibrate in many different ways. The technology that allowed these horrible people to do what they did to my city and to America and the technology that allows law enforcement to try to catch up with them changes rapidly. No law can sit still as that technology changes and still be effective.

The balance between the need to update our laws given the new challenges and the need to maintain our basic freedoms which distinguish us from our enemies is real.

There have been some on the right who have said just pass anything. We just have to go after the terrorists and forget about our freedoms and our civil liberties. There are some on the left who say only look at the civil liberties aspect. They are both wrong. Fortunately, neither prevailed in this fine piece of work that we have before us. Balance and reason have prevailed.

This is the Senate working at its best under a crisis situation but still with care and an appropriate degree of deliberation.

It is also an example of the two parties coming together, and of the administration and the Congress coming together. In a sense, in this bill there is something for everyone to like and something for everyone to dislike, which may well show that it will end up in the right place.

I would like to talk about a few parts of the bill. The trap-and-trace provision is basically a proposal that Senator KYL and I put together a couple years ago which is basically in the bill intact. It is vital. If you ask law enforcement what they need, they need a standard when they have somebody who is a terrorist or a potential terrorist, that would allow a wiretap to be made so they can find that person.

In the old days it was easy. It was not easy to get a new telephone. You had to go to the phone company to get one, and it would take a few weeks. Now people have cell phones; and anyone, for an illicit or bad purpose, can get a cell phone every day. In fact, we know some of the hijackers regularly bought new cell phones.

Without this new process, without nationalizing trap-and-trace authority so you can follow the numbers that are called—you still cannot look at content without going to a judge—law enforcement would be powerless. It still confounds me that a simple provision such as this, which does not change the balance but simply updates the technology we need, had been held up for so long. Fortunately, it is here now. Or unfortunately, it took an awful incident to make it happen.

Most of the terrorists—and other criminals as well: money launderers, drug dealers—are pretty technologically savvy. To put handcuffs on law enforcement so they cannot be as technologically savvy, would make no sense.

I was also proud to work on the money laundering provision. Law enforcement has often said: Show me the money, and I will show you the terrorists. Let's be honest about it. The money-laundering provision is not going to stop the flow of money completely to the terrorists. They can still have couriers and packets and things such as that. But what it does do, No. 1, is make it harder, and, No. 2, it gives us information, the ability to find information, and find the flow of who is connected to whom, how, where, why, and when.

Again, the late Senator Coverdell and I had a money-laundering bill that is not terribly different than the provisions in this bill. We had introduced it a couple years ago.

I see my friend from Michigan. He has come to the Chamber. He has done great work in relation to money laundering, as has the Senator from Massachusetts, and so many others.

As to information sharing, again, we need to share information more quickly and more rapidly among our various law enforcement agencies and between law enforcement and intelligence agencies.

When we are facing a war where it is more likely that more civilians will die than military personnel, the homefront is a warfront. The old high wall between foreign intelligence and domestic law enforcement has to be modified. The bill does a good job of that.

There is a provision that would improve communication between Federal law enforcement and local law enforcement, which Senator CLINTON and I believe needs tightening up. There were procedural, not substantive, objections raised to it. We hope to bring that measure back either as a freestanding measure or as part of some other legislation.

The other provisions in the bill are good as well. I believe in immigration. I think immigrants are great for America. But immigrants do not have the exact same rights as citizens. They never have, nor should they. To say that somebody who is not a U.S. citizen and might be suspicious should be detained for a short period of time while law enforcement checks them out—after all, they are trying to enter the country, which is a privilege, not a right—makes sense. To say they should be detained indefinitely without going to a judge cuts too far against the grain of the freedoms we have. Once again, this bill seeks a balance.

Finally, as to the sunset, I was very much opposed to the House 2-year sunset. How could we have law enforcement adapt to a new law knowing that by the time they get geared up, it is almost going to be sunsetted? In fact, I think you do it the other way. If a law is good, you put it on the books permanently, and then you reexamine it. You do not automatically have it off the books. That means you do not trust the product you put together.

Four years is about the minimum amount of time that would be acceptable to me. I thought 5 would be better, or, frankly, no sunset. Putting the burden of proof the other way would have made more sense, still. But a 4-year sunset, again, shows compromise.

Mr. President, I have said this in this Chamber before. In this new world in which we live, everyone has to give a little bit. We are asking our citizens to give a little bit. We are asking our Armed Forces to give a lot. And that applies to us as well.

I hope and pray—and I believe it has happened in this bill—there is a bit of a new attitude. Even if you cannot get everything your way, at least you give the benefit of the doubt to the compromise that has been put together because we have to move things forward, and this bill does that.

In conclusion, the scourge of terrorism is going to be with us for a while. Law enforcement has a lot of catching up to do. There is no question

about it. In this bill, at least, we give them fair and adequate tools that do not infringe on our freedoms but, at the same time, allows them to catch up a lot more quickly.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from California.

Mr. LEVIN. Mr. President, I wonder if the Senator from California would yield for a unanimous consent request.

Mrs. FEINSTEIN. I would be happy to yield.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that after the remarks of the Senator from California, I be recognized for the time allotted to me.

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

Mr. LEVIN. I thank the Senator.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, Americans tend to be a very open people. Americans, to a great extent, have looked at Government, saying: Just leave me alone. Keep Government out of my life. At least that is the way it was before September 11. What I hear post-September 11 are people saying: What is my Government going to do to protect me?

As we look back at that massive, terrible incident on September 11, we try to ascertain whether our Government had the tools necessary to ferret out the intelligence that could have, perhaps, avoided those events. The only answer all of us could come up with, after having briefing after briefing, is we did not have those tools. This bill aims to change that. This bill is a bill whose time has come. This bill is a necessary bill. And I, as a Senator from California, am happy to support it.

This legislation brings our criminal and national security laws in line with developing technologies so that terrorists will no longer be able to stay one step ahead of law enforcement. And believe me, they can today.

Right now, for example, terrorists can evade Foreign Intelligence Surveillance Act wiretaps, which are device-specific, by simply switching cell phones every few hours. This legislation fixes that and allows for roving FISA wiretaps, the same as are currently allowed for suspected criminals under the domestic law enforcement portions of the law known as title III.

And because modern communications often travel through countless jurisdictions before reaching their final destination, investigators must now get court orders from every one of those jurisdictions. They can have to get 15, 20 court orders to carry out a wiretap. This bill would change that, allowing for just one court order from the originating jurisdiction.

And the bill recognizes that voice mails and e-mails should be treated alike when law enforcement seeks access to them. Technology, as it changes, changes the ability to conduct an intelligence surveillance. This bill attempts to keep a very careful balance between the personal right to privacy and the Government's right to know, in an emergency situation, to be able to protect its citizens.

It also increases information sharing between the intelligence community and law enforcement. As a matter of fact, it mandates it. Criminal investigations often result in foreign intelligence. This information, up to this point, is not shared with the intelligence community. After this bill becomes law, it must be shared.

And it makes it easier for law enforcement to defeat those who would use the computers of others to do mischief.

For example, with the Zombie computer, I invade your computer and, by invading your computer, go into 1,000 other computers and am able to get one of them to open the floodgates of a dam. This bill prevents that.

Overall, this bill gives law enforcement and the intelligence community the tools they need to go after what is an increasingly sophisticated terrorist element.

I am very pleased this legislation also includes a number of provisions I drafted with Senator GRAHAM well before the events on September 11—title 9 of this bill. These provisions give the Director of the CIA, as head of the intelligence community, a larger role with regard to the analysis and dissemination of foreign intelligence gathered under FISA. These mandate that law enforcement share information with the intelligence community.

And title 9 improves the existing Foreign Terrorist Asset Tracking Center which helps locate terrorist assets. It authorizes additional resources to help train local law enforcement to recognize and handle foreign intelligence.

We now have these anti-terrorist teams throughout the country. They need to be trained, and they need to learn the tools of the trade and get the security clearances so they can tap into these databases.

I agree with the 4-year sunset included for certain surveillance provisions in the bill. In committee I suggested a 5-year sunset. The House had 2 years. It is now 4 years. That is an appropriate time. It gives us the time to review whether there were any outrageous uses of these provisions or whether uses were appropriate under the basic intent of the bill.

Let me briefly touch on a related topic of great importance in the war against terrorism. As an outgrowth of the Technology, Terrorism, and Government Information Subcommittee, today Senator JON KYL of Arizona and I held a press conference indicating a bill we will shortly introduce to create a new, central database, a database that is a lookout database into which information from intelligence, from law enforcement, from all Federal agencies will go. That database will be for every visa holder, every person who crosses borders coming in and out of this country. The legislation will provide for ''smart visa cards'', reform the visa waiver program, reform the unregulated student program, and improve and beef up identity documents.

I passed around at the press conference a pilot's license, easily reproducible, no biometric data, no photograph, perforated around the edges showing that it had been removed from a bigger piece. This is the pilot's license that every 747 pilot carries, every private pilot carries. It is amazing to me that this can be a Federal document and be as sloppy as it is in this time.

We intend to see that identity documents are strengthened to provide not only photographs, but biometric data as well (such as fingerprints or facial recognition information). And the data system would be such that it is flexible and scalable so as biometric technology and requirements progress, the database can keep up.

Both Senator KYL and I also met with Larry Ellison, the CEO of Oracle. Oracle has stated that they are willing to devote some 1,500 engineers to develop a national identity database. What we are proposing is different from that. He said they would devote their software free of charge.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. FEINSTEIN. If I may just have 1 minute to conclude.

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

Mrs. FEINSTEIN. We are not proposing a national identity card, but we do believe this kind of database could be prepared by a company such as Oracle—they have offered to give it to the Government for free or by NEC, which did a state-of-the-art fingerprint system for San Francisco. We believe this should be under the auspices of the Homeland Security Director, that these decisions need to be made rapidly, and that we need to get cracking to close the loopholes that have made the United States of America one giant sieve.

This bill, which I am so happy to support, takes a giant step forward in that direction. I thank both the chairman of the committee and the ranking member for their diligence on this bill.

I yield the floor.

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

Mr. LEVIN. Mr. President, the antiterrorism bill which the Senate is about to pass reflects the sentiments the American people have expressed since the events of September 11—that we must act swiftly and strongly to defend our country without sacrificing our most cherished values. The Senate antiterrorism legislation meets that test. It responds to these dangerous times by giving law enforcement agencies important new tools to use in combating terrorism without denigrating

the principles of due process and fairness embedded in our Constitution.

The bill is not perfect. In fact, during the Senate's consideration of its bill, I supported three amendments offered by Senator FEINGOLD. Each of the Feingold amendments would have strengthened privacy protections for American citizens without undermining law enforcement efforts to investigate terrorists. One amendment would have maintained limits in Federal and State law on law enforcement access to personal records, particularly with regards to sensitive medical and financial information. A second amendment would have required law enforcement to ascertain that a surveillance target under the antiterrorism bill's expanded wiretap authority was actually in the house that was bugged or using the phone that was tapped before surveillance could be initiated. The third amendment that I supported would have placed sensible limits on the government's ability to intercept computer communications. Among these limits were the type of investigation and the length of surveillance in which the government could utilize new surveillance authority provided in the antiterrorism bill.

While the amendments I supported were not adopted the bill before us is much stronger from a civil liberties standpoint than the legislation that was initially proposed by the administration. This is due in large part to the strong commitment to civil liberties and the tireless efforts of Senate Judiciary Committee Chairman PATRICK LEAHY.

The bill also bolsters Federal criminal laws against terrorism in several important areas, including extending the statute of limitations for terrorist offenses and modernizing surveillance laws to permit investigators to keep pace with new technologies like cell phones and the Internet.

Michigan's economy and security depend on the Federal Government providing adequate resources for inspection and law enforcement at the State's northern border. I am pleased that the final bill now before us also includes significant new funding to increase security and improve traffic flow at the northern border.

Finally, this legislation includes a landmark set of provisions that I have been proud to sponsor that will strengthen and modernize U.S. anti-money laundering laws. Osama bin Laden has boasted that his modern new recruits know the ''cracks'' in ''Western financial systems'' like they know the ''lines in their hands.'' Enactment of this bill will help seal the cracks that allow terrorists and other criminals to use our financial systems against us.

The final money laundering provisions appear in Title 3 of the bill and represent a significant advance over existing law. Here are some of the anti-money laundering provisions that I authored and that are included in the final bill.

For the first time, all U.S. financial institutions—not only banks but securities firms, insurance companies, money transmitters, and other businesses that transfer funds or engage in large cash transactions—will have a legal obligation to exercise due diligence before allowing a foreign financial institution to open a correspondent account with them and thereby gain entry into the U.S. financial system.

For the first time, U.S. banks and securities firms will be barred from opening accounts for foreign shell banks that have no physical presence anywhere and no affiliation with another bank.

For the first time, U.S. prosecutors will be able to freeze and seize a depositor's funds in a foreign financial institution's correspondent account to the same extent under civil forfeiture laws as a depositor's funds in other U.S. financial accounts.

For the first time, foreign corruption offenses such as bribery and misappropriation of funds by a public official will qualify as predicate offenses that can trigger a U.S. money laundering prosecution.

Still other provisions in the bill give U.S. law enforcement a host of new tools to investigate and prosecute money laundering crimes, especially crimes involving a foreign financial institution.

Here are some of the other key provisions in the bill that make landmark changes in U.S. anti-money laundering laws.

For the first time, all U.S. financial institutions will have a legal obligation to verify the identity of their customers, and all customers will have a legal obligation to tell the truth about who they are.

For the first time, all U.S. financial institutions will be required to have anti-money laundering programs.

For the first time, the U.S. Treasury Secretary will have legal authority to designate specific foreign financial institutions, jurisdictions, transactions or accounts as a ''primary money laundering concern'' and use special measures to restrict or prohibit their access to the U.S. marketplace.

For the first time, bulk cash smuggling over U.S. borders will be a prosecutable crime, and suspect funds will be subject to forfeiture proceedings.

Just like we are tightening our border controls to restrict access to the United States across its physical borders, the bill's anti-money laundering provisions will tighten our financial controls to restrict access into the U.S. financial system. They will require our financial institutions to take new steps, to do more work, and to exercise greater caution before opening up the financial system of the United States.

When the anti-money laundering provisions first passed the Senate on October 11, I gave a floor statement explaining a number of the provisions that had been taken from the Levin-Grassley anti-money laundering bill, S. 1371. While I do not want to repeat all of that legislative history here, some important improvements were made during the House-Senate negotiations that I would like to comment on in order to explain their intent and impact.

First is the shell bank ban in Section 313 of the final bill. That provision appeared in both the House and Senate bills, with only a few differences. The primary difference is that the House provision applied only to ''depository institutions,'' while the Senate bill was intended to ban both U.S. banks and U.S. securities firms from opening accounts for shell banks. The final bill takes the broader approach advocated by the Senate and applies the shell bank ban to both U.S. banks and U.S. securities firms. This broader ban is intended to make sure that neither U.S. banks nor U.S. securities firms open accounts for shell banks, which carry the highest money laundering risks in the banking world. This broader ban means, for example, that a bank that had shell banks as clients and was required to close those accounts under this provision would not be able to circumvent the ban simply by switching its shell bank clients to accounts at an affiliated broker-dealer. The goal instead is to close off the U.S. financial system to shell banks and institute a broad ban on shell bank accounts.

In my floor statement of October 11, I explained the related requirement in Section 313 that U.S. financial institutions take reasonable steps to ensure that other foreign banks are not allowing their U.S. accounts to be used by shell banks. The purpose of this language is to prevent shell banks from getting indirect access to the U.S. financial system by operating through a correspondent account belonging to another foreign bank. That requirement was included in both the House and Senate bills, and in the final version of the legislation. It is a key provision because it will put pressure on all foreign financial institutions that want to do business in the United States to cut off the access that shell banks now enjoy in too many countries around the world.

I also explained on October 11 that the shell bank ban contains one exception that is intended to be narrowly construed to protect the U.S. financial system from shell banks to the greatest extent possible. This exception, which is identical in both the House and Senate bills and is unchanged in the final version of the legislation, allows U.S. financial institutions to open an account for a shell bank that meets two tests: the shell bank is affiliated with another bank that maintains a physical presence, and the shell bank is subject to supervision by the banking regulator of that affiliated bank. The intent of this exception is to allow U.S. financial institutions to do business with shell branches of large, established banks on the understanding that

the bank regulator of the large, established bank will also supervise the established bank's branch offices worldwide, including any shell branch. As explained in my earlier floor statement, U.S. financial institutions are cautioned not to abuse this exception, to exercise both restraint and common sense in using it, and to refrain from doing business with any shell operation that is affiliated with a poorly regulated bank.

The House-Senate negotiations also added a new provision to Section 313 giving U.S. financial institutions a 60-day period to wind up and close any existing accounts for shell banks and to institute the reasonable procedures called for to ensure that other correspondent accounts with foreign financial institutions are not being used by shell banks. As I suggested on October 11, one possible approach with respect to other correspondent accounts would be for the U.S. financial institution to develop standard language asking the foreign financial institution to certify that it is not and will not allow any shell bank to use its U.S. accounts and then to rely on that certification absent any evidence to the contrary.

A second provision I want to discuss in detail is the due diligence requirement in Section 312 of the final bill. This provision also appeared in both the House and Senate bills, again with only a few differences in wording. This provision is intended to tighten U.S. anti-money laundering controls by requiring all U.S. financial institutions to exercise due diligence when opening or managing correspondent or private banking accounts for foreign financial institutions or wealthy foreign individuals. The purpose of this requirement is to function as a preventative measure to stop rogue foreign financial institutions, terrorists or other criminals from using U.S. financial accounts to gain access to the U.S. financial system.

The most important change made to the due diligence requirement during the House-Senate negotiations was to make the definitional provisions in section 311 also apply to section 312. Specifically, the House and Senate negotiators amended what is now Section 311(e) to make sure that its provisions would be applied to both the new 31 U.S.C. 5318A and the new subsections (i) and (j) of 31 U.S.C. 5318 created by Sections 311, 312 and 313 of the final bill.

As I mentioned in my floor statement on October 11, one of the key changes that the Senate Banking Committee made to the due diligence requirement when they took that provision from the Levin-Grassley bill, S. 1371, was to make the due diligence requirement apply to all U.S. financial institutions, not just banks. The Banking Committee expanded the scope of the due diligence requirement by deleting the Levin-Grassley references to ''banks'' and substituting the term ''financial institutions'' which, in Section 5312(a)(2) of the Bank Secrecy Act, includes not only banks, but also securities firms, insurance companies, money exchanges, and many other businesses that transfer funds or carry out large cash transactions. The House Financial Services Committee adopted the same approach as the Senate Committee, using the term ''financial institution'' in its due diligence provision rather than, for example, the term ''depository institution'' which the House Committee used in its version of the shell bank ban. The bottom line, then, is that both the House and Senate expanded the due diligence provision to apply to all U.S. financial institutions, not just banks.

During the House-Senate negotiations on the final version of the anti-money laundering legislation, Section 311(e) of the bill was amended to make it applicable to both the due diligence requirement created by Section 312 and to the shell bank ban created by Section 313. Section 311(e) establishes several new definitions for such terms as ''account'' and ''correspondent account,'' and also directs or authorizes the Treasury Secretary to issue regulations to clarify other terms. By making those definitions and regulatory authority applicable to the due diligence requirement and shell bank ban, the House-Senate negotiators helped ensure that the same terms would be used consistently across Sections 311, 312 and 313. In addition, the change helps clarify the scope of the due diligence and shell bank provisions in several respects.

First, the change makes the definition of ''account'' applicable to the due diligence requirement. This definition makes it clear that the due diligence requirement is intended to apply to a wide variety of bank accounts provided to foreign financial institutions or private banking clients, including checking accounts, savings accounts, investment accounts, trading accounts, or accounts granting lines of credit or other credit arrangements. The clear message is that, before opening any type of account for a foreign financial institution or a wealthy foreign individual and giving that account holder access to the United States financial system, U.S. financial institutions must use due diligence to evaluate the money laundering risk, to detect and report possible instances of money laundering, and to deny access to terrorists or other criminals.

The definition also ensures that the shell bank ban applies widely to bar a shell bank from attempting to open virtually any type of financial account available at a U.S. financial institution.

Second, the change makes it clear that the definition of ''correspondent account'' applies to the due diligence requirement. This clarification is important, because the definition makes it clear that ''correspondent accounts'' are not confined to accounts opened for foreign banks, as specified in S. 1371, but encompass accounts opened for any ''foreign financial institution.'' This broader reach is in keeping with the effort of the Senate Banking Committee and the House Financial Services Committee to expand the due diligence requirement to apply to all financial institutions, not just banks. It means, for example, that U.S. financial institutions must use due diligence when opening accounts not only for foreign banks, but also for foreign securities firms, foreign insurance companies, foreign exchange houses, and other foreign financial businesses.

Section 311(e)(4) authorizes the Treasury Secretary to further define terms used in subsection (e)(1), and Treasury may want to use that authority to issue regulatory guidance clarifying the scope of the term ''foreign financial institution'' to help U.S. financial institutions understand the extent of their due diligence obligation under the new 31 U.S.C. 5318(i). In fashioning this regulatory guidance, Treasury should keep in mind the intent of Congress in issuing this new due diligence requirement—to require all U.S. financial institutions to use greater care when allowing any foreign financial institution inside the U.S. financial system.

The significance of applying the ''correspondent account'' definition to the shell bank ban is, again, to ensure that the ban applies widely to bar a shell bank from opening virtually any type of financial account available at a U.S. financial institution.

Third, due to the change made by House-Senate negotiators, Section 311(e)(3) directs the Treasury Secretary to issue regulations defining ''beneficial ownership of an account'' for purposes of both the new 31 U.S.C. 5318A and the new subsections (i) and (j) of 31 U.S.C. 5318. How the regulations define ''beneficial ownership'' will have profound implications for these new provisions as well as for other aspects of U.S. anti-money laundering laws. Section 311(e)(3) directs Treasury to address three sets of issues in defining beneficial ownership: the significance of ''an individual's authority to fund, direct, or manage the account''; the significance of ''an individual's material interest in the income or corpus of the account''; and the exclusion of individuals whose beneficial interest in the income or corpus of the account is immaterial.''

The issue of beneficial ownership is at the heart of the fight against terrorists and other criminals who want to use our financial institutions against us. Terrorists and other criminals want to hide their identity as well as the criminal origin of their funds so that they can use their U.S. accounts without alerting law enforcement. They want to use U.S. and international payment systems to move their funds to their operatives with no questions asked. They want to deposit their funds in interest-bearing accounts to

increase the financial resources available to them. They want to set up credit card accounts and lines of credit that can be used to finance their illegal activities. Above all, they do not want U.S. financial institutions determining who exactly is the owner of their accounts, since that information can lead to closure of the accounts, seizure of assets, exposure of terrorist or criminal organizations, and other actions by law enforcement.

After the September 11 attack, it is more critical than ever that U.S. financial institutions determine exactly who is the beneficial owner of the accounts they open. Another provision of the final bill, Section 326 which was authored by House Financial Services Committee Chairman OXLEY, requires financial institutions to verify the identify of their customers. That provision gets at the same issue—that our financial institutions need to know who they are dealing with and who they are performing services for.

Some financial institutions have pointed out the difficulties associated with determining the beneficial owner of certain accounts. But these are not new issues, and they can be dealt with in common sense ways. U.S. tax administrators and financial regulators have years of experience in framing ownership issues. Switzerland has had a beneficial ownership requirement in place for years, and in fact requires accountholders to sign a specific document, called ''Form A,'' declaring the identify of the account's beneficial owner. The difficulties associated with determining beneficial ownership can be addressed.

There will, of course, be questions of interpretation. No one wants financial institutions to record the names of the stockholders of publicly traded companies. No one wants financial institutions to identify the beneficiaries of widely held mutual funds. That is why this section directs the Treasury Secretary to issue regulatory guidance in this area.

At the same time, there are those who are hoping to convince Treasury to turn the definition of beneficial ownership inside out, and declare that attorneys or trustees or asset managers who direct payments into or out of an account on behalf of unnamed parties can somehow qualify as the ''beneficial owner of the account.'' Others will want to convince Treasury that offshore shell corporations or trusts can qualify as the beneficial owner of the accounts they open. But those are exactly the types of accounts that terrorists and criminals use to hide their identities and infiltrate U.S. financial institutions. And those are exactly the accounts for which U.S. financial institutions need to verify and evaluate the real beneficial owners.

The beneficial ownership regulation will be a challenging undertaking. But there is plenty of expertise to draw upon, from FATF, the Basel Committee, U.S. financial and tax regulators, other countries with beneficial ownership requirements and, of course, from our own financial community.

Fourth, Section 311(e)(2) directs the Treasury Secretary to issue regulations clarifying how the term ''account'' applies to financial institutions other than banks. This authority should be read in conjunction with Section 311(e)(4) which allows, but does not require, the Secretary to issue regulations defining other terms in the new 31 U.S.C. 5318A and the new subsections (i) and (j) of 31 U.S.C. 5318. These two regulatory sections should, in turn, be read in conjunction with Section 312(b)(1) which directs the Secretary to issue regulations further clarifying the due diligence policies, procedures and controls required under that section. Together, these grants of regulatory authority provide the Treasury Secretary with ample authority to issue regulatory guidance to help different types of financial institutions understand what is expected of them in the area of due diligence. Such guidance may be needed by banks, securities firms, insurance companies, exchange houses, money service businesses and other financial institutions. The guiding principle, again, is to ensure that U.S. financial institutions exercise appropriate due diligence before opening accounts for foreign financial institutions or wealthy foreign individuals seeking access to the U.S. financial system.

These grants of regulatory authority can also be used by Treasury to ensure that the shell bank ban established by Section 313 is as broad and effective as possible to keep shell banks out of the U.S. financial system.

Next is due diligence and correspondent banking. Section 312 imposes an ongoing, industry-wide legal obligation on all types of financial institutions operating in the United States to exercise appropriate care when opening and operating correspondent accounts for foreign financial institutions to safeguard the U.S. financial system from money laundering. The general obligation to establish appropriate and specific due diligence policies, procedures and controls when opening correspondent accounts is codified in a new 31 U.S.C. 5318(i)(1).

Subsection 5318(i)(2) specifies additional, minimum standards for enhanced due diligence policies, procedures and controls that must be established by U.S. financial institutions for correspondent accounts opened for two specific categories of foreign banks: banks operating under offshore banking licenses and banks operating in foreign countries that have been designated as raising money laundering concerns. These two categories of foreign banks were identified due to their higher money laundering risks, as explained in the extensive staff report and hearing record of the Permanent Subcommittee on Investigations, copies of which I released earlier this year.

Subsection 5318(i)(2) provides two alternative ways in which a foreign country can be designated as raising money laundering concerns. The first way is if a country is formally designated by an intergovernmental group or organization of which the United States is a member. Currently, the most well known such group is the Financial Action Task Force on Money Laundering, also known as FATF, which is composed of about 30 countries and is the leading international group fighting money laundering. In 2000, after a lengthy fact-finding and consultative process, FATF began issuing a list of countries that FATF's member countries formally agreed to designate as noncooperative with international anti-money laundering principles and procedures. This list, which names between 12 and 15 countries, is updated periodically and has become a powerful force for effecting change in the listed jurisdictions. The second way a country may be designated for purposes of the enhanced due diligence requirement is if the country is so designated by the Treasury Secretary under the procedures provided in the new Section 5318A. This second alternative enables the United States to act unilaterally as well as multilaterally to require U.S. financial institutions to take greater care in opening correspondent accounts for foreign banks in jurisdictions of concern.

The House and Senate bills contained one minor difference in the wording of the provision regarding foreign country designations by an intergovernmental group or organization under the new 31 U.S.C. 5318(i)(2)(A)(ii)(I). The House bill included a phrase, not in the Senate bill, stating that the foreign country designation had to be one with which the Secretary of Treasury concurred, apparently out of concern that an intergovernmental group or organization might designate a country as noncooperative over the objection of the United States. The final version of the provision includes the House approach, but uses statutory language making it clear that U.S. concurrence in the foreign country designation may be provided by the U.S. representative to the relevant international group or organization, whether or not that representative is the Secretary of Treasury or some other U.S. official.

The new 31 U.S.C. 5318(i)(2) states that the enhanced due diligence policies, procedures and controls that U.S. financial institutions must establish for correspondent accounts with offshore banks and banks in jurisdictions designated as raising money laundering concerns must include at least three elements. They must require the U.S. financial institution to ascertain the foreign bank's ownership, to carefully monitor the account to detect and report any suspicious activity, and to determine whether the foreign bank is allowing any other banks to use its U.S. correspondent account and, if so, the identity of those banks and related due diligence information.

The three elements specified in Section 5318(i)(2) for enhanced due diligence policies, procedures and controls are not meant to be comprehensive. Additional reasonable steps would be appropriate before opening or operating accounts for these two categories of foreign banks, including steps to check the foreign bank's past record and local reputation, the jurisdiction's regulatory environment, the bank's major lines of business and client base, and the extent of the foreign bank's anti-money laundering program. Moreover, other categories of foreign financial institutions will also require use of enhanced due diligence policies, procedures and controls including, for example, offshore broker-dealers or investment companies, foreign money exchanges, foreign casinos, and other foreign money service businesses.

Now I would like to discuss due diligence and private banking. The new Section 5318(i) also addresses due diligence requirements for private banking accounts. The private banking staff report issued by the Permanent Subcommittee on Investigations explains why these types of private banking accounts are especially vulnerable to money laundering and why initial and ongoing due diligence reviews are needed to detect and report any suspicious activity.

The House and Senate versions of this provision were very similar. The primary difference between them is that the House bill included a definition of ''private banking accounts'' that originally appeared in the Levin-Grassley bill, S. 1371, while the Senate left the term undefined. The final version of Section 5318(i) includes the House definition. It has three elements. First, the account in question must require a $1 million minimum aggregate of deposits. Second, the account must be opened on behalf of living individuals with a direct or beneficial ownership interest in the account. Third, the account must be assigned to, administered, or managed in part by, a financial institution employee such as a private banker, relationship manager or account officer. The purpose of this definition is to require U.S. financial institutions to exercise due diligence when opening and operating private banking accounts with large balances controlled by wealthy foreign individuals with direct access to the financial professionals responsible for their accounts.

U.S. financial institutions with private banking accounts are required by the new Section 5318(i)(1) to establish appropriate and specific due diligence policies, procedures and controls with respect to those accounts. Section 5318(i)(3) states that, at a minimum, the due diligence policies, procedures and controls must include reasonable steps to ascertain the identity of the accountholders, including the beneficial owners; to ascertain the source of funds deposited into the account; and to monitor the account to detect and report any suspicious activity. If the account is opened for or on behalf of a senior foreign political figure or a close family member or associate of the political figure, the U.S. financial institution must use enhanced due diligence policies, procedures and controls with respect to that account, including closely monitoring the account to detect and report any transactions that may involve the proceeds of foreign corruption. The enhanced due diligence requirements for private banking accounts involving senior foreign political figures are intended to work in tandem with the guidance issued on this subject by Treasury and federal banking regulators in January 2001.

The accounts covered by the private banking definition are not confined to accounts at U.S. banks, but also cover accounts opened at other types of financial institutions, including securities firms which have developed lines of business offering similar types of accounts to wealthy foreign individuals. In addition, the section is intended to cover not only private banking accounts physically located inside the United States, but also private banking accounts that are physically located outside of the United States but managed by U.S. personnel from inside the United States. For example, the private banking investigation conducted by my Subcommittee found that it was a common practice for some U.S. private banks to open private banking accounts for foreign clients in an offshore or bank secrecy jurisdiction, but then to manage those accounts using private bankers located inside the United States. In such cases, the U.S. financial institution is required to exercise the same degree of due diligence in opening and managing those private banking accounts as it would if those accounts were physically located within the United States.

Another area of inquiry involves the $1 million threshold. Some financial institutions have asked whether the $1 million minimum would be met if an account initially held less than the required threshold, or the account's total deposits dipped below the threshold amount on one or more occasions, or the same individual held accounts both inside and outside the private bank and kept the private bank account's total deposits below the threshold amount. Such inquires are reminiscent of structuring efforts undertaken to avoid certain anti-money laundering reporting requirements. Such structuring efforts have not been found acceptable in avoiding other anti-money laundering requirements, and the language of the private banking provision is intended to preclude such maneuvering here.

The purpose of the private banking provision is to require U.S. financial institutions to exercise due diligence when opening or managing accounts with large deposits for wealthy foreign individuals who can use the services of a private banker or other employee to move funds, open offshore corporations or accounts, or engage in other financial transactions that carry money laundering risks. Because it is the intent of Congress to strengthen due diligence controls and protect the U.S. financial system to the greatest extent possible in the private banking area, the private banking definition should be interpreted in ways that will maximize the due diligence efforts of U.S. financial institutions.

Finally, the House-Senate negotiators adjusted the effective date of the due diligence provision. The new effective date gives the Treasury Secretary 180 days to issue regulations clarifying the due diligence policies, procedures and controls required under the new 31 U.S.C. 5318(i). These regulations are, again, intended to provide regulatory guidance to the range of U.S. financial institutions that will be compelled to exercise due diligence before opening a private banking or correspondent banking account. Section 312(b) states that, whether or not the Treasury Secretary meets the 180-day deadline for regulations, the due diligence requirement will go into effect no later than 270 days after the date of enactment of the legislation. That means, whether or not the Treasury Secretary issues any regulations, after 270 days, U.S. financial institutions will be legally required to establish appropriate and specific due diligence policies, procedures and controls for their private banking and correspondent accounts, including enhanced due diligence policies, procedures and controls where necessary.

In addition to due diligence and the Shell Bank provisions, my October 11 floor statement discusses several other bill provisions including those that add foreign corruption offenses to the list of crimes that can trigger a U.S. money laundering prosecution, and those that close a forfeiture loophole applicable to correspondent accounts for foreign financial institutions. I will not repeat that legislative history again, but I do want to mention one other provision that I authored to expand use of Federal receivers in money laundering and forfeiture proceedings.

The Federal receivers provision is contained in Section 317 of the final bill, and I want to make three points about it. First, this provision comes out of the work of the Permanent Subcommittee on Investigations which found that many money laundering crimes include such complex flows of money across international lines that the average prosecutor does not have the time or resources needed to chase down the money, even when that money represents savings stolen or defrauded from hundreds of crime victims in the United States. In too many money laundering cases, the crime victims will never see one dime of their lost savings. The Federal receiver provision in Section 317 is intended to provide Federal prosecutors and the Federal and State regulators working with

them the option of using a court-appointed receiver to chase down the laundered funds.

Second, the provision is intended to allow any U.S. district court to appoint a Federal receiver in a money laundering or forfeiture proceeding, whether criminal or civil, if so requested by the Federal prosecutor or Federal or State regulator associated with the proceeding. The only restriction is that the court must have jurisdiction over the defendant whose assets the receiver will be pursuing. Jurisdiction may be determined in the context of the criminal or civil proceeding before the court, including under new language in other parts of Section 317 making it clear that a district court has jurisdiction over any foreign financial institution that has a correspondent account at a U.S. financial institution; over any foreign person who has committed a money laundering offense involving a financial transaction occurring in whole or in part in the United States; and over any foreign person that has converted to their own use property that is the subject of a U.S. forfeiture order, as happened in the Swiss American Bank case described in the Subcommittee's staff report.

The third point about the Federal receiver provision is that it is intended to make it clear that Federal receivers appointed under U.S. money laundering laws may make requests and may obtain financial information from the U.S. Financial Crimes Enforcement Network in Treasury and from foreign countries as if the receiver were standing in the shoes of a federal prosecutor. This language is essential to increase the effectiveness of receivers who often have to work quickly, in foreign jurisdictions, in cooperation with foreign law enforcement and financial regulatory personnel, and who need clear statutory authority to make use of international information sharing arrangements available to assist U.S. law enforcement. The provision is intended to make it clear that the Federal receiver has the same access to international law enforcement assistance as a Federal prosecutor would if the prosecutor were personally attempting to recover the laundered funds. The language is also intended to make it clear that Federal receivers are bound by the same policies and procedures that bind all Federal prosecutors in such matters, and that Federal receivers have no authority to exceed any restrictions set by the Attorney General.

Finally, I would like to take note of two other provisions that are included in the final bill. They are Section 352 authored by Senate Banking Committee Chairman SARBANES to require all U.S. financial institutions to establish anti-money laundering programs, and Section 326 authored by House Financial Services Committee Chairman OXLEY to require all U.S. financial institutions to verify the identity of their customers. Both are strong requirements that apply to all U.S. financial institutions and, in the case of the Oxley provision, to all financial accounts. Both represent important advances in U.S. anti-money laundering laws by codifying basic anti-money laundering requirements. I commend my colleagues for enacting these basic anti-money laundering controls into law and filling in some of the gaps that have made our anti-money laundering safeguards less comprehensive than they need to be.

The clear intention of both the House and the Senate bills, and the final bill being enacted by Congress today, is to impose anti-money laundering requirements across the board that reach virtually all U.S. financial institutions. Congress has determined that broad anti-money laundering controls applicable to virtually all U.S. financial institutions are needed to seal the cracks in our financial systems that terrorists and other criminals are all too ready to exploit.

There are many other noteworthy provisions of this legislation, from requirements involving legal service of subpoenas on foreign banks with U.S. accounts, to new ways to prosecute money laundering crimes, to new arrangements to increase cooperation among U.S. financial institutions, regulators and law enforcement to stop terrorists and other criminals from gaining access to the U.S. financial system. There just is not sufficient time to go into them all.

To reiterate, the antiterrorism bill we have before us today would be very incomplete—only half of a toolbox—without a strong anti-money-laundering title to prevent foreign terrorists and other criminals from using our financial institutions against us. With the anti-money-laundering provisions in this bill, the antiterrorism bill gives our enforcement authorities a valuable set of additional tools to fight those who are attempting to terrorize this country.

Osama bin Laden has boasted that his modern new recruits know, in his words, the ''cracks'' in ''Western financial systems'' like they know the ''lines in their own hands.'' Enactment of this bill with these provisions will help seal those cracks that allow terrorists and other criminals to use our own financial systems against us.

The intention of this bill is to impose anti-money-laundering requirements across the board that reach virtually all U.S. financial institutions.

Our Permanent Subcommittee on Investigations, which I chair, spent 3 years examining the weaknesses and the problems in our banking system with respect to money laundering by foreign customers, including foreign banks. Through 6 days of hearings and 2 major reports, one of which contained case studies on 10 offshore banks, we developed S. 1371 to strengthen our anti-money-laundering laws. A strong bipartisan group of Senators joined me in pressing for its enactment, including Senators GRASSLEY, SARBANES, KYL, DEWINE, BILL NELSON, DURBIN, STABENOW, and KERRY.

The major elements of S. 1371 are part of the legislation we are now considering.

Finally, Mr. President, I want to give a few thank-yous. First, I thank Senator SARBANES, chairman of the Senate Banking Committee. He saw the significance of the money laundering issue in the fight against terrorism, and I thank him for his quick action, his bipartisan inclusive approach, and his personal dedication to producing tough, meaningful legislation. I also thank him for allowing my staff to participate fully in the negotiations to reconcile the anti-money-laundering legislation passed by the House and the Senate.

I extend my thanks and congratulations to the Senate Banking Committee and the House Financial Services Committee for a fine bipartisan product that will strengthen, modernize, and revitalize U.S. anti-money-laundering laws. Congressman OXLEY and Congressman LAFALCE jumped right into the issue, committed themselves to producing strong legislation, and did the hard work needed to produce it. The negotiations were a model of House-Senate collaboration, with bipartisan, productive discussions leading to a legislative product that is stronger than the legislation passed by either House and which is legislation in which this Congress can take pride.

I also extend my thanks to Senator DASCHLE, Senator LOTT, and Senator LEAHY for taking the actions that were essential to ensure that the anti-money-laundering title was included in the antiterrorism bill. Senator DASCHLE made it very clear that without these provisions no antiterrorism bill would be complete. Senator LEAHY took actions of all kinds to make sure that, in fact, the anti-money laundering provisions were included in the final bill.

I thank Senator GRASSLEY who joined me in this effort early on and who worked with me every step of the way win enactment of the anti-money laundering legislation into law.

Senator STABENOW I thank for her quick and decisive action during the Banking Committee's consideration of this bill. Without her critical assistance, we would not be where we are today. I also thank Senator KERRY for his consistent, strong and informed role in fashioning this landmark legislation.

Finally I want to give a few thank-yous to staff. Elise Bean of my staff first and foremost deserves all of our thanks for her heroic efforts on this legislation. She and Bob Roach of our Subcommittee staff led the Subcommittee investigations into money laundering and did very detailed work on private banking and correspondent banking that laid the groundwork for the legislation we are passing today. I want to thank them both.

I want to thank Bill Olson of Senator GRASSLEY's office for jumping in whenever needed and lending strong support to this legislative effort. Similar thanks go to John Phillips of Senator KERRY's office who was there at all hours to make sure this legislation happened.

Similar thanks go to Senator SARBANES' staff on the Senate Banking Committee—especially Steve Harris, Marty Gruenberg, Patience Singleton and Steve Kroll, who put in long hours, maintained a high degree of both competency and professionalism, and provided an open door for my staff to work with them.

I also want to thank the staff of the House Financial Services Committee—Ike Jones, Carter McDowell, Jim Clinger and Cindy Fogleman. They put in long hours, knew the subject, and were dedicated to achieving a finished product of which we could all be proud.

Our thanks also go to Laura Ayoud of the Senate Legislative Counsel's office who literally worked around the clock during the negotiations on this legislation and, through it all, kept a clear eye and a cheerful personality. Her work was essential to this product.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Before I make my statement and before Senator LEVIN leaves the floor, I wish to acknowledge the very substantial contribution that Senator LEVIN made to the money-laundering title that is in this bill, which I think is an extremely important title. In fact, you can't watch any program on television that has experts talking about what we ought to be doing with respect to this terrorism challenge when either the first or second thing they mention is to dry up the financial sources of the terrorists, and that, of course, comes right back to the money laundering.

Senator LEVIN, over a sustained period of time, in the government operations committee, held some very important hearings, issued very significant reports, and formulated a number of recommendations. This title is, in part, built on the recommendations that Senator LEVIN put forward at an earlier time. I simply acknowledge his extraordinary contribution to this issue. I acknowledge Senator KERRY as well. There were two proposals. They both had legislation in them and we used those as building blocks in formulating this title. We think it is a very strong title and that it can be a very effective tool in this war against terrorism, and against drugs, and against organized crime. It should have been done a long time ago, but it is being done now.

Before the able Senator from Michigan leaves the floor, I thank him and acknowledge his tremendous contribution.

Mr. LEVIN. Again, I thank Senator SARBANES for his great leadership, along with Senator LEAHY, which made this possible.

Mr. SARBANES. Mr. President, I rise in very strong support of this legislation—in particular, title III, the International Money Laundering Abatement and Financial Antiterrorism Act, which was included as part of the antiterrorism legislation. Of course, that bill was approved yesterday by the House of Representatives and will be approved very shortly by this body.

Title III represents the most significant anti-money-laundering legislation in many, many years—certainly since money laundering was first made a crime in 1986. The Senate Committee on Banking, Housing, and Urban Affairs, which I have the privilege of chairing, marked up and unanimously approved the key anti-money-laundering provisions on October 4. Those provisions were approved unanimously, 21–0. Those were approved as Title III of S. 1510, the Uniting and Strengthening America Act on October 11 by a vote of 96–1. H.R. 3004, the Financial Antiterrorism Act, which contained many of the same provisions and added important additional provisions, passed the House of Representatives by a vote of 412–1 on October 17.

Title III of this conference report represents a skillful melding of the two bills and is a result of the strong contribution made by House Financial Services Committee and chairman MICHAEL OXLEY and ranking member JOHN LAFALCE, working with Senator GRAMM, the ranking member of the Senate committee, and myself.

President Bush said on September 24, when he took executive branch action on the money-laundering issue:

> We have launched a strike on the financial foundation of the global terror network.

Title III of our comprehensive antiterrorism package supplies the armament for that strike on the financial foundation of the global terror network. Terrorist attacks require major investments of time, planning, training, practice, and financial resources to pay the bills. Osama bin Laden may have boasted, ''Al-Qaida includes modern, educated youth who are as aware of the cracks inside the Western financial system as they are aware of the lines in their hands,'' but with title III, we are sealing up those cracks.

Money laundering is the transmission belt that gives terrorists the resources to carry out their campaigns of carnage, but we intend, with the money-laundering title of this bill, to end that transmission belt in its ability to bring resources to the networks that enable terrorists to carry out their campaigns of violence.

I need not bring to the attention of my colleagues the fact that public support across the country for anti-money-laundering legislation is extremely strong. Jim Hoagland put it plainly in the Washington Post:

> This crisis offers Washington an opportunity to force American and international banks to clean up concealment and laundering practices they now tolerate or encourage, and which terrorism can exploit.

This legislation takes up that challenge in a balanced and forceful way.

Title III contains, among other provisions, authority to take targeted action against countries, institutions, transactions, or types of accounts the Secretary of the Treasury finds to be of primary money-laundering concern.

It also contains critical requirements of due diligence standards directed at correspondent accounts opened at U.S. banks by foreign offshore banks and banks in jurisdictions that have been found to fall significantly below international anti-money-laundering standards.

It prohibits U.S. correspondent accounts for offshore shell banks, those banks that have no physical presence or employees anywhere and that are not part of a regulated and recognized banking company.

The title also contains an important provision from the House bill that requires the issuance of regulations requiring minimum standards for verifying the identity of customers opening and maintaining accounts at U.S. financial institutions, and it very straightforwardly requires all financial institutions to establish appropriate anti-money-laundering programs.

Title III also includes several provisions to enhance the ability of the Government to share more specific information with banks, and the ability of banks to share information with one another relating to potential terrorist or money-laundering activities.

In addition, it provides important technical improvements in anti-money-laundering statutes, existing statutes, and mandates to the Department of the Treasury to act or formulate recommendations to improve our anti-money-laundering programs.

This is carefully considered legislation. While the committee moved expeditiously, its movement was based upon and reflects the efforts which have been made over a number of years on this issue.

As I indicated earlier, Senator CARL LEVIN, Senator KERRY, and in addition, Senator CHARLES GRASSLEY have led farsighted efforts to keep money-laundering issues on the front burner. Others in the Congress have also been involved with this issue over time. The House Banking Committee, under the leadership of then-Chairman JIM LEACH and ranking member JOHN LAFALCE, approved a money-laundering bill in June of 2000 by a vote of 31–1. It was very similar to the legislation introduced by Senator KERRY.

As the successor to Congressman LEACH, House Financial Services Chairman OXLEY has continued the commitment to fighting money launderers to maintain the integrity of our financial system and, now, to help ensure the safety of our citizens.

We have been guided in our work by the testimony presented to the committee on September 26. We heard from a number of expert witnesses and from the Under Secretary of the Treasury

Gurule, Assistant Attorney General Chertoff, and Ambassador Stuart Eizenstat, the former Deputy Secretary of the Treasury. All of the witnesses advocated stronger and more modern money-laundering laws.

Before describing the provisions of Title III in greater detail, I want to single out a number of our colleagues and their staffs for their extraordinary contributions.

I have already spoken about House Financial Services Committee Chairman OXLEY and ranking member LAFALCE, but I want to note their personal willingness and that of their staffs to work overtime to ensure that the House and Senate reached agreement on this important legislation. In fact, last week when the office buildings were closed down, we met here in a room in the Capitol on Wednesday evening, well beyond midnight, and resumed early the next morning and continued throughout the day on Thursday, finally resolving all of our issues by the end of that afternoon.

I am truly grateful to all the members of the Senate Banking Committee for their strong, positive, and constructive contributions to the Senate-approved version of Title III. I indicated it was approved by the committee on a 21–0 vote. Ranking member Senator GRAMM provided critical support.

Senators STABENOW, JOHNSON, and HAGEL were instrumental in producing a compromise to resolve a dispute over one of the package's most important provisions.

Senator ENZI brought his expertise as an accountant to bear in refining another critical provision.

Senator SCHUMER, who has been involved in past efforts to address money-laundering activities, played an important role, as did Senators DODD, BAYH, CARPER, CORZINE, ALLARD, and CRAPO who either offered amendments or made other important contributions for improvements in this title.

I also want to take a moment to recognize those members of our staff who devoted so many hours to crafting this important and comprehensive legislation, literally all night in a couple of instances along the way in the legislative process: Steve Kroll, Patience Singleton, Steve Harris, Lynsey Graham, Vince Meehan, Marty Gruenberg, and Jesse Jacobs on the Banking Committee's majority staff. And on the Banking Committee's minority staff, I want to underscore the work of Wayne Abernathy, Linda Lord, and Madelyn Simmons.

I also thank Elise Bean from Senator LEVIN's staff and John Phillips from JOHN KERRY's staff who worked closely with us and made significant contributions.

Finally, I take special note of Laura Ayoud of the Legislative Counsel's office. Mrs. Ayoud worked countless hours from the very beginning so that the committee print and a substitute for the Banking Committee markup were all produced on time and with the utmost accuracy and professionalism. I must say, I think the Senate is extremely fortunate to have professionals of the caliber of Mrs. Ayoud in the Legislative Counsel's office. I tip my hat not only to her, but to the extraordinary record of professionalism and dedicated service which the Legislative Counsel's office renders to the Senate.

Title III addresses all aspects of our defenses against money laundering. Those defenses generally fall into three parts. The first is the Bank Secrecy Act passed in 1970. It requires financial institutions to keep standardized transaction records and report large currency transactions and suspicious transactions, and it mandates reporting of the movement of more than $10,000 in currency into and out of our country.

The Bank Secrecy Act is so named because it bars bank secrecy in America by preventing financial institutions from maintaining opaque records or disregarding their records altogether. Secrecy is a hiding place for crime, and Congress has barred our institutions from allowing those hiding places.

The second part of our money-laundering defenses are the criminal statutes first enacted in 1986 that make it a crime to launder money and that allow criminal and civil forfeiture of the proceeds of crime.

The third part is a statutory framework that allows information to be communicated to and between law enforcement officials. Our goal must be to assure, to the greatest extent consistent with reasonable privacy protections—and we understood the necessity of balancing these considerations—to assure ourselves that necessary information can be used by the right persons in real time to cut off terrorism and crime.

Title III modernizes provisions in all three areas to meet today's threats in a global economy. Its provisions are divided into three subtitles dealing respectively with international counter-money-laundering measures, sections 311 through 330; Bank Secrecy Act amendments and related improvements, sections 351 through 366; and currency crimes and protections, sections 371 through 377.

There are 46 provisions in Title III. At this time, I want to summarize some of the bill's most important provisions.

Section 311 gives the Secretary of the Treasury, in consultation with other senior government officials, authority to impose one or more of five new ''special measures'' against foreign jurisdictions, entities, transactions or accounts that in the determination of the Secretary, after consultation with other senior federal officials, poses a ''primary money laundering concern'' to the United States. The special measures all involve special recordkeeping and reporting measures—to eliminate the curtains behind which launderers hide. In extreme cases the Secretary is permitted to bar certain kinds of interbank accounts from especially problematic jurisdictions. The statute specifies the considerations the Secretary must take into account in using the new authority and contains provisions to supplement the Administrative Procedure Act to assure that any remedies—except certain short-term measures—are subject to full comment from all affected persons.

This new provision gives the Secretary real authority to act to close overseas loopholes through which U.S. financial institutions are abused. At present the Secretary has no weapons except Treasury Advisories, which do not impose specific requirements, or full economic sanctions which suspend financial and trade relations with offending targets. President Bush's invocation of the International Economic Emergency Powers Act, IEEPA, several weeks ago was obviously appropriate. But there are many other situations in which we will not want to block all transactions, but where we will want to do more than simply advise financial institutions about under-regulated foreign financial institutions or holes in foreign countermoney laundering efforts. Former Deputy Secretary Eizenstat testified before the Committee in September that adding this tool to the Secretary's arsenal was essential.

Section 312 focuses on another aspect of the fight against money laundering, the financial institutions that make the initial decisions about what foreign banks to allow inside the United States. It requires U.S. financial institutions to exercise appropriate due diligence when dealing with private banking accounts and interbank correspondent relationships with foreign banks. With respect to foreign banks, the section requires U.S. financial institutions to apply appropriate due diligence to all correspondent accounts with foreign banks, and enhanced due diligence for accounts sought by offshore banks or banks in jurisdictions found to have substandard money laundering controls or which the Secretary determines to be of primary money laundering concern under the new authority given him by section 311.

The section also specifies certain minimum standards for the enhanced due diligence that U.S. financial institutions are required to apply to accounts opened for two categories of foreign banks with high money laundering risks—offshore banks and banks in jurisdictions with weak anti-money laundering and banking controls. These minimum standards were developed from, and are based upon, the factual record and analysis contained in the comprehensive report on correspondent banking and money laundering that was prepared by the staff of the Senate Permanent Subcommittee on Investigations, which Senator LEVIN chairs.

Section 312 is essential to title III. It addresses, with appropriate flexibility, mechanisms whose very importance for the conduct of commercial banking

makes them special targets of money launderers, as illustrated in Senator LEVIN's extensive reports and hearings. The intent of the statute is to provide special due diligence rules which will apply to correspondent relationships maintained for foreign financial institutions not merely by domestic banks but by all types of financial institutions operating in the United States, subject to the authority of the Secretary of the Treasury to define the appropriate correspondent relationships by regulation where appropriate. Given the scope of the applicable definition of correspondent account, in new section 5318A (which also applies for purposes of new section 5318(i)), the general due diligence obligations of new section 5318(i)(1) apply to all correspondent accounts maintained by U.S. financial institutions for any foreign financial institution (i.e., not simply foreign depository institutions).

The statutory intent with respect to private banking accounts is similar; that is, the statute is intended to provide special due diligence rules for private banking accounts maintained for non-United States persons not merely by depository institutions operating in the United States, but by all types of financial institutions operating in the United States and defined in 31 U.S.C. 5312, subject to the authority of the Secretary of the Treasury to define the appropriate definitions of the relevant terms by regulation.

The question has been raised whether the due diligence provisions of section 312 are ''discretionary.'' The answer is no. The provisions are to apply whether or not any rules are issued by the Treasury or whether the Treasury takes any other implementing action (in contradistinction to the provisions of new section 5318A, which must be affirmatively invoked by the Secretary. The Secretary is given authority to issue regulations ''further delineating'' the ''due diligence policies, procedures, and controls'' required by new subsection 5318(i), but those regulations must of course be consistent with the statutory language and intent to require all U.S. financial institutions to exercise the required standard of care in dealing with the risk of the misuse of the financial mechanisms with which the subsection deals.

A provision of section 319 of title III requires foreign banks that maintain correspondent accounts in the United States to appoint agents for service of process within the United States and authorizes the Attorney General and the Secretary of the Treasury to issue a summons or subpoena to any such foreign bank seeking records, wherever located, relating to such a correspondent account. U.S. banks must sever correspondent arrangements with foreign banks that do not either comply with or contest any such summons or subpoena, upon notification from the Attorney General or Secretary of the Treasury.

All of these provisions send a simple message to foreign banks doing business through U.S. correspondent accounts: be prepared, if you want to use our banking facilities, to operate in accordance with U.S. law.

Section 313 of title III also builds on the factual record before the Banking Committee to bar from the United States financial system pure ''brass-plate'' shell banks created outside the U.S. that have no physical presence anywhere and are not affiliated with any recognized banking institution. These shell banks carry the highest money laundering risks in the banking world because they are inherently unavailable for effective oversight—there is no office where a bank regulator or law enforcement official can go to observe bank operations, review documents or freeze funds. Thus the ban on provision of correspondent banking services for such brass-plate institutions is a particularly important part of title III. New 31 U.S.C. 5318(j) is intended to be vigorously enforced and strictly applied, especially in light of the relief provided in the statute for special banking vehicles that are affiliated with operating institutions and are subject to financial supervision along with those institutions.

Section 325 permits the Secretary to deal with abuse of another recognized commercial banking mechanism—concentration accounts that are used to commingle related funds temporarily in one place pending disbursement or the transfer of funds into individual client accounts. Concentration accounts have been used to launder funds, and the bill authorizes the Secretary to issue rules to bar the use of concentration accounts to move client funds anonymously, without documentation linking particular funds to their true owners. I believe that the Secretary must move promptly to exercise the regulatory authority granted by this section.

Section 326 will help ensure that individuals opening accounts with U.S. financial institutions provide information adequate to enable law enforcement and supervisory agencies to identify accounts maintained by individuals suspected of terrorist activities. The section requires the Secretary of the Treasury to prescribe regulations in consultation with each federal functional regulators to set minimum standards and procedures concerning the verification of customers' identity, maintenance of records of identity verification, and consultation at account opening of lists of known or suspected terrorists provided to the financial institution by a government agency. This section also requires the Secretary of the Treasury to submit recommendations to Congress, within 6 months of enactment, on the most effective way to require foreign nationals to provide financial institutions in the United States with accurate identity information.

It is the intent of section 326 that regulations pursuant to that section do not place obligations solely on the shoulders of the Nation's financial institutions, without placing any obligations on their customers. The contemplated regulations should therefore include provisions relating to the obligations of individuals to provide accurate information in connection with account-opening procedures, so that in appropriate cases penalties may apply under the Bank Secrecy Act to customers who willfully mislead bank officials about matters of customer identity.

Section 352 requires financial institutions to establish minimum antimoney laundering programs that include appropriate internal policies, management, employee training, and audit features. This is not a ''one-size-fit-all'' requirement; in fact its very generality recognizes that different types of programs will be appropriate for different types and sizes of institutions. It is our intention, by using general language in the amended provision, that the content of the relevant antimoney laundering programs will necessarily vary with the details of the particular financial institutions involved and the money laundering risks to which the nature of such institution and its financial products exposes the institution. Treasury regulations pursuant to this section should allow adjustment of the extent of antimoney laundering programs for smaller businesses but not exempt businesses from the requirement altogether simply because of their size.

A number of improvements are made to the suspicious activity reporting rules. First, technical changes strengthen the safe harbor from civil liability for institutions that report suspicious activity to the Treasury, Sec. 351. The provisions not only add to the protection for reporting institutions; they also address individual privacy concerns by making it clear that government officers may not disclose suspicious transaction reports information except in the conduct of their official duties. Section 356 also requires the issuance of final suspicious transaction reporting rules applicable to brokers and dealers in securities by July 1, 2002; senior officials of the relevant agencies must meet expeditiously to resolve the policy issues raised at staff levels about the content of the necessary regulations and the extent to which suspicious transaction reporting rules should be the same for banking and securities.

Sections 359 and 373 of the title deal with underground banking systems such as the Hawala, which is suspected of being a channel used to finance the al Qaeda network. Section 359 makes it clear that underground money transmitters are subject to the same record-keeping rules—and the same penalties for violating those rules—as above-ground, recognized, money transmitters. It also directs the Secretary of the Treasury to report to Congress, within 1 year, on the need for additional legislation or regulatory controls relating to underground banking

systems. Section 373 clarifies that operators of a money transmitter business can be prosecuted under Federal law for operating an illegal money transmitting business if they do not have a required State license.

Section 360 authorizes the Secretary of the Treasury to instruct the United States Executive Director of each of the international financial institutions to use such Director's ''voice and vote'' to support loans and other use of resources to benefit nations that the President determines to be contributing to efforts to combat international terrorism, and to require the auditing of each international financial institution to ensure that funds are not paid to persons engaged in or supporting terrorism.

Section 371 creates a new Bank Secrecy Act offense involving the bulk smuggling of more than $10,000 in currency in any conveyance, article of luggage or merchandise or container, either into or out of the United States, and related forfeiture provisions. This provision has been sought for several years by both the Departments of Justice and Treasury.

Other provisions of the bill address relevant provisions of the Criminal Code. These provisions were worked out with the House and Senate Judiciary Committees and are included in title III because of their close relationship to the provisions of title 31 added or modified by title III.

The most important is section 315, which expands the list of specified unlawful activities under 18 U.S.C. 1956 and 1957 to include foreign corruption offenses, certain U.S. export control violations, offenses subject to U.S. extradition obligations under multilateral treaties, and various other offenses. The Department of Justice should make use of the expanded authority, created by section 315, to make the risk of detection to foreign kleptocrats immediate and palpable.

Section 316 establishes procedures to protect the rights of persons whose property may be subject to confiscation in the exercise of the government's antiterrorism authority. This provision is designed to assure that there is no situation in which the defendant in a forfeiture action will lack the opportunity to challenge the forfeiture simply because of the authority under which the forfeiture is sought.

Section 319 treats amounts deposited by foreign banks in interbank accounts with U.S. banks as having been deposited in the United States for purposes of the forfeiture rules, but grants the Attorney General authority, in the interest of fairness and consistent with the United States' national interest, to suspend a forfeiture proceeding based on that presumption. This closes an important forfeiture loophole.

A third important set of provisions modernize information-sharing rules to reflect the reality of the flight against money laundering and terrorism.

Section 314 requires the Secretary of the Treasury to issue regulations to encourage cooperation among financial institutions, financial regulators and law enforcement officials and to permit the sharing of information by law enforcement and regulatory authorities with such institutions regarding persons reasonably suspected, based on credible evidence, of engaging in terrorist acts or money laundering activities. The section also allows banks to share information involving possible money laundering or terrorist activity among themselves—with notice to the Secretary of the Treasury.

Section 330 states the sense of Congress that the President should direct certain cabinet officers to seek negotiations with foreign supervisory agencies to ensure that foreign institutions maintain adequate records relating to any foreign terrorist organization or person engaged in any financial crime and to make such records available to U.S. law enforcement and financial supervisory personnel.

Section 355 permits but does not require, a bank to include information, in a response to a request for an employment reference by a second bank, about the possible involvement of a former institution-affiliated party in potentially unlawful activity, and creates a safe harbor from civil liability for the bank that includes such information in response to an employment reference request, except in the case of malicious intent.

Section 358 contains amendments to various provisions of the Bank Secrecy Act, the Right to Financial Privacy Act, and the Fair Credit Reporting Act to permit information subject to those statutes to be used in the conduct of United States intelligence or counterintelligence activities to protect against international terrorism.

Section 361 seeks to enhance the ability of FinCEN to address money laundering and terrorism. The section makes FinCEN a bureau of the Treasury and requires the Secretary to establish operating procedures for the government-wide data access service and communications center that FinCEN operates. In recognizing FinCEN's evolution and maturity, it is not our intention to require existing delegations of authority to be reissued simply because FinCEN's organizational status has changed from Treasury office to Treasury bureau.

The modernization of our money-laundering laws represented by Title III is long overdue. It is not the work of one or two weeks but represents years of careful study and a bipartisan effort to produce prudent and effective legislation. The care taken in producing the legislation extends to several provisions calling for reporting on the effect of the legislation and a provision for a three-year review of the effectiveness of the legislation. Title III responds, as I have indicated, to the statement of Assistant Attorney General Chertoff, the head of the Department of Justice's Criminal Division. I want to express my appreciation to him, Under Secretary Gurule at the Treasury, and his associates for their help in this effort.

At the hearing on September 26, Assistant Attorney General Chertoff said, and I quote him, ''We are fighting with outdated weapons in the money-laundering arena today.'' Without this legislation, the cracks in the financial system of which bin Laden spoke would remain open. We should not, indeed we cannot, allow that to continue. And that is why enactment of this legislation is so important.

Title III is a balanced effort to address a complex area of national concern. It is the result of a truly bipartisan effort on both sides of Congress working closely with the executive branch, with the White House, with the Department of the Treasury, and the Department of Justice. I very strongly urge support for this essential component of the antiterrorism package.

I ask unanimous consent that a section-by-section summary be printed in the RECORD.

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

TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT AND FINANCIAL ANTI-TERRORISM ACT OF 2001—SECTION-BY-SECTION SUMMARY

Section 313 provides that the provisions added and amendments made by Title III will terminate after September 30, 2004, if the Congress enacts a joint resolution to that effect, and that any such joint resolution will be considered by the Congress expeditiously.

SUBTITLE A. INTERNATIONAL COUNTER-MONEY LAUNDERING AND RELATED MATTERS

Section 311 adds a new section 31 U.S.C. 5318A, entitled ''Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern,'' to the Bank Secrey Act. The new section gives the Secretary of the Treasury, in consultation with other senior government officials, authority (in the Secretary's discretion), to impose one or more of five new ''special measures'' against foreign jurisdictions, foreign financial institutions, transactions involving such jurisdictions or institutions or one more types of accounts, that the Secretary, after consultation with Secretary of State and the Attorney General, determines to pose a ''primary money laundering concern'' to the United States. The special measures include: (1) requiring additional recordkeeping or reporting for particular transactions, (2) requiring the identification of the foreign beneficial owners of certain accounts at a U.S. financial institution, (3) requiring the identification of customers of a foreign bank who use an interbank payable-through account opened by that foreign bank at a U.S. bank, (4) requiring the identification of customers of a foreign bank who use an interbank correspondent account opened by that foreign

bank at a U.S. bank, and (5) after consultation with the Secretary of State, the Attorney General, and the Chairman of the Federal Reserve Board, restricting or prohibiting the opening or maintaining of certain interbank correspondent or payable through accounts. Measures 1–4 may not be imposed for more than 120 days except by regulation, and measure 5 may only be imposed by regulation.

Section 312. Special due diligence for correspondent accounts and private banking accounts

Section 312(a) of the Act adds a new subsection (1), entitled ''Due Diligence for United States Private Banking and Correspondent Banking Accounts involving Foreign Persons,'' to 31 U.S.C. 5318. The new subsection requires a U.S. financial institution that maintains a correspondent account or private banking account for a non-United States person (or that person's representative) to establish appropriate, specific, and, where necessary, enhanced due diligence procedures that are reasonably designed to detect and report instances of money laundering through such accounts. For this purpose, a correspondent account is defined in the new section 5318A, added to the Bank Secrecy Act by section 311 of Title III.

The general requirement is supplemental by two additional, more specific, due diligence standards that are required for certain types of correspondent and private banking accounts.

Correspondent Accounts.—In the case of certain correspondent accounts, the additional standards required by subsection 5318(i)(2) require a U.S. financial institution to, at a minimum, do three things. First, it must ascertain the identity, and the nature and extent of the ownership interests, of the owners of any foreign bank correspondent whose shares are not publicly traded. Second, it must conduct enhanced scrutiny of the correspondent account to guard against money laundering and satisfy its obligation to report suspicious transactions under the terms of 31 U.S.C. 5318(g). Third, it must ascertain whether any foreign bank correspondent in turn provides correspondent accounts to third party foreign banks; if so the U.S. financial institution must ascertain the identity of those third party foreign banks and related due diligence information required under the general rules of paragraph 5318(i)(1).

These additional standards apply to correspondent accounts requested or maintained by or on behalf of any foreign bank operating under (i) an offshore banking license (defined by the statute as a banking license that bars the licensee from conducting banking activities with citizens of, or in the local currency of, the jurisdiction that issued the license), or (ii) under a banking license issued (A) by any country designated as noncooperative with international anti-money laundering principles by an intergovernmental body of which the United States is a member, with the concurrence of the U.S. representative to such body, or (B) by a country that has been designated by the Secretary of the Treasury as warranting special measures (i.e., the special measures authorized by new section 31 U.S.C. 5318A, added by section 311 of Title III), due to money laundering concerns.

Private Banking Accounts.—In the case of private banking accounts, the additional standards required by subsection 5318(i)(3) require a U.S. financial institution to, at a minimum, do two things. First, the U.S. financial institution must take reasonable steps to ascertain the identity of the nominal and beneficial owners of the account and the source of funds deposited into the account, as needed to guard against money laundering and report any suspicious transactions under the terms of 31 U.S.C. 5318(g). Second, the U.S. financial institution must take reasonable steps to conduct enhanced scrutiny, that is reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption, for any private banking 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 such a political figure).

A private banking account for this purpose is any account or combination of accounts that requires a minimum aggregate deposit of at least $1 million, is established on behalf of one or more individuals who have either a direct or beneficial ownership interest in the account, and that is assigned to, or administered or managed by, in whole or in part, an officer, employee or agent of a financial institution who serves as liaison between the institution and the account's direct or beneficial owner or owners.

Effective Date; Regulations.—31 U.S.C. 5318(j) will take effect 270 days after the date of enactment of Title III as part of the Uniting to Save America Act and will apply to otherwise covered correspondent and private banking accounts, whether opened before, on, or after the date of enactment. Section 312(b) of Title III requires the Secretary of the Treasury, in consultation with the appropriate federal functional regulators of the affected financial institutions, to further delineate, by regulation, the due diligence policies, procedures, and controls required under new subsection 5318(j), not later than 180 days of the date of enactment. However, the new subsection will take effect whether or not final regulations are issued before the 270th day following enactment, and any failure to issue regulations whether before or after the effective date is in no way to affect the enforceability of subsection 5318(j).

Section 313. Prohibition on United States correspondent accounts with foreign shell banks

Section 313(a) of the Act adds a new subsection (j), entitled ''Prohibition on United States Correspondent Accounts with Foreign Shell Banks'' to 31 U.S.C. 5318. The new subsection bars any depository institution or registered broker-dealer in securities, operating in the United States, from establishing, maintaining, administering, or managing a correspondent account in the United States for a foreign bank, if the foreign bank does not have ''a physical presence in any country.'' The subsection also includes a requirement that any financial institution covered by the subsection must take reasonable steps (as delineated by Treasury regulations) to ensure that it is not providing the prohibited services indirectly to a ''no-physical presence bank,'' through a third party foreign bank correspondent of the U.S. institution. The prohibition does not apply, however, to a correspondent account provided by a U.S. institution to a foreign ''no physical presence'' bank if that foreign bank is an affiliate of a depository institution (including a credit union or foreign bank) that does have a physical presence in some country and if the foreign shell bank is subject to supervision by a banking authority that regulates its ''physical presence'' affiliate in that country. Both the terms ''affiliate'' and ''physical presence'' are defined in the new subsection.

Section 313(b) provides that the ban on provision of correspondent accounts for brass-plate banks will take effect at the end of the 60 day period ending on the date of enactment.

Section 314. Cooperative efforts to deter money laundering

Section 314 requires the Secretary of the Treasury to issue regulations, within 120 days of the date of enactment, to encourage cooperation among financial institutions, financial regulators and law enforcement officials, and to permit the sharing of information by law enforcement and regulatory authorities with such institutions regarding persons reasonably suspected, based on credible evidence, of engaging in terrorist acts or money laundering activities. Section 314 also allows (with notice to the Secretary of the Treasury) the sharing of information among banks involving possible terrorist or money laundering activity, and requires the Secretary of the Treasury to publish, at least semiannually, a report containing a detailed analysis of patterns of suspicious activity and other appropriate investigative insights derived from suspicious activity reports and law enforcement investigations.

Section 315. Inclusion of foreign corruption offenses as money laundering crimes

Section 315 amends 18 U.S.C. 1956 to include foreign corruption offenses, certain U.S. export control violations, certain customs and firearm offenses, certain computer fraud offenses, and felony violations of the Foreign Agents Registration Act of 1938, to the list of crimes that constitute ''specified unlawful activities'' for purposes of the criminal money laundering provisions. These changes in law mean that the U.S. will no longer allow a rapacious foreign dictator to bring his funds to the U.S. and hide them without fear of detection or prosecution.

Section 316. Anti-terrorist forfeiture protection

Section 316 establishes procedures to protect the rights of persons whose property may be subject to confiscation in the exercise of the government's anti-terrorism authority.

Section 317. Long-arm jurisdiction over foreign money launderers

Section 317 amends 18 U.S.C. 1956 to give United States courts ''long-arm'' jurisdiction over foreign persons committing money laundering offenses in the United States, over foreign banks opening U.S. bank accounts, and over foreign persons who convert assets ordered forfeited by a U.S. court. The amendments made by section 317 also permit a federal court dealing with such foreign persons to issue a pre-trial restraining order or take other action necessary to preserve property in the United States to satisfy an ultimate judgment. Finally, the amendment also permits the appointment by a federal court of a receiver to collect and take custody of a defendant's assets to satisfy criminal or civil money laundering or forfeiture judgments.

Section 318. Laundering money through a foreign bank

Section 318 expands the definition of financial institution for purposes of 18 U.S.C. 1956 and 1957 to include banks operating outside of the United States.

Section 319. Forfeiture of funds in United States interbank accounts

Section 319 contains a number of provisions that are designed to deal with practical issues raised by money laundering control and financial transparency, relating primarily to correspondent accounts at U.S. financial institutions.

First, section 319 amends 18 U.S.C. 981 to treat amounts deposited by foreign banks in interbank accounts with U.S. banks as having been deposited in the United States for purposes of the forfeiture rules, but grants the Attorney General authority, in the interest of justice and consistent with the United

States' national interest, to suspend a forfeiture proceeding that is otherwise based on the ''U.S. deposit'' presumption.

Second, section 319 adds a new subsection (k) to 31 U.S.C. 5318 to require U.S. financial institutions to reply to a request for information from a U.S. regulator relating to anti-money laundering compliance within 120 hours of receipt of such a request, and to require foreign banks that maintain correspondent accounts in the United States to appoint agents for service of process within the United States; the new 31 U.S.C. 5318(k) authorizes the Attorney General and the Secretary of the Treasury to issue a summons or subpoena to any such foreign bank seeking records, wherever located, relating to such a correspondent account. Finally, the provision requires the U.S. depository institution or broker-dealer that maintains the account to sever correspondent arrangements with any foreign bank within 10 days of notification by the Attorney General or the Secretary of the Treasury (each after consultation with the other) that the foreign bank has neither complied with nor contested any such summons or subpoena.

Finally, Section 319 amends section 413 of the Controlled Substances Act to authorize United States courts to order a convicted criminal to return property located abroad and to order a civil forfeiture defendant to return property located abroad pending trial on the merits.

Section 320. Proceeds of foreign crimes

Section 320 amends 18 U.S.C. 981 to permit the United States to institute forfeiture proceedings against the proceeds of foreign criminal offenses found in the United States.

Section 321. Financial institutions specified in subchapter II of chapter 53 of Title 31, United States Code

Section 321 amends 31 U.S.C. 5312(2) to add credit unions, futures commission merchants, commodity trading advisors, and registered commodity pool operators to the definition of ''financial institution'' for purposes of the Bank Secrecy Act, and to include the Commodity Futures Trading Commission within the term ''federal functional regulator'' for purposes of the Bank Secrecy Act.

Section 322. Corporation represented by a fugitive

Section 322 extends the existing prohibition, in 18 U.S.C. 2466, against the maintenance of a forfeiture proceeding on behalf of a fugitive to include a proceeding by a corporation whose majority shareholder is a fugitive and a proceeding in which the corporation's claim is instituted by a fugitive.

Section 323. Enforcement of foreign judgments

Section 323 permits the government to seek a restraining order to preserve the availability of property subject to a foreign forfeiture or confiscation judgment.

Section 324. Report and recommendation

Section 324 directs the Secretary of the Treasury, in consultation with the Attorney General, the Federal banking agencies, the SEC, and other appropriate agencies to evaluate operation of the provisions of Subtitle A of Title III of the Act and recommend to Congress any relevant legislative action, within 30 months of the date of enactment.

Section 325. Concentration accounts at financial institutions

Section 325 amends 31 U.S.C. 5318(h) to authorize the Secretary of the Treasury to issue regulations concerning the maintenance of concentration accounts by U.S. depository institutions, to prevent an institution's customers from anonymously directing funds into or through such accounts.

Section 326. Verification of identification

Sec, 326(a) adds a new subsection (l) to 31 U.S.C. 5318 to require the Secretary of the Treasury to prescribe by regulation, jointly with each federal functional regulator, minimum standards for financial institutions and their customers regarding the identity of the customer that shall apply in connection with the opening of an account at a financial institution; the minimum standards shall require financial institutions to implement, and customers (after being given adequate notice) to comply with, reasonable procedures concerning verification of customer identity, maintenance of records of identity verification, and consultation at account opening of lists of known or suspected terrorists provided to the financial institution by a government agency. The required regulations are to be issued within one year of the date of enactment.

Section 326(b) requires the Secretary of the Treasury, again in consultation with the federal functional regulators (as well as other appropriate agencies), to submit a report to Congress within six months of the date of enactment containing recommendations about the most effective way to require foreign nationals to provide financial institutions in the United States with accurate identity information, comparable to that required to be provided by U.S. nationals, and to obtain an identification number that would function similarly to a U.S. national's tax identification number.

Section 327. Consideration of anti-money laundering record

Section 327 amends section 3(c) of the Bank Holding Company Act of 1956, and section 18(c) of the Federal Deposit Insurance Act to require the Federal Reserve Board and the Federal Deposit Insurance Corporation, respectively, to consider the effectiveness of a bank holding company or bank (within the jurisdiction of the appropriate agency) in combating money laundering activities, including in overseas branches, in ruling on any merger or similar application by the bank or bank holding company.

Section 328. International cooperation on identification of originators of wire transfers

Section 328 requires the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to take all reasonable steps to encourage governments to require the inclusion of the name of the originator in wire transfer instructions sent to the United States, and to report annually to the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs concerning progress toward that goal.

Section 329. Criminal penalties

Section 329 provides criminal penalties for officials who violate their trust in connection with the administration of Title III.

Section 330. International cooperation in investigations of money laundering, financial crimes, and the finances of terrorist groups

Section 330 states the sense of the Congress that the President should direct the Secretary of State, the Attorney General, or the Secretary of the Treasury, as appropriate and in consultation with the Federal Reserve Board, to seek negotiations with foreign financial supervisory agencies and other foreign officials, to ensure that foreign financial institutions maintain adequate records relating to any foreign terrorist organization or its membership, or any person engaged in money laundering or other financial crimes, and make such records available to U.S. law enforcement and financial supervisory personnel when appropriate.

SUBTITLE B. BANK SECRECY ACT AMENDMENTS AND RELATED IMPROVEMENTS

Section 351. Amendments relating to reporting of suspicious activities

Section 351 restates 31 U.S.C. 5318(g)(3) to clarify the terms of the safe harbor from civil liability for financial institutions filing suspicious activity reports pursuant to 31 U.S.C. 5318(g). The amendments to paragraph (g)(3) also create a safe harbor from civil liability for banks that provide information in employment references sought by other banks pursuant to the amendment to the Federal Deposit Insurance Act made by Section 355 of Title III.

Section 352. Anti-money laundering programs

Section 352 amends 31 U.S.C. 5318(h) to require financial institutions to establish anti-money laundering programs and grants the Secretary of the Treasury authority to set minimum standards for such programs. The anti-money laundering program requirement takes effect at the end of the 180 day period beginning on the date of enactment of the Act and the Secretary of the Treasury is to prescribe regulations before the end of that 180 day period that consider the extent to which the requirements imposed under amended section 5318(h) are commensurate with the size, location, and activities of the financial institutions to which the regulations apply.

Section 353. Penalties for violations of geographic targeting orders and certain recordkeeping requirements, and lengthening effective period of geographic targeting orders

Section 353 amends 31 U.S.C. 5321, 5322, and 5324 to clarify that penalties for violation of the Bank Secrecy Act and its implementing regulations also apply to violations of Geographic Targeting orders issued under 31 U.S.C. 5326, and to certain recordkeeping requirements relating to funds transfers. Section 353 also amends 31 U.S.C. 5326 to make the period of a geographic target order 180 days.

Section 354. Anti-money laundering strategy

Section 354 amends 31 U.S.C. 5341(b) to add ''money laundering related to terrorist funding'' to the list of subjects to be dealt with in the annual National Money Laundering Strategy prepared by the Secretary of the Treasury pursuant to the Money Laundering and Financial Crimes Strategy Act of 1998.

Section 355. Authorization to include suspicions of illegal activity in written employment references

Section 355 amends section 18 of the Federal Deposit Insurance Act to permit (but not require) a bank to include information, in a response to a request for an employment reference by a second bank, about the possible involvement of a former institution-affiliated party in potentially unlawful activity. A bank that provides information to a second bank under the terms of this amendment is protected from civil liability arising from the provision of the information unless the first bank acts with malicious intent.

Section 356. Reporting of suspicious activities by securities brokers and dealers; investment company study

Section 356(a) directs the Secretary of the Treasury, after consultation with the Securities and Exchange Commission and the Federal Reserve Board, to publish proposed regulations, on or before December 31, 2002, and final regulations on or before July 1, 2002, requiring broker-dealers to file suspicious activity reports.

Section 356(b) authorizes the Secretary of the Treasury, in consultation with the Commodity Futures Trading Commission, to prescribe regulations requiring futures commission merchants, commodity trading advisors, and certain commodity pool operators to submit suspicious activity reports under 31 U.S.C. 5318(g). To a significant extent, the authorization clarifies and restates the terms of existing law, but it also signals our concern that the Treasury move quickly to

determine the extent to which suspicious transaction reporting by commodities firms is necessary as a part of the nation's anti-money laundering programs.

Section 356(c) requires the Secretary of the Treasury, the SEC and Federal Reserve Board to submit jointly to Congress, within one year of the date of enactment, recommendations for effective regulations to apply the provisions of 31 U.S.C. 5311–30 to both registered and unregistered investment companies, as well as recommendations as to whether the Secretary should promulgate regulations treating personal holding companies as financial institutions that must disclose their beneficial owners when opening accounts or initiating funds transfers at any domestic financial institution.

Section 357. Special report on administration of Bank Secrecy provisions

Section 357 directs the Secretary of the Treasury to submit a report to Congress, six months after the date of enactment, on the role of the Internal Revenue Service in the administration of the Bank Secrecy Act, with emphasis on whether IRS Bank Secrecy Act information processing responsibility (for reports filed by all financial institutions) or Bank Secrecy Act audit and examination responsibility (for certain non-bank financial institutions) should be retained or transferred.

Section 358. Bank Secrecy provisions and anti-terrorist activities of the United States intelligence agencies

Section 358 contains amendments to various provisions of the Bank Secrecy Act, the Right to Financial Privacy Act, and the Fair Credit Reporting Act, to permit information to be used in the conduct of United States intelligence or counterintelligence activities to protect against international terrorism.

Section 359. Reporting of suspicious activities by underground banking systems

Section 359 amends various provisions of the Bank Secrecy Act to clarify that the Bank Secrecy Act treats certain underground banking systems as financial institutions, and that the funds transfer record-keeping rules applicable to licensed money transmitters also apply to such underground systems. Section 359 also directs the Secretary of the Treasury to report to Congress, within one year of the date of enactment, on the need for additional legislation or regulatory controls relating to underground banking systems.

Section 360. Use of authority of the United States Executive Directors.

Section 360 authorizes the Secretary of the Treasury to instruct the United States Executive Director of each of the international financial institutions (for example, the IMF and the World Bank) to use such Director's ''voice and vote'' to support loans and other use of resources to benefit nations that the President determines to be contributing to United States efforts to combat international terrorism, and to require the auditing of each international financial institution to ensure that funds are not paid to persons engaged in or supporting terrorism.

Section 361. Financial Crimes Enforcement Network.

Section 361 adds a new section 310 to Subchapter I of chapter 3 of title 31, United States Code, to make the Financial Crimes Enforcement Network (''FinCEN'') a bureau within the Department of the Treasury, to specify the duties of FinCEN's Director, and to require the Secretary of the Treasury to establish operating procedures for the government-wide data access service and communications center that FinCEN maintains. Section 361 also authorizes appropriations for FinCEN for fiscal years 2002 through 2005. Finally, Section 361 requires the Secretary to study methods for improving compliance with the reporting requirements for ownership of foreign bank and brokerage accounts by U.S. nationals imposed by regulations issued under 31 U.S.C. 5314; the required report is to be submitted within six months of the date of enactment and annually thereafter.

Section 362. Establishment of highly secure network.

Section 362 directs the Secretary of the Treasury to establish, within nine months of enactment, a secure network with FinCEN that will allow financial institutions to file suspicious activity reports and provide such institutions with information regarding suspicious activities warranting special scrutiny.

Section 363. Increase in civil and criminal penalties for money laundering.

Section 363 increases from $100,000 to $1,000,000 the maximum civil and criminal penalties for a violation of provisions added to the Bank Secrecy Act by sections 311, 312 and 313 of this Act.

Section 364. Uniform protection authority for Federal Reserve facilities.

Section 364 authorizes certain Federal Reserve personnel to act as law enforcement officers and carry fire arms to protect and safeguard Federal Reserve employees and premises.

Section 365. Reports relating to coins and currency received in nonfinancial trade or business.

Section 365 adds 31 U.S.C. 5331 (and makes related and conforming changes) to the Bank Secrecy Act to require any person who receives more than $10,000 in coins or currency, in one transaction or two or more related transactions in the course of that person's trade or business, to file a report with respect to such transaction with FinCEN; regulations implementing the new reporting requirement are to be promulgated within six months of enactment.

Section 366. Efficient use of current transaction report system.

Section 366 requires the Secretary of the Treasury to report to the Congress before the end of the one year period beginning on the date of enactment containing the results of a study of the possible expansion of the statutory system for exempting transactions from the currency transaction reporting requirements and ways to improve the use by financial institutions of the statutory exemption system as a way of reducing the volume of unneeded currency transaction reports.

SUBTITLE C. CURRENCY CRIMES

Section 371. Bulk cash smuggling.

Section 371 creates a new Bank Secrecy Act offense, 31 U.S.C. 5332, involving the bulk smuggling of more than $10,000 in currency in any conveyance, article of luggage or merchandise or container, either into or out of the United States, and related forfeiture provisions.

Section 372. Forfeiture in currency reporting cases.

Section 372 amends 31 U.S.C. 5317 to permit confiscation of funds in connection with currency reporting violations consistent with existing civil and criminal forfeiture procedures.

Section 373. Illegal money transmitting business.

Section 373 amends 18 U.S.C. 1960 to clarify the terms of the offense stated in that provision, relating to knowing operation of an unlicensed (under state law) or unregistered (under federal law) money transmission business. Section 373 also amends 18 U.S.C. 981(a) to authorize the seizure of funds involved in a violation of 18 U.S.C. 1960.

Section 374. Counterfeiting domestic currency and obligations.

Section 374 makes a number of changes to the provisions of 18 U.S.C. 470–473 relating to the maximum sentences for various counterfeiting offenses, and adds to the definition of counterfeiting in 18 U.S.C. 474 the making, acquiring, etc. of an analog, digital, or electronic image of any obligation or other security of the United States.

Section 375. Counterfeiting foreign currency and obligations.

Section 375 makes a number of changes to the provisions of 18 U.S.C. 478–480 relating to the maximum sentences for various counterfeiting offenses involving foreign obligations or securities and adds to the definition of counterfeiting in 18 U.S.C. 481 the making, acquiring, etc. of an analog, digital, or electronic image of any obligation or other security of a foreign government.

Section 376. Laundering the proceeds of terrorism.

Section 376 amends 18 U.S.C. 1956 to add the provision of support to designated foreign terrorist organizations to the list of crimes that constitute ''specified unlawful activities'' for purposes of the criminal money laundering statute. (This provision was originally included in another title of the terrorism legislation.)

Section 377. Extraterritorial jurisdiction.

Section 377 amends 18 U.S.C. 1029 to vest United States authorities with extraterritorial jurisdiction over acts involving access device, credit card and similar frauds that would be crimes if committed within the United States and that are directed at U.S. entities or linked to U.S. activities.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, what Senator DASCHLE would like to do, and this has been cleared with the two managers, is have a vote before 2 p.m. today, approximately 5 minutes to 2 p.m. There is a meeting at the White House. There are a number of very important hearings, one including the Secretary of State. We are waiting for one more Senator who has 15 minutes. We understand that Senator SPECTER is on his way.

I ask unanimous consent that the vote on passage of the Counterterrorism Act occur at 1:55 p.m. Further, that there be 10 minutes of closing debate. I will alter that by saying whatever time Senator SPECTER does not use, it will be divided between the two managers of the bill.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, I have sought recognition to state my support

for the pending legislation. This is very important legislation in response to the atrocious terrorist attacks of September 11. We will at some date in the future conduct congressional oversight to make a determination as to whether there were any deficiencies in our intelligence operations prior to the September 11 attacks. However, we should wait until the appropriate time because our intelligence entities are busy now collecting intelligence to avoid any recurrence of the terrorist attacks. But it is important that law enforcement have appropriate tools at their disposal to combat terrorists. In the United States that means careful legislation which is in accordance with our constitutional rights and our civil liberties.

I believe Congress has responded appropriately in this matter with due deliberation. There is obviously a temptation in the face of what occurred on September 11 to respond spontaneously or reflexively, but we have undertaken this legislation, I think, with appropriate care and now have a good product.

I had expressed concerns when the bill was on the Senate floor that there could be some question about the adequacy of the deliberative process because the Supreme Court of the United States has held acts of Congress unconstitutional where they questioned the thoroughness or deliberation. I think this bill as presented today does meet that standard.

The legislation has very important provisions under the Foreign Intelligence Surveillance Act where a modification has been made to authorize electronic surveillance where there is a ''significant'' rather than a ''primary'' purpose, allowing use of the Foreign Intelligence Surveillance Act.

I chaired the Judiciary subcommittee, which did Department of Justice oversight, getting into the Foreign Intelligence Surveillance Act in some detail with respect to the Wen Ho Lee case. This is a change which is necessary, and I believe it is a change which will pass constitutional muster.

The electronic surveillance adds terrorism to wiretap predicates. It is rather surprising that terrorism, or allegations of terrorism, have not been sufficient to authorize electronic surveillance in the past. This corrects a longstanding deficiency.

The pen register has been expanded for nationwide orders, which makes sense on an administrative level and does not conflict with any issues of civil liberties or constitutional rights. The bill increases the civil liability for unauthorized disclosure of wiretapping information, which I think is important.

One of the key provisions of the bill is the sunset provisions relating to the Foreign Intelligence Surveillance Act, electronic surveillance, and information sharing which expire on December 31, 2005, with an appropriate exception for ongoing investigations. This will enable us to see how this expanded power will work out and will require reauthorization, new legislation, if we wish to continue it beyond.

The provisions on immigration are important, requiring the Department of Justice and the FBI to share certain information with the State Department and INS. The issues regarding detention, I think, have been very substantially improved to be sure that there is a protection of constitutional rights while giving law enforcement an adequate opportunity to conduct the inquiries which they need.

The provisions on money laundering, I think, are very important additions to take a stand, to stop terrorist organizations such as al-Qaida and terrorists such as Osama bin Laden not to be financed through the laundering which has been possible through laxity of the banking regulations.

In short, I believe this is a very significant step forward. There is a very heavy overhang over Washington, DC, today with what is happening here with our efforts to respond in so many ways to September 11. Now with the anthrax, we are all concerned about what may happen in the future.

Having served as chairman of the Intelligence Committee back in the 1995–1996 time period and chairing the appropriations subcommittee on terrorism, I am glad to see us move forward with this legislation which will give law enforcement the tools which would give them a better opportunity to prevent any more sneak attacks, any recurrence of the dastardly deeds of September 11.

I thank the Chair, and I yield the floor.

Mr. KENNEDY. Mr. President, I ask unanimous consent that a joint memorandum on the immigration provisions of H.R. 3162 be printed in the RECORD.

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

JOINT MEMORANDUM OF SENATOR EDWARD M. KENNEDY AND SENATOR SAM BROWNBACK ON THE IMMIGRATION PROVISIONS OF ''THE UNITING AND STRENGTHENING AMERICA BY PROVIDING APPROPRIATE TOOLS REQUIRED TO INTERCEPT AND OBSTRUCT TERRORISM ACT OF 2001''

The U.S.A. PATRIOT Act of 2001 contains certain immigration provisions worked out between the Administration and members of both parties. Because the legislation was developed outside the ordinary committee process, it was not accompanied by the usual reports elaborating on the background and purpose of its provisions. This memorandum is accordingly submitted on behalf of the Chairman and Ranking Member of the Subcommittee on Immigration of the Senate Committee on the Judiciary to provide some background and explanations for these provisions.

TITLE IV: PROTECTING THE BORDER

SUBTITLE A—PROTECTING THE NORTHERN BORDER

Section 401 Ensuring Adequate Personnel on the Northern Border

This section permits the Attorney General to lift the cap on the number of ''full time equivalent'' employees that the Immigration and Naturalization Service (INS) may assign to the northern border.

Section 402 Northern Border Personnel

This section triples the number of Border Patrol agents, INS Inspectors, and Customs Service employees in each state along the northern border. It also funds any additional staff and facilities needed to support northern border personnel. Further, this section provides $50 million to the INS and $50 million to the Customs Service to improve technology to monitor the northern border and to acquire additional equipment for this purpose.

Section 403 Requiring Sharing by the Federal Bureau of Investigation of Certain Criminal Record Extracts with Other Federal Agencies in Order to Enhance Border Security

This section provides the State Department and the INS with electronic access to the information contained in the Federal Bureau of Investigation's National Crime Information Center Interstate Identification Index (NCIC–III), Wanted Persons File, and other files maintained by the National Crime Information Center. This information is to be used in determining whether a visa applicant or an applicant for admission to the United States has a criminal history.

Under this section, the FBI must provide the State Department and the INS with extracts from its criminal history records and periodically update those extracts. Within four months of enactment of this legislation, the State Department must issue regulations regarding the proper use of the information provided by the FBI. Within two years of enactment, the Attorney General and the Secretary of State will report to Congress on the implementation of this section.

Further, this section directs the Attorney General and the Secretary of State, working with the National Institute of Standards and Technology (NIST) and other agencies, to develop and certify a technology standard that can conform the identity of a visa applicant or applicant for admission. As these agencies do not utilize a single technology, the development of a technology standard will facilitate the collection and sharing of relevant identity information between all the pertinent agencies. In particular, this section instructs those agencies to investigate the use of biometric technology. The technology standard must be developed and certified by NIST within two years of the date of enactment of this subsection.

Section 404 Limited Authority to Pay Overtime

This section eliminates the $30,000 limit on overtime pay for INS personnel during 2001. The limit was contained in the 2001 Department of Justice Appropriations Act, which did not contemplate the extraordinary demands that have been placed on the INS since the terrorist attacks of September 11.

Section 405 Report on the Intergrated Automated Fingerprint Identification System for Points of Entry and Overseas Consular Posts

This provision instructs the Attorney General, in consultation with the heads of other federal agencies, to report to Congress on the feasibility of enhancing the FBI's Integrated Automated Fingerprint Identification System (IAFIS), and other identification systems, to better identify foreign nationals wanted in connection with criminal investigations in the United States and abroad.

SUBTITLE B: ENHANCED IMMIGRATION PROVISIONS

Section 411 Definitions Relating to Terrorism

Under current law, unless otherwise specified, an alien is inadmissible and deportable for engaging in terrorist activity only when

the alien has used explosives or firearms. Because a terrorist can use a knife, a box-cutter, or an airplane in a terrorist act, this section expands the definition of terrorist activity to include the use of any ''other weapon or dangerous device.'' The language looks to the purpose, not the instrument, in determining whether an activity is terrorist in nature.

Current immigration law contains no provision acknowledging organized terrorist threats per se and therefore contains no ground for inadmissibility or deportability based on activities involving ''terrorist organizations.'' Section 411 defines terrorist organization to include: (1) an organization expressly designated by the Secretary of State under current section 219 of the INA; (2) an organization otherwise designated as a terrorist organization by the Secretary of State, in consultation with the Attorney General, after finding that such organization engages in terrorist activities, as defined by section 212(a)(3)(iv)(I), (II) and (III), or provides material support to further terrorist activity; or (3) any group of two of more individuals that commits, plans, or prepares to commit terrorist activities.

This section adds three grounds of inadmissibility for individuals who, while not members of terrorist organizations, may advocate terrorism. These include (1) under new INA section 212(a)(3)(B)(i)(IV)(bb), being a representative of a group ''whose public endorsement of terrorist activity'' the Secretary of State has determined undermines United States efforts to combat terrorism; (2) under new INA section 212(a)(3)(B)(i)(VI), using one's ''position of prominence within any country to endorse or espouse terrorist activity, or persuade others to support terrorist activity or a terrorist organization, in a way that the Secretary of State determines'' undermines United States efforts to combat terrorism; or (3) under new INA section 212(a)(3)(B)(i)(VII), being a spouse or child of a person inadmissible under this section, unless the spouse or child did not know or reasonably should not have known of the activity causing the inadmissibility, or the spouse or child has renounced such activity.

This section clarifies the circumstances under which the provision of material support, solicitation of funds, or solicitation of membership for a terrorist organization can be the basis for a charge permitting the removal of an alien. It provides that, after an organization is designated as a terrorist organization by the Secretary of State, any provision of material support or solicitation of funds or membership, as defined in subsection (iv) of INA section 212(a)(3)(B), for a designated organization may be the basis for a charge of removal. With respect to activity prior to the designation of the organization, or with respect to non-designated organizations under section 212(a)(3)(B)(vi)(III), only activity that was or is intended to further terrorist activity of the organization is prohibited by this section.

Section 412 Mandatory Detention of Suspected Terrorists; Habeas Corpus; Judicial Review

The section creates INA section 236A, giving the Attorney General the authority to certify and therefore detain persons who pose a terrorist or security threat to the United States. The power to certify is limited to the Attorney General and the Deputy Attorney General. This section also provides judicial review of this authority in habeas corpus proceedings.

This section sets forth the standards for certification, custody, and detention. All persons certified under these new provisions shall be placed in custody and detained until removed or decertified. Persons who are not removable would be released from custody upon conclusion of the proceedings.

Further, it permits certification of aliens whom the Attorney General has ''reasonable grounds to believe'' are described under the terrorism grounds of the INA or are engaged in any other activity that endangers the national security of the United States. ''Reasonable grounds'' is a higher standard than mere ''reason to believe'' and requires objective, articulatable grounds.

The Attorney General must, in certified cases, either initiate removal proceedings within seven days or release the alien. In cases not involving an alien certified by the Attorney General, proceedings should continue to be initiated within the time provided by the regulations. *See* 66 Fed. Reg. 48335 (amending 8 CFR §237.3(d)). The seven-day window to initiate proceedings is limited to cases certified under section 236A and should be used judiciously, with charges filed as promptly as possible.

For aliens whose removal is unlikely in the reasonably foreseeable future, the Attorney General is required to demonstrate that release of the alien will adversely affect national security or the safety of the community or any person before detention may continue beyond the removal period. Indefinite detention of aliens is permitted only in extraordinary circumstances. *Zadvydas* v. *Davis*, 121 S. Ct. 2491 (2001).

The Attorney General shall review the certification of an alien every six months and, when appropriate, revoke the certification and release the alien under such conditions as the Attorney General deems appropriate. The alien may submit documentation or other evidence to be considered by the Attorney General in reviewing his or her certification.

The Attorney General's decision to certify and detain an alien is subject to judicial review in habeas corpus proceedings. This review encompasses both procedural protections and the merits of the Attorney General's certification decision and any decision to extend detention beyond the expiration of the removal period where removal is unlikely in the reasonably foreseeable future. Habeas corpus review is permitted in any appropriate district court of the United States, but appeals are limited to the United States Court of Appeals for the District of Columbia, with review available in the United States Supreme Court by petition for certiorari or by original petition for habeas corpus. Restricting appellate review to a single court protects the government's interest in uniformity, while providing an alien with a meaningful opportunity to seek judicial review.

Section 413 Multilateral Cooperation Against Terrorists

The records of the State Department pertaining to the issuance of or refusal to issue visas to enter the United States are confidential and can be used only in the formulation and enforcement of U.S. law. This section allows the State Department to provide such records to a foreign government on a case-by-case basis for the purpose of preventing, investigation, or punishing acts of terrorism.

Section 414 Visa Integrity and Security

In 1996, Congress enacted legislation mandating the development of an automated entry/exit control system to record the entry and departure of every non-U.S. citizen arriving in the United States. The INS lacks the technology and funding to implement this measure at all ports of entry, especially on the land border. Last year Congress amended the law to establish reasonable implementation deadlines. This provision directs the Attorney General, in consultation with the Secretary of State, to fully implement the entry/exit system, as amended, as expeditiously as practicable, with particular focus on the utilization of biometric technology and the development of tamper-resistant documents. To that end, this section also authorizes the appropriation of such funds as may be necessary to implement this system.

The entry/exit system will notify the INS whether foreign nationals departed the United States under the terms of their visas. Since the vast majority of persons who enter the United States do not pose a threat to our safety or security, this provision requires that the information obtained from the entry/exit system be interfaced with intelligence and law enforcement databases to enable authorities to focus on apprehending those few who do pose a threat.

Federal intelligence and law enforcement agencies maintain ''look out lists'' containing the names of foreign nationals who pose safety or security threats. Not all critical information is currently shared with the INS and the State Department, which are the two agencies charged with determining who is granted a visa or admitted to the United States. This provision requires the Office of Homeland Security to submit a report to Congress assessing the information that these two agencies need to effectively screen out those who might pose a threat to the United States.

Section 415 Participation of Office of Homeland Security on Entry Task Force

This section includes the new Office of Homeland Security as a participant in the Entry and Exit Task Force established by the Immigration and Naturalization Service Data Management Improvement Act of 2000.

Section 416 Foreign Student Monitoring Program

In 1996, Congress established a program to monitor foreign students and exchange visitors to the United States, funded by user fees. While a pilot phase of this program ended in 1999, this system has not been implemented nationwide. This section requires the system to be fully implemented and temporarily funds the program through January 2003.

Currently, all institutions of higher education that enroll foreign students or exchange visitors are required to participate in the monitoring program. This section also expands the list of institutions to include air flight schools, language training schools, and vocational schools.

Section 417 Machine Readable Passports

The Visa Waiver Program permits nationals of participating countries to enter the United States without obtaining non-immigrant visas. Countries participating in the program must have low nonimmigrant visa refusal rates, have machine readable passport programs, and not compromise the law enforcement interests of the United States.

This section requires the Secretary of State to conduct an annual audit of the program to assess measures to prevent the counterfeiting and theft of passports and to ascertain whether participating countries have established a program to develop tamper-resistant passports. Results of the audit will be reported to Congress.

Currently, nationals of participating countries have until October 1, 2007 to obtain machine-readable passports to seek admission to the United States. This section advances the deadline to October 1, 2003, but permits the Secretary of State to waive the requirements imposed by the deadline for all nationals of a program country, if that country is making sufficient progress to provide their nationals with machine-readable passports.

Section 418 Prevention of Consulate Shopping

This section directs the State Department to examine the concerns, if any, created by the practice of certain aliens to ''shop'' for a visa between issuing posts.

SUBTITLE C: PRESERVATION OF IMMIGRATION BENEFITS FOR VICTIMS OF TERRORISM

Section 421 Special Immigrant Status

The section provides permanent residence as special immigrants to the spouses and children of certain victims of the terrorist attacks. They include aliens who would have obtained permanent residence through a family or employment-based category, but for death, disability, or loss of employment as a direct result of the terrorist attacks on September 11, 2001. Permanent residence would be granted to the fiancé or fiancee (and children) of a U.S. citizen who died in the attacks. Permanent residence would also be granted to the grandparents of a child whose parents died in attacks, if either parent was a U.S. citizen or a permanent resident.

Section 422 Extension of Filing or Reentry Deadlines

This section creates safeguards so that aliens seeking immigration benefits are not adversely affected by the terrorist attacks. For aliens in lawful nonimmigrant status at the time of the terrorist attacks, this section extends the filing deadline for an extension of status request or change of status request where the alien was unable to meet the filing deadline due to the terrorist attacks. Deadlines are similarly extended for aliens unable to reenter in time to request an extension of status, aliens unable to enter during the period of visa validity or parole, and aliens unable to depart within their period of lawful status or voluntary department. The section also protects recipients of diversity visas who were adversely affected by the terrorist attacks.

Section 423 Humanitarian Relief for Certain Surviving Spouses and Children

Current law provides that an alien who was the spouse of a U.S. citizen for at least two years before the citizen died shall remain eligible for immigrant status as an immediate relative. This eligibility also applies to the children of the alien. This section provides that if the U.S. citizen died as a direct result of the terrorist attacks, the alien can seek permanent residence even if the marriage was less than two years old.

This section also protects the spouse and unmarried sons and daughters of a permanent resident killed in the terrorist attacks by allowing them to seek permanent residence either through a pending visa petition (filed by or on behalf of the deceased) or by filing a ''self-petition'' based on their relationship to the deceased permanent resident.

Section 424 'Age-Out' Protection for Children

By providing a brief filing extension, this provision ensures that no alien will ''age out of eligibility to immigrate as the result of the terrorist attacks. Aliens who turn 21 years of age while their applications are pending are no longer considered children under the INA, and therefore ''age out'' of eligibility to immigrate.

Section 425 Temporary Administrative Relief

This section provides temporary administrative relief to an alien lawfully present on September 10, who was the spouse, parent, or child of someone killed or disabled by the terrorist attacks and otherwise not entitled to relief.

Section 426 Evidence of Death, Disability, or Loss Employment

This section directs the Attorney General to establish evidentiary standards regarding on constitutes death, disability, or loss of employment ''as a direct result'' of the terrorist attacks. Regulations are not required to implement the provisions of this subtitle.

Section 427 No Benefit to Terrorists or Family Members of Terrorists

No benefit under this subtitle will be provided to anyone involved in the terrorist attacks on September 11 or to any family member of such an individual.

Section 428 Definitions

The term 'specified terrorist activity' means any terrorist activity conducted against the United States, its government, or its people of the United States on September 11, 2001.

TITLE VIII

Mr. GRAHAM. Mr. President, several provisions of title VIII would establish criminal prohibitions or expand existing criminal laws to deter terrorist conduct. My understanding is that the Senate certainly does not intend title VIII to criminalize otherwise lawful and authorized United States Government activities. Would the Senator confirm my understanding of the intent and effect of title VIII?

Mr. LEAHY. The Senator's understanding is absolutely correct. Unless expressly provided, none of the general restrictions in title VIII are intended to criminalize lawful and authorized United States Government activities.

Mr. BIDEN. Mr. President, 6 years ago I stood on this floor and called upon the Senate to join the fight against terrorism in the wake of the horrific bombing in Oklahoma City. Back then some argued terrorism was something that usually happened far away, in distant lands, over distant conflicts. Well, that's all changed.

Terrorism has come to America.

We have to be a little proactive now. Back then, I proposed a series of precise anti-terrorism tools to help law enforcement catch terrorists before they commit their deadly act, not ever imagining the events of September 11.

In particular, I said that it simply did not make sense that many of our law enforcement tools were not available for terrorism cases.

For example, the FBI could get a wiretap to investigate the mafia, but they could not get one to investigate terrorists. To put it bluntly, that was crazy! What's good for the mob should be good for terrorists.

Anyway, some of my proposals were enacted into law in 1996, a number were not.

There were those who decided that the threat to Americans was apparently not serious enough to give the President all the changes in law be requested.

Today, 5 years later, I again call on my colleagues to provide law enforcement with a number of the tools which they declined to pass back then. The anti-terrorism bill we consider today is measured and prudent. It has been strengthened considerably since the Administration originally proposed it in mid-September. It takes a number of important steps in waging an effective war on terrorism.

It allows law enforcement to keep up with the modern technology these terrorists are using. The bill contains several provisions which are identical or nearly identical to those I previously proposed.

For example: it allows the FBI to get wiretaps to investigate terrorists, just like they do for the Mafia or for drug kingpins; it allows the FBI to get a roving wiretap to investigate terrorists—so they can follow a particular suspect, regardless of how many different forms of communication that person uses; and it allows terrorists to be charged with Federal ''racketeering offenses,'' serious criminal charges available against organizations which engage in criminal conduct as a group, for their crimes.

I am pleased that the final version of the bill we are considering today contains three provisions that I fought for.

First, section 613 incorporates a bill that Senator HATCH and I introduced earlier this year, S. 899. Named in honor of Delaware State trooper Francis Collender, who was tragically killed while on a traffic stop in Odessa, DE this past February, S. 899 and section 613 of this bill will raise the one-time death benefit paid to the families of slain or permanently disabled law enforcement officers. For too long, this benefit has stood at $100,000. It was indexed for inflation and currently stands at $151,000, but even this is far too low for the families of these heroes to make ends meet. The bill we consider today raises this benefit to $250,000, continues to index it for inflation, and makes it applicable to the family of any law enforcement or fire personnel who lost their life on or after January 1, 2001. It's the least we can do for the Collender family, the least we can do for the hundreds of families who tragically lost a loved one on September 11, and I'm grateful my colleagues have agreed we need to include my bill in this larger anti-terrorism bill today.

Second, section 817 is based on legislation I introduced in the 106th Congress, S. 3202. It may shock my colleagues that under current law, anyone, including convicted felons, fugitives, and aliens from terrorist-sponsoring states, can possess anthrax or other biological agents. And under current law, the FBI has no tool at its disposal to charge someone with possession of anthrax. Possession of anthrax, or any other dangerous biological agent, is legal, unless the FBI can make a case that the suspect intended to use the agent as a weapon. This far too high a hurdle for our investigators to overcome in many cases, and indeed the FBI has informed me it has hindered several of their past bioweapons investigations. Section 817 closes this loophole. It prohibits certain classes of individuals, felons, illegal aliens, fugitives and others, from ever possessing these dangerous biological agents. And for everyone else, my provision says you need to be able to show you possessed this stuff with a peaceful or

bona fide research reason. If not, you're going to be charged with a felony and you face up to ten years in Federal prison.

Finally, section 1005 of this bill incorporates my First Responders Assistance Act. I have spoken with too many local police officers, chiefs, firemen and women, and others who feel left out of our fight against terrorism. I commend FBI Director Mueller for recently pledging to do a better job sharing information with our State and local law enforcement people, but clearly more needs to be done. Who responds first to a terrorist incident? On September 11 it was the New York City and Arlington County, VA police and fire departments. That's always going to be the case, local law enforcement is our first line of defense against terrorists, and we need to give them the tools they need to get that job done well.

My provision will, for the first time, give State and local enforcement and fire personnel the opportunity to apply directly to the Justice Department to receive terrorism prevention assistance. Specifically, departments will now be able to get help purchasing gas masks, hazardous material suits, intelligence-gathering equipment, twenty-first century communications devices and other tools to help them respond to terrorist threats. This section also creates a new anti-terrorism training grant program that will fund seminars and other training sessions to help local police departments better analyze intelligence information they come across, help local fire departments acquire the knowledge they need to respond to critical incidents, and assist those agencies who may be called upon to stabilize a community after a terrorist incident. It is my intent that these funds go to professional law enforcement organizations who are in some instances already delivering this type of training. The Department of Justice's Office for Domestic Preparedness does some of this, but their program is a block grant sent to the Governor. I want to involve local police and fire departments directly in the fight against terrorism, and this section is an important step towards meeting that goal. The funds authorized, $100 million over the next four years, may not be enough to get the job done, but it's a good start. I thank the Police Executives Research Forum for working with me to craft this proposal, and I look forward to seeing significant dollars allocated to it in future spending bills.

So this bill contains many provisions critical to law enforcement. Some may say it doesn't go far enough.

I have to say, I was disappointed that the Administration dropped some proposals from an early draft of its bill, measures which I called for five years ago. Those measures are not in the bill we consider today, but I continue to believe that they're common-sense tools we ought to be giving to our men and women of law enforcement.

We should be extending 48-hour emergency wiretaps and pen-registers, caller-ID-type devices that track incoming and outgoing phone calls from suspects, to terrorism crimes. This would allow police, in an emergency situation, to immediately obtain a surveillance order against a terrorist, provided the police go to a judge within 48 hours and show that they had the right to get the wiretap and that emergency circumstances prevented them from going to the judge in the first place. Now, this emergency tool is available only for organized crime cases and the bill we consider today does not expand this power to terrorist investigations.

We should be extending the Supreme Court's ''good faith'' exception to wiretaps. This well-accepted doctrine prevents criminals in other types of offenses from going free when the police make an honest mistake in seizing evidence or statements from a suspect. We should apply this good faith exception to terrorist crimes as well, to prevent terrorists from getting away when the police make an honest mistake in obtaining a wiretap.

I'm pleased Chairman LEAHY and the Administration were able to reach consensus on the two areas which gave me some pause in the Administration's original proposal: those provisions dealing with mandatory detention of illegal aliens and with greater information sharing between the intelligence and law enforcement communities.

The agreement reached has satisfied me that these provisions will not upset the balance between strong law enforcement and protection of our valued civil liberties.

This bill is not perfect. No one here claims it embodies all the answers to the question of how best to fight terrorism. But I am confident that by updating our surveillance laws, by taking terrorism as seriously as we do organized crime, and by recognizing the important role state and local law enforcement has to play in this campaign, that we are taking a step in the right direction by passing this bill today.

ANTITERRORISM

Mr. KYL. Mr. President, I rise in strong support of the anti-terrorism bill. The bill will provide our Nation's law-enforcement personnel with important tools to more effectively investigate and prevent further attacks against the people of the United States.

At the outset, I want to make clear that we did not rush to pass ill-conceived legislation.

During the past two Congresses, when I chaired the Judiciary Committee's Subcommittee on Technology and Terrorism, the Subcommittee held 19 hearings on terrorism. I want to repeat that: 19. The witnesses who appeared before the Subcommittee included the then-Director of the FBI Louis Freeh and representatives of all three of the congressionally-mandated commissions on terrorism that have issued reports over the last two years. Additional hearings on terrorism were held by the full Judiciary Committee and by other committees.

Many of the provisions proposed by the Attorney General, and included in the legislation we sent to the President today, mirror the recommendations of one or more of the major terrorism commissions and have already been examined by the committee of jurisdiction. In fact, some of these provisions had already been voted on and passed by the Senate in other legislation.

Indeed, as I will discuss more fully in a minute, the language sent forward by the Attorney General to establish nationwide trap and trace authority was included in the Hatch-Feinstein-Kyl Amendment to the recently passed Commerce, Justice, State Appropriations bill. Much of the remaining language in that amendment was included in the Counterterrorism Act of 2000, which the Senate passed last fall, after a terrorist attack on the U.S.S. Cole killed 17 American sailors and injured another 39. That bill was based on recommendations of the bipartisan, congressionally-mandated National Commission on Terrorism, known as the Bremmer Commission, which was established in 1998 in response to the embassy bombings in Tanzania and Kenya.

One particularly important provision, which was included in both the CJS bill and the current bill, updates the law to keep pace with technology. The provision on pen registers and trap and trace devices: one, would allow judges to enter pen/trap orders with nationwide scope; and two, would codify current case law that holds that pen/trap orders apply to modern communication technologies such as e-mail and the Internet, in addition to traditional phone lines.

Nationwide jurisdiction for a court order will help law-enforcement to quickly identify other members of a criminal organization such as a terrorist cell. Indeed, last year Director Freeh testified before the Terrorism Subcommittee that one of the problems law-enforcement faces is ''the jurisdictional limitation of pen registers and trap-and-trace orders issued by federal courts.''

He continued: ''Today's electronic crimes, which occur at the speed of light, cannot be effectively investigated with procedural devices forged in the last millennium during the infancy of the information technology age.''

Prior to the legislation we passed today, in order to track a communication that was purposely routed through Internet Service Providers located in different States, law-enforcement was required to obtain multiple court orders. This is because, under existing law, a Federal court can order only those communications carriers within its district to provide tracing information to law enforcement.

According to Director Freeh's testimony before the Terrorism Subcommittee, ''As a result of the fact that investigators typically have to apply for numerous court orders to trace a single communication, there is a needless waste of time and resources, and a number of important investigations are either hampered or derailed entirely in those instances where law enforcement gets to a communications carrier after that carrier has already discarded the necessary information.''

This bill solves the problem.

I would also like to address another important provision.

The bill will more clearly to criminalize the possession of biological and toxin agents by those who should not possess them. The bill would amend the implementing legislation for the 1972 ''Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological, Biological, and Toxin Weapons and on their Destruction,'' BWC. Article I of the BWC prohibits the development, production, stockpiling, acquisition, or retention of Microbial or other biological agents, or toxins, whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective, or other peaceful purposes. It is not the intent of the BWC, nor is it the intent of Section 802, to prevent the legitimate application of biological agents or toxins for prophylactic, protective, bona fide research, or other peaceful purposes. These purposes include, inter alia, medical and national health activities, and such national security activities as may include the confiscation, securing, and/or destruction of possible illegal biological substances.

In addition to the other provisions in this anti-terrorism legislation that will provide our law enforcement communities with the tools to weed out and stop terrorism, I want to express my support for the immigration provisions upon which the administration, key members of the House Judiciary Committee, Senators HATCH, KENNEDY, LEAHY and I have reached agreement, and which are included in this bill.

We must not forget, however, that the United States will continue to face overwhelming infrastructure and personnel needs at our consular offices abroad, along both the southern and northern border, and in our immigration offices throughout the United States. And, in addition to the provisions included in this anti-terrorism bill, the U.S. government will need additional tools to keep terrorists out of the country and, once they are in the country, find them and remove them. That means, among other things, eliminating the ability of terrorists to present altered international documents, and improving the dissemination of information about suspected terrorists to all appropriate agencies. After hearing first-hand about the extraordinary weaknesses of our immigration and visa processing systems, Senate Judiciary Terrorism Subcommittee Chairwoman DIANNE FEINSTEIN and I will soon introduce legislation to better equip our government with the tools necessary to make our immigration and visa processing systems more secure.

With that said, the anti-terrorism bill will certainly provide a better legal framework for keeping foreign terrorists out of the United States, and detaining them should they enter.

First, this anti-terrorism bill clarifies that the Federal Bureau of Investigation is authorized to share data from its ''most wanted list,'' and any other information contained in its national crime-information system, with the Immigration Naturalization Service and the State Department. This will help the INS and State Department identify suspected terrorists before they come to the United States, and, should they gain entry, will help track them down on our soil. It also allows the State Department, during a U.S. criminal investigation, to give foreign governments information on a case-by-case basis about the issuance or refusal to issue a U.S. visa.

The bill will also clarify U.S. law prohibiting the entry of, and requiring the removal of, individual alien terrorists. It will probably surprise the Members of this body a great deal to know that, under current law, a terrorist alien is not considered either inadmissible to, or deportable from, the United States even if he or she has ''endorsed or espoused terrorist activity that undermines the efforts of the United States to fight terrorism,'' or has provided ''material support to a terrorist organization.'' Nor is an individual deportable for being a ''representative of a terrorist organization.'' The anti- terrorism bill makes it clear to U.S. officials considering whether to allow someone to come to the country, that a person meeting any one of these criteria is not welcome to come here. Although the final bill prohibits admission of individuals who have endorsed terrorism or are representatives of a terrorist organization, neither of those criteria will make such an individual deportable. I will work to make it clear that such criteria are deportable.

In addition, the anti-terrorism package that we are debating today further defines what is considered by the United States to be a terrorist organization. Under current law, a terrorist organization must be designated by the Secretary of State under Section 219 of the Immigration and Nationality Act. This process can take several months, and has been criticized by some experts as potentially politically corruptible. Under this final package, Section 219 designations will remain in effect. A separate designation process is added, whereby an organization can be designated by the Secretary of State or the Attorney General, in consultation with each other, with seven days' notice to the leadership of the House and Senate and the congressional committees of jurisdiction. Additionally, an organization, whether or not it is formally designated by the Secretary of State or the Attorney General, can be considered to be terrorist if it is made up of two or more individuals who commit or plan to commit terrorist activities.

This anti-terrorism package also has provisions regarding temporary detention. It allows for the temporary detention of aliens who the Attorney General certifies that he has ''reasonable grounds to believe is inadmissible or deportable under the terrorism grounds.'' This compromise represents a bipartisan understanding that the Attorney General of the United States needs the flexibility to detain suspected terrorists. Under the compromise that Members have reached, the Attorney General must charge an alien with a deportable violation or he must release the alien. In this final version, if the charge is not sustained, or if withholding of deportation is granted by an immigration judge then the alien must be released. In addition, the underlying certification, and all collateral matters, can be reviewed by any U.S. District Court and any appeals can be heard by U.S. Appeals Court for the District of Columbia. The Attorney General, under this final version, is required to review all individual certifications every six months, and any alien certified can ask that the Attorney General review the case.

Finally, this package will determine whether ''consular shopping,'' i.e. someone has a visa application pending from his or her home country, but goes to another country for adjudication, is a problem. If so, the Secretary of State must recommend ways to remedy it. Another provision prevents countries that do not have machine-readable passports from participating in the Visa Waiver Program, although the Secretary of State is allowed to provide a waiver for countries that do not provide such passports. I do not support the waiver authority, but am pleased that the overall requirement is included. Another provision authorizes $36.8 million for quick implementation of the INS foreign student tracking system, a program that I have repeatedly urged be implemented. The final package also includes relief for immigrants, who but for the tragic events of September 11, are here legally and could now lose their legal status.

As former chairman and now ranking Republican of the Judiciary Committee's Terrorism Subcommittee, I have long suggested, and strongly supported, many of the anti-terrorism and immigration initiatives now being advocated by Republicans and Democrats alike. In my sadness about the overwhelming and tragic events that took thousands of precious lives, I am resolved to push forward to make the United States a safer place for its millions of law-abiding citizens and legal immigrants. That means delivering justice to those who are responsible for

the lives lost on September 11, and reorganizing our institutions of government so that the law-abiding can continue to live their lives in freedom.

Finally, let me address briefly the concern voiced by some that we are in danger of ''trampling civil liberties.'' I reiterate that we did not rush, that we have had thorough, deliberative hearings, and that many of the proposals within this bill have already been passed by the Senate. Nothing in the current bill impinges on civil liberties. The bill will give Federal agencies fighting terrorism the same tools we have given those fighting illicit drugs, or even postal fraud. Many of the tools in the bill are modernizations of the criminal law, necessitated by the advent of the Internet.

While some of these tools are extremely helpful in terrorism investigations, it makes no sense to refuse to apply these common sense changes to other crimes that are committed, like kidnaping, drug dealing, and child pornography. It is unwise to limit these tools to only terrorism offenses because often, at the outset of an investigation of a particular person or crime, law enforcement does not know what you are dealing with. A credit-card fraud case or a false immigration documents case may turn out to be connected to funding or facilitating the operations of a terrorist group. We should give law enforcement the tools it needs to have the best chance of discovering and disrupting these activities.

We have a responsibility to the people of this nation to ensure that those who are charged with protecting us from future terrorist attacks are empowered to do so. This is not a zero sum game. We can both ensure our security and protect our liberties.

We cannot afford to lose this race against terror, and we cannot afford to give the enemy in this war a full lap head-start. I support this bill. I commend President Bush and General Ashcroft for submitting a sound proposal to the Senate, and for their tremendous efforts during the past month.

SECTION 1012

Mr. HOLLINGS. I have a number of questions about the substance, scope and procedure of section 1012 of the USA PATRIOT Act of 2001. I am concerned that there are some significant issues which this provision has not addressed, notwithstanding its noble intentions. Would the gentleman be able to clarify some of these issues for me?

Mr. LEAHY. I will do my best to clarify the intent and operation of this section for the gentleman.

Mr. HOLLINGS. Would the gentleman please explain how the Secretary of DOT will determine whether an individual seeking an original or renewed license presents a security risk?

Mr. LEAHY. The Secretary will rely upon the background records check to be done by the Justice Department. Any further analysis to be done by the Secretary on this issue should be explained following a Congressional directive to do so, in regulations issued by the Secretary for notice and comment.

Mr. HOLLINGS. Does the section make clear what standards will be applied to determine if a security risk is presented by an individual?

Mr. LEAHY. At this time the section does not and that matter should be clarified in subsequent legislation.

Mr. HOLLINGS. I am concerned that the review process could be delayed and a person seeking renewal of a hazmat license could be unable to work due to matters beyond his or her control.

Mr. LEAHY. The gentleman is correct. Regulations need to be issued by the Secretary specifying time periods and making it clear that delays not due to the applicant should not force him to be out of work and that his existing hazmat license will remain in effect pending completion of the security risk review process.

Mr. HOLLINGS. I am troubled by the lack of due process protections for the applicant. What is the gentleman's opinion on this subject?

Mr. LEAHY. I agree with the gentleman. The section needs to be clarified by legislation and regulations issued making clear that any applicant denied a hazmat license because of a security risk will be advised of the reasons for such denial and given an opportunity to present any comments he or she deems appropriate. We need to provide the applicant with a right to challenge the Secretary's decision and insure due process is protected.

Mr. HOLLINGS. Finally, isn't there a concern that foreign drivers transporting hazmat present an equal, if not a greater, security risk than that presented by U.S. drivers? If so, how will we deal with foreign drivers because they do not appear to be covered by section 1012.

Mr. LEAHY. I fully agree with the gentleman. The legislation must address foreign drivers to cover adequately the security risks applicable to hazmat transportation.

Mr. THURMOND. Mr. President, the September 11 terrorist attack has brought to the forefront numerous flaws in how we control and manage immigration in this country. It is now clear that the control of our borders has become a matter of national security.

Let me first state that I have no doubt that most aliens who enter this country are innocent, hard-working people who make important contributions to our society. America can continue our tradition of supporting reasonable legal immigration, but I am concerned that we are allowing illegal immigration to get out of control.

According to the most recent census data, there are at least 7 and possibly as many as 8 million illegal aliens in the United States. The number has at least doubled just since 1990. This trend is very troubling and has to be reversed. We must do more to stop illegal aliens from entering our country, and we must do more to deport those who are already here illegally. Our previous efforts, such as the 1996 Immigration Act, have proven to be inadequate.

This is not only a matter of upholding our laws, it is a matter of maintaining the safety and security of our country. We do not even know how some of the September 11 hijackers got into the country. This is not acceptable. We must do more to track and keep out those who wish to harm our country and terrorize our citizens.

The Antiterrorism Act we are considering today contains some reforms in this area and is a step in the right direction. It expands the number of Border Patrol agents, INS inspectors, and Customs agents along the Northern Border. Also, it provides for greater data-sharing, including giving the INS easier access to the criminal history information contained in the NCIC database. Moreover, it grants the Attorney General greater authority to detain those who may be involved in terrorist activity, although we should continue to review this issue and grant the Attorney General greater power in the future.

In addition to immigration, this bill contains other crucial reforms that will update our wiretapping laws and allow greater sharing of intelligence and law enforcement information. I strongly supported this bill during Judiciary Committee hearings, including in one hearing in the Constitution Subcommittee of which I am Ranking Member. I am pleased that we are finalizing this bill today.

However, this bill is only a beginning. It is a move in the right direction, not an end in itself. Much more needs to be done to protect our nation from illegal immigration.

I believe one important measure could be to return to annual registration for immigrants who are in the United States. Requiring immigrants to register each year would help the INS keep track of where immigrants are in the United States, and whether they have overstayed their visas. In addition, it would benefit aliens by helping them prove how long they have been in the United States.

An alien registration system existed before 1981. However, the system became inactive at that time due to lack of funds and administrative difficulties. I think the time has come to reconsider this program. Recent technology, such as scanners, can help address some of the record-keeping problems that harmed the old system.

There are many other reform possibilities. Currently, when an alien commits a crime in the United States and is ordered deported, some home countries refuse to take him back. This creates huge difficulties for us, especially when the alien has completed his prison sentence. I believe the United States should respond in kind by not granting visas to countries that have such a policy. This would encourage

countries to live up to their responsibilities. Also, we need to look into expanding the use of identification cards for aliens, including more fingerprinting.

The antiterrorism bill demonstrates that the Congress is committed to addressing the problems we face regarding immigration. I look forward to working with my colleagues to continue our important work in this area. It must remain a top priority. We should not rest until we have illegal immigration under control in this country.

Ms. SNOWE. Mr. President, I rise today in support of the anti-terrorism legislation we have before us, the USA PATRIOT Act. I supported the Senate bill when it passed 2 weeks ago, and this bill—which was overwhelmingly passed by the House yesterday—retains key provisions that give our Government the tools it needs to combat terrorism.

One of the key issues during the House-Senate negotiations was that of the so-called ''sunset.'' While the Senate-passed bill ensured these provisions would remain in effect as long as necessary, the House voted to suspend the bill's provisions in 5 years. Ultimately, the bill before us today includes a four year sunset. While I believe the provisions of this bill will be needed to combat terrorism beyond 4 years, it is fair to say Congress should review the provisions and make an assessment of their effectiveness in 4 years.

Let me also say I am pleased to have worked in conjunction with Senator BOND and Senator CONRAD in supporting the Visa Integrity and Security Act. This bill addresses many of the concerns we raised, such as the importance of information sharing among government law enforcement and intelligence agencies with the State Department and tightening tracking controls on those entering the U.S. on student visas, including those attending flight schools. These are critical issues, and I commend both Senators for their efforts, and I am pleased the bill before us contains provisions from this bill on information sharing and the use of biometric technology for the entry and exit of aliens.

With this legislation, we take reasonable, constitutional steps to enhance electronic and other forms of surveillance, without trampling on the rights of Americans. We will also institute critical measures to increase information sharing by mandating access to the FBI's National Crime Information Center, or NCIC, by the State Department and INS.

Incredibly, while intelligence is frequently exchanged, no law requires agencies like the FBI and CIA to share information on dangerous aliens with the State Department or INS. While I am pleased the bill before us ensures information sharing between the FBI, State Department and INS, I believe it does not go far enough as other crucial agencies, such as the DEA, CIA, or DoD, that may have information the State Department and INS need, but are still not required to share information. In short, by only providing access to the FBI's NCIC system, we are not summoning the sum total of U.S. Government information on individual aliens which is now needed in our war on terrorism.

I saw firsthand the consequences of serious inadequacies in coordination and communication during my 12 years as ranking member of the House Foreign Affairs International Operations Subcommittee and chair of the subcommittee's Senate counterpart.

Access to the FBI's NCIC system by the State Department is a first step, and one that I advocated in 1993, after the Justice Department ruled that because the State Department was not a ''law enforcement agency,'' it no longer had free access to the NCIC. Tellingly, after ruling, the visa denial rate for past criminal activities plunged a remarkable 45 percent—stark evidence that we can't afford to tie the hands of America's overseas line of defense against terrorism.

Although my legislation designated the State Department a ''law enforcement agency'' for purposes of accessing the NCIC when processing any visa application, whether immigrant or nonimmigrant, a revised provision enacted in 1994 only provided the State Department with free access for purposes of processing immigrant visas—dropping my requirement for non-immigrant visas eventually used by all 19 suspected hijackers. Even that limited law was sunsetted in 1997 with a brief 6-month extension to 1998.

Currently, U.S. posts check the lookout database called the Consular Lookout and Support System—Enhanced, or CLASS–E, prior to issuing any visa. CLASS–E contains approximately 5.7 million records, most of which originate with U.S. embassies and consulates abroad through the visa application process. The INS, DEA, Department of Justice, and other federal agencies also contribute lookouts to the system, however, this is voluntary.

To further fortify our front-line defenses against terrorism—to turn back terrorists at their point of origin—information sharing should be mandatory, not voluntary. That is why I introduced a bill that would require that law enforcement and the intelligence community share information with the State Department and INS for the purpose of issuing visas and permitting entry into the U.S. And while my bill would have gone farther than the legislation before us, by including the DEA, CIA, Customs and the Department of Defense in the mandated information-sharing network, I am pleased that this bill we are considering at least mandates access to the NCIC by INS and the State Department.

The bottom line is, if knowledge is power, we are only as strong as the weakest link in our information network. Therefore, we must ensure that the only ''turf war'' will be the one to protect American turf.

Another important issue is that of verifying the identity of a visa holder. Once a visa is issued at the point of origin, we should be ensuring that it is the same person who shows up at the point of entry. The fact is, we don't know how many, if any, of the 19 terrorists implicated in the September 11 attacks entered the U.S. on visas that were actually issued to someone else.

Currently, once a visa is issued by the State Department, it then falls to INS officials at a port-of-entry to determine whether to grant entry. The problem is, no automated system is utilized to ensure that the person holding the visa is actually the person who was issued the visa. In other words, the INS official has to rely solely on the identification documents the person seeking entry is carrying—making that official's job that much more difficult.

There is a better way, and legislation I introduced would require the establishment of a fingerprint-based check system to be used by State and INS to verify that the person who received the visa is the same person at the border crossing station trying to enter the country.

Simply put, it requires the State Department and INS to jointly create an electronic database which stores fingerprints, and that other agencies may use as well. When a foreign national receives a visa, a fingerprint is taken, which then is matched against the fingerprint taken by INS upon entry to the U.S. This is a common sense approach that would take us one step closer to minimizing the threat and maximizing our national security.

The fact of the matter is fingerprint technology, one part of the larger category of biological factors that can be used for identification known as biometrics, is not new. In fact, the U.S. Government has already employed biometrics to verify identities at military and secret facilities, at ports-of-entry, and for airport security, among many others.

The bill before us includes a provision that requires the Attorney General to report on the feasibility of enhancing the FBI's Integrated Automated Fingerprint Identification System (IAFIS) or other identification systems to identify visa holders who may be wanted in a criminal investigation in the U.S. or abroad before they are issued a visa or permitted entry or exit to the U.S.

This surely doesn't sound all that much different than the legislation I have proposed. I am pleased this bill at least starts us down the road toward implementing biometric technologies, and I hope this can be achieved as soon as possible.

Although I would prefer an even stronger bill and indeed worked toward the inclusion of measures that would have accomplished this goal, this legislation negotiated by the House and Senate is vital to our national security, and I am proud to support it. The

war on terrorism is a war on many fronts. Some of the battles will be great in scale, many will be notable by what is not seen and by what doesn't happen, namely, that individuals who pose a serious threat to this nation never see these shores and never set foot on our soil.

Many of our greatest victories will be measured by the attacks that never happen, in battles we win before they ever have a name, in conflicts we prevent before they ever claim one American life. I hope we will pass and enact legislation that will help make that possible, and urge my colleagues to join me in supporting this bill.

Mr. President, I ask unanimous consent to have printed in the RECORD an op-ed from The Bangor Daily News.

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

[From the Bangor Daily News, Oct. 24, 2001]

HOMELAND SECURITY AND THE ''THREE C'S'': COORDINATION, COMMUNICATION, AND COOPERATION

(By U.S. Senator Olympia J. Snow)

This week, Congress is expected to send to the President landmark legislation for a new era: a bill designed to bring the full resources of the federal government to bear in our war against terrorism. One of the most critical elements of this anti-terrorism package—which also includes expanded authority to hunt down and identify terrorist activity within our own borders—addresses the ''Three C's'' that have been lacking among those federal agencies that are integral to preventing terrorism: coordination, communication, and cooperation.

Incredibly, there is no provisions of current law that mandates State Department access to sources such as the FBI's National Crime Information Center (NCIC). This system, which maintains arrest and criminal information from a wide variety of federal, state, and local sources as well as from Canada, will be used by the State Department to deny visas to dangerous aliens. Similar to legislation I introduced in 1993, the bill pending in conference will finally make such information-sharing a requirement, and when combined with the new Office of Homeland Security should help ensure that our federal agencies are as united in the effort against terrorism as the American people. I urged conferees to further strengthen this requirement, so both State and the Immigration and Naturalization Service (INS) have access to the full range of information gathered by U.S. intelligence and law enforcement agencies.

During my twelve years as ranking member of the House Foreign Affairs International Operations Subcommittee and Chair of the subcommittee's Senate counterpart, I saw firsthand why removing impediments to a cooperative federal effort is a national imperative. Perhaps the most egregious example came to light in our investigations into the comings-and-goings of radical Egyptian cleric Sheikh Omar Abdel Rahman, mastermind of the 1993 World Trade Center bombing.

Astoundingly, we found that in the period since 1987 when Sheikh Rahman was placed on the State Department lookout list, he entered and exited the U.S. five times totally unimpeded. Even after the State Department formally revoked his visa, INS granted him permanent residence status. When he was finally caught on July 31, 1991, reentering the U.S., he was immediately released back into U.S. society to allow him to pursue a multi-year appeal process.

Just as unbelievable is the fact that, even after the 1993 attack on the World Trade Center, membership in a terrorist organization in and of itself—with the exception of the PLO—was not sufficient grounds for visa denial. Rather, the Immigration Act of 1990 required the government to prove that an individual either was personally involved in a terrorist act, or planning one. This absurd threshold made it almost impossible to block individuals, such as Sheikh Rahman, from entering the country legally. Legislation I introduced in 1993 removed that bureaucratic and legal obstacle—yet it took nearly three more years to enact it as part of the Anti-Terrorism and Effective Death Penalty Act of 1996.

Further, to respond to the trail of errors we uncovered, provisions from my bill were enacted in a year later, in 1994, requiring modernization in the State Department's antiquated microfiche ''lookout'' system to keep dangerous aliens from entering the United States. Recognizing the need to mate these new technologies with the need for the most comprehensive, current and reliable information, the bill also attempted to address the issue of access. Tellingly, after the State Department lost free access to the NCIC because of a 1990 Justice Department ruling that the State Department was not a ''law enforcement agency'', the visa denial rate for past criminal activities plunged a remarkable 45 percent.

Therefore, my 1993 bill also designated the State Department a ''law enforcement agency'' for purposes of accessing the NCIC as well as other FBI criminal records when processing any visa application, whether immigrant or non-immigrant. Unfortunately, a revised provision also enacted in 1994 provided the State Department with free access to these FBI resources only for purposes of processing immigrant visas—dropping my requirement for non-immigrant visas eventually used by all 19 of the suspected hijackers. Even that limited law was allowed to expire, despite my legislation enacted in 1996 repealing the requirement that visa applicants be informed of the reason for a denial—a provision that law enforcement agencies legitimately believed could impede ongoing investigations, or reveal sources and methods.

Having introduced my own legislation after the attacks to mandate information sharing among all agencies such as the FBI, CIA, DEA, Customs, INS and the State Department, I would have preferred that the recently-passed anti-terrorism bill go even further. Nevertheless, re-instating State Department access to the NCIC for both types of visas is a critical step in ensuring that information sharing will no longer be voluntary and ad hoc.

To further fortify our front-line defenses against terrorism and turn back terrorists at their point of origin, I also proposed mandating information sharing by establishing Terrorist Lookout Committees, comprised of the head of the political section of each embassy and senior representatives of all U.S. law enforcement and intelligence agencies. The committees would be required to meet on a monthly basis to review and submit names to the State Department for inclusion in the visa lookout system. Unfortunately, Senators did not reach agreement on amendments that could be added to the anti-terrorism bill, so the package was ultimately passed with no modifications. Consequently, I will continue to work to pass this important measure separately.

Clearly, the catastrophic events of September 11 have catapulted us into a different era, and everything if forever changed. We must move heaven and earth to remove the impediments that keep us from maximizing our defense against terrorism, and that means changing the prevailing system and culture by re-focusing on the ''Three C's'' of coordination, communication and cooperation. The bottom line is, if knowledge is power, we are only as strong as the weakest link in our information network—therefore, we must ensure that the only ''turf war'' will be the one to protect American turf. In our fight against terrorism, we can do no less.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent the time be divided equally between the distinguished chairman and myself.

How much time remains?

The PRESIDING OFFICER. Ten minutes for each side.

Mr. HATCH. Mr. President, as we wind down the debate and move to final passage, I want to continue my acknowledgment of those who worked so hard and were instrumental in getting this legislation enacted. I start again by expressing my gratitude to Senators KYL and FEINSTEIN for their efforts. No Senators have worked harder over the past few years in such a bipartisan manner on terrorist missions. They have both done an excellent job. Also, Senators BOB GRAHAM and SHELBY, who cosponsored this legislation, deserve credit for significant contributions. In the Intelligence Committee, of course, Senator SARBANES and Senator PHIL GRAMM are to be praised for the money laundering provisions of the package. They developed that in this bill. I credit the hard work of other fellow members of the Judiciary Committee; in particular, Senators BIDEN and SCHUMER, who have devoted their energy to several of these proposals. Their assistance was instrumental in shaping this final product.

Next, I thank my dedicated staff and my chief counsel and staff director, Makan Delrahim, who has been instrumental in putting this bill together. I also thank my crime policy counsels on the Judiciary Committee: Jeff Taylor, whose background as a federal prosecutor was crucial in crafting the many technical provisions of this legislation, as well as Stuart Nash, another former federal prosecutor, and Leah Belaire, each of whom has brought invaluable expertise to this process; my lead immigration counsel, Dustin Pead, and our tireless legislative assistant, Brigham Cannon, each has provided critical assistance. I am also grateful to Elizabeth Maier on Senator KYL's staff, David Neal on Senator BROWNBACK's staff, and Esther Olavarria on Senator KENNEDY's staff, for their input on the immigration provisions. I also extend our thanks to Sharon Prost, my former chief counsel who recently was appointed by President Bush to serve as a Federal appellate judge, for her wise counsel on this legislation.

In addition, I personally thank our Chairman, Senator LEAHY. I reserve that until the end. His staff deserve a lot of credit and I personally thank

them for their long hard hours. I thank personally his chief counsel and staff director, Bruce Cohen, and other members of his staff: Beryl Howell, Julie Katzman, Ed Barron, Ed Pagano, Tim Lynch, David James, and John Eliff, each of whose expertise I personally found invaluable. I am grateful to them for the many long hours they devoted to drafting this bill and helping ensure that our final product has strong bipartisan support. I enjoyed working with them and I certainly always enjoy working with Senator LEAHY and appreciate the good things we were able to do.

The Department of Justice has been of great assistance to us in putting this bill together. In particular, I would like to thank Attorney General John Ashcroft and his Deputy Larry Thompson for their wise counsel, their leadership, and their quick response to our many questions and concerns. Michael Chertoff, the Assistant Attorney General for the Criminal Division was a frequent participant in our meetings, as was Assistant Attorneys General Dan Bryant and Viet Dinh. Justice Department lawyers Jennifer Newstead, John Yoo, John Elwood, Pat O'Brien, and Carl Thorsen were also important and valuable participants in this process.

The White House Counsel and Congressional Liaison staff provided essential contributions at all stages of this process. Judge Al Gonzales, the White House Counsel, provided key guidance with the help of his gifted staff, including Deputy White House Counsel Tim Flanagan and Associate Counsels Courtney Elwood, Brett Kavanaugh, and Brad Berenson.

The White House Congressional Liaison office, together with the Vice President's office, worked nonstop to keep this process moving forward and were critically responsive to any requests the Senate had. Nick Calio, Ziad Ojakli, and Heather Wingate with the White House, and Nancy Dorn and Candy Wolff with the Vice President's office, deserve our gratitude for all the assistance they have given us.

Finally, Mr. President, I must recognize the diligence and invaluable assistance provided by leadership staff on both sides of the aisle.

Mark Childress and Andrea Larue with Majority Leader DASCHLE's office, and David Hoppe, Sharon Soderstrom, and John Mashburn with Senator LOTT's office, all deserve our collective thanks. These dedicated professionals selflessly gave up their nights and weekends to facilitate passage of this final product. Also, I take special pride in thanking Stewart Verdery, who now works for Senator NICKLES but previously worked on my Judiciary Committee staff, for his cooperation and assistance in this process.

As we close debate on this legislation, I would like to note that the fundamental obligation of government is to protect our citizens from harm and every member of this Senate, by virtue of the sworn oath of the office we hold, must do everything in his or her power to ensure that the heinous attacks of September 11 are never repeated. We must never forget the more than 5,000 innocent men, women, and children who lost their lives on American soil some 6 weeks ago.

I am grateful that I have been able to work on this matter with the distinguished Senator from Vermont. I am grateful we have been able to pull together, in a relatively short period of time, an antiterrorism bill that really is going to make a difference in all our lives. So I urge my colleagues' support for this important legislation, thank my colleagues for all their help.

Mr. President. The Department of Justice has prepared an excellent and precise analysis of the legislation, with which I fully agree. I ask unanimous consent that the analysis be printed in the RECORD.

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

OVERVIEW

In the wake of the tragic, criminal act of violence perpetrated against the United States on September 11, the Bush Administration proposed legislation that would provide the Department of Justice with the tools and resources necessary to disrupt, weaken, and counter the infrastructure of terrorist organizations, to prevent or thwart terrorist attacks, and to punish or defeat in battle perpetrators of terrorist acts.

On October 24, the House passed a bill which contains a substantial number of the key provisions originally requested by the Administration. The Department of Justice strongly supports this bill and urges the Senate to act quickly so that these new authorities can be made available to prosecutors and agents who are working around the clock to prevent future attacks and to bring the perpetrators of September 11 to justice.

The events of September 11, 2001 demonstrate that terrorist acts are perpetuated by expertly organized, highly coordinated, and well financed organizations, operating without regard to borders, to advance their agendas. The fight against terrorism thus is both a war to defend the security of our nation and our citizens against terrorism and a unified criminal justice effort.

Existing laws fail to provide our national security authorities and law enforcement with certain critical tools they need to fight and win the war against terrorism. Indeed, we have tougher laws for fighting organized crime and drug trafficking than for combating the threat of terrorism. For example, technology has dramatically outpaced our statutes. Many of our most important intelligence gathering laws were enacted decades ago, in and for an era of rotary telephones. Meanwhile, our enemies use e-mail, the Internet, mobile communications and voice mail. Until Congress provides law enforcement with the tools necessary to identify, dismantle and punish terrorist organizations, we are fighting an uphill battle.

Making the fight against terrorism a national priority must not and will not mean that the rights and freedoms guaranteed to all Americans under the Constitution will become victims of this war. In this law enforcement mission, as in all that we undertake at the Department of Justice, the protection of the rights and privacy of all Americans is the principle that guides us—the outcome which, if not achieved, renders our efforts meaningless.

This new terrorist threat to Americans on our soil is a turning point in America's history. It is a new challenge for law enforcement. Our fight against terrorism is not solely or primarily a criminal justice endeavor—it is defense of our nation and its citizens. We cannot wait for terrorists to strike to begin investigations and take action. We must prevent first, and prosecute second. The anti-terrorism proposals that have been submitted by the Administration and considered by the House and Senate represent careful, balanced, and long overdue improvements to our capacity to combat terrorism.

PROCESS

The Administration reached bipartisan agreement with the leadership of the House and Senate and the chairmen and ranking members of the Senate and House Judiciary Committees on a bill which was passed by the House on October 24 by an overwhelming majority.

The Department of Justice strongly supports this bill and urges the Senate to act quickly so that these new authorities can be made available to prosecutors and agents who are working around the clock to prevent future attacks and to bring the perpetrators of September 11 to justice. Although the compromises reflected in specific provisions of the bill do not in every case meet the Administration's original goals, the bill does overall substantially achieve each and every one of the Administration's objectives.

DISCUSSION ON SUBSTANTIVE PROVISIONS

Enhancing domestic security against terrorism (title I)

These provisions would provide new funding and structural reforms in the fight against terrorism. A counterterrorism fund would be established to address terrorism issues within the Department of Justice with regard to investigations and damage to components as a result of terrorism (§101); discrimination against Arab and Muslim Americans is condemned (§102); additional funding would be provided for the FBI's technical support center (§103); the National Electronic Crime Task Force Initiative would be expanded (§105); and the military would be authorized to assist state and local law enforcement in chemical weapons emergencies (§104).

The President's powers under the International Economic Emergency Powers Act would be expanded in cases of military hostilities and regarding the use of classified information (§106). President Bush signed a new Executive Order under the International Emergency Economic Powers Act (IEEPA) blocking the assets of, and transactions with, terrorist organizations and certain charitable, humanitarian, and business organizations that finance or support terrorism. At present, however, the President's powers are limited to freezing assets and blocking transactions with such individuals and entities. Starving terrorist organizations of the funds that sustain them requires that we do more. When we encounter drug traffickers, for instance, we don't just freeze assets, we seize assets.

Enhanced surveillance procedures (title II)

These provisions of the bill address gaps in the coverage of the federal electronic surveillance statutes (particularly the wiretap statute, the pen registers and trap and trace statute, and the Electronic Communications Privacy Act). The key element that unites these provisions is the goal of making the statutes technology-neutral: that is, ensuring that the same existing authorities that apply to telephones, for example, are made applicable to computers and use of e-mail on the Internet. It is critically important to

note that in drafting these provisions, the Department's goal was and remains ensuring that the scope of the authority remains the same—in other words, that no more or less information as is currently obtainable through a particular device (for example, a pen register) on a telephone, is obtainable from a computer.

Law enforcement must have intelligence gathering tools that match the pace and sophistication of the technology utilized by terrorists. Critically, we also need the authority for law enforcement to share vital information with our national security and intelligence agencies in order to prevent future terrorist attacks.

Terrorist organizations increasingly take advantage of technology to hide their communications from law enforcement. Today's terrorist communications are carried over multiple mobile phones and computer networks—frequently by multiple telecommunications providers located in different jurisdictions. To facilitate their criminal acts, terrorists do not discriminate among different kinds of technology. Regrettably, our intelligence gathering laws don't give law enforcement the same flexibility.

The bill creates a technology-neutral standard for intelligence gathering, ensuring law enforcement's ability to trace the communications of terrorists over mobile phones, computer networks and any new technology that may be developed in the coming years.

We are not seeking changes in the protections in the law for the privacy of law-abiding citizens. The bill would streamline intelligence gathering procedures only. Except for under those circumstances authorized by current law, the content of communications would remain off-limits to monitoring. The information captured by this technology-neutral standard would be limited to the kind of information you might find in a phone bill, such as the phone numbers dialed by a particular telephone.

The Department strongly opposed the two-year ''sunset'' on these critical provisions in the original House version of the legislation. The President and the Attorney General have stressed that the threat of terrorism will not ''sunset''; rather the fight against terrorism will be a long struggle, and law enforcement must have the necessary tools to fight this war over the long term. However, law enforcement must have these tools now. To calm fears of a permanent authority, the bill now includes a four-year ''sunset'' provision for several provisions as noted during the discussion of the impacted provisions, at which time it is the Administration's hope that these changes in surveillance law will be made permanent.

Foreign Intelligence Surveillance Act (FISA) amendments (title II)

These provisions sharpen the tools used by the FBI, CIA, and NSA for collecting intelligence on international terrorists and other targets under FISA, 50 U.S.C. §§1801–63. The amendments in this area would enable the agents and case officers of the FBI and CIA and the analysts of NSA to respond more quickly and efficiently to crises and to operational opportunities against terrorists and other targets.

Period of FISA Surveillance and Search Orders

Problem: Currently, with limited exceptions, applications to the FISA Court for its authorization to conduct electronic surveillance and physical search must be renewed by the Court every 90 and 45 days, respectively. Applications to the Court for surveillance and search against foreign terrorists and spies are noncontroversial but bog down the agencies and clog the Court.

Solution: The legislation would, for the conduct of electronic surveillance and physical search against foreign terrorists and spies, extend the duration of an approval order to 120-days with extension possible for up to a year for electronic surveillance and would extend the duration for searches from 45 to 90 days. (§207). This provision would sunset in four-years.

Multi-Point Authority

Problem: Foreign terrorists and spies are trained to change mobile or ground-line phones, hotel rooms, and restaurants in order to defeat surveillance. Currently, to effect FISA coverage at a new facility, DOJ must develop and draft a new application, get it certified by the Director of FBI and signed by the Attorney General, and find and present it to a judge on the FISA Court. This delays or defeats our coverage of these targets and impairs our ability to investigate and detect terrorism and espionage.

Solution: The bill would enable the FBI, in response to such actions by FISA targets that thwart coverage (§206), to serve an order on a previously unidentified vendor or facility in order to maintain the coverage. Congress passed a similar provision for Title III a few years ago. These provisions will sunset in four years.

Mobility—Nationwide Search Warrants

As communications technology now provides significant mobility to its users, who can pass from jurisdiction to jurisdiction in minutes, law enforcement and intelligence officers need that same flexibility.

The bill provides for nationwide search warrants for voice mail (§209), e-mail (as long as the issuing court has jurisdiction over the offense being investigated) (§220), and in investigations involving terrorism (§219).

Foreign Intelligence Information

Problem: Currently, as interpreted, the FISA requires that the FBI Director or other senior official certify that the collection of foreign intelligence is ''the purpose'' of the FISA search or surveillance. As interpreted by the FISA Court, that standard has hindered the Department's ability to coordinate multi-faceted responses to international terrorism, which involve foreign intelligence and criminal investigations and equities.

Solution: The bill would change this standard. The bill would require certification that the collection of foreign intelligence is ''a significant purpose,'' rather than ''the purpose,'' of the FISA search or surveillance; however, this provision is subject to the four-year sunset applicable to several FISA provisions. (§218).

Foreign Intelligence Information Sharing

Problem: Currently, with few exceptions, criminal investigators may not share grand jury or Title III information with the intelligence agencies. Records obtained through grand jury subpoenas and insights gained through Title III remain inaccessible to agencies that need such information in their operations and analysis.

Solution: The bill would enable foreign intelligence information obtained in a criminal investigation, including information obtained through a grand jury or Title III, to be shared with intelligence and other federal officers, subject to the four-year sunset and would require the court to be notified after any such information sharing occurs in the case of grand jury information. (§203). In addition, the Attorney General must establish procedures for the release of information when it pertains to a case against a United States citizen. Also, the FBI has been authorized to expedite the hiring of translators capable of translating any information gathered under these and other procedures (§205).

Pen Register: Business Records; National Security Letters

Problem: The ability of the FBI to obtain basic records as a part of an international terrorist or other intelligence investigation has been hampered by cumbersome procedures concerning pen registers, business records, and national security letters. As the current investigation of flight school records makes clear, our ability to gain quick access to such information may be critical to an investigation.

Solution: The legislation would enable the FBI to obtain toll, business, and other records more efficiently by eliminating the requirement of a showing that there is a nexus to a foreign power, and applying a standard of relevance to an intelligence or counterintelligence investigation. This new standard is limited to protection against international terrorism or clandestine intelligence activities and may not be based solely on First Amendment activities. (§§214, 215, 216). Pen/trap provisions would also now apply to Internet traffic, as well as telephone communications, while excluding Internet Service Providers (ISPs) and other entities complying with wiretap orders from liability based on any surveillance under these provisions. See also (§§201, 202, expanding predicates for obtaining surveillance authority). These provisions are subject to the four-year sunset.

Broadened Scope of Subpoenas for Records of Electronic Communications and Subscriber Records

The bill would permit the disclosure of information such as means of payment for electronic services, including bank account and credit card numbers, pursuant to subpoena. The bill would treat cable companies acting in their capacity of providing Internet services the same as other ISPs and telephone companies in this regard, removing them from the protections of laws governing cable privacy, the intent of which was and is to prevent disclosure of shows watched in the privacy of one's home not benign information such as account numbers and forms of payment. (§225). ISPs would also be permitted under the bill to disclose information of stored electronic communications where such communications indicate a risk of immediate death or injury. (§§210, 211, 212).

Delayed Notice of Execution of Search Warrant

The bill would permit delayed notice of execution of a search warrant in criminal investigations, for a reasonable time thereafter, where notice of the execution would have an adverse result. (§213).

International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001 (title III)

Title III of the bill is designed to impede the financing of terrorist activities. It accomplishes that goal by allowing the government to confiscate the assets of foreign terrorist organizations, the terrorists themselves and those who aid them. In addition, it allows the United States government to restrain those assets after indictment but before any final adjudication to ensure those assets are available to satisfy a judgment of forfeiture.

Law enforcement must be able to ''follow the money'' in order to identify and neutralize terrorist networks.

The bill gives law enforcement the ability to seize the assets of terrorist organizations. In addition, criminal liability is imposed on those who knowingly engage in financial transactions—money laundering—involving the proceeds of terrorist acts. In addition, financial institutions are encouraged to participate in this endeavor by providing civil

liability immunity to financial institutions that disclose suspicious activity. (§314). The bill further includes financial institutions in this endeavor by requiring them to have anti-money laundering programs. (§§314, 352).

The bill would expand the scope of predicate money laundering offenses to include providing material support for terrorist organizations. (§301). These offenses would further not be limited to conduct occurring within the United States, as long as the tools of the offense are in or passed through the United States. (§§302, 377).

Various common banking problems are also addressed in the bill, such as shell banks, correspondent accounts, and concentration accounts. (§§312, 313, 325). Treasury would be authorized to order special measures be taken by financial institutions where they are involved in such accounts or other primary money laundering concerns. (§311). Information would be made available as to such crucial facts as the beneficial, as opposed to nominal, owner of a bank account and minimum standards and policies would be put into effect to deal with correspondent and concentration accounts involving foreign persons. (§§312, 313, 325, 326).

Employee references would be permitted to include reference to suspicious activity by the employee without fear of liability and other cooperation among financial institutions, law enforcement, and regulatory authorities would be encouraged. (§§314, 330, 355).

These money laundering provisions are all subject to the four-year sunset.

Protecting the border (title IV)

The legislation expands the grounds for deeming an alien inadmissible or deportable from the United States for terrorist activity, provides for the mandatory detention of aliens whom the Attorney General certifies pose a risk to the national security, and facilitates information sharing within the U.S. and with foreign governments. Current law allows some aliens who are threats to the national security to enter and remain in the United States. The provisions in the bill correct those inadequacies and are necessary tools to prevent detain and remove aliens who are national security threats from the United States. The Attorney General would also have the authority to detain suspected terrorists who are threats to national security, as long as removal proceedings or criminal charges are filed within 7 days. (§412). In the rare cases where removal is determined appropriate but is not possible, detention may continue upon a review by the Attorney General every 6 months. (§412). The bill further would expand the definition of terrorists for purpose of inadmissibility or removal to include public endorsement of terrorist activity or provision of material support to terrorist organizations. (§411). The bill further expands the types of weapons the use of which can be considered terrorist activity. (§411).

The ability of alien terrorists to move freely across borders and operate within the United States is critical to their capacity to inflict damage on the citizens and facilities in the United States. Under current law, the existing grounds for removal of aliens for terrorism are limited to direct material support of an individual terrorist. The bill would expand these grounds for removal to include material support to terrorist organizations. (§412).

To address the need for better border patrol, additional border patrol officers would be authorized, specifically on the northern border which has, during the investigation into the September 11th events, been shown to be extremely problematic. (§§401, 402). To aid INS agents, the FBI would also be required to provide criminal records information to those agents. (§403).

The bill addresses not only unwelcome suspected terrorist aliens but also immigrants who may need additional consideration to stay within the United States where their loved ones were victims of terrorist activity. (§§421–428).

Removing obstacles to investigating terrorism (title V)

The bill authorizes the Attorney General and Secretary of State to pay rewards related to terrorism investigations. It also provides for the DNA data collection from those convicted of terrorism offenses and the coordination of Federal law enforcement agencies. (§§501, 502, 503, 504).

Providing for victims and public safety officers (title VI)

The bill establishes procedures for expedited payment of public safety officers involved in the prevention, investigation, rescue or recovery efforts related to a terrorist attack, as well as providing increases to the Public Safety Officer Benefit Program. (§§611–614).

Increased information sharing (title VII)

The bill would require information sharing among Federal, State and Local law enforcement, thus, providing the necessary full picture needed to address terrorism. (§711).

Substantive criminal law/criminal procedure: Strengthening the criminal law against terrorism (title VIII)

These provisions reform substantive and procedural criminal law to strengthen federal law enforcement's ability to investigate, prosecute, prevent, and punish terrorist crimes. There are substantial deficits in each of these areas which impede or weaken our antiterrorism efforts.

We must make fighting terrorism a national priority in our criminal justice system. Current law makes it easier to prosecute members of organized crime than to crack down on terrorists who can kill thousands of Americans in a single day. The same is true of drug traffickers and individuals involved in espionage—our laws treat these criminals and those who aid and abet them more severely than terrorists.

Our investigation has found that wide terrorist networks, not isolated individuals, are responsible for the September 11 attacks. Whether the members of these networks are in the United States or in other countries, they and those who aid them must be subject to the full force of our laws. Just as the law currently regards those who harbor persons engaged in espionage, the bill would make the harboring of terrorists a criminal offense. The bill also increases the penalties for conspiracy to commit terrorist acts to a serious level as we have done for many drug crimes.

Key Provisions

Removing impediments to effective prosecution—elimination of statute of limitations for offenses creating the risk of death or personal injury and extending the statute for all other terrorism offenses to 8 years (§809).

Removing impediments to effective investigation—single jurisdiction search warrants; expanded jurisdiction to include terrorism against U.S. facilities abroad. (§804).

Strengthening substantive criminal law—prohibition on harboring terrorists and on material support of terrorists (§§803, 805, 807); making terrorist crimes RICO predicates (§813); extending powers of asset forfeiture to terrorists' assets (§806); including altering cyberterrorism offense (§814); expanding the offense of possession of bioweapons (prohibiting possession of biological toxins by felons and aliens) (§817); creating a federal offense for attacking mass transportation systems (§801); expanding definition of domestic terrorism and offenses of the crime of terrorism, requiring a showing of coercion of government as an element of the offense (§§802, 808).

Strengthening criminal penalties—longer prison terms and postrelease supervision of terrorists (§812); higher conspiracy penalties for terrorists (§811); alternative maximum sentences up to life for terrorism offenses (§810).

Improved intelligence (title IX)

The bill authorizes the Director of the CIA to establish requirements and provide for the collection of foreign intelligence. The Director would also be asked to ensure proper dissemination of foreign intelligence information. Only if the appropriate officials have all the relevant information will prevention, investigation, and prosecution be fully functioning. The bill also would provide for the tracking of terrorist assets as part of the collection of information. (§§901, 905).

Miscellaneous (title X)

The bill would finally require the Department of Justice Inspector General to designate an official to receive civil liberty and civil rights complaints and report those complaints to Congress. The presumption is that such information will be used in determining the continuing viability of the provisions in the bill subject to sunset in 2005. (§1001).

Mr. HATCH. Mr. president, I also ask unanimous consent that a section-by-section analysis be printed in the RECORD.

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

FINAL COUNTER-TERRORISM BILL SECTION-BY-SECTION ANALYSIS

Bill provision No.	Bill description
1	Title and table of contents.
2	Construction and severability clause.
101	Establishes a fund to reimburse DOJ components for costs incurred to rebuild facilities, investigate and prosecute terrorism, and to reimburse other Federal agencies for detaining individuals in foreign countries accused of terrorist acts.
102	Sense of Congress condemning discrimination against Arab and Muslim Americans.
103	Authorizes $200M for each of FY 2002, 2003 and 2004 for the FBI Technical Support Center (established by AEDPA).
104	Broadens Attorney General's authority to request assistance of Secretary of Defense in emergency situations involving weapons of mass destruction.
105	Directs the Secret Service to develop a national network of electronic crime task forces modeled on the New York task force.
106	Grants President the power to confiscate and take title to enemies' property, when United States has been attacked or is engaged in military hostilities; also authorizes courts to consider classified evidence, without making it public, in lawsuits that challenge the government's seizure of property.
201	Adds terrorism statutes—including chemical weapons offenses under 18 U.S.C. 22—as predicate offenses for which Title III wiretap orders are available.
202	Allows voice wiretaps in computer hacking investigations.

FINAL COUNTER-TERRORISM BILL SECTION-BY-SECTION ANALYSIS—Continued

Bill provision No.	Bill description
203(a)	Permits sharing of grand jury information regarding foreign intelligence and counterintelligence with federal law-enforcement, intelligence, protective, immigration, national defense and national security personnel; must notify court that disclosure has taken place. Can share grand jury information with state officials upon court order.
203(b)	Sharing of wiretap information regarding foreign intelligence, counterintelligence, and foreign intelligence information with federal law-enforcement, intelligence, protective, immigration, national defense and national security personnel.
203(c)	Requires AG to establish procedure for information sharing in 203(a) and (b).
203(d)	Permits sharing of information regarding foreign intelligence, counterintelligence, and foreign intelligence information with federal law-enforcement, intelligence, protective, immigration, national defense and national security personnel notwithstanding other law.
204	Assures that foreign intelligence gathering authorities are not disrupted by changes to pen register/trap and trace statute.
205	Employment of translators by the FBI.
206	Allows court to authorize roving surveillance under FISA where court finds that the actions of the target may have effect of thwarting the identification of a target.
207	Initial authorization for surveillance and search of officers/employees of foreign powers changed to 120 days; can be extended for one year period. All other searches authorized for 90 day period.
208	Increases the number of judges on the FISA Court to 11, no less than 3 of whom must live within 20 miles of Washington, D.C.
209	Allows voice mail stored with a third party provider to be obtained with a search warrant, rather than a wiretap order.
210	Broadens the types of records that law enforcement can subpoena from communications providers, including the means and source of payment.
211	Clarifies that statutes governing telephone and internet communications (and not the burdensome provisions of the Cable Act) apply to cable companies that provide internet or telephone service in addition to television programming.
212	Allows computer-service providers to disclose communications and records of communications to protect life and limb; and clarifies that victims of computer hacking can disclose non-content records to protect their rights and property.
213	Amends 18 U.S.C. 3103a to permit delayed notice of search warrants where court determines that immediate notice would have an ''adverse result''; officers may seize property if court finds ''reasonable necessity.''
214	To get pen register/trap and trace order under FISA, must certify that information likely to be obtained is relevant to an ongoing investigation to protect against international terrorism or clandestine intelligence activities; investigations of US persons may not be conducted upon the basis of First Amendment protected activities.
215	Business records provision allows any designee of FBI director no lower than Assistant Special Agent in Charge to apply to FISA court or a magistrate designated by Chief Justice for an ex parte order requiring production of any tangible things for an investigation to protect against international terrorism or clandestine intelligence activities; investigation must be conducted under AG Guidelines under EO 12333, and investigation of a US person cannot be based on First Amendment protected behavior; also requires semiannual reporting to Congress.
216	Amends the pen register/trap and trace statute to apply to internet communications, and to allow for a single order valid across the country.
217	Allows victims of computer-hacking crimes to request law enforcement assistance in monitoring trespassers on their computers; ''computer trespasser'' does not include persons who have a contractual relationship with the hacked computer's owner.
218	Allows law enforcement to conduct surveillance or searches under FISA if ''a significant purpose'' is foreign intelligence.
219	Permits courts to issue search warrants that are valid nationwide for investigations involving terrorism.
220	Permits courts to issue search warrants for communications stored by providers anywhere in the country; court must have jurisdiction over the offense.
221	Authorizes President to impose sanctions relating to the export of devices that could be used to develop missiles or other weapons of mass destruction. Also expands President's ability to restrict exports to the portions of Afghanistan controlled by the Taliban.
222	Protects communications providers from having to develop or deploy new technology as a result of the Bill, and assures that they will be reasonably compensated.
223	Creates a cause of action and authorizes money damages against the United States if officers disclose sensitive information without authorization.
224	Provides that all changes in Title II sunset after four years (except sections 203(a), 203(c), 205, 208, 210, 211, 213, 216, 219, 221, and 222).
225	Grants immunity from civil liability to persons who furnish information in compliance with a FISA order.
301	Title of money-laundering act.
302	Congressional findings.
303	Sunset provision; money-laundering provisions will expire in 2005 if Congress enacts joint resolution.
311	Authorizes the Treasury Secretary to require that financial institutions undertake a variety of special measures to prevent money laundering, such as recording certain transactions and obtaining information about correspondent accounts.
312	Imposes special due diligence requirements for private banking and correspondent accounts that involve foreign persons.
313	Prohibits domestic financial institutions from maintaining correspondent accounts with foreign shell banks.
314	Requires Treasury Secretary to promulgate regulations to encourage cooperation among financial institutions, regulators, and law enforcement; allows financial institutions to share information regarding persons suspected of terrorism-related money laundering.
315	Includes various foreign-corruption offenses—including bribery and smuggling—as ''specified unlawful activities'' under the money-laundering statute.
316	Allows persons to contest confiscations of their property in connection with antiterrorism investigations.
317	Authorizes long-arm jurisdiction over foreign money launderers; also allows courts to restrain foreign-money launderers' assets before trial.
318	Essentially a technical amendment, defines ''financial institution'' to include a ''foreign bank.''
319	Permits forfeiture of funds held in United States interbank accounts; upon the request of federal banking agencies, requires financial institutions to disclose information about anti-money laundering compliance.
320	Authorizes the civil forfeiture of property related to certain offenses against foreign nations, including controlled-substances crimes, murder, and destruction of property.
321	Includes various entities in the definition of ''financial institution,'' including futures commission merchants and the Commodity Futures Trading Commission.
322	Provides that a statute preventing fugitives from using court resources in forfeiture actions, also applies to claims brought by corporations whose officers are fugitives. [typo in bill; refers to title 18; should be title 28]
323	Allows courts to issue restraining orders to preserve the availability of property subject to forfeiture by a foreign government.
324	Requires Treasury Secretary to report on the operation of this subtitle.
325	Allows Treasury Secretary to issue regulations governing concentration accounts, to ensure that customers cannot secretly move funds.
326	Requires Treasury Secretary to promulgate rules requiring financial institutions to verify the identities of persons opening accounts.
327	Requires the government to consider financial institutions' anti-money laundering record when deciding to approve various requests, including proposed mergers.
328	Requires Treasury Secretary to cooperate with foreign governments to identify the originators of wire transfers.
329	Imposes criminal penalties on government employee who is bribed in connection with his duties under the money-laundering title.
330	Sense of Congress that the United States should negotiate with foreign nations to secure their cooperation in investigations of terrorist groups' finances.
351	Grants immunity to a financial institution that voluntarily discloses suspicious transactions; prohibits the institution from notifying the person who conducted the suspicious transaction that it has been reported.
352	Directs financial institutions to establish anti-money laundering programs, and allows Treasury Secretary to prescribe minimum standards.
353	Imposes civil and criminal penalties for violations of geographic targeting orders; extends the effective period for geographic targeting orders from 60 to 180 days.
354	Requires the President's national strategy on money laundering to include data regarding the funding of international terrorism.
355	Allows financial institutions to disclose suspicious activity in employment references.
356	Obliges Treasury Secretary to issue regulations that require securities brokers and commodities merchants to report suspicious activities.
357	Requires Treasury Secretary to report on the administration of Bank Secrecy Act provisions.
358	Makes various amendments to Bank Secrecy Act to enhance United State's ability to fight international terrorism, including making information available to intelligence agencies.
359	Requires reporting on the suspicious activities of underground banking systems.
360	Instructs United States Executive Directors of international financial institutions to use their voice and vote to support loans to foreign countries that assist the United States' fight against international terrorism.
361	Establishes procedures and rules governing the Treasury Department's Financial Crimes Enforcement Network.
362	Requires Treasury Secretary to establish in the Financial Crimes Enforcement Network, a highly secure network that will allow the exchange of information with financial institutions.
363	Increases civil and criminal penalties for money laundering.
364	Authorizes the Federal Reserve to hire security personnel.
365	Requires companies that receive more than $10,000 in currency in a transaction to file a report with the Financial Crimes Enforcement Network.
366	Requires Treasury Secretary to study expanding exemptions from currency reporting requirements.
371	Makes it a crime to smuggle more than $10,000 in currency into or out of the United States, with the intent of avoiding a currency reporting requirement, also authorizes civil forfeiture.
372	Authorizes criminal and civil forfeiture in currency-reporting cases.
373	Includes a scienter requirement for the crime of operating an unlicensed money transmitting business.
374	Increases penalties for counterfeiting United States currency and obligations; clarifies the counterfeiting statutes apply to counterfeits produced by electronic means.
375	Increases penalties for counterfeiting foreign currency and obligations.
376	Designates a new predicate money-laundering offense: providing material support or resources to foreign terrorist organizations in violation of 18 U.S.C. § 2339B.
377	Provides for extraterritorial jurisdiction over certain crimes of fraud in connection with access devices.
401	Authorizes AG to waive caps on immigration personnel assigned to protect Northern Border.
402	Triples the number of Border Patrol personnel, Customs Service personnel, and Immigration and Naturalization Service inspectors; also allocates an additional $50 million each to the Customs Service and the INS.
403	Requires the FBI to share criminal-record information with the INS and the State Department for the purpose of adjudicating visa applications.
404	One-time expansion of INS authority to pay overtime.
405	Requires AG to report to Congress on feasibility of enhancing FBI's Integrated Automated Fingerprint Identification System, or ''IAFIS,'' to prevent foreign terrorists from receiving visas and from entering United States.
411	Broadens the Immigration and Nationality Act's terrorism-related definitions. Expands grounds of inadmissibility to include persons who publicly endorse terrorist activity. Expands definition of ''terrorist activity'' to include all dangerous devices in addition to firearms and explosives. Expands definition of ''engaging in a terrorist activity'' to include providing material support to groups that the person knows or should know that are terrorist organizations, regardless of whether the support's purpose is terrorism related.
412	Requires AG to detain aliens whom he certifies as threats to national security. AG must charge aliens with criminal or immigration offenses within seven days. AG must detain aliens until they are removed or until he determines that they no longer pose threat. Establishes D.C. Circuit as exclusive jurisdiction for appeals.
413	Gives Secretary of State discretion to provide visa-records information to foreign governments, for the purpose of combating international terrorism or crime; gives certain countries general access to State Department's lookout databases.
414	Sense of Congress regarding need to expedite implementation of an integrated entry and exist data system.
415	Provides that Office of Homeland Security shall participate in the entry-exit task force authorized by Congress in 1996.
416	Requires AG to implement fully and expand the foreign student visa monitoring program authorized by Congress in 1996.
417	Requires Secretary of State to enhance efforts to develop machine-readable passports.
418	Obliges Secretary of State to review how consular officers issue visas to determine whether consular shopping is a problem.
421	Grants special immigrant status to people who were in the process of securing permanent residence through a family member who died, was disabled, or lost employment as a result of the September 11 attacks.
422	Provides a temporary extension of status to people who are present in the United States on a ''derivative status'' (the spouse or minor child) of a non-immigrant who was killed or injured on September 11.
423	Provides that aliens whose spouses or parents were killed in the September 11 attacks will continue to be considered ''immediate relatives'' entitled to remain in the United States.
424	Provides that aliens who turn 21 during or after September 2001 shall be considered children for 90 or 45 days, respectively, after their birthdays.
425	Authorizes AG to provide temporary administrative relief, for humanitarian purposes, to any alien who is related to a person killed by terrorists.
426	Requires AG to establish evidentiary guidelines for demonstrating that death or disability occurred as a result of terrorist activity.
427	Provides that no benefits shall be given to terrorists or their family members.

FINAL COUNTER-TERRORISM BILL SECTION-BY-SECTION ANALYSIS—Continued

Bill provision No.	Bill description
428	Definitions.
501	Enhances the AG's authority to pay rewards in connection with terrorism.
502	Enhances Secretary of State's authority to pay rewards in connection with terrorism.
503	Expands DNA sample collection predicates for federal offenders to include all offenses in 18 U.S.C. 2332b(g)(5)(B) list, all crimes of violence (as defined in 18 U.S.C. 16), and attempts and conspiracies to commit such crimes.
504	Allows ''federal officers'' who conduct FISA surveillance or searches to coordinate efforts to investigate or protect against attacks, grave hostile acts, sabotage, international terrorism, or clandestine intelligence activities by foreign power.
505	Allows FBI Deputy Assistant Director or higher (or Special Agent in Charge) to issue National Security Letters for telephone toll and transaction records, financial records, and consumer reports.
506	Extends Secret Service's jurisdiction (concurrently with FBI's) to investigate offenses against government computers.
507	Person not lower than Assistant AG can apply for an ex parte court order to obtain educational records that are relevant to an authorized investigation or prosecution of a grave felony or an act of domestic or international terrorism; must provide specific and articulable facts showing that records likely to contain information related to the offenses; AG required to issue guidelines to protect confidentiality.
508	Eliminates restrictions on production of information from National Center for Education Statistics; allows person not lower than Assistant AG to collect information if there are specific and articulable facts that records are likely to contain information related to a grave felony or an act of domestic or international terrorism; AG required to issue guidelines to protect confidentiality.
611	Provides for expedited payment of Public Safety Officer benefits in connection with terrorism.
612	Technical amendments to Pub. L. 107–37.
613	Raises base amount of Public Safety Officer benefits from $100K to $250K.
614	Enhances authority of Assistant Attorney General for the Office of Justice Programs to manage OJP.
621	Makes many minor changes in crime victims compensation program; one is: amounts received by the Crime Victims Fund from the $40B emergency fund are not subject to spending cap.
622	Makes many minor changes in the crime victims compensation program.
623	Makes many minor changes in the crime victims compensation program.
624	Makes many minor changes in the crime victims compensation program; one expands use of its emergency reserve.
701	Expands regional information-sharing system to enhance federal and state law-enforcement officers' ability to respond to terrorist attacks.
801	Makes it a crime to engage in terrorist attacks on mass transportation systems.
802	Adds definition of ''domestic terrorism'' to 18 U.S.C. 2331 and makes conforming change in existing definition of ''international terrorism.''
803	Makes it a crime to harbor a person where perpetrator knows or has reasonable grounds to believe that the person has committed or is about to commit one of several serious terrorism crimes; includes venue provision.
804	Extends the United States' special maritime and territorial jurisdiction to any offenses committed by or against U.S. nationals at foreign missions and related residences; excludes offenses by persons covered under 18 U.S.C. 3261(a) (which provides separate extraterritorial provision for persons accompanying the armed forces).
805	Amends crime of providing material support to terrorists by deleting the ''within the U.S.'' restriction; adds some additional predicate offenses; and adds ''monetary instruments'' and ''expert advice or assistance'' as types of prohibited support. Also, adds material support of foreign terrorist organizations as money laundering predicate.
806	Amends 18 U.S.C. 981(a)(1) to authorize civil forfeiture of all assets owned by persons engaged in terrorism.
807	Clarifies that Trade Sanctions Reform and Export Enhancement Act of 2000 does not limit the prohibition on providing material support to terrorists or foreign terrorist organizations.
808	Amends definition of ''federal crime of terrorism'' in 18 U.S.C. 2332b(g)(5)(B) to include a number of serious crimes that terrorists are likely to commit. Makes conforming amendment to 2332b(f) to avoid reducing AG's primary investigative jurisdiction.
809	No statute of limitations for certain terrorism crimes that involve the occurrence or foreseeable risk of death or serious injury; other terrorism crimes subject to extended eight-year limitations period.
810	Amends statutes defining various terrorism crimes (including arson and material support to terrorists) to provide base maximum prison terms of 15 or 20 years, and up to life imprisonment where death results.
811	Amends statutes defining various terrorism crimes (including arson and killings in federal facilities) to add a prohibition on attempt and conspiracy; provides increased penalties for attempts and conspiracies that are equal to the penalties for the underlying offenses.
812	Authorizes postrelease supervision periods of up to life for persons convicted of terrorism crimes that involved the occurrence or foreseeable risk of death or serious injury.
813	Adds terrorism crimes listed in 18 U.S.C. 2332b(g)(5)(B) as predicates under RICO.
814	Makes a number of amendments to the computer hacking law to clarify protection of protected computers, and to ensure adequate penalties for cyber-terrorists.
815	Creates a defense for persons who disclose wire or electronic communications records in response to the request of a governmental entity.
816	Requires AG to establish regional computer forensic laboratories to enhance cybersecurity.
817	Broadens prohibition on possessing biological toxins: unlawful to possess toxins for anything other than a peaceful purpose; makes it a crime to possess a biological toxin in a quantity suggesting defendant had no peaceful purpose; provides that a small category of restricted persons (felons, illegal aliens and others) are disqualified from possessing biological toxins.
901	Gives CIA Director responsibility to establish requirements and priorities for foreign intelligence information under FISA, and to assist AG in ensuring that information derived from FISA surveillance or searches is used effectively for foreign intelligence purposes.
902	Includes international terrorist activities within the scope of foreign intelligence under the National Security Act.
903	Sense of Congress on the need to establish intelligence relationships to acquire information on terrorists.
904	Grants CIA Director temporary authority to delay submitting reports to Congress on intelligence matters.
905	Requires AG to disclose to CIA Director any foreign intelligence acquired by a DOJ element during a criminal investigation; AG can provide exceptions for classes of information to protect ongoing investigations.
906	Requires AG, CIA Director, and Secretary of the Treasury to report to Congress on feasibility of developing capacity to analyze foreign intelligence relating to terrorist organizations' finances.
907	Obliges Directors of FBI and CIA to report on the development of a ''National Virtual Translation Center,'' which will provide intelligence community with translations of foreign intelligence.
908	Requires AG to establish a program to train government officials in the identification and use of foreign intelligence.
1001	Directs DOJ Inspector General to review allegations that DOJ employees engaged in civil rights abuses.
1002	Sense of Congress that Sikhs should not be subject to discrimination in retaliation for the September 11 attacks.
1003	Defines ''electronic surveillance'' in FISA to exclude the acquisition of computer trespassers' communications.
1004	Provides that money laundering prosecutions may be brought in any district where the transaction occurred, or in any district the underlying unlawful activity could be prosecuted.
1005	Requires AG to make grants to enhance states and local governments' ability to respond to and prevent terrorism.
1006	Provides that aliens who are engaged in money laundering may not be admitted to the United States.
1007	Authorizes Drug Enforcement Administration funds for antidrug training in Turkey and in South and Central Asia.
1008	Requires AG to study feasibility of using fingerprint scanner at overseas consular posts and points of entry into the United States.
1009	Requires FBI to report to Congress on feasibility of providing airlines with names of passengers who are suspected to be terrorists.
1010	Allows Defense Department to contract with state and local governments to provide security at military installations during Operation Enduring Freedom.
1011	Enhances statutes making it unlawful to fraudulently solicit charitable contributions.
1012	Restricts states' ability to issue licenses to transport hazardous materials; Transportation Secretary must first determine that licensee poses no security risk.
1013	Sense of the Senate that the United States should increase funding for bioterrorism preparedness.
1014	Requires Office of Justice Programs to make grants to states to enhance their ability to prepare for and respond to terrorism involving weapons of mass destruction.
1015	Expands and reauthorizes the Crime Identification Technology Act for antiterrorism grants to states and localities.
1016	Establishes National Infrastructure Simulation and Analysis Center to protect United States' critical infrastructure from terrorist attacks.

Mr. LEAHY. Mr. President, I thank the distinguished senior Senator from Utah for his comments. Senator HATCH and I, over the last generation, have spent a great deal of time with each other on a many issues, on numerous committees, especially the Judiciary Committee. But we have spent so much time together on this, we even appear to be coordinating wardrobes with gray suits and blue shirts today. But I appreciate his help.

I appreciate so many who helped on crafting and moving forward with this legislation. I thank our leader, Senator Daschle. It would have been impossible for us to be here at this point without his steadfast commitment to the committee system and his willingness to have the committee work diligently to improve the legislation initially presented by the Administration. On my behalf and on behalf of the American people, I want to publicly acknowledge his vital role in this legislation. Senator REID has also provided valuable counsel and assistance as we have moved first the original Senate USA Act, S. 1510, and now the House-passed bill, H.R. 3162.

Many others also helped us: Senator HATCH and Senator SPECTER and Senator GRASSLEY and Senator DURBIN, Senator SCHUMER, Senator CANTWELL, and so many others on the Judiciary committee.

I said many times we are merely constitutional impediments to staff.

In particular, I want to thank Mark Childress and Andrea LaRue on the staff of Majority Leader DASCHLE, and David Hoppe on the staff of Republican Leader LOTT. I would also like to thank Markan Delrahim, Jeff Taylor, Stuart Nash, and Leah Belaire with Senator HATCH, the ranking member of the Judiciary Committee, Melody Barnes and Esther Olavarria with Senator KENNEDY, Neil McBride, and Eric Rosen with Senator BIDEN, Bob Schiff with Senator FEINGOLD, and Stacy Baird and Beth Stein with Senator CANTWELL. I also want to thank Bill Jensen of the Legislative Counsel's office.

Finally, I would like to thank my own Judiciary Committee staff, especially Bruce Cohen, Beryl Howell, Julie Katzman, Ed Pagano, John Elliff, David James, Ed Barron, Tim Lynch, Susan Davies, Liz McMahon, Manu Bhardwaj, and Tara Magner. These are people who are more than just accomplished Senate staffs, they are close personal friends.

I think of the way they have worked, also, with personal office staff such as Luke Albee, J.P. Dowd, David Carle, and others. These are dear friends, but they are also people who bring such enormous expertise—expertise they had in their other careers before they came to the Senate, and how helpful this is.

Mr. President, we are about to vote and we will vote in a matter of minutes. I want us to think just for a moment why we are here. We have all

shared the sadness, the horror of September 11. We are seeing Members of Congress and staffs threatened, tragic deaths in the Postal Service, those who died in the Pentagon, those who died at the Twin Towers.

It is also almost a cliche to say America under attack, but that is what it is. Each of us has a job helping to respond to that. We are not Republicans or Democrats in that, we are Americans preserving our Nation and preserving our democracy. But, you know, we preserve it not just for today, we preserve it for the long run. That presents the kind of questions we have to answer in a bill such as this.

I suspect terrorist threats against the United States will exist after all of us, all 100 of us, are no longer serving in the Senate. It is a fact of life. It will come from people who hate our democracy, hate our diversity, hate our success. But that doesn't mean we are going to stop our democracy, our diversity, or our success.

Think what we cherish in this Nation. Our first amendment, for example, giving us the right to speak out about what we want—as we want. How many countries even begin to give that freedom?

Also, in that same first amendment, the right to practice any religion we want, or none if we want.

The leaders of the Judiciary Committee, Senator HATCH and I, belong to different religions which we hold deeply. I think we gain a great deal of inner strength from our respective faiths. But we know we are not judged by our religion. That is something we must protect and hold. We are judged by how well we do in representing our States and our Nation.

Because we face terrible terrorist attacks today, we should not succumb tomorrow by giving up what makes us a great nation. That has been my benchmark throughout the work I have done in this bill.

I spoke of the people who bring so much to this. I was just talking with Beryl Howell, a brilliant lawyer, who, with Bruce Cohen, has led our team on all this. She is a former prosecutor. How much she learned from her prior experiences and how much she brought here. Bruce Cohen, who was in private practice and came here, probably is as knowledgeable about Senate practice as anybody I know of, and he has brought that knowledge here. There are so many others I could name.

I have to think of my own case. Probably my 26 years here in the Senate, in many ways led up to this moment because I have never brought more of my own experiences or knowledge to bear than on this.

There was a rush, an understandable and even, some may say, justifiable rush, to pass legislation immediately after these terrible events. I understand that, the United States having been attacked within our borders for the first time, really, by an outside power since the War of 1812—attacked terribly, devastatingly. Who can forget the pictures we saw over and over again on television?

So I can understand the rush to do something, anything. But I used every bit of credibility I had as a Senator to say, wait, let us take time. I applaud people such as Senator DASCHLE who, using his great power as majority leader, said we will take the time to do this right, and backed me up on this. Other Senators from both sides of the aisle said, OK, let's work together.

I know the Senator from Utah shared the same anger that I did at the terrorists, and perhaps had been reluctant at first to join with me on that. But then the Senator from Utah and I worked day and night, weekends, evenings, and everything else to put together the best possible bill.

We worked with our friends and our colleagues in both parties in the other body. Ultimately, we do nothing to protect America if we pass a bill which for short-term solutions gives us long-term pain by destroying our Constitution or our rights as Americans.

There are tough measures in this legislation. Some may even push the envelope to the extent that we worry. That is why we put in a 4-year sunset. We have also built in constitutional checks and balances within the court system and within even some of the same agencies that will be given new enforcement powers. But we also will not forget our rights and responsibilities and our role as U.S. Senators.

We will not forget our role and our responsibilities as Senators to do oversight. Senator HATCH and I are committed to that. We will bring the best people from both sides of aisle, across the political spectrum, to conduct effective oversight.

I have notified Attorney General Ashcroft and Director Mueller that we will do that to make sure these powers are used within the constitutional framework to protect all of us. I said earlier on this floor what Benjamin Franklin said: that the people who would trade their liberties for security and deserve neither.

We will enhance our security in this bill, but we will preserve our liberties. How could any one of us who have taken an oath of office to protect the Constitution do otherwise?

Like the distinguished Presiding Officer, I have held different elective offices. As the distinguished Presiding Officer knows, we take seriously our duties and our roles in each of those. He was a Member of the House and was the Governor of one of the original 13 States. I was a prosecutor and am a U.S. Senator from the 14th State. But all of us take this responsibility, because none of us are going to be here forever.

I want to be able to look back at my time in the U.S. Senate and be able to tell my children, my grandchildren, and my friends and neighbors in Vermont—the State I love so much—that I came home having done my best.

We have so much in this country—so much. But it is our rights and our Constitution that give us everything we have, which allows us to use the genius of so many people who come from different backgrounds and different parts of the world. That makes us stronger. We become weak if we cut back on those rights.

We have had some difficult times in our Nation where we have not resisted the temptation to cut back. Here we have. The American people will know that this Congress has worked hard to protect us with this bill.

I will vote for this legislation knowing that we will continue to do our duty, and to follow it carefully to make sure that these new powers are used within our Constitution.

I suggest that all time be yielded, and that we be prepared to vote. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Louisiana (Ms. LANDRIEU) is necessarily absent.

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

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

[Rollcall Vote No. 313 Leg.]

YEAS—98

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

NAYS—1

Feingold

NOT VOTING—1

Landrieu

The bill (H.R. 3162) was passed.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER (Mr. JOHNSON). Under the previous order, the Appropriations Committee is discharged from consideration of H.R. 2330 and the Senate will proceed to its consideration.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2330) making appropriations for agriculture, rural development, Food and Drug Administration, and related agencies programs for fiscal year ending September 30, 2002, and for other purposes.

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

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. 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

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 2:31 p.m., recessed until 3:01 p.m., and reassembled when called to order by the Presiding Officer (Mr. NELSON of Florida).

AMENDMENT NO. 1969

Mr. KOHL. Mr. President, pursuant to yesterday's unanimous consent agreement, I rise to offer the text of S. 1191 as reported by the Senate Appropriations Committee as a substitute amendment for H.R. 2330, the fiscal year 2002 appropriations bill for Agriculture, Rural Development, Food and Drug Administration, and related agencies. The text of S. 1191 is at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself and Mr. COCHRAN, proposes an amendment numbered 1969.

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. KOHL. Mr. President, I am pleased to present to the Senate, the fiscal year 2002 appropriations bill for agriculture, rural development, the Food and Drug Administration, and related agencies. This bill was approved by the Appropriations Committee without dissent, and I hope it will receive the support of all Senators. I believe this bill strikes an appropriate balance of programs, consistent with the interests of Senators, to meet the needs of the farm sector, the environment, and rural America generally; nutrition assistance to our Nation's most vulnerable citizens; provide adequate resources to the Food and Drug Administration for protection of our food supply and other aspects of public health; and to support other national and international priorities.

This bill provides $73.9 billion in new budget authority for both mandatory and discretionary programs under our subcommittee's jurisdiction, and is within our 302(b) allocation. This bill is $2.8 billion below the level provided for fiscal year 2001, and is $78 million below the President's request. Let me restate, this bill is below the President's request.

Although this bill is $2.8 billion below the level provided last year, I should explain that the fiscal year 2001 bill included $3.6 billion in emergency spending for natural disaster and market loss related assistance to farmers and rural communities. No emergency funding is provided in the bill now before the Senate, and when compared to the non-emergency spending for fiscal year 2001, we are providing an increase of approximately $850,000. That amount represents an increase of slightly more than 1 percent from the previous year.

Before I go any further, I want to publicly thank my friend from Mississippi, Senator COCHRAN, ranking member on the Subcommittee, for his help and guidance. I also want to thank his staff: Rebecca Davies, minority clerk for the subcommittee, Martha Scott Poindexter, and Rachelle Schroder. Without their help and expertise, presentation of this bill to the Senate today would not have been possible. I owe a great deal of gratitude to Senator COCHRAN and his staff, as do all Senators.

Mr. President, when someone refers to this bill simply as the ''Agriculture'' appropriations bill, one might be left with the impression that it relates only to programs important to the farming community. While this bill does much to support our Nation's farmers, it also does much more. This bill provides substantial funding for agriculture research, including human nutrition research, biotechnology, energy alternatives, and many other important areas of inquiry. It also provides increases in conservation programs that protect our soil, water, and air resources, including examination of global change, and other critical aspects of environmental protection.

This bill also supports rural communities through economic development programs and assistance for basic needs such as housing, electricity, safe drinking water and waste disposal systems, and to help move rural America into the information age by promoting new technologies in the area of telecommunications and internet services. More and more, Americans are seeking relief from the congestion and sprawl of urban centers, and with the proper tools, rural America holds great promise for viable job opportunity alternatives. Programs in this bill do much to help rural communities provide the infrastructure necessary to create those jobs.

In addition, funding in this bill supports many nutrition and public health related programs. These include the food stamp, school lunch, and other nutrition assistance programs such as the Women, Infants, and Children program—WIC. This bill also provides funding for the Food and Drug Administration, which includes an increase for the Office of Generic Drugs to help make lower cost medications available to Americans as quickly as possible. Funding for the Food and Drug Administration, and other agencies, included in this bill will also help guarantee that the food Americans eat is not only the most nutritious and affordable in the world, but that it is also the safest.

Assistance in this bill does not stop at our shores. This bill also includes a number of international programs such as Public Law 480, which provide humanitarian food assistance to people in dire need around the world. This bill also supports international trade through a number of programs designed to open, maintain, and expand markets for U.S. production overseas.

Before I describe some of the specific program included in this bill, let me offer a few observations in view of recent events. World headlines this past year have described the devastation to the rural sector of the United Kingdom and other areas where foot and mouth disease outbreaks have raged out of control. Should such outbreaks occur in this country, the effect to the farm sector, and the general economy, would be staggering. Thankfully, this country has a strong set of safeguards to keep our shores safe from problems such as foot and mouth disease. But our safeguards are only as strong as the weakest part.

More recently, we all witnessed the horrific events of September 11. Suddenly, we were reminded that the significant concerns were held, in regard to accidental introductions of exotic pests and disease, may pale in comparison to what could befall this country by design. This is true for protection of our food supply, and in order to ensure that our public health system has the resources for immediate response to any threat at any time.

Last week, events occurring in the United States Senate, itself, reminded us of the need to keep strong our nation's defenses in regard to public health and safety. This bill, with jurisdiction for the food and Drug Administration, the Food Safety Inspection

Service, the Animal and Plant Health Inspection Service, numerous research agencies, and other vital parts of government, place this bill directly on the front line for safety and security for the American people.

Our determination is strong, and our commitment is steadfast. This subcommittee is engaged in the struggle against terror, ignorance, and injustice, and we will prevail.

We must stay ever vigilant, especially in view of our growing global economy, and global exposure, to keep USDA, the FDA, and other relevant agencies alert and well prepared to meet the prospect of invasion by foreign pests and disease or threats conveyed by any other medium. We give high deference to items important to national defense, and we must not lose sight that many of the challenges to our border inspectors, animal health experts, public health officials, and others play as important a role in our national defense as do those in our armed forces.

We on this subcommittee have engaged Secretary Veneman, Secretary Thompson, and others in an ongoing dialogue so that we can do our best to understand what resources the various departments and agencies under the jurisdiction of this subcommittee require. We will continue these discussions as the administration allocates supplemental resources already provided by the Congress, and as we consider further appropriations actions.

As I stated at the outset, I believe this bill provides a proper balance of priorities within the limitation of resources provided to this subcommittee. I would like to highlight a few of the programs supported by this bill:

This bill provides $2.305 billion for agricultural research activities. This represents an increase of nearly $200 million above the fiscal year 2001 level, and includes programs of the Agricultural Research Service—the USDA-in house research agency; the Cooperative State Research, Education, and Extension Service, which supports the longstanding State and Federal partnership in research and extension activities; and other research agencies of the Department of Agriculture. This appropriated amount is in addition to the $120 million also available through the Initiative for Future Agriculture and Food Systems.

Agricultural production in this country is without parallel anywhere in the history of the world. Research has made that possible, and is one of the most important investments we can make to assure that American farmers continue that success and pass it on to the American consumer. This bill continues important support for those efforts.

Regulatory and marketing activities at the Department of Agriculture are strongly supported by this bill, which includes $1.445 billion for food safety inspection, animal and plant health safety programs, oversight of marketing transparency and fairness, and other activities. This level reflects an increase of nearly $100 million above the previous year.

This bill also includes a number of programs that directly support the farm sector. USDA farm credit serves the need of farmers in the acquisition and operations of farms all across this country. It should be noted, that many of today's farmers are nearing retirement age and without USDA farm credit programs, it would be very difficult for many young farmers to acquire the capital necessary to enter into this important occupation of high up-front costs, and high risk. Farm programs in this bill including farm credit, mediation, and the cost of supporting local Farm Service Agency offices, are funded at $1.487 billion, an increase of more than $200 million from last year.

Americans do not only benefit from the abundance and quality of products grown on the farm, they also benefit from the wise land stewardship practiced by farmers and ranchers. This bill provides $980 million for conservation programs. This funding, in large part, provides support to Natural Resource Conservation Service staff, who provide conservation technical assistance to farmers, ranchers, rural communities, and others at the local level. This bill also includes a new account for the Watershed Rehabilitation Program, which will provide assistance to repair the many water conservation structures located throughout the country that, due to age and condition, now pose a risk to life and property.

This funding is also in addition to other conservation programs such as the Conservation Reserve Program and the Environmental Quality Incentives Program, which have been authorized as direct spending measures under the 1996 farm bill. This bill also allows the Secretary of Agriculture to transfer funds from a number of mandatory programs to provide technical assistance for the Conservation Reserve Program in a way that does not detract from USDA's ability to provide discretionary conservation assistance for other ongoing natural resource needs.

It has often been noted that little of the general economic prosperity of the last decade made its way to rural America. This bill provides $2.794 billion for rural development programs. This is an increase of $318 million from the fiscal year 2001 level. Of this amount, slightly more than $1 billion is for the Rural Community Advancement Program, which includes the rural water and waste water loan and grants program, and is an increase of $243 million from last year's level.

This bill also includes $35.8 billion for domestic food programs, the largest single area of spending in this bill. These programs include the Food Stamp Program and Child Nutrition Programs, such as the School Lunch and School Breakfast Programs. In addition, this bill provides $4.247 billion for the WIC Program. This amount is an increase of $204 million from last year's level and $110 million above the amount requested by the President.

In addition to support of domestic programs, funding in this bill also helps the United States meet international challenges both in the area of promoting free trade, and our moral obligations to provide humanitarian assistance. This bill provides $1.128 billion for foreign assistance and related programs, which is an increase of $38 million from the fiscal year 01 level. This amount includes an appropriation of $850 million for Public Law 480 Title II food donations, which is an increase of $15 million.

Finally, this bill provides $1.217 billion for the Food and Drug Administration, an increase of $119 million from last year's level. The Food and Drug Administration provides a vital service to all Americans in helping protect our food and blood supplies, to ensure the safety and availability of effective drugs and medical devices, and other activities that affect American lives and health on a daily basis.

This overview presents only some highlights of programs included in this appropriations bill. I believe we have a good bill and I want to again thank my friend, and ranking member, Senator COCHRAN, for his invaluable help in putting this bill together. I hope all Senators will support this bill.

I believe that we can, and we should, move quickly to pass this bill in the Senate. I know that in years past, controversial subjects have come up when this bill has been on the floor, resulting in a number of days being spent on its consideration. I hope that will not be the case this year due, in part, to the recent tragic events which have occurred over the past six weeks, and the high state of urgency now before this Congress on other matters relating to a proper response to those events.

I hope that we can follow the lead of Senator DORGAN when the Treasury and general government bill was on the floor earlier. Senator DORGAN pointed out that there were certain amendments he had planned to offer which were of great importance to him, but due to their controversial nature, he deferred introduction of those amendments in order to ease the passage of that legislation. He was successful, and that appropriations bill passed the Senate in one day.

I, too, have amendments I had considered offering on subjects important to me, the people of Wisconsin, and all Americans. However, I also have chosen not to raise them at this time, and I hope all Senators will refrain, as Senator DORGAN and I have done on our respective bills, to avoid any subjects that would result in controversial, divisive, and lengthy debate. I do not mean to suggest that any Senator should not exercise any right he or she has, if the sentiment for that action is strong, but I do hope that consideration will be given to refrain from actions that will unnecessarily delay or make difficult the passage of this bill.

Mr. President, at this time I turn to the Senator from Mississippi, Mr. COCHRAN.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I am pleased to join my good friend from Wisconsin in presenting this bill to the Senate today. I first want to thank him for his hard work and the work of his staff in helping to draft the bill. It was a pleasure to work with him during the hearings when we heard from administration officials and others about the budget requests of the President and the needs of the Department of Agriculture and the agencies that are funded in this legislation.

I am pleased to report that the amounts of discretionary spending recommended in this bill are consistent with the subcommittee's discretionary spending allocations under the Budget Act. In way of summary of some of the increases that are provided, I thought the Senate might be interested to know that the bill provides additional funding over last year's levels to enhance food safety activities, quarantine inspection activities, and pest and disease control, including increased vigilance against the entry into this country of foreign animal diseases.

The amount recommended for the Agricultural Research Service, for example, will provide enhanced funding for a number of priority research needs including emerging plant and animal diseases, genomics, control of invasive weeds and insects, and the development of bio-based products from agricultural commodities.

In the case of the Cooperative State Research, Education, and Extension Service, funding increases are recommended for minor crop pest management and sustainable agricultural research.

The Department of Agriculture's Natural Resources and Conservation Service has total funding recommended, which includes increases for conservation operations. These are over and above the President's request for resource conservation and development programs and a watershed rehabilitation program.

The Foreign Agricultural Service has an increase provided that will enable that agency to strengthen its market intelligence capabilities and to better address technical trade issues, particularly those related to food safety and biotechnology.

I am pleased that the bill contains an increase for the Rural Community Advancement Program, which is essential to supporting safe drinking water supplies and waste disposal systems for rural Americans.

Let me point out also that in the case of the nutrition programs, the total appropriation recommended for the WIC Program is $204 million more than the 2001 fiscal year level, and it is $110 million more than the level requested by the President for this next fiscal year, 2002. The increase was based on more recent data on projected program costs and participation levels at the time the Senate reported the bill. But since then, there are indications that the WIC caseload has continued to increase with the steady increase in unemployment and that additional funding may be required. I am committed to reexamine this issue in conference to ensure that WIC is adequately funded for fiscal year 2002.

Let me also say that in the case of the Food and Drug Administration, the President requested additional appropriations to cover pay increases, to prevent mad cow disease, to enhance import inspections, to enhance adverse events reporting, and food safety activities. This bill recommends the full amount requested for these activities and also provides increased funding for generic drugs, orphan products grants, dietary supplements, and gene therapy tracking.

Food safety continues to be a very high priority of this committee. The bill provides the funds necessary to ensure that American consumers continue to have the safest food supply in the world. Not only does this bill provide increased funds required for meat and poultry inspection activities of the Food Safety and Inspection Service, it increases funding for food safety research and for FDA's food safety activities.

So the bill accommodates increased funding to meet expected higher WIC participation levels, to control foreign animal diseases and pests, to provide rural Americans access to affordable housing and a safe water supply, and to protect the safety of the Nation's food supply. It is essential for us to consider this expeditiously so we can get this bill to conference with the House and on to the President for his signature.

I think Senators should be aware that we are continuing to assess supplemental funding needs of various programs and activities included in this bill as a consequence of the terrorist attacks on our Nation.

Mr. President, to reiterate, I am pleased to join my good friend from Wisconsin in presenting for the Senate's consideration today the fiscal year 2002 Agriculture, rural development, Food and Drug Administration, and related agencies appropriations bill.

This bill, as recommended to the Senate, provides fiscal year 2002 funding for all programs and activities of the United States Department of Agriculture (with the exception of the Forest Service which is funded by the Interior appropriations bill), the Food and Drug Administration, and the Commodity Futures Trading Commission.

As reported, the bill recommends total new budget authority for fiscal year 2002 of $73.9 billion. This is $803 million more than the fiscal year 2001 enacted level, excluding emergency appropriations, and $78 million less than the President's fiscal year 2002 budget request.

Just over seventy-eight percent of the total $73.9 billion recommended by this bill is for mandatory appropriations over which the Appropriations Committee has no effective control. The spending levels for these programs are governed by authorizing statutes. These include not only the payments to reimburse the Commodity Credit Corporation for net realized losses and fund the Federal Crop Insurance Corporation, but also appropriations for the Food Stamp and Child Nutrition Programs.

Roughly 22 percent of the total appropriations recommended by the bill is for discretionary programs and activities. Including congressional budget scorekeeping adjustments and prior-year spending actions, this bill recommends total discretionary spending of $16.1 billion in both budget authority and outlays for fiscal year 2002. These amounts are consistent with the subcommittee's discretionary spending allocations under the Budget Act.

I would like to take a few moments to summarize the bill's major funding recommendations. For the Food Safety and Inspection Service (FSIS), appropriations of $716 million are recommended, $21 million more than the fiscal year 2001 level. This provides additional funding to enhance food safety activities and to cover pay and benefit cost increases necessary to support the FSIS workforce, including approximately 7,600 meat and poultry inspectors.

For the Animal and Plant Health Inspection Service responsible for agricultural quarantine inspection activities and pest and disease control—including increased vigilance against the entry into this country of foreign animal disease, such as foot-and-mouth and ''mad cow'' disease—$608 million is recommended. This is an increase of $64 million from the 2001 level.

Appropriations for USDA headquarters operations and for other agriculture marketing and regulatory programs are approximately $52 million more than the fiscal year 2001 appropriations levels. Included in this increase is $19 million for information technology investments in support of the Department's Service Center Modernization Initiative; and additional $5 million to support the Department of Agriculture's buildings and facilities and rental payments' requirements; and a $10 million increase for the costs of the Census of Agriculture.

For programs needed to meet the credit needs of farmers, the bill funds an estimated $3.9 billion total loan level, $800 million more than last year's level. The amount recommended includes $1.1 billion for farm ownership loans and $2.6 billion for farm operating loans.

Total appropriations of $1.2 billion are recommended for salaries and expenses of the Farm Service Agency. This is $121 million more than the 2001 level and the same as the President's budget request. The additional funding

will support Farm Service Agency staffing levels essential to keep pace with heavy county office workload demands due to a weakened farm economy.

The bill provides total appropriations of $2.1 billion for agriculture research, education, and extension activities. Included in this amount is an increase of $26 million from fiscal year 2001 for Agriculture Research Service (ARS) buildings and facilities; an increase of $108 million of research activities of the ARS; and a $40 million increase in funding for the Cooperative State Research, Education, and Extension Service.

The amount recommended for the Agricultural Research Service will continue support for essential ongoing research activities and provide enhanced funding for a number of priority research needs, including those focused on emerging exotic plant and animal diseases, genomics, control of invasive weeds and insects, and the development of biobased products from agricultural commodities.

The recommended funding for the Cooperative State Research, Education, and Extension Service includes a $1.4 million reduction below the fiscal year 2001 level for special research grants; increases of $1.0 million for minor crop pest management and $3.8 million for sustainable agriculture research and education; and total funding of $137 million, a $31.2 million increase, for the National Research Initiative competitive grants program. Appropriations for formula programs, including the Smith-Lever, Hatch Act, and McIntire-Stennis programs, are maintained at the 2001 funding levels.

For conservation programs administered by USDA's Natural Resources Conservation Service, total funding of $980 million is provided, $73 million more than the 2001 level and $52 million more than the President's request. Included in this amount is $802 million for conservation operations, $48 million for the resource conservation and development program, $10 million for a new watershed rehabilitation program, and $7.8 million for the Forestry Incentives Program.

USDA's Foreign Agricultural Service is funded at a program level of $126 million, $6 million more than the fiscal year 2001 level and the same as the budget request. The increase provided will enable the agency to strengthen its market intelligence capabilities overseas and to better address technical trade issues, particularly those related to food safety and biotechnology.

In addition, total appropriations of $1 billion are recommended for the Public Law 480 program, $31 million more than the fiscal year 2001 and budget request levels. This includes $159.3 million for Title I credit sales, and $850 million for donations of humanitarian food assistance overseas under Title II of the program.

The bill also provides total appropriations of $2.8 billion for rural economic and community development programs, along with a total loan authorization level of $10 billion. Included in this amount is $1 billion for the Rural Community Advancement Program essential to supporting safe drinking water supplies and waste disposal systems for rural Americans; $47 million for the Rural Business-Cooperative Service; first-time funding for rural broadband telecommunications and television loans; and $42 million to support a total $4.6 billion program level for rural electric and telecommunications loans.

In addition, the bill devotes additional resources to those programs which provide affordable, save, and decent housing for low-income individuals and families living in rural America. Estimated rural housing loan authorizations funded by this bill total $4.5 billion, a net increase of $32 million from the fiscal year 2001 level. Included in this amount is $4.2 billion for section 502 low-income housing direct and guaranteed loans and $114 million for section 515 rental housing loans. In addition, $709 million is included for the rental assistance program. This is $15 million more than the budget request to provide sufficient funds to meet contract renewal requirements, and $30 million more than the 2001 appropriations level.

Appropriations totaling $35.8 billion, just over 48 percent of the total $73.9 billion recommended by the bill, will support our nation's nutrition assistance programs. This includes $10.1 billion for child nutrition programs, including the school lunch and breakfast programs; $4.2 billion for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); $140 million for the commodity assistance program; $151 million for the needy family and elderly feeding food donations programs; and $21.1 billion for the food stamp program.

The total appropriation recommended for the WIC program is $204 million more than the 2001 level and $110 million more than the level requested by the President for fiscal year 2002. The increase recommended was based on more recent data on projected program costs and participation levels at the time the Senate reported the bill. However, since then, there are indications that WIC caseload has continued to increase with the steady rise in unemployment and that additional funding may be required. I am committed to reexamine this issue in conference to ensure that WIC is adequately funded for fiscal year 2002.

For those independent agencies funded by the bill, the committee provides total appropriations of $1.3 billion, $122 million more than the 2001 level. Included in this amount is $70.4 million for the Commodity Futures Trading Commission and $1.2 billion for the Food and Drug Administration (FDA). The bill also establishes a limitation of $36.7 million on administrative expenses of the Farm Credit Administration.

For salaries and expenses of the FDA, the bill recommends a total increase of $129 million from the 2001 appropriations level. The President requested additional appropriations to cover pay cost increases; to prevent bovine spongiform encephalopathy (BSE or ''mad cow'' disease); to enhance import coverage and inspections; to increase the protection of human subjects in clinical trials; to cover relocation costs and begin the acquisition of a new financial information system; and to enhance adverse events reporting and food safety activities. The bill recommends the full amount requested for these activities, and also provides increased funding for generic drugs, orphan product grants, dietary supplements, and gene therapy tracking.

Food safety continues to be a high priority of this committee. This bill, as recommended to the Senate, provides the funds necessary to ensure that American consumers continue to have the safest food supply in the world. Not only does this bill provide increased funds required for meat and poultry inspection activities of the Food Safety and Inspection Service, it increases funding for food safety research and for FDA's food safety activities.

Mr. President, again, only 22 percent of the total funding recommended by this bill is for discretionary programs subject to annual control through the appropriations process. As I indicated earlier, this bill accommodates increased funding to meet expected higher WIC participation levels, to control foreign animal diseases and pests, to provide rural Americans access to affordable housing and a safe water supply. To protect the safety of the Nation's food supply, and many other pressing program needs.

Mr. President, this bill was passed by the House of Representatives on July 11, 2001. It was reported to the Senate by the Committee on Appropriations on July 18, 2001. Appropriations for programs and activities covered by the bill are now being provided through a continuing resolution. It is essential that the Senate complete its consideration of this bill so that we can conference it with the House and get a bill to the President.

At the same time we work to complete action on the regular appropriations bill, Senators should be aware that we are continuing to assess the supplemental funding needs of various programs and activities included in this bill as a consequence of the terrorist attacks on our Nation.

Let me close by thanking my staff members who have been identified by Senator KOHL. I also thank his staff. We worked together in a spirit of bipartisanship, to be sure that the needs and interests of all Senators that have been brought to our attention are taken under serious consideration. I hope we have been able to meet the needs that have been pointed out to the committee during our work on this bill. We are prepared to defend this bill.

There are some suggested amendments about which we have heard. As a matter of fact, we have a list about two pages long. Most of these are acceptable, I am happy to say, but there are a few that are not. I hope Senators who do have amendments that we have indicated we will not be able to support will refrain from offering them so we can get on to final passage of the bill and move this legislation along to the President for his signature.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. JOHNSON. Mr. President, I thank Chairman KOHL and Senator COCHRAN for their extraordinary cooperation and leadership on this Agriculture appropriations bill which funds the commodity and income support programs for farmers. It funds conservation programs, crop insurance, regulatory programs ensuring market competitiveness, rural development initiatives, value-added projects, agricultural research and security priorities, trade promotion initiatives, food safety, drug and medical services, and nutritional programs administered by the Department of Agriculture and the Food and Drug Administration. This bill contains $74.121 billion for these imperative programs which benefit all Americans.

There is a lot of focus obviously here on farmers and ranchers, understandably so. Over half of the funding for these programs, in fact, goes for nutritional programs which benefit particularly low-income people as well as students all over America.

This important appropriations legislation, of course, is separate from the farm bill debate which we hope to have on the floor of the Senate this year. The current farm bill expires next year. It is our hope to have a new farm bill in place—perhaps this year but certainly early on next year if this year it is not possible. It will be critically important that the Congress capitalize upon the resources that are provided in this appropriations bill and in the budget resolution to ensure farmers, ranchers, and rural communities that they, in fact, have an opportunity to prosper and to compete in the years ahead.

I am proud to serve on the Agriculture Subcommittee which crafted this product which has come to us in such an excellent bipartisan fashion. This Agriculture appropriations bill provides very timely funding for the Department of Agriculture's guaranteed and direct loan programs for farmers and ranchers, as well as beginning operators.

It provides almost $4 million for State mediation grants. This is an area that has been of particular concern to me because of multiple years of income stress in farm country.

We have needed less litigation and more coming together to try to devise ways for family farmers and ranchers to have an opportunity to stay on the farm and to pay their debts but to do so outside of long, protracted legal proceedings. The mediation grants program has been a proven success. It has now been reauthorized through the year 2005 because of legislation I authored last year allowing agricultural producers to sort through their disputes with creditors and with USDA agencies without costly litigation.

Additionally, this legislation provides funding for our ongoing conservation efforts and programs that compensate farmers while preventing soil erosion and providing valuable habitat for wildlife. This Senate bill provides about $985 million for discretionary conservation programs administered by the Department of Agriculture—nearly $30 million more than is contained in our counterpart in the other body, the House of Representatives.

Agricultural research extension and education is another winner in this bill. Those programs are central to a strong production in the agricultural industry in my home State of South Dakota and across the Nation.

The Senate bill contains $2.3 billion for four USDA agencies to support these activities. Moreover, our bill includes over $1 billion for the Cooperative State Research, Education, and Extension Service, which is $32 million more than the House bill. Many new value-added and bioenergy research projects that benefit farmers, and which will benefit our Nation ultimately, are funded through these programs carried out by our land grant universities all over the United States, including specifically South Dakota State University.

Protecting our Nation's crops, livestock, and overall food and fiber system from pests, diseases, and new bioterrorist threats is, again, one of the issues that is addressed in this key legislation.

Given the recent and very real bioterrorist attacks on the people of the United States, including in this very Capitol complex, I am also concerned that our Nation's food and fiber systems may be vulnerable to bioterrorism. A host of factors make our crop, livestock, and food supplies potentially susceptible to the introduction of a bioterror threat, such as livestock disease, crop fungus, or foodborne illness. Our research facilities and land grant colleges are in great need of emergency funding to boost security and accelerate research to protect our agricultural industry and to protect our Nation as a whole. This bill provides appropriate funding levels for these facilities given the timing of committee action, but we may need to consider additional emergency funding to boost security and research in these important labs.

Second, our border inspections need to be dramatically increased, and greater security needs to be placed on imports of commodities, livestock, carcasses, food ingredients, and ready-to-eat food items. Less than 1 percent of imported food currently undergoes inspection by Federal officials. Given the new set of circumstances that we face regarding anthrax and bioterror, this must change, and it needs to change with great urgency.

Additionally, many of the major livestock feeding and processing areas are concentrated in certain regions of our Nation. The introduction of a biosecurity threat such as foot and mouth disease could, in fact, spread rapidly in these areas and would create horrendous problems for the livestock health and economic viability.

Finally, and perhaps most disturbing, Federal agencies, including USDA, APHIS, FSIS, Customs, HHS, and the Food and Drug Administration, responsible for protecting our food and fiber system do not adequately coordinate their efforts, nor do they effectively communicate among each other or with the agricultural industry or the public. Therefore, I believe it is going to be imperative that we establish a crisis communications and education strategy with respect to bioterrorist threats to our food supply.

My good friend and colleague, Senator HAGEL from Nebraska, and I are working on legislation which we believe complements and coordinates the efforts I have referred to here. And the funding made available through this legislation, in fact, will be an important part of that overall strategy.

I believe this bill takes significant steps to boost current efforts to begin new initiatives to protect American agriculture from harm. I thank the chairman and the ranking member in particular for that effort.

Now more than ever, ensuring economic security in rural America means that emphasis has to be placed upon initiatives that serve to enhance the well-being of rural communities throughout our Nation. Rural development programs within USDA target financial loan and grant resources to value-added agricultural projects, telecommunications, and broadband services, telemedicine, distance learning, rule housing, and rural electric systems.

The Senate bill devotes almost $2.8 billion to rural development. It is a great amount of investment to these important programs. Again, these are programs that will make the difference literally between communities that prosper and communities that die away and that wither away in our rural development programs. This legislation provides $300 million more for this array of rural development initiatives than is found in the legislation of our counterpart, the House of Representatives.

So in area after area, I believe the Ag Appropriations Subcommittee and the

Appropriations Committee as a whole have done very well for our Nation, for our farmers and ranchers, for our consumers, for the economic vitality of the entire fabric of our country. I applaud the bipartisanship and the thoughtful work that went into the production of this appropriations bill.

It is my hope that we will reach an opportunity for final passage on this bill still today. It is an excellent piece of legislation. I applaud all who participated and worked so hard to create this quality piece of appropriations legislation.

I yield back, Mr. President.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENTS NOS. 1970 THROUGH 1975, EN BLOC

Mr. KOHL. Mr. President, at this time I have a series of amendments which I send to the desk that are technical in nature and have the approval of the ranking member. These amendments are offered on behalf of the managers of the bill. They are: An amendment regarding conditions for transfers of funds; an amendment regarding extraneous language in the 1994 Endowment Fund account; an amendment regarding empowerment zones and enterprise communities; an amendment regarding rural utilities programs; an amendment regarding distance learning and telemedicine; and an amendment regarding administration of rural utility programs.

I offer this series of amendments en bloc, and I urge their adoption.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself and Mr. COCHRAN, proposes amendments numbered 1970 through 1975, en bloc.

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

The amendments (Nos. 1970 through 1975) were agreed to en bloc, as follows:

AMENDMENT NO. 1970

(Purpose: To modify conditions for transfers of funds)

On page 5, line 16, strike ''in the event an agency within the Department should require modification of space needs,''.

On page 5, line 21, after ''appropriation,'' insert ''to cover the costs of new or replacement space for such agency,''.

AMENDMENT NO. 1971

(Purpose: To strike extraneous language from the Native American Institutions Endowment Fund)

On page 15, strike all beginning with '': *Provided*,'' on line 20 down through and including ''purposes'' on line 24.

AMENDMENT NO. 1972

(Purpose: To make a technical correction to the rural empowerment zones and enterprise communities grants program)

On page 47, after ''1997'' at the end of line 2, insert the following: ''and Public Law 105–277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999''.

AMENDMENT NO. 1973

(Purpose: To make a technical correction to the Rural Utilities Service Rural Electrification and Telecommunications Loans Program Account)

On page 47, after ''1936'' on line 20, insert ''(7 U.S.C. 935 and 936)'':

AMENDMENT NO. 1974

(Purpose: To make a technical correction to the Rural Utilities Service Distance Learning and Telemedicine Program)

On page 49, after ''for'' at the end of line 6, insert ''the continuation of a pilot project for'' and also on page 49, after ''*Provided*'' on line 11, insert ''*further*''.

AMENDMENT NO. 1975

(Purpose: To include omitted language regarding administration of rural utilities programs)

On page 78, after line 2, insert the following:

SEC. . Hereafter, notwithstanding any other provision of law, the Administrator of the Rural Utilities Service shall use the authorities provided in the Rural Electrification Act of 1936 to finance the acquisition of existing generation, transmission and distribution systems and facilities serving high cost, predominantly rural areas by entities capable of and dedicated to providing or improving service in such areas in an efficient and cost effective manner.

Mr. KOHL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. KOHL. Mr. President, I bring to the attention of all of our colleagues that this, hopefully, is the last bill we will consider this week, and when we finish this bill we could look forward to being out for the balance of the week. So when that occurs depends upon my colleagues and their willingness to come to this Chamber to bring any amendments to our attention they may have.

At this time, I am aware of one amendment that I know is going to come to the floor. I am not aware of what other amendments may come to the floor, but whatever they are, it is clearly in our common interest to get those amendments over here at this time so we can consider them.

Mr. REID. Will the Senator yield?

Mr. KOHL. I yield to Senator REID.

Mr. REID. I say to my two friends, the managers of the bill, Senator DASCHLE has announced that if we finish this bill tonight, we will not be in tomorrow. If we do not finish the bill tonight, we will be in tomorrow with votes.

We do not have the ability to communicate the way we normally do by running hotlines because some people cannot be in their office to receive them. So this is the notice that everyone will get: People have to come over and present their amendments or the managers will have no alternative but to move forward on the bill.

We want to be as agreeable, as considerate to everyone as we can, but there is an effort to complete this bill as soon as we can.

So, I repeat, this is everyone's notice that if you have an amendment, this is the time to offer it. If you cannot come over physically, you have to call the cloakroom and tell them you have an amendment and give the subject matter of the amendment.

Mr. KOHL. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. STABENOW. I see my colleagues on the floor are ready to proceed. I defer to my senior colleague, Senator LEVIN, from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1978

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of myself and Senators MURRAY, CANTWELL, STABENOW, SCHUMER, LEAHY, SNOWE, COLLINS, CLINTON, KERRY, JEFFORDS, and KENNEDY.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Ms. COLLINS, Ms. SNOWE, Mrs. CLINTON, Mrs. MURRAY, Mr. SCHUMER, Mr. LEAHY, Ms. STABENOW, Ms. CANTWELL, Mr. KENNEDY, Mr. JEFFORDS, and Mr. KERRY, proposes an amendment numbered 1978.

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

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

The amendment is as follows:

(Purpose: To provide market loss assistance for apple producers)

At the appropriate place, insert the following:

SEC. ___. MARKET LOSS ASSISTANCE FOR APPLE PRODUCERS.

(a) ASSISTANCE AVAILABLE.—The Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation, in an amount not to exceed $150,000,000, to make payments, as soon as practicable after the date of the enactment of this Act, to apple producers to provide relief for the loss of markets during the 2000 crop year.

(b) PAYMENT QUANTITY.—

(1) IN GENERAL.—Subject to paragraph (2), the payment quantity of apples for which the producers on a farm are eligible for payments under this section shall be equal to the quantity of the 2000 crop of apples produced by the producers on the farm.

(2) MAXIMUM QUANTITY.—The payment quantity of apples for which the producers on a farm are eligible for payments under this section shall not exceed 5,000,000 pounds of apples produced on the farm.

(c) LIMITATIONS.—Subject to subsection (b)(2), the Secretary shall not establish a payment limitation, or gross income eligibility limitation, with respect to payments made under this section.

(d) APPLICABILITY.—This section applies only with respect to the 2000 crops of apples and producers of that crop.

Mr. LEVIN. Mr. President, this amendment will assist apple farmers who have suffered terrible losses in our Nation from fire blight and other weather-related and economic damage. It has broad bipartisan cosponsorship. In our State alone, apple farmers have suffered huge crop losses and damage due to several hailstorms which caused thousands and thousands of acres of apple trees to be affected by fire blight. Fire blight is a bacterium that has destroyed fruit trees across Michigan and across the country. Experts at Michigan State University anticipate that a quarter of our apple farmers have trees that are afflicted by fire blight and that then makes them susceptible to weather-related disasters. Many of our best apple producers have had disastrously reduced production and decreased revenues for a number of years. This amendment would provide vital assistance, not just in our State of Michigan but for apple producers who suffered losses due to fire blight or other weather-related disasters.

Much of the loss to apple growers is done to weather-related disasters, but unfair trade practices have also played an important role in this decline of the apple industry in this country. The Department of Commerce ruled in 1999 that China had dumped apple juice concentrate in the United States and that dumping is still causing the suffering of farmers and apple growers because of those unfair trade practices.

The unfair trade practices could not have come at a worse time for our Nation's apple growers who, according to the U.S. Department of Agriculture, have lost about $1.5 billion over the past 5 years, including $500 million last year alone, due to a variety of factors including diseases such as fire blight.

In addition to the large number of colleagues on both sides of the aisle who have cosponsored this amendment, the United States Apple Association and the American Farm Bureau Federation recognize the dire situation facing our apple growers, and both of these organizations have written to a number of Senators, voicing their support for this much-needed relief.

I ask unanimous consent these letters be printed in the RECORD.

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

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, September 24, 2001.

Hon. CARL LEVIN,
U.S. Senate, Russell Senate Office Bldg., Washington, DC.

Hon. SUSAN COLLINS,
U.S. Senate, Russell Senate Office Bldg., Washington, DC.

DEAR SENATOR COLLINS AND SENATOR LEVIN: The American Farm Bureau Federation supports your efforts to add $150 million for market loss assistance for apple producers to the FY02 agriculture spending bill.

This is the third consecutive year that apple growers have had to survive low prices caused by a flood of imports. Without assistance, American producers will continue to go out of business, the jobs the industry supports will be lost, and the safe and reliable domestic supply of fruit will disappear.

Many in Congress already understand and support the need for assistance. The Senate Agriculture Committee passed an agriculture emergency package that contained $150 million for apple producers earlier this summer. Unfortunately, apple producers were left out of the final package that was signed into law.

The FY 02 spending bill passed by the House contains $150 million in emergency assistance for apple producers. Farm Bureau believes that apple assistance should also be included in the Senate bill. Inclusion in both bills will assure that the assistance will reach producers quickly.

Thank you for your work on behalf of our nation's apple producers. Farm Bureau stands ready to assist you in your effort.

Sincerely,

BOB STALLMAN,
President.

U.S. APPLE ASSOCIATION,
McLean, VA, October 1, 2001.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: The U.S. Apple Association (US Apple) strongly supports your efforts to garner $150 million in much-needed emergency market loss assistance for America's apple growers.

Our nation's apple growers are experiencing the worst economic losses in more than 70 years, having lost $1.5 billion since 1996 and $500 million last year. Unfairly priced imports of apple juice concentrate, excessive regulatory costs, stagnant domestic consumption, food retail consolidation, subsidized foreign competition, diminished exports and global overproduction have all contributed to the devastating economic conditions confronting apple producers.

Apple growers have invested heavily in efforts to reverse their economic plight, and are not seeking establishment of a permanent direct assistance program. As losses continue to mount, however, as many as 30 percent of America's apple growers will lose their farms without this much needed ad-hoc assistance.

As you know, the House-approved agricultural appropriations bill for fiscal 2002 includes $150 million in market loss assistance for apple growers. The Senate Agriculture Committee also approved $150 million in assistance for apple growers as part of its farm relief package. Unfortunately, apple producers were left out of the final farm aid bill that was signed into law this past summer.

Thus, we strongly endorse your efforts to include this desperately needed emergency assistance in the Senate's fiscal 2002 agricultural appropriations bill.

On behalf of the 9,000 apple growers and more than 500 individual apple businesses we represent, USApple looks forward to working with you in support of your efforts to assist America's apple growers.

Sincerely yours,

KRAIG R. NAASZ,
President & CEO.

U.S. APPLE ASSOCIATION: EMERGENCY MARKET LOSS ASSISTANCE FOR AMERICA'S APPLE GROWERS

The U.S. Department of Agriculture distributed roughly $100 million in market loss payments to 7,500 apple growers nationwide, as provided by the 106th Congress to offset 1998 and 1999 crop losses. The amount of assistance each state's apple growers received is listed below under the column titled AMLAP. An estimate of the amount of assistance each state's apple growers would receive under the Levin-Collins amendment to the fiscal 2002 agriculture appropriations bill, which would provide $150 million in market loss assistance to offset 2000 crop losses, is listed under the column titled AMLAP II.

State	AMLAP	AMLAP II
Arizona	$56,037	$1,269,802
California	4,260,406	14,557,946
Colorado	669,559	1,077,244
Connecticut	79,301	833,854
Georgia	153,542	461,868
Idaho	1,021,370	2,342,670
Illinois	311,624	1,572,777
Indiana	301,902	1,349,585
Maine	538,168	1,611,153
Maryland	396,696	984,669
Massachusetts	866,463	1,837,375
Michigan	11,270,241	19,460,081
Missouri	115,477	1,437,448
New Hampshire	425,351	1,037,184
New Jersey	309,370	1,100,809
New York	9,546,250	15,846,936
North Carolina	2,444,097	3,533,698
Ohio	720,304	2,946,600
Oregon	2,051,102	2,997,096
Pennsylvania	3,798,287	8,587,320
South Carolina	142,275	958,411
Utah	42,390	1,109,225
Vermont	451,210	1,350,595
Virginia	1,918,006	4,854,332
Washington	46,331,907	50,371,268
West Virginia	835,373	2,418,413
Wisconsin	407,838	2,340,650
All Other States	709,305	1,750,992
Total	90,173,852	150,000,000

[From the Michigan Farm News, Feb. 28, 2001]

APPLE SITUATION STILL DISASTROUS, TART CHERRIES BETTER

(By Paul W. Jackson)

Options for apple growers whose farms were devastated by fire blight last year are not good, experts agree. For all growers, prices continue to be disastrous.

''Prices are considerably below the cost of production,'' said Tom Butler, manager of Michigan Processing Apple Growers. ''Last year was the third year in a row they've been through tough economic times.''

Hard times are expected to continue, he said, because apple juice concentrate imports from Argentina, China and Chile continue at below $5 per gallon. Also, there's domestic competition to worry about.

''Washington state continues to be a real competitor in selling fresh applies at low prices, and they're using big promotions,'' he said. ''That makes it difficult to get our apples, particularly red delicious, into the marketplace.''

The general state of depression in the apple industry is worse in southwestern Michigan, where fire blight led to a federal disaster aid program, a market loss assistance program and a tree replacement program. But farmers are still waiting for money from those promises, said Mark Longstroth, Michigan State University (MSU) District Extension horticultural and marketing agent in the Van Buren County office.

''That aid was supposed to come in January, but it's stuck in Washington (D.C.),'' he said. ''Complaining to your local FSA (Farm Service Agency) office won't help. Complain to your legislators.''

While farmers wait for disaster aid, Longstroth said he's been telling growers who uprooted significant chunks of apple tree acreage to plant alfalfa this year.

''Don't be in such a big hurry to replant apples,'' he said. ''Lease the ground for soybeans or corn, or plant alfalfa to help amend the soil. That might give a grower the best opportunity to look at what apple varieties might be best if he wants to replant trees in a year or two.''

Rumors that many apple farmers are considering vegetable crops on the vacant ground concerns vegetable growers in the area who already face tight margins.

''I have no problem with them growing vegetables if they're already growing them,'' said Ron Goldy, MSU Extension district vegetable agent for southwestern Michigan. ''They already have established relationships in the market chain. They'll talk to their brokers to decide if they can produce five to 10 more acres,'' he said. ''But if they don't have those relationships and they try to get into vegetables, there's potentially no place to send their crops. I'd say that they're better off renting the ground and maybe getting $50 an acre for corn or soybeans. Or, there's nothing wrong with the ground being vacant for awhile.''

Other potential solutions for southwestern Michigan apple growers seem to have dried up. Rumors that Lawton's Welches' plant and parent company National Grape Cooperative was seeking more grape growers aren't true.

''We were looking for more grape ground, but the board of directors cancelled that call,'' said John Jasper, the co-op's area manager for Michigan. ''We did pick up some apple acreage over the last few years, so our needs are filled right now.''

For apple growers who hope to survive last year's fire blight problems this year, the recommendation from MSU is to refrain from nitrogen fertilizer, prune oozing cankers and pray for cool spring weather.

The waiting game might be a good one to play as well, Longstroth said. Nurseries are having trouble meeting demand for replacement trees, and a wait might help growers know what they should or should not plant in a year or two.

Tart cherries the tart cherry industry is not great, but there is light at the end of the tunnel, said Phil Korson, with the Cherry Marketing Institute in DeWitt.

''We feel that a great opportunity for us is in cherry juice. It's a huge market to capture, it uses a lot of cherries and it gives consumers the cherry's anti-inflammatory properties in the most natural way,'' he said.

Value-added products like that have been emphasized by the Institute for a number of years, Korson said.

''We've worked on things from brandy to beers, to dried cherries and nutraceuticals,'' he said. ''That's a real opportunity for the future, and we have ongoing projects at MSU and in Texas. Amway Corp., (A Michigan-based company) plans to go to clinical trials this year to extract anti-inflammatory properties from cherries. The work originally done at MSU was to identify compounds that have anti-inflammatory properties. The second part is the technology used to extract those properties. Those were licensed by Amway, and this year they bought balaton cherries (a variety new to the state) to extract those properties, and they'll take that to clinical trials within the next year.''

Promotion of cherries as a beneficial food has been part of what brought the tart cherry industry out of its near disastrous overproduction just a few years ago. And while the 2000 crop was up—and prices down—a promotion program in Europe, along with health promotions to boost domestic sales and more than 50 million pounds in sales to the school lunch program is bringing back strong optimism.

''I think there's a lot of optimism in the cherry market today,'' Korson said. ''We've invested heavily in research in Mexico, Japan and Europe, and we look in the future to expand that network to Korea, Taiwan, Turkey and Poland, to name a few. There will be years when we'll have too much fruit, but there are ways to offset that. Among them are expansion of value-added products for the cherry industry, and marketing the health benefits of cherries globally.''

[From the New York Times, New York, NY, June 23, 2001]

WHERE APPLES DON'T PAY, DEVELOPERS WILL

(By Lisa W. Foderaro)

MILTON, N.Y.—In their sun-drenched orchard here in Ulster County, where the McIntosh and Red Delicious apples are still the size of cherries, father and son should be a whirlwind of activity this time of year: spraying and thinning the trees at Hudson Valley Farms, lining up labor for harvest.

Instead, they will let the fruit fall to the ground this fall. And they are spending their days indoors, in dry contract negotiations with housing developers for the sale of all 650 acres of their orchards—preparing the obituary, in essence, of a family business that stretches back to the 1920's.

''This is the first time in my life that I have not had a crop to tend to,'' said Bill Palladino, 58, who owns Hudson Valley Farms with his son, Jeff, 31. ''It's definitely a naked feeling. You get emotionally attached to your trees, your orchards, your way of life. You miss that.''

That is becoming a familiar refrain in Ulster County, the second largest apple-producing county in a state that is second only to Washington in apple production. Decisions like the Palladinos' reflect enormous changes here and for struggling apple growers around the country.

After several years of losing money in a depressed market that has devastated apple farmers nationwide, the Palladinos and at least five other growers in the county are selling out. They are taking advantage of the wave of suburban sprawl lapping at the edges of this county 75 miles north of Manhattan.

In the process, a county where bosky ridges and clear creeks always seemed a safe distance from the city, a place where understated hamlets have captivated permanent residents and weekenders alike, is wondering what the shriveling of the apple industry will bring.

''It's a big concern—that all this green space will be turned into development,'' said Suzanne Hauspurg, who, with her husband, Dan, owns the Inn at Stone Ridge. Trying to protect their corner of Eden, the two recently bought a 110-acre apple orchard behind their inn that a builder had been considering.

The apple growers here are not cashing in so much as they are staving off financial ruin. They say that money that arrived last week from the federal government, part of nationwide program to compensate growers for market losses with a maximum payment of $28,295, represents a tiny bandage when what they need is a tourniquet. Some are equally unimpressed with a state program that helps counties buy development rights from farmers but that has yet to produce any final agreements that would keep Ulster land in agriculture.

Since the early 1990's, farmers across the country have suffered as production costs have risen and apple prices have fallen: the result of a worldwide glut of apples, imports of cheap apple-juice concentrate from China, and a continuing consolidation among retailers that reduces farmers' bargaining power. In addition, countries like South Africa, Chile and New Zealand have emerged as major exporters of fresh apples to the United States.

Last year, the United States International Trade Commission voted unanimously to put punitive antidumping duties on apple juice concentrate from China. But some growers say Chinese concentrate is still cheaper than American, even with the imposition of the 52 percent duty.

''Not since the Great Depression have apple growers sustained such losses,'' said Kraig Naasz, president and chief executive officer of the United States Apple Association in McLean, Va. He said that nationwide, apple farmers have lost $1.5 billion in the past five years. ''This coming harvest may mark the last for as many as 30 percent of the nation's apple growers,'' he said.

In the Hudson Valley, insult was added to the national economic conditions by catastrophic hail storms that wiped out a third of the apple crop last year. The year before, a damaging hurricane punctuated a summer of drought in which farmers spent copiously to irrigate their orchards.

The for-sale signs popping up across Ulster County's orchards are not new, but they mark a startling acceleration of a trend that began more than a decade ago. In 1985, 104 farms covered 11,629 acres in Ulster County. By the end of 1996, the most recent year for which statistics are available, the number of farms had fallen to 63 on 8,632 acres.

Apple farming has continued to dwindle since then, with production ending on more than 1,500 acres in the last year alone.

''You could probably call most growers, and they've got pieces of land up for sale,'' said Michael J. Fargione, an educator with Cornell Cooperative Extension, a program of Cornell University that provides research information and educational programs to farmers. ''I'm not sure people are aware of the critical point we're at in terms of the potential for the loss of farms.''

Most of the remaining orchards are particularly attractive to developers because they lie in towns like Lloyd, Marlborough and Plattekill on the county's eastern edge, closer to the train lines across the Hudson River that lead to New York City. In recent years, as Orange County to the south and Dutchess County to the east have seen a surge in home construction, Ulster has drawn professionals in search of lower prices and open space.

''Ten or twenty years ago, people would say: 'I have a 40-minute commute. Isn't that long?' '' said Seth McKee, associate land preservation director of Scenic Hudson, an environmental organization in Poughkeepsie, N.Y., that is assisting Ulster County in its effort to buy development rights from farmers. ''Now they say: 'I have an hour commute. Isn't that great?' The development pressures in Ulster are not quite what they are in southern Dutchess, but that doesn't mean it's not going to become that way.''

That is just fine with Dennis and Diane Chaissan, apple farmers who are now subdividing their 350 acres of orchards. They shut down their apple operation in 1999. He got his real estate license; she went back to school for a master's degree in education administration.

''We didn't see a future in it,'' Mr. Chaissan said of the apple business begun by his grandfather in 1910. ''Over the last 10 years or so, prices have been stagnant or going down. I didn't see a return on the money, and I didn't want to continue. Looking back, I think it was the best decision we ever made.''

Mr. Chaissan, a trim 46-year-old with a salt-and-pepper mustache, chose a profession that neatly positioned him to take advantage of his top asset: land. Apple orchards are selling for between $3,000 to $10,000 an acre, depending on the location and factors like slope and drainage. But with zoning approvals in place for housing, the land becomes much more valuable.

The Chaissans hope to sell four two-and-a-half-acre building lots in the hamlet of Clintondale for $25,000 to $100,000 each. The

lots, still covered with trees bearing young Empire and Cortland apples, have magnificent views of the Shawangunk Mountains to the west.

Like other growers, Mr. Chaissan, who works for Colucci Shand Realty in Gardiner, N.Y., could not make the economics of apples work. According to the New York State Apple Association, a bushel of apples that sold for $14 in the mid 1990's now sells for $9. Mr. Chaissan figures that each bushel would cost him about $11 to produce. ''Right now growers are pounding their heads against a wall,'' he said. ''They can't make money, and they see no way out.''

His career switch was shrewd in another way, too. Mr. Chaissan represents a few of his fellow apple farmers now selling some or all of their orchards. One potential client is Jeffrey D. Crist, a fourth-generation apple grower who owns 500 acres of orchards, half in Ulster County and half in Orange County.

Mr. Crist is weighing a $2.3 million offer from a developer for 227 acres of orchards in the town of Hamptonburgh in Orange County. ''At this point, we're not planning to get out of the business, but we can grow apples just as easily on less valuable land farther away from New York City,'' Mr. Crist said.

Still, Mr. Crist said his first priority was to pay back his creditors. ''I've got loan payments from last year's growing season that are unpaid,'' he said, adding that revenues were down a half previous year. ''We wouldn't invest in other land if it looked like we were going to lose money. The industry picture would have to improve.''

Ulster County is now trying to buy development rights from farmers under a state program that would ensure that the land is reserved for agricultural use even if it is sold. But the process is slow. Two years ago, 17 farmers in the county applied, and the state, which contributes 75 percent of the purchase cost, chose two. But those two farmers, both apple growers in Clintondale, have yet to sell.

''It's possible I won't go through with it,'' said Phil Hurd, an owner of M.G. Hurd & Sons, a 250-acre apple and pear operation dating to the 1890's. ''My land is owned by several family members, and it makes it difficult to come to agreement. The program restricts you to farming, which you can't make a profit on, so it's a double-edged sword.''

Mr. McKee of Scenic Hudson says conservation programs like these do not happen overnight. ''It's time-consuming to have the farmers think about all the possibilities and put it into an agreement that is perpetual,'' he said. ''They rely on this land for their livelihood.''

But as a resident of Ulster, Mr. McKee also knows that time is a luxury neither the county nor the apple industry has. ''It's very painful to watch the impact of suburban sprawl heading north, but that's all the more reason why these programs are vital,'' he said. ''For weekenders and local folks who have been here for generations, it's the loss of a sense of place. For the farm families, it's hard to watch what used to be a vast expanse being nibbled away.''

[From the Loudoun Times, Leesburg, VA, Aug. 15, 2001]

VA. APPLE PRODUCERS FACE MANY PRESSURES

Market worries, hail and oversupply are causing tough times for apple growers in Virginia and other apple-growing states.

Producers in both the fresh fruit and processing sectors are suffering greatly, according to Giles County orchardist Bill Freeman.

''There's pressure from all sides. Things have gone downhill for several years, but it's really become a struggle to stay ahead. We're going to have to find different ways to market our product and keep it moving despite complications and competition,'' Freeman said.

''Apple production is quickly becoming a nonprofit industry,'' said Richard Marini, a Virginia Cooperative Extension horticulture specialist at Virginia Tech. ''There's really a worldwide overproduction, and apples have become a global market.''

Virginia is the nation's sixth largest apple producer, generating cash receipts of about $40 million in 1999. There are fewer than 300 commercial growers in the Old Dominion. Most are located in Frederick County, other parts of the Shenandoah Valley and Virginia Piedmont, and in Southwest Virginia.

Estimated losses in national apple production between 1995 and 1998 are $760 million, according to the U.S. Apple Association, and the average price received by growers in January dropped to its second lowest level in more than 10 years.

''Washington (state) has really increased production in the past several years with the thought that they could export them. But larger production and exports from China and much of Asia has prevented that,'' Marini said.

In an effort to aid struggling producers, the U.S. Department of Agriculture began sign-ups March 1 for its Apple Market Loss Assistance Program. Payments were made on a grower's first 1.6 million pounds of production in either 1998 or 1999.

''The program is similar to other programs for other commodities, but it's the first of its kind for apple producers. Many producers have realized that it's going to be necessary for their survival at this point, explained Spencer Neale, senior assistant director of the Virginia Farm Bureau Federation Commodity/Marketing Department. ''If a producer has never relied on assistance before, it's a path they may tend to be reluctant to go down now.''

Freeman said this year's assistance ''has kept us going for another year, but I'm not sure that it's not just prolonging the agony.''

The government is currently working on another program for apple producers that could provide $150 million in assistance. ''Despite the assistance that's provided to help producers, it all comes down to supply and product price,'' Neale said.

In addition to market concerns, Virginia apple producers have suffered problems from numerous hailstorms in recent months, agriculture officials said.

[From the Sun Journal, Lewiston, ME, Aug. 8, 2001]

APPLE GROWERS' AID DROPPING

(By Glen Bolduc)

SINCE 1996 THE NATION'S APPLE GROWERS HAVE SUFFERED OVER $1.5B IN MARKET LOSSES.

TURNER—Apple trees used to grow on 850 acres of his farm. Now there's only 500 acres of the fruit.

''We're getting smaller fast,'' said Harry Ricker, owner of Ricker Hills Orchards.

The only thing growing seems to be the bills.

''The wholesale apple business has not been profitable for years now,'' Ricker said. ''Our industry has gotten to the point where we need to worry about ourselves.''

Since 1996 the nation's apple growers have suffered over $1.5 billion in market losses. This past growing year alone has cost them nearly $500 million.

''The apple industry is suffering the worst economic conditions in 70 years,'' said Kraig Naasz, president of the U.S. Apple Association in McLean, Va.

Not since the Great Depression have apple growers suffered such monetary loss, and Naasz estimates that 30 percent of the nation's apple growers will retire their industry this year if help isn't provided in some form.

''We're in trouble,'' Ricker said, ''and we need some government help.''

GOVERNMENT AID

Last week the U.S. Senate caved in to President Bush's veto threat and approved a $5.5 billion agriculture assistance bill that was $2 billion less than the House version. Republican Susan Collins of Maine was one of the senators who voted in favor of the trim; Olympia Snowe voted in favor of the House version.

About $50 million of the $2 billion cut from the original draft would have been used to supplement the market loss of apple growers. But the approved version still provides $169 million to states for various needs.

''The funds would have been well utilized,'' said Ned Porter, deputy commissioner of the Maine Department of Agriculture. ''However, we're not out of the fight yet.''

The House has currently approved another farm aid bill that will provide about $150 million—an estimated $900,000 for Maine—in market loss assistance.

Although the bill still has to wait for Senate and White House approval next month, Naasz said he expects it to pass. ''It looks very promising,'' he said.

But Don Ricker, father of Harry Ricker, said that a lot of times the funding never comes.

''Typically the Congress passes all these bills, and they get a lot of press, but then it just dies,'' he said. ''You'd think that I was living high with all these handouts.''

Ricker's orchard was awarded farm assistance in a 1998 bill, but the check didn't come until June 2000.

WHY THE HARD TIMES

The cause of the economic stress is all in the politics of sale and trade, Naasz said. ''The reasons are many and mostly beyond the control of apple growers.''

In the last 10 years, the nation's price for apples has not risen.

''I can't go on,'' Dimock said. ''We're simply not getting for our crop what it takes to produce it.''

Rising costs in fuel, chemicals, and labor are not being met adequately, and the cost for apples in the United States is dropping even further because of foreign imports.

China produces four times the amount of the United States, and recent years have seen prices for American apples drop from eight cents a pound to 1 cent a pound as the overseas product floods the American market.

''This stuff goes in cycles,'' Ricker said. But once the American market is profitable again for apple growers, ''we're not going to be here to do that.''

Besides government assistance, Naasz said, other remedies will have to include raising apple prices, placing limits on imports and increasing marketing campaigns.

''It's encouraging consumers to eat that apple a day for health,'' he said.

Mr. LEVIN. Mr. President, our growers have invested heavily in their efforts to reverse their economic plight. They are not seeking the establishment of a permanent direct assistance program. However, unless we take some interim action here, as many as 30 percent of American apple growers are going to lose their farms. So this ad hoc assistance which we are struggling to achieve is essential if we are going to avoid that calamity.

The fiscal year 2001 agricultural supplemental appropriations bill that

emerged from the committee included funding of $150 million for our Nation's apple growers. That provision, which came out of the committee, had to be dropped at the last minute if we were going to get a bill passed at all. So the Senate version of the bill had to be dropped, which included that assistance. Instead, the House bill was adopted which at that time did not include the assistance.

What has happened subsequently is the following. The House bill now has $150 million for our Nation's apple growers, and it will go to conference whether we adopt this amendment or not. We have had discussions among ourselves, the sponsors of this amendment, as to what would be the best approach to take.

I will yield the floor at this time, but I simply want to say this—and I want to speak to my good friend from Wisconsin in a moment. Our goal is to achieve this assistance one way or the other—either on this floor or in conference—by our giving the House provision the final say in this matter.

I am going to have a colloquy in a few moments with our friend from Wisconsin.

At this time there are a number of other cosponsors of this amendment in the Chamber who I hope can now be recognized before that colloquy takes place.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I rise today to support the amendment by the Senator from Michigan. This is an extremely important measure. The Senator from Michigan aptly described what has happened to our apple farmers across the country. In my home State of Washington, it has been a tremendous disaster with the economic loss for the young families who are working diligently to try to make ends meet in this industry for the last several years. It has been heartbreaking to watch.

The Senator from Michigan talked about the dumping of apple juice concentrate by China, which contributed to the decline in our apple growing communities. Severe weather conditions this year have caused horrendous problems for these orchardists who have been struggling for the last few years anyway. The loss of markets in Asia, because of the Pacific Rim crisis, precipitated this dramatic loss for many farmers in the State of Washington.

The Senator from Michigan described the process that we have been going through. Senator CANTWELL from my home State and I worked hard with the Senators from Michigan, New York, Maine, Vermont, and Massachusetts on the emergency supplemental bill to provide $150 million for the apple industry in this country. That support was not included in the Agriculture Appropriations bill when it came out of committee because we fully expected the Administration and the House to support this as an emergency supplemental measure. Unfortunately, they did not. As a result, in August Congress recessed without the money in the emergency agricultural supplemental. This bill is now coming to the floor, and it is absolutely essential for our farmers.

Senator CANTWELL and I have traveled around our State. We have seen the tremendous pain and loss among our farmers, and we have seen the hardships they are experiencing today.

My grandfather, back in the early 1900s, lived in central Washington and was part of the apple industry. I can tell you, when I was growing up I remember driving across central Washington and seeing our tremendous, beautiful orchards. I was so proud to be from Washington State. Today, as a Senator traveling around the world, I am proud to be able to talk about bringing our apples into markets worldwide—both for our economy and for establishing great relationships with countries everywhere. The apple is the symbol of the State of Washington.

It is upsetting for me to visit central Washington today and see so many abandoned orchards. Many of the orchards have been bulldozed because farmers can't sell their apples for a fair price.

Add to that the weather conditions of this year with the drought that has occurred in the State of Washington and the severe hailstorms we have seen. That means we will not have these orchards in the future if we don't provide assistance this year in the Agriculture appropriations bill. I am committed to providing it, along with my colleague from Washington State, and the Senators from Michigan, New York, Massachusetts, Vermont, and Maine. All of us have worked hard together with our chairman, who has been a great advocate and supporter.

I thank the Senator from Wisconsin. He understands the plight of our farmers. He is committed to working with us to ensure this assistance is there for our farmers. It is essential for a way of life in Washington State and across this country. It is essential for a product that is important to my home State and to many others. I believe it is essential for the future of this industry that we have this help and assistance from this Congress this year in this appropriations bill.

I thank the Senator from Michigan for offering this amendment. I thank our Chair, Senator KOHL, for his support and his assistance. I look forward to working with my colleagues to be sure we don't lose these important farmers and this important resource for our country.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise also to support this very important effort and very important amendment.

I, first, thank my senior colleague and friend from Michigan for his ongoing leadership in this effort to support our apple growers in Michigan and across the country, and my colleagues who are joining us in the Chamber certainly have been at the forefront of this battle.

We really have had two strategies. One is to focus on research for apple fire blight. I thank the chairman of the subcommittee and the ranking member for their ongoing efforts. There are dollars in this bill for apple fire blight research. That continues to be a priority. I thank him for his vision and his support because in the long run we are hoping the research will allow us to be able to find ways for our farmers to eradicate this terrible disease that is so afflicting the apple growers across the country.

In the meantime, we know that in the last 5 years apple growers across our country have lost $1.5 billion. Last year alone, $500 million was lost as a result of this effort.

We are talking about a serious disease affecting a very important Michigan industry and national industry.

I am very hopeful that we can come together and support the $150 million effort. I am very pleased that the House has finally recognized this and is supporting this effort in the House bill.

Let me stress one more time that originally we had this supplemental funding in the emergency supplemental that we passed. As a member of the Agriculture Committee, we worked very hard with colleagues to get that money in the Senate bill. I appreciate everyone's efforts at that time. Unfortunately, we were not able to pass the Senate bill. We were not able to address it earlier, which we had hoped would happen.

Now we find ourselves in a situation where we are seriously in need of addressing this as quickly as possible. This amendment is absolutely critical. I hope we will have the support of colleagues.

While I have the floor, I also want to say one more time a thank you to our leader, the chairman of the subcommittee, and the ranking member for a number of different issues in this bill that are important to Michigan—the focus on the eradication of bovine disease and specialty crop research in other areas are very important. I very much appreciate the fact they are willing to undertake this issue and support our apple growers. It is absolutely critical to our economy and to the economy of many, many States.

I yield the floor. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I rise to speak, along with my colleagues from Michigan and Washington who have eloquently talked about the important need of helping the apple industry—not just those States mentioned but all across the Nation. We

are trying to move forward on an Agriculture appropriations bill. We have the opportunity in that process to express the failure of last August when we actually had the means by which to help legitimate apple growers across the country in the emergency supplemental.

I very much appreciate the efforts of the Senator from Wisconsin to help us bring attention to this issue. The current House version of this bill includes $150 million in apple assistance. We need to match that assistance.

As my colleagues have stated, this industry, particularly this year for us in the State of Washington, has just been devastating, largely due to the fact we have had the second worst drought on record in our State. Not only have farmers been without all the resources they need, but the high cost of energy in those areas where farmers have been able to irrigate has made this a very difficult year.

We have already seen how important the apple industry is in our State. Over 183,000 people are employed in that industry. But every one of these family farms are on the brink, and they need help now.

Current prices are 40 percent below the cost of production. Between 1995 and 1998, apple growers lost approximately $760 million due to questionable import practices involving such countries as China and Korea—in addition to stiff export tariffs.

They also face increases in the price of diesel fuel. Prices are up 20 to 30 percent over last year. The cost of running electricity pumps that these farmers use is expected to rise as much as 150 percent.

Our farmers have been facing all of these things, and some are very close to bankruptcy.

So I very much appreciate the Senator from Wisconsin in his efforts to make sure this issue gets addressed as we move through the process, and I very much appreciate his efforts earlier this year in making sure the Senate version of the supplemental included this support.

I yield back the remainder of my time.

Several Senators addressed the Chair.

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

Mr. KOHL. Mr. President, I would like to respond to the previous speakers on this issue.

I would like to declare that I will fight for them in conference. The House of Representatives has the money in their bill, and that fact will give us the opportunity to meet this need of apple growers. The Senators from the States of Michigan, Washington, New York, Maine, Massachusetts, and Vermont have been very persuasive, most effective, and, frankly, relentless in this cause on behalf of their apple growers.

This bill was voted out of the Appropriations Committee in July, and we fully expected the White House and the House of Representatives to fund this urgent need for apple growers in the agricultural supplemental. In fact, the Senate had done that. That is why it isn't in this bill. And the budget allocation precludes me from putting it in now. That is why I am declaring I will fight for it in conference instead. I very much appreciate the advocacy of the Senators from those States.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I ask unanimous consent that Senator EDWARDS be added as a cosponsor to this amendment.

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

Mr. LEVIN. Mr. President, the good Senator from Wisconsin has really worked with us on so many issues. I appreciate very much what he has just said. With that assurance, I am satisfied, and I intend to withdraw this amendment. I think, however, there may be another speaker on this amendment. I will not withdraw it if there is another speaker. I will withhold that at this time.

Mr. SMITH of Oregon. Mr. President, I say to my friend from Michigan, I am very supportive of his amendment, but I was going to speak to another one and would love to be added as a cosponsor to this amendment.

Mr. LEVIN. We welcome that.

Mr. President, I ask unanimous consent that the Senator from Oregon be added as a cosponsor to this amendment.

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

AMENDMENT NO. 1978 WITHDRAWN

Mr. LEVIN. Mr. President, I withdraw this amendment at this time, with thanks to Senator KOHL and also Senator COCHRAN. I have had a chance to speak with Senator COCHRAN, who has been so helpful on a whole host of issues in the agricultural area. While we had a minor disagreement in the area of missile defense, in so many other areas we have worked together on issues. I hope we can work together on this issue as it proceeds to conference.

I thank the Senator.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment. The amendment is withdrawn.

Mr. COCHRAN. Mr. President, I join my colleague from Wisconsin in thanking the Senator from Michigan for his action. I know it is a serious problem, and it has been well identified. The Senator from Oregon has an interest in it as well.

There are other agricultural activities that are similarly situated. We have heard from the Senator from Wyoming, for example, on the plight of the livestock industry; there are problems in some other specific areas of the country because of drought—all of which are in need of special assistance and special economic assistance in this time of hardship.

So all of these interests are going to be considered. They should be considered by the Congress as we work to reach an agreement in conference on this bill.

I am happy to join with the Senator from Wisconsin in assuring those who talked about the apple industry and the problems they have that their interests will be carefully considered. I hope we can work out a provision in this bill in conference that will be satisfactory with them.

Mr. LEVIN. I thank my friend.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 1981

Mr. SMITH of Oregon. Mr. President, I rise today, again, to raise my voice on behalf of the farmers of Klamath Falls, OR, and the Klamath Falls Basin that includes northern California in equal numbers.

I first thank my colleagues of the Senate and of the entire Congress for the $20 million that was allocated on an emergency basis to help these farmers to stave off foreclosure.

My colleague, Senator WYDEN, and I pointed out at the time that it was probably a tenth of what was actually needed, and that is proving to be the case, because the wolves of foreclosure are at the doors of many farms right now. The reason is simply that they were denied a season of farming. You can imagine what it would mean if the Federal Government took away the means by which any of us makes a living for a year and how we might survive. The truth is, we cannot. No one saves that money. The way farms operate, they do not have those kinds of margins.

So what I am doing today is seeking an additional appropriation to help them; it comes in two requests: One, it is to provide these 1,400 farm families with an additional $38 million in direct assistance; in addition to that, $9 million for activities to improve water storage and water quality in the Upper Klamath River Basin.

I have searched for offsets. I found one. I am willing to work with the Congress on making these dots connect, but I am identifying it as an offset: the sale of Pershing Hall in Paris, France. It is along the Champs Elysees. It is owned by the Department of Veterans Affairs. It is empty. We are paying taxes on it. It is exceedingly valuable real estate. It is run down. It is vacant.

I am asking that we sell this building and that we use this money to help these farmers. It will generate at least this amount of money, and more. I am simply saying that, in very real terms, this money is needed now while it is being wasted in Paris.

The people of Oregon generally have the highest rates of unemployment in America, but certainly the pain is felt more acutely in Klamath Falls than any place of which I can think.

So I ask for consideration of my amendment. I look forward to working with the chairman and the ranking

member, both of whom have expressed support for my cause on this issue. And I thank them for that. I also thank my colleague, Senator WYDEN, for his equal partnership in the effort to try to salvage 1,400 great family farms.

I yield the floor, Mr. President, and thank you for the time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I come to this Chamber today to join my colleague from Oregon, Senator SMITH. One can debate whether we have found precisely the right offset. Senator SMITH and I have scoured the budget and intend to work closely with the chairman of the subcommittee and the chairman of the full committee and, of course, the ranking minority members as well, so as to ensure that this is addressed at the proper time in the proper way.

But as Senator SMITH has correctly said, what I think is not debatable is the fact that there is a world of hurt, a world of pain in the Klamath Basin in the State we represent. We have scores and scores of farmers in that part of the State who are on the ropes as we speak.

These are people who have worked hard all their lives. That have played by the rules. They have done nothing wrong. But clearly, now, as a result of policies that ensure we can find water for all the uses about which people of Oregon and people of this country feel strongly—agriculture, environment, conservation—there is a tremendous crunch in our part of the country.

Senator SMITH and I have spent many hours in recent weeks working to forge a coalition between agricultural interests, environmental interests, the rural communities—all of the stakeholders—the tribes, and all of the parties who feel so strongly about this.

The reason we come to the floor today is that we want to work with the Appropriations Committee—particularly the chairman, Senator KOHL, and Senator COCHRAN, who have been very gracious to us in working on Klamath issues in the past—so we can get this urgently needed assistance.

It is our understanding that there are some questions about exactly from which account this should come. Senator SMITH has been very clear, in making our initial remarks, that we intend to work with both the subcommittee and the full committee to ensure this offset does come from the appropriate account.

What is not debatable is how grave the need is. We have farmers who are not going to survive. They are not going to be there a few months down the road, if we can't get the assistance through this amendment the two Oregon Senators offer today.

I thank Chairman KOHL and Senator COCHRAN. We are going to be working closely with them and with the chairman of the full committee and the ranking minority member, Senator STEVENS, so that we can find the funds needed so urgently in the Klamath Basin and we can give a little bit of hope at this critical time to those families who are suffering today and are worried about whether they are going to be able to farm tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I ask for adoption of the amendment.

Mr. REID. I couldn't understand the Senator.

The PRESIDING OFFICER. The amendment has not yet been proposed.

Mr. REID. What did the Senator from Oregon say?

Mr. SMITH of Oregon. I am asking for consideration of our amendment.

Mr. KOHL. Mr. President, I object. I would like to make a statement.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. We do not have a copy of the amendment. However, we do understand that the offset of which they speak falls in the jurisdiction of another subcommittee. We need to confer with that subcommittee and the Congressional Budget Office. We did provide $20 million to the Klamath Basin in the spring supplemental. No other disaster assistance has been provided by this committee. If we accept this amendment, then others will seek additional assistance which our allocation cannot provide.

This is a very difficult amendment for this committee to support. In fact, we will not support it.

In addition, I am fairly certain that the offset they are discussing does not fall within this committee's jurisdiction. I humbly and respectfully suggest that they pursue a different avenue than requesting a vote.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I ask for the amendment's immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. SMITH], for himself and Mr. WYDEN, proposes an amendment numbered 1981.

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

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

The amendment is as follows:

(Purpose: To provide assistance for farmers and ranchers in the Klamath Basin, Oregon and California)

At the appropriate place in the bill, insert the following:

''In addition to amounts otherwise available, $38,000,000 from amounts pursuant to 15 U.S.C. 713a–4, for the Secretary of Agriculture to make available financial assistance to eligible producers in the Klamath Basin, as determined by the Secretary.

''$6,600,000 will be available for the acquisition of lands, interests in lands or easements in the Upper Klamath River Basin from willing sellers for the purposes of enhancing water storage or improving water quality in the Upper Basin.

''$2,500,000 will be available through the rural utilities account to fund the drilling of wells for landowners currently diverting surface water upstream of Upper Klamath Lake, Oregon.

''Funding for this program will come from the sale of Pershing Hall, a Department of Veterans' Affairs building in Paris, France.''

Mr. SMITH of Oregon. Mr. President, I would like to work with the chairman and the ranking member to find the offset that works and that would win the support of the chairman and ranking member. I thank them both.

Mr. KOHL. We would be happy to accommodate the Senator with respect to his last comment.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 1981 WITHDRAWN

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent to withdraw the amendment that is now pending.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

Mr. DORGAN. Mr. President, while we are waiting for amendments to be offered, I wanted to make a couple of comments about this subcommittee bill and talk about the work done by Senator KOHL and Senator COCHRAN on this bill.

As always, as I have indicated before, a lot of difficult work goes into putting together the Agriculture appropriations bill. Senators KOHL and COCHRAN work very well together. I, for one, appreciate their cooperation and their assistance. I think they have put together a good piece of legislation.

There are two issues that I have on previous occasions brought to the floor during the consideration of this legislation. One issue we discussed last year on this bill, among other things, is the reimportation of prescription drugs. This issue deals with drug prices, and what we can do to lower those prices.

As I understand it, in the House of Representatives in their Agriculture appropriations bill, there is a provision dealing with the reimportation of drugs that will come to conference this year. It is my intention not to offer an amendment in the Senate on this matter this year—not because it is not important because it is very much so, but as we all know too well, a number of things have happened at this point to change our focus. Other events have happened in this country that have caused us to focus on other serious issues dealing with terrorism and so on. I think this is not the point at which we ought to go off into the medicine importation debate. Therefore, I

will not offer an amendment dealing with the reimportation of prescription drugs.

However, let me say this issue will not go away. It is still critically important. The issue will be alive in conference because there is a provision in the bill sent to us by the House of Representatives. One of the reasons we—myself, Senator JEFFORDS, Senator STABENOW, Senator SNOWE, Senator WELLSTONE, and a number of others of us—have worked on the issue of prescription drug prices and reimportation is that prescription drugs are priced higher in the United States than anywhere else in the world. You see a prescription drug sold across the counter in this country to the American consumer at the highest price in the world. That is not fair.

I have told colleagues of my experience in taking a group of senior citizens from North Dakota up to Emerson, Canada, just 5 miles across the North Dakota-Canadian border. In a little one-room pharmacy in Canada, you can buy the same prescription drugs sold in Pembina, ND. The only difference is price—same drug, same pill, put in the same bottle, manufactured by the same company. You can buy it for 50-percent or 70-percent less across the border in Canada than you can in the United States. That is not fair to the American consumer, and it is not fair pricing.

We all know spending on prescription drugs is increasing dramatically—15, 16, 18 percent a year, year after year. The American people—particularly senior citizens—are very concerned about this. One of the proposals we had offered previously was to say: If this is a global economy, why can that not work for everybody, why not for all Americans? Why can't an American citizen or, yes, an American pharmacist, or a distributor get access to cheaper drugs in Winnipeg, Canada, and bring them back and pass the savings along to the American consumer?

Let me give a couple of examples. Cipro, a drug most of us now know about, is used to treat infections. In recent days, we have seen that it has been given to thousands of people who have been exposed to anthrax. The average wholesale price in the United States is $399 a bottle. You can buy Cipro in Canada at $171 a bottle. Let me say that again. A bottle of Cipro—same strength, same number of tablets—in Canada costs $171, but when you buy it in the United States, it is $399. Why more than twice as expensive in the United States? Why does the American consumer pay more than twice as much for the same drug, put in the same bottle, made in an FDA-approved plant? Does that make sense?

Or take the example of Zocor. A football coach tells us on television in an advertisement that I suppose I have seen 500 times that Zocor would be great to lower your cholesterol. The average wholesale price in the United States is $3.82 for one 20-milligram tablet. In Canada, it is $1.82. Fair? I don't think so.

Zoloft is used to treat depression. In the United States, it is $2.34 per 50 milligram tablet. In Canada, the exact same tablet costs $1.28. Fair? I don't think so.

For every dollar we spend for the same prescription drugs in this country, the Canadians spend 64 cents; the Swedes pay 68 cents; in Great Britain it costs 65 cents; and in Italy, 51 cents. That is what is angering the American people and propelling a number of us to say if this global economy is to work, why can't it work for all Americans? Why can't a pharmacist from Grand Forks, ND, access the same prescription drug produced in an FDA-approved plant and bring it back and pay half the price and pass the savings along to the consumer in this country. I offered an amendment of this type last year. We went to conference. We actually succeeded in getting this agreed to in conference. And both the Clinton administration and the Bush administration Secretaries of Health and Human Services said they would not implement this legislation because they said it would not, among other things, save money. Let me ask if there is anybody who has gone past the third grade who doesn't understand that, if you buy Cipro in the United States and pay $399 a bottle and are only required to pay $171 a bottle in Canada, that you can't save money by buying the bottle from Canada.

I guess the only people who think that are the two successive Secretaries of Health and Human Services. I don't know what kind of math they taught in their schools, but I went to a school with 40 students in all 4 high school grades. There were 9 in my senior class. I studied the highest math they offered, and I can understand that this saves money, and there is no Secretary of any Agency in the Federal Government who can convince us otherwise.

Nonetheless, neither administration will implement it. The result is a law that was passed last year is not yet implemented. For reasons I discussed before, we will not offer the amendment on this piece of legislation. But this will be a conferenceable issue because a provision is coming from the House on the Agriculture appropriations bill, and we will resolve this then. It is, I think, an unusual time in our country's history, as we wage a fight against terrorism and deal with a range of issues, so that perhaps this is not the right time to have a full-scale debate about this issue. But there will probably never be a right time, and there will be a time when we must force this again on behalf of the American consumer, to ask how do you justify this? How do you justify drug companies charging the highest prices to the American consumers out of any consumers in the world? How do you justify doubling and tripling the price? How do you justify to a woman who has breast cancer that she ought to pay 10 times more money for Tamoxifen purchased in the United States than in Canada. How do you justify that to somebody fighting cancer, who has to fight a pricing policy for prescription drugs that is wrong?

The answer is that you cannot justify it. That is why this Congress, sooner or later—and I hope sooner—will deal with that subject.

Now, Mr. President, there is one other issue on which I have traditionally offered an amendment on this subcommittee. Again, I will not because I understand we are not able to do it this year for a number of reasons. Each year, in recent years, we have had to offer amendments to the Agriculture appropriations bill on the floor of the Senate trying to provide some weather disaster and economic relief. Why? Because the Freedom to Farm bill was miserable, a miserable failure. It was a disaster, in my judgment. So each year, because it was not countercyclical, it didn't provide help when farmers needed it—or enough help—as we saw commodity prices collapse. We had to try to put some sort of disaster relief in the bill, both weather and economic. We normally described it as emergency spending. We went to conference and boosted it.

I would say the Senator from Wisconsin and the Senator from Mississippi were instrumental in making all of that assistance available to family farmers in this country. I commend them for that. We will likely, in some areas of the country, again this year, need some weather disaster assistance. I understand that in Montana, Idaho, Wyoming—and some other areas that colleagues have talked about—there has been drought. And in some other areas, too much rain has fallen. I expect there won't be a weather disaster amendment this year to this appropriations bill because I don't think the money exists or the emergency category exists to accommodate that. But there will be an economic stimulus package that will be discussed and considered, and it seems to me that one of the things that might be considered would be a livestock and crop loss assistance for disaster aid to those who suffered disasters.

In fact, it is stimulative because that money gets in the hands of producers who then are able to use that immediately to deal with the debts they have and put that money on the main street of our small towns and cities across the country.

So as we move along, even though this subcommittee will not carry these two amendments in its markup this year, it is my hope both of them will continue to be considered, one in conference because it will come from the House, and the second, I hope, perhaps in the stimulus package when we have an opportunity to consider that in the Senate.

Finally, there are a lot of provisions of this Agriculture Appropriations Subcommittee bill that are critically important dealing with research and

other matters relating to American agriculture. Our agriculture in this country ought to be a source of enormous pride to all of us. In my judgment, family farmers in America are America's economic all-stars. Yet they have had an awfully tough time year after year as commodity prices have collapsed. One part of trying to help them is not only trying to write a new farm bill, which we should do and we ought to do soon. In fact, we ought to bring a farm bill to this Chamber within a matter of weeks. But, one part of assistance in addition to that farm bill is to provide the kind of research help that will allow family farmers the ability to have access to new seeds—disease-resistant strains of seeds—to make them more effective and reduce risks. That is what much of this bill is about, investment and research.

I again say thanks to the Senator from Wisconsin, Mr. KOHL, and Senator COCHRAN from Mississippi. It is always a pleasure to work with them. They do a good job, and I am proud of them.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, we have had a number of inquiries in both cloakrooms about how this bill is moving along, and it is moving along fine. The two managers are working on what amendments can be accepted, which ones cannot be accepted. That list should be completed relatively soon, within the next half hour, hopefully.

The only amendment outstanding, other than what the managers are working on, it is believed, is the Harkin amendment. He is working with Senator NELSON of Nebraska to see if they can work out language on that amendment. If not, Senator HARKIN would offer that amendment. As I understand it, Senator NELSON of Nebraska would move to second degree that amendment.

As I said, they are trying to work out that amendment. So Senators should be advised, we hope, within the next hour or so, and with a little bit of luck, we can complete this legislation. If someone has an amendment and they have not been able to work with the managers, have not had the opportunity to offer the amendment, they should come over because we are going to wrap up this bill totally as soon as we complete what the managers are working on, and the Harkin amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, I have been waiting here while a couple of our colleagues are trying to resolve some differences in the Cloakroom on an amendment. It is taking them a while so it gives me an opportunity to say a bit about an amendment that I have offered to this bill the last 2 years and which the Senate has accepted both time. I have not offered it this year and will not this evening. I wanted to explain why.

That amendment deals with the shipment of food and medicine to Cuba and the ability of American farmers to sell food to Cuba. In the last 2 years I offered amendments to this appropriations bill that would have eliminated the embargo that now prevents American farmers from selling food to Cuba.

As you know, the American embargo of Cuba has been a failure for 40 years. That embargo has included restrictions on the shipment of food and medicine to Cuba. I have said for several years it is morally wrong, in my judgment, for us to use food and medicine as a weapon. It is not right for us to use food and medicine as part of an embargo. It doesn't injure Fidel Castro. He has never missed a meal because we don't ship food to Cuba.

Our allies, the Canadians and Europeans and others, of course, are able to sell food and other goods to Cuba. It is just the American farmer who is prevented from accessing that markets.

Twice I have offered amendments to fix the problem. The first year my amendment got hijacked because the conference got abandoned and the leaders would not allow it to resume because they knew I had the votes in conference to end the embargo on food and medicine shipments to Cuba. The second year the House of Representatives changed the language and boasted they had solved the problem, but of course they did not. What they provided was that food could be shipped to Cuba, except the sales could not be financed even with private financing. So we still, in fact, have an embargo on food shipments to Cuba. There are no food shipments happening between this country and Cuba. So the U.S. government still tells our farmers: You pay the cost of this embargo. You cannot be part of the Cuban market for food. You can't be a part of it, the Canadians can, the Europeans can, but you can't because we have an embargo of which you are going to pay the cost.

This is unfair to farmers. And I don't think it is a moral policy for our country to use food as a weapon.

Let me say, finally, the provision that was completed last year started the right way in the Senate with my amendment. We did the right thing. It got watered down and then perverted in the conference, and those who did it that boasted that this really solved the problem. A year later we know it did not.

I would say by this time next year, when I certainly will again offer this amendment in the Senate, it will be quite evident that what they boasted of last year never materialized at all. Farmers were still paying the price for this embargo.

We have had plenty of experience with embargoes on food. It ought not be a lesson we need to learn two or three times. Shooting ourselves in the foot doesn't really solve much of the problem. As I indicated, Fidel Castro has never missed a meal because of the embargo. He does just fine. It is our family farmers who suffer.

If necessary, I will offer an amendment to fix this problem again next year. I would like to do so now. However, I think this is not the time. It is late in the year. We should have passed this appropriations bill weeks ago. If I offered this amendment this evening, we would be off into a debate that would last many hours. But I would like to remind my colleagues that I have offered it for the last 2 years. I will offer it again, and some of my colleagues on this appropriations subcommittee will join me the next time we go around.

In deference to the work that we need to do and the times we are in, I think it is important for all of us to work together to try to find a way for us to avoid the kind of controversy that divides us hour after hour after hour. We have been through all of that.

I wanted to explain why I am not going to offer that amendment this evening. But be sure to keep tuned because it will be offered again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would like to discuss for a few moments the fundamental problem with this appropriations bill and then talk a little bit about the pork that is again prevalent and on the increase in this appropriations bill.

First of all, I want to talk about Federal subsidies, where they go, who should be receiving them, the largess of the Federal Government taxpayers' money under the present setup, how we are going to work subsidies, and how the money is distributed.

Earlier this year, the General Accounting Office released a report that details some very critical information on the disturbing trends of federal farm assistance. The GAO reports that over 80 percent of farm payments have been made to large- and medium-sized farms, while small farms have received less than 20 percent of the payments.

In 1999, large farms, which represent about 7 percent of all farms nationwide with gross agricultural sales of $250,000, received about 45 percent of federal payments. These payments average about $64,737.

Seventeen percent of farms that are medium-sized with gross sales between $50,000 and $250,000, received 45 percent of all payments. Payments average $21,943.

Let me repeat that.

Seven percent of all the farms are now getting 45 percent of all the payments. Seventeen percent of farms that are medium sized and with gross sales between $50,000 and $250,000 receive 45 percent of all payments. Payments average $21,943.

What does this mean? Generally, small farms—with gross sales under $50,000—received only 14 percent of the payments, despite the fact that small farms make up about 76 percent of the farms nationwide. Most of these payments average about $4,141. That is about 6 percent of the total amount made available to large farms.

There is something wrong here. Seventy-six percent of all the farms get 14 percent of the payments. Seven percent of the farms receive 45 percent of the payments.

Where is the rhetoric about the small and family farmer?

The GAO also concluded that:

The percentage of payments received by the large, very large, and nonfamily farm types increased from 1993 and decreased for other farm types. These farms also experienced substantial increases in the average payment that they received in 1999.

Large and very large farms received about 22 percent of the payments in 1999, with average payments ranging from $51,000 to $85,000.

If we take a look at what has happened with the Freedom to Farm bill and with the substantial amount of emergency and supplemental payments Congress has delivered since 1998, the trend seems to indicate that small farmers are receiving less and less federal assistance. In 1995, small farms received 29 percent of payments. By 1999, small farms received 14 percent.

Thus far, between 1999 and 2001 alone, Congress has designated more than $30 billion in emergency or supplemental spending for farm relief. While the 1996 farm bill was intended to reduce reliance on the Federal Government, payments to farmers have increased by 400 percent, from $7 billion in 1996 to $32 billion in 2001. I think we should all be concerned about where this money is really being spent.

By some reports, even the likes of Ted Turner and pro basketball star, Scottie Pippen, have been recipients of Federal subsidies. At least 20 Fortune 500 companies and more than 1,200 universities and Government farms, including State prisons, received Government checks. Such corporate giants as Riceland Foods, Inc., based in Stuttgart, Arkansas, took in a mammoth $32 million in Federal subsidies and a large conglomerate farm, Missouri Delta Farms received $7 million.

Who pays the tab for these payments? The American taxpayers.

I don't know how you justify a $32 million subsidy to one organization, one corporation, and call it assistance to the farmer. Let's call it assistance to major corporations. Let's call it for what it is.

What I think we ought to do is support the hard-hit family farm operations. Any entity that earned more than $1 million in annual revenues does not justify the expenditure of taxpayer dollars.

I remind my colleagues the American public is very much aware of the actions we are taking when asking the taxpayers to subsidize farmers. Many others among the American public have expressed similar concerns.

Let me point out a few statements:

Representative RON KIND, Wisconsin in the St. Paul Pioneer Press, July 2001:

Why are we throwing these billions of dollars at these few farmers, which is only leading to an increase in production, and an oversupply, and commodity prices plummeting? 90% of the current farm funding is going to less than one-third of the producers in this country, who are located in 15 states. You can imagine that those 15 states are represented on the Agriculture Committees, where there is a prevailing attitude to keep the status quo.

Mark Edelman, Iowa State University Extension to Communities, October 1999:

While targeting federal assistance to medium and small farmers and those that are financially vulnerable is often discussed during the outbreak of a farm crisis, the bulk of the emergency payments are not distributed according to those criteria. Up to this point, Congress and farm interests have not been willing to target the bulk of the farm program payments in ways that exclude or penalize larger farmers, or that arbitrarily reward medium, small or financially vulnerable farmers.

Elizabeth Becker, New York Times, May 2001:

Supporters of farm subsidies, which were enacted in the Depression, argue that they needed to save the family farm. But government documents indicate that the prime beneficiaries hardly fit the image of small, hardscrabble farmers. Because eligibility is based on acreage planted with subsidized crops in the past, the farmers who have the biggest spreads benefit the most.

Chuck Hassebrook, Center for Rural Affairs, Nebraska, July 2001:

The single most effective step Congress could take to strengthen family farms would be to stop subsidizing large farms to drive their neighbors out of business.

In a recent Wall Street Journal article (October 3, 2001), called ''Nuts to You,'' a story outlines the federal government's continuing love affair with federal subsidies.

In short, at a time when voters want Congress to be serious, we're seeing Washington at its worst. Once upon a time, it was possible to argue that farm supports kept small-time growers on the land. But nowadays they are little more than huge wealth transfers from average taxpayers to well-to-do farmers, many of whom work the land only part-time.

Based on the amount of a crop produced, these subsidies go to big landholders who collect the cash and then buy up the land around them to collect still more. According to one recent study, only 10 percent of all farmers get 61 percent of all of the federal subsidies. Florida's Fanjul family has made a killing in sugar, another crop vital to the war effort.

Even my colleague and distinguished chairman of the Senate Agriculture Committee, Senator HARKIN, criticized current farm policies for sending a greater share of Government subsidies to large farms instead of the more vulnerable smaller farms and for making it more difficult for young people to go into farming by driving up land values.

In reviewing the General Accounting Office report, Senator HARKIN was quoted in the Des Moines Register, July 2001, as saying that the GAO report ''proves that we can and should be doing more to ensure that these payments are distributed fairly.'' And Senator HARKIN further was quoted as saying, ''[T]he bottom line is we must have a fairer system for providing support to farmers in the next farm bill.''

More recently, the administration stepped into the debate to urge the Congress to curb its appetite for Federal subsidies and extend more benefits to smaller farming entities. The administration's report makes several important points to the Congress, including this particular comment:

Even the most carefully designed government intervention distorts markets and resource allocation, produces unintended consequences, and spreads benefits unevenly. We cannot afford to keep relearning the lessons of the past.

However, we are not reauthorizing the farm bill today. The Senate will consider legislation to reauthorize the Freedom to Farm bill in the coming year. However, what we are considering today is equally important, the approval of annual spending for USDA to support farming entities.

When considering any spending measure, we are obligated to ensure the fair and appropriate spending of billions of taxpayer dollars. If we do nothing to ensure equity today in this agriculture appropriations bill, the ultimate outcome is that half of this money will go to the large and very large farming operations, many of them agribusinesses, with little left for small to medium farmers that might demonstrate a greater need. It is time to change this alarming trend.

Mr. President, I am, once again, greatly disappointed to report the amount of flagrant porkbarrel spending in this bill. This year's Agriculture spending bill includes $372 million in questionable earmarks, exceeding last year's level by $136 million. Unfortunately, it appears that the porkbarrel ''business as usual'' attitude reigns once again.

Few of the annual appropriations bills are more loaded with unrequested, low-priority earmarks than this one. Despite the urging from the administration to eliminate the excessive special interest earmarks in the Agriculture appropriations bill, the appropriators tacked on 395 of the usual garden-variety, special interest earmarks.

I, obviously, will not go through all 395, but let's take a look at the top 10 porkbarrel projects in this year's Agriculture appropriations bill.

My colleagues will note that all of these earmarks are specifically designated to a specific State or a specific entity:

No. 10, $150,000 for potato breeding research at Aberdeen, ID;

No. 9, $250,000 for a beaver control program in Louisiana;

No. 8, $50,000 specifically for the Oregon Garden;

No. 7, $300,000 to the Tick Research Unit at Kerrville, TX;

No. 6, $500,000 for the Honey Bee Laboratory in Baton Rouge, LA;

No. 5, $300,000 for a coyote control program in West Virginia. That one particularly interests me since in my home State we have a lot of coyotes. I do not see any money in there for the control of coyotes in the great State of Arizona or in any place else in the Southwest, but perhaps, as in most cases, with a lot of appropriations bills, there is a unique problem in the State of West Virginia.

No. 4, $750,000 to Western Kentucky University to examine the use of chicken litter as a fertilizer or nutrient source. I hope there is a careful division between those two choices. It could have serious consequences. But I am sure the folks at Western Kentucky University are well equipped to make sure there is no overlap between using chicken litter as a fertilizer or as a nutrient source.

No. 3, $435,000 for weed control in North Dakota. They must have a terrific problem out there in North Dakota because year after year we find this weed control money going to the great State of North Dakota. I hope they get it under control soon. Of course, no other States, obviously, in the view of the appropriators, have a weed problem—except in the great State of North Dakota.

No. 2, $90,000 to study the use of acoustics in aquaculture research at the National Center for Physical Acoustics; and then,

No. 1, $500,000 for the Montana Sheep Institute—$500,000 for that institute of higher learning in Montana, which obviously is very badly needed up there.

Even the reliable earmarks for the National Center for Peanut Competitiveness and shrimp aquaculture are included. I believe that the National Center for Peanut Competitiveness is doing very well because we continue, every year, to make sure that peanut competitiveness is one of our highest priority projects. I will supply for the RECORD the many hundreds of thousands, if not millions, of dollars that have been devoted to peanut competitiveness.

Funding has never been requested for the National Center for Peanut Competitiveness, yet it has been funded by the appropriators for 5 years. And shrimp aquaculture in Arizona and other States has been a consistent beneficiary of taxpayer dollars for 9 years. Unfortunately, there is little explanation included to justify why targeted Federal dollars for earmarked projects are more important than other programs to protect food safety or more directly support farm programs in the bill.

This is a spending spree. So far this year more than $8.5 billion of pork has been included in 10 appropriations bills, including this Agriculture spending bill.

We are at war. We must do better and heed the words of the Office of Management and Budget Director Mitch Daniels, who said:

> Everything ought to be held up to scrutiny. . . . Situations like this can have clarifying benefit. People who could not identify a low priority or lousy program before may now see the need.

Apparently, we are not heeding Mr. Daniel's words. And I do not believe that anyone can say there are no low-priority items in this bill before us.

I urge my colleagues to work harder to curb our habit of funneling resources to provincial ventures. Serving the public good should continue to be our mandate, and we can only live up to that charge by keeping the process free of unfair and unnecessary spending that unduly burdens the American taxpayer.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am constrained to say a few words in defense of the committee's decisions with regard to the total overall spending in this bill. It is below the President's budget request. Twenty-two percent of the funds in this bill are discretionary; 78 percent of the funds in the bill are mandatory—mandatory, meaning there is legislation directing the spending be made to those that are defined as eligible for the benefits under the law, under statutes that have been passed by Congress and are now the law of the land.

So the subcommittee, in working to identify the appropriate levels of funding, has to look at the law, provide the funds that the Department of Agriculture, the Food and Drug Administration, and the other agencies funded in this bill say will be due and owing by the Government under statutes that require the money to be paid.

Here is an example of one of the programs. It is the Women, Infants, and Children Nutrition Program. The participation in that program is defined by law. The eligibility for participation is defined by law. If someone is eligible and presents themselves to a facility where the program is administered, they are entitled to the benefits. They are entitled to medical care. They are entitled to food supplements. And the funding for that has to be appropriated. So this bill contains funding for the WIC Program.

I mentioned, in earlier comments, that we may have to appropriate more money in a supplemental later on for the WIC Program because participation is outstripping the predictions. So far this year, in this new fiscal year that started October 1, we can see the trend is such that we may not have appropriated enough money for that program.

The Senate will approve that request if it comes from the Department, if it comes from the President, for a supplemental for that program.

Food Stamps is another program. Because of higher rates of unemployment than we had last year, the Food Stamp Program participation has begun to increase. So there are increases for those program activities.

There are farm programs, as the Senator correctly described, that require the payment of dollars to those who are eligible for support in agricultural production. That also is defined by law.

We don't decide how much each person gets in this appropriations bill. That has already been decided when we passed the farm bill. This bill provides the funds to the Department to make the program dollar payments that are required by law to the eligible beneficiaries.

On the discretionary funding side, the 22 percent of the funds in this bill over which we did have total control, we came in under the President's budget request. That is the point I wanted to make on that. On the part of the budget the Congress controls and on which this Appropriations Committee is making decisions with respect to dollar amounts, we are under the President's budget request.

So to accuse the committee of throwing money around that is not needed, funding programs that are not justified, doesn't hold up when we look at the exact spending levels compared with the budget request, compared with the economic conditions, compared with the statutes that require funding for specific purposes under the law.

The committee has done a good job, in my opinion. That is why the Senator from Wisconsin and I are proud to present this bill to the Senate today, and we hope the Senate will support it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ANTHRAX ATTACK ON CAPITOL HILL

Mr. DASCHLE. Mr. President, I will use this time for just a couple of minutes to provide a brief update on our circumstances involving the buildings here in the Capitol complex and the situation involving the anthrax experience we have all been attempting to work through.

I had hoped before the end of the week to give our colleagues a briefing. There have been meetings ongoing as late as this afternoon. But I believed it was important for those who couldn't come to the meetings to share at least some of the information we have available to us.

It has been 10 days now since the letter containing anthrax was opened in my office in the Hart Building. We now have the final results on all the nasal swabs collected by the attending physician's office. Of the more than 6,000 swabs, 28 were positive for exposure. All 28 of the people whose nasal swabs were positive were on the fifth and sixth floors of the Hart Building's southeast quadrant last Monday. All are being treated with antibiotics. I am happy to say that all currently are healthy.

In all, more than 400 people who worked in or passed through the fifth or sixth floor of the Hart Building's southeast quadrant last Monday are being treated with a full 60-day course of antibiotics.

I know I speak for all of us on Capitol Hill when I say how deeply saddened we are by the deaths this week of the two postal workers from the Brentwood mail facility. We are also concerned about the two other employees from the Brentwood facility who are currently hospitalized and fighting anthrax infections.

On behalf of the entire Senate, I say that our thoughts and prayers are with them, their families, and all of the men and women of the U.S. Postal Service. They are dedicated public servants and they, like the Capitol Police and Senate employees exposed to anthrax, are innocent victims.

As for the buildings, the Capitol itself has been open all week for official business. After virtually around-the-clock environmental testing, a number of other buildings in the Capitol complex have begun reopening.

The Russell Senate Office Building reopened yesterday. The Rayburn and Cannon House Office Buildings reopened today. Also open today are the Senate day care center, Webster Hall, the Senate page dorm, and the Postal Square where Senate offices have been given temporary work spaces. The mailroom in the Dirksen Senate Office Building where a trace of anthrax was discovered last week is being remediated today. Pending the results of environmental tests, it is my expectation that the Dirksen Office Building will be reopened tomorrow.

We have also learned that evidence of anthrax was found on the air-conditioning filter on the ninth floor of the Hart Building and the stairwell leading from the eighth to the ninth floor. The experts say this is neither a surprise nor a concern. Environmental testing and nasal swabs of this section of the Hart Building show no further exposure beyond what we already know.

In addition, late last night we learned that the environmental tests in the freight elevator in the southwest quadrant of the Hart Senate Office Building tested positive. Based on this finding, the attending physician now recommends that anyone who rode in that freight elevator on October 11, the probable date the letter was delivered to my office, or later, be treated with a 60-day course of antibiotics. Anyone who rode on the southwest Hart freight elevator should see the attending physician.

The Hart Building will reopen as it is completely safe. The reopening has been the subject of a good deal of discussion with all of our teams of consultants in and out of the Government. We are looking at the most appropriate way with which to remediate the Hart Building. Some have suggested we remediate the area before any of it is open. If that is possible, that will be our plan.

If it is determined that it is not possible to remediate it in the not-too-distant future, within the next several days, we may have to remediate it in stages and open up the Hart Building in stages.

First, though, before any part of the building reopens, environmental specialists will examine the nine floors in the southeast quadrant and the area near the southwest freight elevator where anthrax was detected. The exact footprint of the southwest quadrant to be examined is still being determined by both scientific and medical specialists.

This anthrax assault has forced a number of temporary changes in the way we work on Capitol Hill. On Monday and Tuesday, all 100 Senators worked out of the Capitol Building. It may be the first time Senators shared such close quarters since the Russell Office Building opened in 1909. While the accommodations were a little cramped, the spirit of determination and cooperation in the Capitol this week has certainly been admirable.

This incident has also forced another temporary change on the Hill. Every week more than 250,000 pieces of mail are sent to the U.S. Senate alone. The mail Senators receive is an important lifeline. It is how our constituents tell us what is on their minds and how they communicate when they need help.

Since last Monday, when the U.S. Postal Service halted delivery to the Capitol, mail for Senators has been piling up in a regional postal facility. It will continue to be held there until we are absolutely certain it poses no risk to anybody, and it will be remediated as well. The postal workers who handle it and the staffers who open it will all be protected.

The Senate Sergeant at Arms is working closely with the Postal Service and with medical and environmental experts to establish procedures for safe mail handling and delivery.

This has been a difficult week—not only for my staff and others here on Capitol Hill but for our Nation's postal workers and for many Americans. My staff and I are grateful for the outpouring of concern and support we continue to receive from all over the country.

I thank the many experts who continue to work virtually around the clock—the Federal Government, the military, the District of Columbia and, of course, our colleagues and staff here in the Senate. The challenge facing these people, in particular, is unprecedented in American history. To a person, they have responded admirably and enabled the Senate to move ahead with the legislative business of our Nation. I am grateful to each one of them, and I thank them for their effort.

I yield the floor and 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. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

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

AMENDMENT NO. 1984

(Purpose: To prohibit the use of appropriated funds to label, mark, stamp, or tag as ''inspected and passed'' meat, meat products, poultry, or poultry products that do not meet pathogen reduction performance standards)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 1984:

On page 78, between lines 2 and 3, insert the following:

SEC. 7 . PATHOGEN REDUCTION PERFORMANCE STANDARDS.

(a) None of the funds appropriated or otherwise made available by this Act may be used by the Secretary of Agriculture to label, mark, stamp, or tag as ''inspected and passed'' meat, meat food products, poultry, or poultry products under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) produced in establishments that do not meet pathogen reduction performance standards (including regulations), as determined by the Secretary in accordance with applicable rules of practice.

(b) RULEMAKING.—Not later than May 31, 2002 the Secretary shall initiate public rulemaking to ensure the scientific basis for any such pathogen reduction performance standard.

Mr. HARKIN. Mr. President, this amendment, I believe, comes at a very critical time in our Nation for concerns about our safety, about food safety, about what the Secretary of Health and Human Services has told us—that less than 1 percent of our imported food is being inspected. There is great concern.

Quite frankly, I have been involved in agricultural matters now for 27 years. For many of those 27 years, I was involved, in both the House and the Senate, in changing the inspection procedures at the U.S. Department of Agriculture dealing with meat, poultry, meat products, and poultry products to ensure that the people of our

country would have the highest assurance that the meat products and poultry products they were purchasing in the store would be safe, that they would have reduced pathogens, and that people could buy them with the absolute assurance that every possible step was taken to ensure they would not get sick.

We have had cases in the recent past. We know about the Jack In The Box and E. Coli 015787. People died. We know from some of the lunch meat packaged in a plant in Michigan where people got sick. Some died there as well. There isn't a week that goes by that we don't hear reports of some illness someplace because of food, food products. It is not always meat, it may be other things.

So during these years, we changed the processes to ensure we would have meat and meat products that would be as free from pathogens as possible. We called that the HACCP. That is what everybody calls it. It stands for the Hazard Analysis Critical Control Point rule. We adopted that in 1996. It was a landmark revision of the meat and poultry inspection system. This rule implemented sweeping changes to accomplish one primary goal: To ensure safer meat and poultry products, to reduce the level of pathogens on meat and poultry products. That is why we did it. It took us years to get to that point.

It was a significant departure from previous meat and poultry inspection efforts—the old poke and sniff system. That is what it was. You looked at it, you poked it and sniffed it, and if it seemed OK, it went through. It did absolutely nothing to ensure the reduction of pathogens.

So for the first time, USDA was not only focused on ensuring good sanitation in plants, which we had always done, going clear back to the Wholesome Meat Act, but also on reducing pathogens—the things that really were making people sick. You might have had a plant that wasn't the cleanest in the world, but it may not have had pathogens. Maybe the plant looked clean on the outside—clean and sparkling—but at some point in that processing plant, or packing plant, pathogens could be entering the meat or meat products.

The pathogen reduction rule that accompanied the HACCP rule established a modern inspection system based on two fundamental principles:

First, the meat and poultry industry has the primary responsibility to ensure the safety of our products by designing and implementing food safety plants. Again, this is something the industry wanted. All these years, the industry kept coming to us saying: We can do it ourselves. We can set up systems to control the safety of our food and our meat and our meat products. So we said: OK, fine, you can have that authority. We will give that to you, along with the responsibility. So that was the first fundamental principle—that the industry was now going to be responsible.

The second fundamental principle was that the public health is best served by reducing the level of pathogens on meat and poultry products nationwide. You might say, well, if you buy something with pathogens on it, if you cook it well enough, you don't have to worry. Fine. But a lot of people don't. A lot of people don't. So we said the public health of America is best served by reducing the pathogens on meat and poultry products.

To accomplish these two principles, USDA developed pathogen reduction standards using salmonella as the indicator bacteria.

These standards set targets that plants have to meet for reducing microbial pathogen levels. If a plant repeatedly fails to meet these targets, USDA may refuse to inspect the plant's products, effectively shutting the plant down until that plant implements a corrective action plan to meet the pathogen reduction standard. Recognize, I say ''may.'' The USDA may refuse to inspect the plant's products. It does not say ''shall.'' It says, ''may.'' So there is broad authority for the Secretary of Agriculture to work with a plant. If it has a problem, if there are pathogens that have showed up in the meat or poultry products, the Secretary can work with the plant.

How did the pathogens get there? From where did they come? How do you control it? How do you keep it from happening in the future? That has been the process by which USDA has operated under this rule.

Quite frankly, we have had some pretty amazing results. I use this first chart again to repeat for the sake of emphasis what I said. To ensure safe food we needed two things: We needed the HACCP plan. Plus, we needed the pathogen reduction standards.

If you take away one or the other, it does not work. So you need both. So what has happened since 1996 when we first changed this and started implementing it? From 1998 to 2000, 2 years, salmonella, which makes you pretty sick—I know because I had it once—the class of the product, using the present performance standard, the one we now have, boilers have gone from 20 percent to 11.4 percent, almost cut in half. As I understand, we are making even further progress there.

Ground beef went from 7.5 percent to 4.4 percent, again almost a 50-percent reduction. Ground chicken, where we had some baseline studies, we went from 44.6 percent incidents in ground chicken of salmonella to 16.2 percent.

Are our people safer today? You bet they are safer. By a long shot, they are safer in eating meat, meat products, poultry and poultry products. So it is working.

So what is this amendment all about that I just offered? What happened was there was a plant in Texas called Supreme Beef. Basically, Supreme Beef had been warned three times by the Department of Agriculture that they had too high a level of pathogen, salmonella, on their ground beef. This was a ground beef plant. They warned them one time.

Did they shut the plant down? No, they did not shut the plant down. They said: You have too much salmonella in your ground beef. We found it. Do something about it. Work with us.

Sometime later, I think about a year later, if I am not mistaken, USDA inspected the plant again, took some samples, and found out there was still a high level of salmonella in the ground beef. The USDA said to Supreme Beef, you have to clean up your act. You have to find out where these are coming from and stop it.

Again, some time went by. USDA went back, inspected them the third time and found that same high level of salmonella in their ground beef. This time they told them to shut down.

During the entire time USDA was working with Supreme Beef to get them to clean up their act, we continued to buy ground beef from that same plant for the school lunch program, even though it had high levels of salmonella, putting our kids in school at risk. Yet the Department of Agriculture worked with Supreme Beef to get them to find out where was the salmonella coming from and to stop it—three times. Yet Supreme Beef just thumbed their nose at the USDA.

Then what happened? After USDA shut them down, lawyers for Supreme Beef went to court. They went to court arguing the Secretary of Agriculture did not have the authority to shut down Supreme Beef based upon these salmonella standards. The case was argued in Federal District Court in Texas. Supreme Beef lawyers went to court challenging the authority of the Secretary to take that action. It was argued at length.

On May 25 of 2000, 1½ years ago, the Federal District Court for the Northern District of Texas held the United States Department of Agriculture does not have the statutory authority to enforce its salmonella pathogen reduction standard for ground beef.

That case is now on appeal to the appeals court. We do not know when a decision is going to be made.

Quite frankly, the Texas case is a frontal assault on microbiological standards, the very thing the people of our country are highly concerned about right now. The decision undermines the only objective standard we have right now to ensure that meat and poultry plants are reducing the level of pathogens on its products. It threatens the very core of the pathogen reduction rule itself.

Let me be very clear. I think the district court got it wrong. I believe the existing meat and poultry inspection acts do give USDA that authority to issue and enforce pathogen reduction standards. I think it is intolerable to have the very core of this rule trampled by a handful of industry lawyers

bent on ensuring there are no enforceable pathogen standards—none. That is what they want. That is why I have offered this amendment.

This amendment has broad support among public health groups, consumer groups, farmers, labor unions, senior citizens, even the meat and poultry industry itself. The American Farm Bureau Federation supports this amendment, AARP, the American Food Safety Institute, American Public Health Association, the Consumer Federation of America, the National Farmers Union, the National Parent Teachers Association, the Ranchers-Cattlemen Action Legal Fund, the Iowa Meat Processors Association from my own State, the Iowa Pork Producers Association, and the Iowa Farm Bureau Federation, the Consumers Union.

I ask unanimous consent the list of all these groups that support my amendment and the letters from these groups in support of my amendment be printed in the RECORD.

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

SUPPORTERS OF THE HARKIN AMENDMENT

AARP.
American Farm Bureau Federation.
American Food Safety Institute.
American Public Health Association.
Center for Science in the Public Interest.
Consumer Federation of America.
Consumer Union.
Government Accountability Project.
National Consumers League.
National Farmers Union.
National Parent Teachers Association.
Ranchers-Cattlemen Action Legal Fund United Stock Growers of America.
Iowa Meat Processors Association.
Iowa Pork Producers Association.
Iowa Farm Bureau Federation.
Safe Tables Our Priority.
United Food and Commercial Workers Union.

NATIONAL PTA,
Chicago, IL, September 26, 2001.

SENATE APPROPRIATIONS COMMITTEE,
Agriculture Subcommittee,
Washington, DC.

DEAR SENATOR: I am writing to urge your support for the amendment to the agriculture appropriations bill that will be introduced by Senator HARKIN to clarify USDA's legal authority to enforce standards for reducing pathogens in meat and poultry products.

As president of the National PTA, I represent over 6.4 million parents, teachers, students, and other advocates committed to the health and safety of our nation's children. National PTA supports legislation to sustain, improve, and expand federal child nutrition programs, including school meals and antihunger efforts. Such advocacy efforts fall short, however, if the meals fed our children are tainted by foodborne pathogens, to which children are even more susceptible than are adults.

The HACCP/Pathogen Reduction rule adopted by the USDA in 1996 included standards to reduce these pathogens. Last year, however, a federal court barred USDA from enforcing these standards. Senator HARKIN's amendment is needed to clarify that USDA does indeed have the authority under the Federal Meat and Poultry Inspection Acts to enforce pathogen reduction standards in meat and poultry products.

To improve the safety of our children's meals, I urge you to support Senator HARKIN's amendment.

Sincerely,

SHIRLEY IGO,
President.

AARP,
Washington, DC, October 3, 2001.

Hon. TOM HARKIN,
Hart Senate Office Building, U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: On behalf of AARP, I am writing in support of your amendment to the Agriculture Appropriations Bill that would help ensure a safer meat supply. Food safety is of particular concern to older Americans who, along with young children and those with immune deficiencies, are at particular risk from foodborne illness.

The amendment is long overdue. We are pleased that it would clarify the authority of the U.S. Department of Agriculture (USDA) to set standards to control pathogens in meat. Unfortunately, this authority has come into question as a result of a court case in Texas, in which a meat company successfully sued the Department to prevent it from enforcing its performance standard for Salmonella, a standard that the company had failed to satisfy on three separate occasions.

We agree that it is imperative to reaffirm USDA's authority to adopt and enforce performance standards; otherwise, the effectiveness of the comprehensive Hazards Analysis Critical Control Points (HACCP)-based meat inspection system will be seriously jeopardized.

We strongly support your amendment.

Sincerely,

WILLIAM D. NOVELLI,
Executive Director and CEO.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, October 16, 2001.

MS. CAROL TUCKER FOREMAN,
The Food Policy Institute, Consumer Federation of America, Washington, DC.

DEAR CAROL: Thank you for your October 15, 2001, letter to Secretary Veneman about performance standards.

The Department of Agriculture (USDA) believes that we must have performance standards for pathogens. We recognize that some groups have questioned what the appropriate pathogen performance standards should be and whether the present performance standards are scientifically based. We believe that the results of two studies now underway by the National Academy of Sciences and the National Advisory Committee on Microbiological Criteria for Foods will provide important scientific information. In the meantime, USDA remains committed to enforcing the current performance standards at every meat and poultry establishment in the country to which they apply.

Certain groups also have raised questions about the application of the pathogen reduction performance standards. USDA supports the retention of the Secretary's discretion in determining the appropriate application of the standards.

Because of pending litigation filed in 2000, the Department's policy is to refrain from commenting on any matter that relates directly to the Supreme Beef Processors, Inc., case. For this reason, we cannot comment on legislative amendments sponsored by Senator Harkin or by the industry.

We appreciate hearing from you. I'm looking forward to working with you and our other stakeholders to ensure a safe food supply for all Americans.

Warm regards,

ELSA A. MURANO,
Under Secretary, Food Safety.

CFA,
Washington, DC, October 5, 2001.

Hon. DANIEL K. AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: Consumer Federation of America urges you to vote FOR the Harkin amendment to H.R. 2330, the agriculture appropriations bill for fiscal year 2002. The amendment specifically states that the Secretary of Agriculture has authority to impose and enforce limits on disease causing organisms in meat and poultry products. This element of the USDA's new inspection system has been challenged in court. Opponents charge that laws passed in 1906 and 1967 did not contemplate a science-based inspection system and assumed inspection would include only visible examination by federal inspectors.

But federal inspectors cannot see the pathogenic bacteria that cause food-borne illness. This is one reason that food poisoning has become a serious public health problem in the United States. The Centers for Disease Control reports that each year contaminated food causes 76 million illnesses, 325,000 hospitalizations and 5,000 deaths. Contaminated meat and poultry products are often implicated in food poisoning cases.

To help reduce the terrible toll of foodborne illness, USDA introduced a new science-based inspection program, the Pathogen Reduction and Hazard Analysis Critical Control Point (PR/HACCP) inspection system. The new program sets limits on the levels of Salmonella that can be present in raw meat and poultry products.

Since USDA began setting and enforcing Salmonella standards, the amount of Salmonella in meat and poultry products has dropped substantially. For some products, it has dropped by half. While USDA inspectors remain in the plants, the performance standards are the only objective measure of whether a plant's HACCP program actually produces food that is cleaner, safer and less likely to cause food-borne illness than the old inspection system.

If the pathogen standards are eliminated, each company will be free to decide how much pathogen contamination is acceptable. A meat or poultry company could produce filthy products with thousands of Salmonella bacteria. Those products would be stamped, ''USDA Inspected and Approved'' and sold to unsuspecting consumers.

Consumer Federation of America has strongly supported Pathogen Reduction/HACCP. It is an important step forward in meat and poultry inspection. But our support has always been conditioned on USDA setting and enforcing pathogen controls. If this objective measure of adequate performance is dropped, we will withdraw our support and inform our members that the USDA inspection seal is largely meaningless.

The pathogen reduction requirements do not unnecessarily burden industry. Frankly, the performance standards are not as stringent as they should be. Plants have only a .8 percent chance of failing three times in a row. Hundreds of plants have been tested. Only four have failed the test three times. Further, USDA makes every effort to help plants comply. If a plant fails once, USDA works with management to adjust the company's processes so they can meet the standard. The plant is tested again and it it still fails, USDA continues to work with them. Then they are tested yet again. This process may go on for almost a year. During all that time the company's products continue to be approved and sold.

In this system, everyone benefits. Companies know what the standard is. Companies that fail get help from USDA so they can pass subsequent tests. Consumers benefit

from the reduction in disease causing organisms. The Harkin amendment will assure that the pathogen controls remain in effect.

With threats of terrorist attacks on our food supply possible, it would be shocking if Congress failed to protect these standards. It would surely increase the risk of food-borne disease and further diminish public confidence in our food supply.

We urge your support for the Harkin amendment.

Sincerely,

HOWARD METZENBAUM,
Chairman.
CAROL TUCKER FOREMAN,
Director, Food Policy Institute.

SAFE FOOD COALITION,
Washington, DC, July 24, 2001.

DEAR SENATOR: The undersigned members of the Safe Food Coalition urge you to support an amendment by Senator Harkin to H.R. 2330, the Agriculture Appropriations Bill for FY 2002. The amendment clarifies USDA's authority to set standards to control the presence of pathogens in meat and poultry products. It is needed for the following reasons:

USDA's Rule Limiting The Presence Of Disease Causing Bacteria In Meat And Poultry Is Threatened. A meat company in Texas has sued USDA to prevent the Department from enforcing its Salmonella performance standard. The Texas company, a major supplier of meat to the school lunch program, failed the Salmonella standard three times. USDA sought to close the plant. A federal district court allowed the company to continue selling meat, despite the company's apparent inability to meet this basic food safety test.

The decision is under review by the U.S. Court of Appeals for the 5th Circuit. If that court rules against the USDA, the department will be unable to enforce limits on Salmonella in ground beef in any of the states comprising the 5th Circuit. Further, the meat industry continues to pressure USDA to drop Salmonella testing all across the country.

The Salmonella standard is reasonable and it is effective. Since it went into effect over three years ago, Salmonella contamination has dropped in all tested products—dropped by 50 percent in some. USDA applies this test in thousands of slaughter and grinding facilities. Fewer than a half-dozen plants have failed the test three times. There are two reasons for the high pass rate. First, the performance standard is not hard to meet. In practice it falls below the industry median for each product. To pass, a plant need not even be as good as the least effective plant in the top half of all plants. In 2000, 91 percent of the ground beef plants tested by USDA under the rule met the standard on each round of tests and 92 percent of the 344 small ground beef plants tested met the standard on each round.

Second, USDA helps plants meet the standard. If a plant fails once, USDA staff works with the plant to help it resolve the problem. If it fails a second time, the USDA again seeks to help the plant correct the deficiencies in its HACCP plan. It is only when a plant, after getting help from USDA and being given multiple opportunities to pass, fails a third time to meet the Salmonella standard, that it becomes subject to sanctions. In the case of Supreme Beef, almost a year passed between the time Supreme failed the first test and the point at which USDA finally tried to close the plant. Consumers might well ask why USDA allows any plant that fails to meet the Salmonella contamination limit to continue operating for such extended periods.

Limits on Salmonella in meat and poultry are basic to the USDA's new inspection system, officially named the Pathogen Reduction and HACCP System. In 1996, USDA began to shift from its old inspection program to a new one, the so-called HACCP system. Under the new system, plants are responsible for producing clean, safe products. The Salmonella standard, Salmonella testing, and enforcement of the standard are the means by which the government works to assure that a plant's HACCP program does what it promises, providing an acceptable level of public health protection. Consumer and public health organizations initially opposed the HACCP program. We gave our support only after HACCP was coupled with pathogen reduction to help protect public health. The Salmonella performance standard, Salmonella testing, and enforcement are basic to our continued support for the program. Salmonella test results are our objective proof that a HACCP plan works to limit the presence of these disease causing organisms.

Meat and poultry are the only products that come to the consumer with a Government warranty. Enclosed with this letter are copies of the USDA seal of inspection. Every package of meat and poultry sold to consumers is stamped, ''Inspected and Approved, USDA'' or ''Inspected for Wholesomeness, USDA.''

No other product, not cars, nor tires, nor airplanes—not even other food carries an assurance that the U.S. government has examined it and attests that it meets a standard for wholesomeness. Americans have a right to assume that products carrying the USDA seal will be reasonably safe and clean, not loaded with disease causing organisms. It is not unreasonable to ask the companies whose products carry a U.S. government seal of approval to demonstrate that those products are clean and safe and relatively free of disease causing organisms.

Food-borne illness is a serious public health problem in the U.S. According to the Centers for Disease Control contaminated food cause 76 million illnesses, 325,000 hospitalization and 5,000 deaths each year. Government standards must limit the organisms that cause these illnesses. The Harkin amendment will ensure that whatever decision is reached by the Court of Appeals, beef shipped within the US will continue to meet strict safety standards for Salmonella.

Please do not turn the clock back on food safety. Do not break faith with consumers who assume that the USDA seal of inspection has some integrity. Do not allow companies who fail to limit pathogens in their products to continue to sell their meat and poultry as ''USDA Inspected and Approved.'' Maintaining the pathogen standard will help preserve public health. it will also protect legitimate businesses from those companies that are unable or unwilling to meet a decent standard.

Again, we ask you to support the Harkin amendment.

CAROL TUCKER FOREMAN,
Coordinator, SFC, Director, Food Policy Institute, Consumer Federation of America, Assistant Secretary, USDA, 1977–81, on Behalf of the following organizations:

American Public Health Association.
Consumers Union (Consumers Union is not a member of the Safe Food Coalition but endorses this position statement).
Center for Science in the Public Interest.
Government Accountability Project.
Consumer Federation of America.
National Consumers League.
Safe Tables—Our Priority (S.T.O.P.)

Mr. HARKIN. It is a broad coalition, from farm groups to labor unions to consumer groups to parent teachers. It covers the entire spectrum of the food safety chain from farm to table.

Now, some may be surprised there is meat and poultry industry support for my amendment. Do not be surprised. My staff and I have spent hours and hours in meetings trying to arrive at a compromise with industry opponents of these microbiological performance standards.

My door has been open to all. There is no one who can say I would not meet with them to discuss how we reach some agreement. The reason we have this support from many meat and poultry groups is because the pathogen reduction standard is simply the right thing to do for food safety.

Mr. DURBIN. Will the Senator yield?

Mr. HARKIN. I am delighted to yield to my friend from Illinois who has led the charge for a single food agency in this country. He is on the right course. I hope he gets it done soon.

Mr. DURBIN. I am happy to be an ally on this cause, as well. I recollect a few months ago there was a release on the Web site of the USDA suggesting they were going to relax, if not remove, the salmonella standard for school lunch programs. Many people saw it and started to respond.

If I am not mistaken, the very next morning, Ari Fleischer at the White House, in the opening briefing said: This is not true; it is not where the USDA stands; we are for the strictest standard when it comes to the presence of salmonella in ground beef for school lunch programs.

What the Senator from Iowa is arguing for, if I am not mistaken, is the position of the USDA, and the position President Bush has taken, is that they will establish the standards—the district court case in Texas notwithstanding.

The Senator from Iowa, a Democratic Senator, is offering a reaffirmation of the position taken by both Democratic and Republican Departments of Agriculture. Does the Senator from Iowa recall this?

Mr. HARKIN. I appreciate my friend from Illinois bringing that up. I have it later in my speech someplace. You beat me to the gun.

It is true, there was this indication that someone in the Department, probably at the behest of the industry lawyers, maybe the same one who brought the Supreme Beef case, I don't know, decided they would relax the salmonella standards on the very meat our kids eat in school.

As the Senator said, the hue and cry was incredible. The administration came to its senses and said the next morning: It said absolutely not. The administration said it will enforce those standards and it wanted the toughest standards. All we are doing is giving the Secretary of Agriculture the statutory authority to do just that.

Mr. DURBIN. So those who oppose this amendment not only oppose a standard created by the Clinton administration and the U.S. Department of Agriculture, but a standard that has been reaffirmed by the Bush administration in its current Department of Agriculture.

Mr. HARKIN. I believe that is entirely true.

As I said, the reason we have such broad support is because the pathogen reduction standards is the right thing to do for food safety. The vast majority of our packers and our processers in this country are conscientious and want to do the right thing. They work with the Department of Agriculture. As my chart shows, they have been energetically reducing the number of pathogens that enter our foods. But, as anything else, there are always some out there who believe they can shave a little bit, skim a little bit, make an extra buck here or there. And after all, they can cite the Supreme Beef case in Texas, and say: You don't have the authority to enforce this standard.

Those who have refused to compromise at all have resorted to a campaign against this amendment based on untruths and misstatements. I want to set the record straight on some of these most egregious examples.

First, industry opponents have said that the current administration does not support having enforceable pathogen standards. As my friend from Illinois pointed out, just read what Ari Fleischer said at that press conference that morning, they want the toughest standards.

I ask unanimous consent to have printed in the RECORD a letter from Under Secretary for Food Safety, Dr. Murano.

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

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, October 16, 2001.

Ms. CAROL TUCKER FOREMAN,
The Food Policy Institute, Consumer Federation of America, Washington, DC.

DEAR CAROL: Thank you for your October 15, 2001, letter to Secretary Veneman about performance standards.

The Department of Agriculture (USDA) believes that we must have performance standards for pathogens. We recognize that some groups have questioned what the appropriate pathogen performance standards should be and whether the present performance standards are scientifically based. We believe that the results of two studies now underway by the National Academy of Sciences and the National Advisory Committee on Microbiological Criteria for Foods will provide important scientific information. In the meantime, USDA remains committed to enforcing the current performance standards at every meat and poultry establishment in the country to which they apply.

Certain groups also have raised questions about the application of the pathogen reduction performance standards. USDA supports the retention of the Secretary's discretion in determining the appropriate application of the standards.

Because of pending litigation filed in 2000, the Department's policy is to refrain from commenting on any matter that relates directly to the Supreme Beef Processors, Inc., case. For this reason, we cannot comment on legislative amendments sponsored by Senator Harkin or by the industry.

We appreciate hearing from you. I'm looking forward to working with you and our other stakeholders to ensure a safe food supply for all Americans.

Warm regards,

ELSA A. MURANO,
Under Secretary, Food Safety.

Mr. HARKIN. The Department of Agriculture believes we must have performance standards with pathogens.

Second, the industry opponents have said my amendment will codify the salmonella performance standard. This is patently untrue. We only clarify that the Secretary has a generic authority. We do not set any standard. I leave that to the scientists.

Industry opponents claim my amendment would limit the Secretary's discretion to determine when a plant has failed to meet the performance standard. This is demonstrably untrue. We worked with Secretary Veneman to ensure my amendment preserves the Secretary's existing flexibility to work with plants in danger of failing the standard. We both want to avoid withdrawing inspections where plants are genuinely working to come into compliance with the standard and there is no immediate threat to public health. Obviously, if there is an immediate threat to public health, like E. coli, or something like that which will kill you, obviously, the Secretary should have the authority to shut that plant down.

There are a number of other arguments they have made which are patently untrue, but I will not get into them here. In deciding whether to support my amendment, my colleagues should consider the following question: How do you explain to America's families why a plant shipping ground beef with salmonella levels more than five times the national average, ground beef that is going into the School Lunch Program, how do you explain to our families that plant shouldn't even be asked to clean up its act? These are the facts of the case in Texas. The plant had the worst record on pathogen levels in the country and one of its biggest customers was the School Lunch Program. It failed three rounds of salmonella testing. No one said, we are shutting you down. They asked them to submit a plan for corrective action. The owner refused. I think when the health of our kids is at stake and our families are at stake, this is common sense.

Last, in trying to reach an agreement with those who are opposed to this amendment, I added a section. I will be very clear so people understand this added section. I will read it:

Not later than May 31, 2002, the Secretary shall initiate public rulemaking to ensure the scientific basis for any such pathogen reduction standard.

Now, the first part of my amendment basically says that between now and then the Secretary has the statutory authority to enforce the existing pathogen reduction standards based upon the salmonella bacteria indicator.

That is all it says. So those who are opposed to my amendment are saying they want to leave a gap that between now and some indefinite time in the future the Secretary will not have that authority, will not have that authority to enforce a pathogen reduction standard.

People ought to take a look around and see what is happening in this country. The people of this country are demanding we reduce the pathogens in our food and in our food supply. We have been doing it under the existing standard, but because of one district court case in Texas that said we did not give the Secretary the statutory authority, that is now in question.

All my amendment does is give the Secretary the statutory authority to enforce the standards. We don't set the standards. And then it says further, by May 31 of next year the Secretary has to initiate public rulemaking to ensure that a pathogen reduction standard is based on good science.

How can anyone argue with that?

I yield the floor.

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

AMENDMENT NO. 1987 TO AMENDMENT NO. 1984

Mr. NELSON of Nebraska. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The senior assistant bill clerk read as follows:

The Senator from Nebraska [Mr. NELSON], for himself and Mr. MILLER, proposes an amendment numbered 1987 to amendment No. 1984.

Mr. NELSON of Nebraska. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the word ''sec'' and insert the following:

None of the funds appropriated or otherwise made available by this Act shall be used by the Secretary of Agriculture shall be available for application of the mark of inspection to any meat or poultry product that is shown to be adulterated: *Provided further,* That the Secretary of Agriculture shall prepare a report, which is to be submitted by May 15, 2002, to the Committee on Appropriations of the Senate and the House of Representatives, regarding the role of microbiological monitoring and standards relating to indicator organisms and pathogens in determining the effectiveness and adequacy of Food Safety and Inspection Service Hazard Analysis and Critical Control Point (HACCP) meat and poultry safety programs, including relevant points of general scientific agreement regarding such monitoring, and analysis of the microbiological data accumulated by the Secretary to identify opportunities to further enhance food safety, as well as any modification of regulations or statutory enforcement authority that may advance food safety; *Provided further,* That not later than August 1, 2002, the Secretary shall initiate public rulemaking to improve the effectiveness and adequacy of the Hazard Analysis and Critical Control Point (HAACP) System established under part 417 of title 9, Code of Federal Regulations.

Mr. NELSON of Nebraska. Mr. President, I rise in support of this second-

degree amendment and believe it requires some degree of explanation as to how it may differ from the amendment which has been offered.

It has been characterized that this is an issue about food safety. But truly the difference between his amendment and mine is not about food safety, it is about whether or not we are going to enforce a flawed standard before we have studies completed that this body mandated last year. That is what this issue is all about, not whether or not we are going to have food safety.

My amendment doesn't move to table Senator HARKIN's amendment, but it seeks to improve it. I believe in fact it does.

We worked very diligently to find a way to have a solution. But the solution would have required authorizing and empowering the U.S. Department of Agriculture, by statute, by his amendment, to enforce a standard about which a court in Texas, a Federal district court in Texas, has said, among other things:

The performance standard may not be enforced because it doesn't measure food safety.

I am for food safety. But I am not for a standard that doesn't measure food safety. Nor am I in favor of empowering specifically eliminating any question about the authority of an agency to enforce a standard that does not measure food safety.

I am most definitely interested in making certain that we have food safety. That is why I worked very closely with my colleague to work out some language which he has included in his amendment. I commend him for doing that because that language says that, by May 31 of next year, the U.S. Department of Agriculture must initiate rulemaking and a standard based on these studies which are expected to be completed by that time.

I think it would be unwise for this body to now empower the U.S. Department of Agriculture to enforce standards that do not measure food safety after, last year, authorizing and requiring studies that will, in fact, establish a standard that will be aimed at measuring food safety and empowering the agency, the U.S. Department of Agriculture, to be able to use those standards in order to impose an appropriate salmonella standard for all food. That is what the question is really all about: Do we enforce and authorize and require the enforcement of a standard that doesn't rise to that level versus authorizing the agency and requiring the agency to, by a certain time—a timeframe certain—to have the rulemaking in place in order to impose an appropriate standard based on sound science.

That is what this issue is about: Whether or not we are going to have a standard based on sound science or one that the court says doesn't measure food safety.

There are some other things the amendment does that I think are important. It specifies that food that is unsafe or labeled inaccurately or is otherwise adulterated cannot bear the U.S. Department of Agriculture mark of inspection.

It further goes on to make sure that the agency, the Secretary of Agriculture, comes forward with the report that specifies the general points of scientific agreement regarding microbiological testing and standards.

This will require a standard that we can be sure is based on sound science. Until these reports are done, we can't be sure the current standard is strict enough. It is not a question of whether it is too lax. We don't know.

I am unlikely to support the requirement of that standard until, in fact, we have the studies done to know if it is strict enough. The suggestion might be that it is not strict enough. But I suggest we do not know and we will not know until and unless these studies that were authorized by this body last year have been completed and a rule adopted by the U.S. Department of Agriculture.

I yield to my colleague from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I think it is so important for us to make sure we understand what we are talking about tonight and what some of our colleagues have expressed. We do not oppose a standard which was mentioned earlier by the Senator from Illinois. What we do want is a good standard.

This body requested studies this time last year as we debated this whole issue. Since then, through hearings, everyone has agreed—even USDA agreed, as they testified to that as they effect—that the standard, the current standard, is flawed. Basically what we have been trying to say is that enforcing a flawed standard is, in effect, codifying a bad standard. We do not want to do that.

This issue was debated last year. We worked with Senator HARKIN then at the time, saying the issue was not whether there should be enforceable microbial testing standard for meat and poultry plants, the question was what standard should be used and what should be the scientific basis for that standard.

We directed those studies, both from the National Research Council and the USDA Scientific Advisory Committee, to make recommendations regarding microbial testing in plants. These committees were directed to review the appropriateness of the existing salmonella performance standard and to recommend a microbial testing program that will measure food safety performance in meat and poultry plants. We want a good standard. We want a standard based on science, which is exactly what the Senator from Nebraska is asking.

Some would claim that food safety would be compromised while we await USDA's recommendation. That is simply not the case. USDA is still conducting salmonella performance tests at every meat and poultry plant in the Nation. USDA still has a wide variety of enforcement tools available, including withdrawal of inspection if meat or poultry plants produce adulterated products or operate in unsanitary conditions.

Food safety must continue to be a top national priority. I don't think that is the argument here. We want to see the best standards. But our food standards must be practical, they must be enforceable, and they must be based on scientific evidence, which is exactly what we asked for last year.

What we want to see happen is that we use these studies, we use this scientific evidence, that we have worked so hard to get, as it comes out this spring and put it into practice across this country.

We don't want to base it on sound bytes or newspaper headlines. I think Senator NELSON's amendment will allow us to achieve that goal. That is why I urge our colleagues to vote for and support his amendment so we can base good standards on scientific findings.

I thank the Senator. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, there is a fundamental difference here. Quite frankly, the standard in place now is, in fact, based upon the best science that was available during the time when they promulgated that standard. As I pointed out in my amendment on May 31, the Secretary has to start rulemaking based upon the best science available. I agree with that.

Let us not be mistaken. This amendment says if you want to have uncertainty out there as to whether or not the Secretary can enforce a patent and pathogen reduction standard, this is the amendment for you because that is what we have. We have uncertainty right now because of the Supreme Beef case in Texas.

This amendment by my good friend from Nebraska basically says that is what we are going to have. We are going to have this vast uncertainty out there.

I don't want my kids and I don't want your kids and grandkids, or the people of this country having that cloud of uncertainty.

That is why I believe this amendment should be defeated—because it leaves the uncertainty there. It would allow for plants such as Supreme Beef to continue to snub their noses at the Secretary of Agriculture and at reducing the pathogen standard.

That is why I move to table the second-degree amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a sufficient second.

Mr. REID. Could the Chair check that again?

Mr. COCHRAN. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Their now appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kentucky (Mr. BUNNING), the Senator from Texas (Mrs. HUTCHISON), the Senator from Montana (Mr. BURNS), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Alaska (Mr. STEVENS), are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote ''no.''

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

The result was announced—yeas 45, nays 50, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—45

Akaka	Durbin	Leahy
Baucus	Edwards	Levin
Bingaman	Feingold	Lieberman
Boxer	Feinstein	Mikulski
Byrd	Fitzgerald	Murray
Cantwell	Graham	Nelson (FL)
Carnahan	Grassley	Reed
Chafee	Harkin	Reid
Clinton	Hollings	Rockefeller
Conrad	Inouye	Sarbanes
Corzine	Jeffords	Schumer
Daschle	Johnson	Specter
Dayton	Kennedy	Torricelli
Dodd	Kerry	Wellstone
Dorgan	Kohl	Wyden

NAYS—50

Allard	Enzi	Murkowski
Allen	Frist	Nelson (NE)
Bayh	Gramm	Nickles
Bennett	Gregg	Roberts
Biden	Hagel	Santorum
Bond	Hatch	Sessions
Breaux	Helms	Shelby
Brownback	Hutchinson	Smith (NH)
Campbell	Inhofe	Smith (OR)
Carper	Kyl	Snowe
Cleland	Landrieu	Stabenow
Cochran	Lincoln	Thomas
Collins	Lott	Thompson
Craig	Lugar	Thurmond
Crapo	McCain	Voinovich
DeWine	McConnell	Warner
Ensign	Miller	

NOT VOTING—5

Bunning	Domenici	Stevens
Burns	Hutchison	

The motion was rejected.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. I ask unanimous consent to withdraw my amendment.

AMENDMENT NO. 1984, WITHDRAWN

Mr. COCHRAN. Reserving the right to object, what was the request? The Senator asked unanimous consent for something, but I could not understand it.

Mr. HARKIN. I asked unanimous consent to withdraw the amendment.

Mr. COCHRAN. Reserving the right to object, he asked unanimous consent to withdraw his amendment. The amendment has been amended by the amendment offered by the Senator from Nebraska. I hope the Senator from Nebraska will suggest what his intentions are.

I don't want to object if the Senator from Nebraska is not going to object.

The PRESIDING OFFICER. The amendment has not yet been agreed to.

Mr. COCHRAN. I withdraw my reservation.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, as I understand it, we are simply waiting now for a managers' amendment that should be available shortly. As soon as it is available, we will deal with that. As I understand it, that is the last amendment remaining. We will then go to final passage.

For the information of all Senators, assuming we are able to go to final passage tonight, there will be no session tomorrow. We will be in pro forma session on Monday. It would be my expectation, in consultation with Senator LOTT, to go to the Labor-HHS appropriations bill Tuesday morning.

I yield the floor.

AGRICULTURAL RESEARCH SERVICE

Mr. THURMOND. Mr. President, I appreciate the chairman and ranking member working with me to find funding for a crucial Agricultural Research Service (ARS) Station project. This project will further the research and commercial adaptation of swine waste management. It will be an offset facility located in North Carolina, but is associated with the Florence, SC, ARS Station. In order to fund the start-up costs and equipment rental associated with this project, the full cost to ARS is estimated to be $1 million. The nature of this project is urgent. I hope ARS will fund this program with available fiscal year 2002 funds.

Mr. HELMS. I am grateful to my friend from South Carolina, Senator THURMOND, for his determination to pursue this project which will be located in North Carolina. I believe ARS should make this project a priority. I appreciate the managers of the bill acknowledging its importance.

Mr. KOHL. I appreciate the Senator from South Carolina bringing this important issue to my attention. I am confident we can work together to encourage ARS to fund this project in fiscal year 2002.

Mr. COCHRAN. I understand why this project is important to my colleagues. I will work with them to find a way to help ARS move forward in funding this project.

NATIONAL RURAL DEVELOPMENT PARTNERSHIP

Mr. CRAIG. Mr. President, first I would like to thank Chairman KOHL and Senator COCHRAN for the hard work they have put into the fiscal year 2001 Agriculture, Rural Development, and Related Agencies Appropriations bill. It is a challenging process, and they have done an excellent job balancing competing interests within the confines of a balanced budget.

I wish to engage in a colloquy with the distinguished chairman of the subcommittee regarding the appropriation for the Department of Agriculture's Rural Development Programs. The committee has encouraged the Department to continue to support the National Rural Development Partnership (NRDP) and its associated State Rural Development Councils within existing funds. It is my understanding that an allocation of $5.5 million would provide Federal funding to 40 State Rural Development Councils (SRDCs) at the level they received in fiscal year 2001 and that it would cover other necessary program support for the NRDP/SRDCs. I would ask that this need be considered when this bill goes to conference.

The National Rural Development Partnership is a nonpartisan interagency working group whose mission is to contribute to the vitality of the Nation by strengthening the ability of rural Americans to fully participate in determining their futures. Although the Partnership has existed for 10 years, it has never been formally authorized by Congress.

Thirty seven members of the Senate have joined on legislation to formally establish the NRDP and SRDCs, S. 1111, the National Rural Development Partnership Act. This legislation authorizes or formally recognizes the existence and operations of the Partnership, the National Rural Development Council, and SRDCs. In addition, the legislation gives specific responsibilities to each component of the partnership and authorizes it to receive Congressional appropriations.

It is essential that the current network of SRDCs remain viable while we work to pass this legislation. The core components of S. 1111 have been included in the House version of the farm hill and we are working to have S. 1111 included in the Senate version of the farm bill. In addition, a task force, which includes significant representation external to the NRDP, is currently considering questions related to the mission, structure, and operations of the NRDP and SRDCs. Fiscal year 2002 is a transitional year during which fundamental issues related to the NRDP and SRDCs will be addressed. During fiscal year 2002, unique role of helping to coordinate rural development policies and programs must be preserved.

Mr. KOHL. I thank the Senator from Idaho for his remarks, and I look forward to working with him to resolve this issue in conference. It is my understanding that contributions provided to the NRDP from other Federal agencies could be used to diminish the amount of funding that would come from USDA. The NRDP and SRDCs provide rural citizens and agencies, nonprofit organizations, and corporations that serve rural areas with a forum for analyzing challenges and developing holistic and cost-effect solutions. There has never been a greater need for the type of work done by the partnership and SRDCs.

EXOTIC DISEASES

Mr. HOLLINGS. Mr. President, I rise today to thank Chairman KOHL and

Ranking Member COCHRAN for recognizing the increasing threat posed by emerging and exotic diseases to animals and crops through out the United States and providing the Agricultural Research Service an increase of $6,782,000 for fiscal year 2002. I also want to confirm that the Committee intends for at least $500,000 of these funds to be used to meet the higher operating costs presented by the new state-of-the-art ARS U.S. Vegetable Lab in Charleston, South Carolina.

Mr. KOHL. The Senator from South Carolina is correct. I understand there has been significant progress on its construction and the new facility is scheduled to open in February 2002. I agree that the necessary funds must be provided for its operations.

Mr. HOLLINGS. Such progress would not have been possible without the support I have received over the years from both sides of the aisle on this project. The new laboratory will play an important role in the ARS mission of conducting research to solve regional and national problems in the production and protection of vegetable crops. This research is critical to the continued production of crops in a sustainable agricultural economy.

Mr. COCHRAN. Certainly the research conducted by the lab is a key component in ensuring that an affordable, safe and dependable supply of nutritious vegetable crops is available to U.S. consumers. I, too, want to assure the Senator from South Carolina that it is my understanding these funds will be used to meet the higher operating costs of the Charleston Vegetable Lab.

Mr. HOLLINGS. I thank the distinguished chairman and ranking member of the subcommittee for their attention to this matter and, again, appreciate the assistance they have provided on this project over the years.

SUDDEN OAK DEATH SYNDROME

Mrs. BOXER. Mr. President, I would like to address an emerging ecological crisis in California that quite literally threatens to change the face of my State, and perhaps others.

California's beloved oak trees are in grave peril. Thousands of black oak, coastal live oak, tan, and Shreve's oak trees—among the most familiar and best loved features of California's landscape—are dying from a newly discovered disease known as Sudden Oak Death Syndrome.

The loss of trees is fast approaching epidemic proportions, with tens of thousands of dead trees appearing across the Californian landscape. As the trees die, enormous expanses of forest face substantially increased fire risk because the dead trees are highly flammable. These dead trees are also more likely to blow over in high winds, posing a growing risk to people and property.

Unfortunately, this terrible disease has also been found in at least 10 other plant species, including rhododendron in commercial nurseries. Other commercially important plants such as blueberries and cranberries are also believed vulnerable.

Most disturbing is the fact that Sudden Oak Death Syndrome is spreading rapidly. It was recently discovered in Oregon. Fear that it will spread further has already provoked Canada and South Korea to ban the importation of California oak products. Scientists believe it may only be a matter of time before this disease reaches oaks and other species in the Midwest, Northeast, and around the country.

It is vital that we invest now in efforts to stop the spread of this disease before it becomes uncontrollable. Although the Senate bill does not include funding to address this issue, the House has provided $500,000 for these purposes. Last year, the Agriculture Committee provided over $2 million in funding to address this disease. Am I correct in understanding that the chairman will assist in conference to ensure that the final bill includes funding to address Sudden Oak Death Syndrome?

Mr. KOHL. Yes. I recognize that Sudden Oak Death Syndrome is a growing problem that threatens oak trees and other species in my State and around the Nation. I assure my colleague that I will do my best in conference to push for an increase in funding to $1,000,000 when the agriculture bill is considered in conference.

NATIONAL ORGANIC STANDARDS

Mr. STEVENS. Mr. President, I am very concerned over the National Organic Standards Board's recent recommendation to USDA that wild seafood not be eligible for organic labeling. This decision ignored the plain evidence on the record that most wild seafood, and wild Alaska salmon in particular, are the most organic, natural fish available on the market today.

Mr. COCHRAN. I appreciate the Senate bringing this to our attention. We will look into it.

Mr. KOHL. I also appreciate being advised of this matter.

SOUTH PLAINS RANGE RESEARCH STATION

Mr. NICKLES. I am pleased that the Appropriations Committee has provided $1.5 million for the Southern Plains Range Research Station in Woodward, OK. However, it has come to my attention that there is an urgent need for a conference center at the facility to house agricultural conferences and agricultural training programs as well as community activities. Because this center is to be available to the community, the city of Woodward has committed to provide $3,000,000 for the construction of the conference center. The study for this facility is estimated to cost $400,000 to determine if this facility would be a good use of Federal tax dollars. I hope the agency will complete this study within available funds.

Mr. COCHRAN. I thank my colleague from Oklahoma for bringing this important project to the committee's attention and also hope the agency can find a way to do the feasibility study on this project.

AGRICULTURAL RESEARCH SERVICE

Mr. DORGAN. Mr. President, I rise to thank the chairman and the ranking member for supporting my request to expand research on cereal crops and sunflowers at the Agricultural Research Service Northern Crops Research Laboratory at Fargo, ND. This bill recommends an increase of $900,000 for expanded research on small grains and sunflowers.

The economic viability of small grains industries remains a concern as a result of production and marketing problems faced by producers in recent years. The barley industry has been particularly hard hit due to weather related problems. We have seen production of this crop decline by 40 percent during the past ten years due to weather related problems. In North Dakota, the decline in production has been even more dramatic with production falling off by 53 percent during the same time period.

I think we need to use a portion of the increased funding over the last year's level to develop new barley varieties that are high yielding and have good feed quality attributes. No such program currently exists and I think increased research in this area would help the barley industry gain a competitive edge.

Mr. KOHL. I understand the need for increased research in this area and I will do my best to hold the increases for cereal crops research contained in the Senate bill.

ANIMAL WASTE RESEARCH

Mr. HELMS. Mr. President, I am grateful to the distinguished chairman of the Senate Agriculture Appropriations Committee, Mr. KOHL, and the ranking member, Mr. COCHRAN, for their willingness to acknowledge the exciting animal waste research taking place in North Carolina.

Senator EDWARDS and I are deeply impressed with the initiative being shown by the poultry and swine industry, which is actively seeking solutions to the problems associated with animal waste material. We have been particularly interested in proposals that will convert a variety of animal waste products into a usable energy resource.

Several innovative North Carolina constituents are moving forward with the development of this technology, and I want to make sure that the Federal Government is both aware of and supportive of these efforts. I appreciate the willingness of the managers of the bill to show an interest in this work, and I will be grateful for their continued attention to this research.

I look forward to working with Senator EDWARDS, my fellow members of the Senate Agriculture Committee, and the appropriators to make sure that the U.S. Department of Agriculture has the authorization and resources needed to support innovative use of animal waste.

Mr. EDWARDS. Mr. President, Senator HELMS and I are excited about the alternative uses of animal waste products, and I appreciate the attention

this issue is receiving from the Agriculture Appropriations Subcommittee. There has been a great deal of attention paid to the problems associated with animal waste, but very little has been said about the work taking place in the private sector and our research educational institutions to try and deal with this problem.

I agree that there is reason to be optimistic that technological advances will yield innovative solutions that will benefit poultry and swine producers, the environment, and ultimately, energy consumers. We will look forward to continuing to support additional research into alternative animal waste uses, and I appreciate the interest of the managers.

Mr. KOHL. I appreciate the Senators from North Carolina letting us know of the interesting work taking place in North Carolina in regard to animal waste research. We will continue to work with Senator HELMS and Senator EDWARDS to explore the potential of alternative energy sources.

Mr. COCHRAN. I also look forward to working with the Senators from North Carolina as this technology develops.

RURAL FACILITIES PROGRAM

Ms. STABENOW. Mr. President, I rise to engage in a colloquy with the distinguished chairman and ranking member of the Agriculture Appropriations Subcommittee.

The Village of DeTour in the Upper Peninsula of Michigan is living with an unfortunate safety hazard. Currently, the Village of DeTour is using a World War II era fire engine to fight fires within its jurisdiction. This antiquated fire engine is so old that safety personnel can no longer drive it to emergency situations. Instead, firefighters must tow the fire engine to any dangerous area. This represents a tremendous safety hazard for the hard working people of this unique Upper Peninsula town.

The Rural Facilities Program at USDA provides funding for rural communities like DeTour to improve their public facilities, including providing money for new fire equipment.

Therefore, I would ask the distinguished chairman if he would agree to include the Village of DeTour in the statement of managers accompanying the conference report to this appropriations bill, and list the purchase of a new fire truck as a high priority project that deserves funding in fiscal year 2002?

Mr. KOHL. I will do everything I can to include the Village of DeTour in the statement of managers as a high priority project worthy of funding in fiscal year 2002.

Mr. COCHRAN. I associate myself with the remarks of the distinguished subcommittee chairman.

Ms. STABENOW. I thank the chairman and ranking member for their strong support. This community needs only $80,000 next year to purchase this new vehicle. Since the village has already raised the required matching funds necessary, once it receives this $80,000 it will be able to move forward immediately on the project. Will the chairman and ranking member continue their strong support for this project until the Village receives this necessary funding?

Mr. KOHL. I reiterate my strong support for this project and will work in conference and will work with the USDA to make sure this community receives this $80,000 in fiscal year 2002.

Mr. COCHRAN. I associate myself with the remarks of the distinguished subcommittee chairman.

AUDUBON SUGAR INSTITUTE

Ms. LANDRIEU. Mr. President, I rise to express my support for a project close to the heart of the Louisiana State University AgCenter as well as many of my consitutents—the Audubon Sugar Institute. I want take this opportunity to bring to the attention of the chairman of the Senate Agriculture Appropriations Subcommittee the importance of relocating the Audubon Sugar Institute from LSU main campus to St. Gabriel Sugar Research Station as well as the need to encourage USDA Rural Development to give priority consideration to this very worthwhile project.

Sugarcane is the largest economic crop in Louisiana with a gross farm income in 2000 of just under $363 million. Sugar and sugarcane research and extension education at the LSU AgCenter are conducted at the St. Gabriel Sugar Research Station, approximately 7 miles south of the LSU main campus and the Audubon Sugar Institute in the heart of the main campus. The Audubon Sugar Institute has a long history and a proud tradition of educating some of the finest sugar technologies and sugar engineers in the country. In the past, it drew many people to Louisiana, and earmarked the LSU AgCenter as a center for excellence in the sugar industry. However, the need to improve and upgrade the Audubon Sugar Institute is critical to furthering the Louisiana Sugar Industry.

The first step in accomplishing the goals mentioned above is to move the Audubon Sugar Institute from the heart of the main LSU campus to the St. Gabriel Sugar Research Station. The LSU AgCenter is requesting assistance from the USDA Office of Rural Development.

The equipment and laboratories at Audubon Sugar Institute are in dire need of upgrading and the building itself is in serious arrears and does not conform to safety regulations. It appears that it is no longer an option to run the factory continuously because of the environmental implications of running a sugar factory in the middle of a busy university campus. Relocating the Institute has the advantage of meeting the main campus at the same time providing the option of updating the Audubon Sugar Institute archaic design and providing a modern facility capable of handling billeted cane. It also places Audubon adjacent to the variety development and production research going on at the St. Gabriel Sugar Station. Building a new facility and moving the sugar mill to St. Gabriel would allow the Institute to function as a training ground and undertake manageable plant scale experiments. Having a fully functional small mill operation at Aubudon Sugar Institute would provide a facility unsurpassed in the world and immensely assist the sugarcane industry in Louisiana.

I thank the chairman and his staff for their consideration and reiterate that it is my hope that the USDA Rural Development can be encouraged to give priority consideration to this very worthwhile project.

Mr. KOHL. I appreciate the comments of the Senator from Louisiana and will make every effort to accommodate her request during the conference of this bill.

IDAHO OUST PROBLEM

Mr. CRAIG. Mr. President, first I would like to thank Chairman KOHL and Senator COCHRAN for the hard work they have put into the fiscal year 2002 Agriculture and Related Agencies Appropriations bill. It is a challenging process, and they have done an excellent job balancing competing interests within the confines of a balanced budget.

I wish to engage in a colloquy with the distinguished chairman and ranking member of the subcommittee regarding a situation that has arisen in Idaho. The Idaho delegation is concerned over the growing impact a product called OUST has had on crops in fields near the Bureau of Land Management's rangeland treatment areas.

The BLM has been using OUST as part of their rehabilitation program to eliminate cheatgrass and stop the fire cycle. The program is two-fold. First spray, then plant native and perineal vegetation which is better feed for cattle and fire suppression. From October 23 to November 3, 2000, in order to control the spread of cheatgrass on their burned land, the Bureau of Land Management sprayed the herbicide, OUST, from a helicopter onto approximately 17,000 acres of their land.

This spring, we began to receive reports from farmers that OUST may have spread beyond its intended use area and may be impacting crops in fields adjacent to or near the BLM's treated areas. Sugar beet growers noticed strange growth developments in their crops. As the crop developed, it was determined the lack of growth could be related to the OUST spray. What our farmers project happened is the OUST, which is activated and broken down by water, was sprayed on top of the ashes from the fire. With the lack of snowfall and spring rains, the OUST was blown with the ashes to as far as 10 miles from the sprayed ground. When the farmers turned on their irrigation systems this spring, it activated the OUST and it is now damaging the crops. The most significant

damage reported is in the Burley/Paul area and the American Falls/Aberdeen area in Southern Idaho. Because of all of the uncertainty, BLM has agreed to stop the use of OUST until this issue is resolved.

Since the damage was first noticed, testing by the Department of Agriculture in Idaho has indicated the presence of OUST in crops at least 5 miles beyond the BLM's treated areas. Those tests are ongoing and results continue to show the presence of OUST in damaged crops. According to the information we have seen, in some cases the damage to crops in these areas approaches a 100 percent loss. In other cases, crops are only partially impacted, but may still be damaged in terms of their value. In either case, farmers are facing over $100 million in reduced income. The whole extent of the problem will not be known until later because some crop types will not show damage until further in the season. Unfortunately, the projected losses these producers may incur as a result of OUST are only compounded by the ongoing drought, high energy costs, and low crop prices.

Mr. CRAPO. I join Senator CRAIG in acknowledging Chairman KOHL's and Senator COCHRAN's hard work on this bill and in expressing my deep concerns for the farmers of southern Idaho.

Senator CRAIG has provided a good background on the issue and the problem. I will only add that while the final impact of the OUST contamination is unknown, we do know many Idaho producers will be affected. With the difficulties agriculture is already facing, high input costs, low product prices, and a shortage of water, the losses due to this contamination could be devastating.

Credible scientific data is being established to measure the extent of the damage. I look forward to working with the administration and my colleagues to address the needs of southern Idaho farmers.

Mr. KOHL. I commend the Senators for their interest in this program. I want to assure the gentlemen that it is the committee's belief that the Secretary of Interior should continue to work closely with the U.S. Department of Agriculture, the Idaho Department of Agriculture, Idaho's agriculture producers, and the Idaho delegation to facilitate the timely flow of information and a coordinated response to this problem.

Mr. COCHRAN. I thank my colleagues from Idaho for bringing this issue to the subcommittee's attention. I look forward to working with them and the chairman on this issue.

CSREES

Mr. DASCHLE. I thank Chairman KOHL and Senator JOHNSON for helping me secure $700,000 through CSREES in this bill for South Dakota State University to continue the planning and development of a bio-based energy and product initiative that will be of major significance to the nation's ability to efficiently produce renewable fuels, as well as to the future viability of rural America and the agriculture community. Senator JOHNSON and I have been working with SDSU to develop a concept called the ''Sun Grant Initiative,'' which would become a national network of land grant universities in partnership with USDA and DOE, dedicated not only to the development of cost-effective biobased energy and nonfood product production, but also to the disbursement of new technology, and integration in rural communities on a scale that fosters economic independence and growth. The $700,000 dedicated for feedstock conversion in this bill will allow us to move forward with this important project.

Mr. JOHNSON. I also thank Chairman KOHL for his help with this project. Agriculture has much to contribute to the nation's energy security, and can make significant contributions to markets for nonfood producers as well. This biobased shift would reduce our reliance on petroleum-based products and provide significant economic opportunities for independent farm families and rural communities. These funds will help make this a reality, and I am hopeful that USDA will release the funds as quickly as possible after enactment of this legislation so the planning of this exciting initiative can continue in a timely manner.

Mr. KOHL. I thank the Senators and look forward to seeing this project develop.

POTATO STUDY

Mr. CRAIG. Mr. President, first I thank Chairman KOHL and Senator COCHRAN for the hard work they have put into the fiscal year 2001 Agriculture, Rural Development, and Related Agencies Appropriations bill. It is a challenging process, and they have done an excellent job balancing competing interests within the confines of a balanced budget.

I wish to engage in a colloquy with the distinguished chairman of the subcommittee regarding the appropriation for the Department of Agriculture's National Agricultural Statistics Service. The committee has provided a $13.3 million increase in the budget for NASS. I would like to clarify with the chairman and ranking member that the increase provides $125,000 to conduct a potato objective yield, size and grade survey.

NASS has developed a plan to conduct a potato size and grade survey for the seven major potato producing States. The intent of the survey is to provide all market participants with comprehensive potato size and grade data. These data are crucial information to both potato growers and buyers in estimating the current potato crop's quality. All involved market parties will use this unbiased information when negotiating sale or purchase contracts of processing potatoes. The National Potato Council, which represents all segments of the potato industry, has identified that these data are imperative to the orderly marketing of the annual potato crop. These data also ensure that no one group uses their market position to distort the true picture of annual crop quality. The size and grade data will complement the annual production data already provided by NASS and supply the necessary information for the orderly marketing of the potato crop.

Mr. KOHL. The Senator has correctly stated the intent of the committee. The size and grade survey will be conducted in the seven major producing States in conjunction with the current potato objective yield survey. The seven states are Idaho, Wisconsin, Maine, Minnesota, North Dakota, Oregon, and Washington. These funds are needed to obtain statistically defensible potato size and grade date, and the sample size. This amount includes equipment, supplies, training, and personnel needs to conduct, analysis, and publish the survey data and add the additional objective yield samples required.

Mr. CRAIG. I thank the chairman for his support on this issue.

FDA FUNDING FOR NEW MEXICO STATE UNIVERSITY'S PHYSICAL SCIENCE LABORATORY

Mr. BINGAMAN. Mr. President, I would like to take this opportunity to thank the chairman of the Agriculture Appropriations Subcommittee, Senator KOHL, for all his fine work on this bill. I know his task has not been an easy one, and he and his staff are to be complimented for the very thoughtful and fair way they have worked to complete this legislation.

I also thank the chairman for including in the bill second-year funding for the Food and Drug Administration to continue its contract with New Mexico State University's Physical Science Laboratory to develop and evaluate rapid screening methods, instruments, and analyses that will facilitate FDA's regulation of imported food products. As I requested, the committee's bill continues funding for PSL's Agriculture Products Food Safety Laboratory at the fiscal year 2001 level of $1.5 million.

I understand FDA and PSL have completed all the necessary agreements and work is already underway. Equipment has been ordered and lab staff is being hired. One of the first tasks will be an independent evaluation of biosensors for microbial contamination to ensure the equipment is accurate and dependable. If the reliability of the new biosensors can be verified they could replace the much slower testing protocols FDA currently uses.

Does the chairman agree that PSL's Agriculture Products Food Safety Laboratory is supporting FDA's efforts to develop quick and safe food inspection systems that can detect filth, microbial contamination, and pesticides on fresh fruits and vegetables and the FDA should continue this work at PSL is fiscal year 2001?

Mr. KOHL. Yes, I agree that PSL is helping support FDA's food safety program, and I was pleased to include second-year funding for PSL from the total sum appropriated to FDA for food safety and other initiatives.

Mr. BINGAMAN. I also call Chairman KOHL's attention to the potential to broaden PSL's efforts, within the existing funding and framework, to include evaluations of technologies and methods for testing agricultural products for microbial contamination as well as contamination from pesticides, chemical and biological agents, evidence of tampering, or possible acts of bioterrorism. In addition to fruits and vegetables, the expanded scope of testing technologies might include other food products as well as illicit or counterfeit products and pharmaceuticals that could present hazards to public health and safety.

I understand FDA is responsible for wide variety of product safety initiatives, including bioterrorism, counterfeit pharmaceuticals, and so forth. I do believe the availability of a testing and verification laboratory, such as PSL's Agriculture Products Food Safety Laboratory, could be of great value in FDA's continuing effort to combat illicit products and health hazards.

Is the chairman aware of these additional capabilities at PSL that could be used by FDA to evaluate a wider variety of testing technologies and does he agree that it would be appropriate for FDA to consider this broader scope of effort at PSL within the funding level already provided in the bill?

Mr. KOHL. I thank the Senator from New Mexico for bringing these additional capabilities at PSL to my attention. I agree that the Commissioner should consider broadening the scope of the effort beyond microbial analyses of imported fruits and vegetables to include other products and contaminants under FDA's purview.

Mr. BINGAMAN, Mr. President, I thank Chairman KOHL for his support of continued funding for PSL's Agriculture Products Food Safety Laboratory and for considering broadening the scope of the laboratory. The House bill does not include second-year funding for the food safely laboratory at New Mexico State, and I look forward to working with the chairman to ensure the Senate's funding level is included in the conference report.

TROPICAL AND SUBTROPICAL AGRICULTURAL RESEARCH

Mr. INOUYE. Will the chairman of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Subcommittee yield?

Mr. KOHL. I yield to the senior Senator from Hawaii.

Mr. INOUYE. I thank the chairman for yielding. As the chairman knows, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Subcommittee has a long history of support for tropical and subtropical agricultural research due to the limited transferability of agricultural research from the temperate zones of the United States. This reasoning has been most evident in congressional support for the establishment of the Pacific Basin Agricultural Research Center.

The Pacific Basin Agricultural Research Center is a welcome addition to the tropical and subtropical agricultural research community in Hawaii and the American Pacific. The increased scientific and technical capacity offered by this center is a significant and vital complement to other institutions in the region. The center's mission of contributing to the region's scientific knowledge base on tropical and subtropical organisms strengthens the foundation for a competitive, diversified agricultural industry in the region.

In addition to construction funds for this center, the success of the center is also contingent upon its ability to recruit and deploy scientists and technicians at a rate consistent with completion of construction, and its ability to work in concert with the agricultural research and technology transfer infrastructure at the University of Hawaii at Hilo and the University of Hawaii at Manoa. For these purposes, $900,000 is needed. Of this total, $600,000 has been provided and I recommend that the additional $300,000 be derived from an internal reallocation of funds provided to the University of Hawaii for two other USDA–ARS projects, Non-toxic Control of Tephritid and Other Insects and Environmental Effects of Tephritid Fruit Fly Control and Eradication. This does not deny the importance of these two latter projects but rather the higher priority of providing operating support to assure the success of the center. With this internal shifting of resources, a total of $900,000 would be available for the United States Pacific Basin Agricultural Research Center, of which $300,000 would be available for the University of Hawaii at Hilo and $300,000 for the University of Hawaii at Manoa for activities complementing the research of the center.

Mr. KOHL. I thank the Senator from Hawaii for his insight and recommendation. I fully concur with his recommendation, because other funds are internally available to ARS to minimize the impact of the recommended internal reallocation of funds.

Mr. COCHRAN. Mr. President, I also with to support the recommendations from the Senator from Hawaii.

Mr. INOUYE. I thank the chairman and my colleague from Mississippi for their support of my recommendation.

SUGAR BEETS

Mr. DAYTON. Mr. President, I rise to engage my neighbor and colleague from Wisconsin, the Chairman of the Subcommittee on Agriculture, Rural Development and Related Agencies, and join my colleague, the senior Senator from Minnesota, in a colloquy on an issue that is vitally important to sugar beet growers in our state.

Last fall, five hundred fifty producers in the Southern Minnesota Beet Sugar Cooperative of Renville, Minnesota, (SMBSC) experienced a freeze of sugar beets. Over the next three months, it became increasingly evident that a large share of the beets would have to be discarded. The result is a catastrophic loss of revenue that has forced these farmers into near bankruptcy.

Tragically, the private insurers of those losses have refused to cover them, and the USDA has refused to provide sufficient funds for relief. We are desperately trying to remedy these two travesties to forestall the cooperative's complete collapse.

Now we are appealing to you and your colleagues on the Agriculture Appropriations Subcommittee as our last possible remedy. We ask that you give these farmers your favorable consideration as you negotiate this bill in conference.

Mr. WELLSTONE. I agree with the statement of my colleague from Minnesota and would like to join him in underscoring the urgency of this funding for the sugar beet growers in Minnesota. As my colleague has recognized the five hundred fifty producer members of the Southern Minnesota Beet Sugar Cooperative in Renville, Minnesota experienced a freeze of sugar beets while still in the ground during the early stage of their annual harvest. The cooperative continued with their harvest, with the goal of extracting as much of the crop's value from the market, while knowing that federally subsidized crop insurance would likely cover losses that which were not harvested.

Unfortunately these growers are now having difficulty claiming due compensation under the Quality Loss Program authorized in last year's Agriculture Appropriations bill. While USDA has offered to settle disaster assistance claims, their offer falls dangerously short, jeopardizing hundreds of family farmers and the local economy. The growers have presented USDA with information to justify a disaster payment of $31 million, but USDA has rejected this argument.

It is now clear that additional assistance from Congress is needed to secure the continued operation of hundreds of family farms in and around Renville, Minnesota. I ask the Chairman, Senator KOHL, if he agrees that additional assistance is necessary, in this Agriculture Appropriations Bill, to ensure the continued viability of the Southern Minnesota Beet Sugar Cooperative and its five hundred fifty member growers?

Mr. KOHL. Mr. President, I thank my colleagues, Senator DAYTON and Senator WELLSTONE. Both of you are strong advocates for farmers, and in particular the sugar beet growers in Minnesota. I am committed to secure a level of assistance that can ensure the survival of the Southern Minnesota Beet Sugar Coop, for another year.

GRAND FORKS AGRICULTURAL RESEARCH SERVICE

Mr. DORGAN. Mr. President, I rise to support the expansion efforts of the Grand Forks Human Nutrition Research Center in Grand Forks, ND. This facility, which is part of the U.S. Department of Agriculture's Agricultural Research Service (ARS), has been a national and international leader in mineral nutrition research for more than 30 years. In 1995, legislative authority was granted to the center to purchase four city lots to expand its operation. Since then, three lots have been acquired and are being used by the facility. The ARS was not able to purchase the fourth lot at the same time because the owner of an adjacent lot was not prepared to sell.

Recently, the owner of the fourth lot decided to sell his property. This is timely, because the Grand Forks Human Nutrition Center recently acquired a mobile research laboratory with funds this bill provided last year to conduct nutritional studies of underserved populations such as Native Americans and the rural elderly. This vehicle needs to be stored in a secure, climate-controlled garage. There is currently no storage facility in Grand Forks appropriate to store this mobile lab, but one could be erected on this adjacent property.

It would take no appropriation of additional funds for the Grand Forks Human Nutrition Center to purchase this lot. The facility merely needs a reprogramming of funds, and as a member of the Agriculture Appropriations Subcommittee, I support this request. It is my understanding that the ARS Area Director, as well as ARS headquarters, support allowing the Grand Forks Human Nutrition Center to spend its funds to purchase this lot. In conference, it is my hope that we can provide direction in the statement of managers allowing this reprogramming to move forward. I would like to solicit the support of the leaders of the subcommittee for this purpose.

Mr. KOHL. I understand the reasons why the Grand Forks Human Nutrition Center wants to purchase this land, and I will work to satisfy the request from the Senator from North Dakota to include a statement of managers in the conference report to allow the reprogramming of funds for this purpose.

Mr. CONRAD. Mr. President, I rise to offer for the record the Budget Committee's official scoring for S. 1191, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for Fiscal Year 2002.

The Senate bill provides $16.137 billion in discretionary budget authority, which will result in new outlays in 2002 of $11.863 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the Senate bill total $16.107 billion in 2002. The Senate bill is within its section 302(b) allocation for budget authority and outlays. In addition, the committee once again has met its target without the use of any emergency designations.

I again commend Chairman BYRD and Senator STEVENS, as well as Senators KOHL and COCHRAN, for their bipartisan effort in moving this and other appropriations bills quickly to make up for the late start in this year's appropriations process. The tragic events of September 11 demand that this bipartisanship continue and that the Congress expeditiously complete work on the 13 regular appropriations bills for 2002.

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

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

S. 1191, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002, SPENDING COMPARISON—SENATE-REPORTED BILL

[In millions of dollars]

	General purpose	Mandatory	Total
Senate-reported bill:			
Budget Authority	16,137	43,112	59,249
Outlays	16,107	33,847	49,954
Senate 302(b) allocation: [1]			
Budget Authority	16,137	43,112	59,249
Outlays	16,107	33,847	49,954
House-passed:			
Budget Authority	15,668	43,112	58,780
Outlays	16,044	33,847	49,891
President's request:			
Budget Authority	15,399	43,112	58,511
Outlays	15,789	33,847	49,636
SENATE-REPORTED BILL COMPARED TO:			
Senate 302(b) allocation: [1]			
Budget Authority	0	0	0
Outlays	0	0	0
House-passed:			
Budget Authority	469	0	469
Outlays	63	0	63
President's request:			
Budget Authority	738	0	738
Outlays	318	0	318

[1] For enforcement purposes, the budget committee compares the Senate-reported bill to the Senate 302(b) allocation.

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

Mrs. CLINTON. Mr. President, recent events have demonstrated that we must reexamine our ability to respond to terrorism—including biological and chemical attacks. One area we must safeguard against such an attack is our food supply, which is woefully underprotected. For instance FDA is so short of inspectors that it currently inspects less than 1 percent of imports. That is why this spring, even before the recent attacks, the Senate passed an amendment that I offered to increase the fiscal year 2002 budget allocation to expand the number of food safety inspectors.

While the House stripped this provision out in conference, the need for such an increase has only become more urgent, not less. That is why I filed this amendment, to add $100 million for food safety inspection.

FDA presently has only about 700 to 800 inspectors to oversee food imports and investigate the 57,000 sites within its jurisdiction across the country. They are so understaffed that they currently are only able to inspect commercial food sites about once every decade on average.

An increase of $100 million for food inspection activities at FDA, factored into the baseline over 5 years, would allow FDA to increase import inspections from less than 1 percent to roughly 20 percent.

I understand that this needed increase in FDA inspection resources is being resolved in other contexts, in the bioterrorism package that is being worked out, or even in the debate about resources available in the stimulus package.

On that understanding, I withdraw my amendment today seeking to add $100 million to FDA's food inspection authorities, and look forward to confirming food safety inspection resources in those other contexts.

Terrorists aim to strike terror among civilians, in their homes, in their everyday lives, and that is why we must protect the security of our dinner tables and our families through increased inspection and greater vigilance.

And since this is the Agriculture appropriations bill, I just want to once again remind my colleagues that agriculture is the number one industry in New York—and we plan to keep it that way.

Our farmers—like so many others around the country—are some of the most dedicated, most decent, most hard-working people in this country. Our farmers are an integral part of our heritage. And they are out there every day, working to put fresh, healthy, and safe food on our tables.

Our farmers are also some of the finest stewards of our natural resources. They help to preserve open space, and they work to properly manage and protect our land and our water.

And our farmers are some of our most innovative, resourceful small business people.

But our farmers need our help—at least I know they do in New York. As I travel around New York, I meet so many farmers who are struggling just to get by, just to make ends meet.

And that is why I want to thank Chairman KOHL, Senator LEVIN, Senator SNOWE, and my other colleagues for working to help provide much needed assistance for our apple growers. I was pleased to hear Chairman KOHL's words earlier today about working this out in conference.

And I hope that I can continue to work with my colleagues to increase assistance for specialty crops and for conservation programs like the Farmland Protection Program.

These conservation programs are important programs not just for our environment, but for our farmers—particularly for those farmers that are underserved by the more traditional payment programs. And these conservation programs are all over-subscribed, meaning there are more farmers that want to participate in these programs than there are resources available to accommodate.

And, or course, we want to assist our dairy farmers by reinstituting the dairy compact.

So, I want to again express my strong support for our Nation's farmers, and reiterate my commitment to ensuring that New York's farmers have the support they need and deserves.

Mr. DOMENICI. Mr. President, I rise in support of the pending Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations bill for fiscal year 2002.

I thank the distinguished Subcommittee Chairman, Senator KOHL, and my good friend and distinguished ranking member, Senator COCHRAN, for including $750,000 in the bill to allow the National Center for Genome Resources in Santa Fe, NM, to proceed to establish a Bioinformatics Institute for Model Plant Species. This program was authorized through an amendment that I sponsored to the Agriculture Risk Protection Act, Public Law 106–224. The final language in Section 227 of that Act authorizes the Secretary of Agriculture, acting through the Agricultural Research Service, to enter into a cooperative agreement with the National Center for Genome Resources in Santa Fe, NM, and university partners to establish and operate the Bioinformatics Institute for Model Plant Species. An amount of $3 million was specifically authorized to establish the Institute, and such sums as may be necessary is authorized for each subsequent fiscal year to carry out the cooperative agreement. The Center is pleased to work with both New Mexico State University and Iowa State University in this bioinformatics initiative.

I strongly urge the Senate conferees to retain this funding in conference with the House. The initial appropriation of $750,000 in the Senate bill will allow the National Center for Genome Resources to build upon its existing programs to create and develop software tools to transfer information and conduct comparative analyses among model plant and crop species. The Center, in establishing the Institute, will develop a bioinformatics infrastructure to improve the accessibility and facilitate the transfer of information on structural and functional genome information from model plants to crop species. The Institute will work with university partners at New Mexico State University and Iowa State University to expand and link existing genomic and genome database research from the Agricultural Research Service allowing researchers to discover, characterize, and manipulate agronomically important genes of major crops, including soybeans, alfalfa, maize, and cotton. As a non-profit entity, the National Center for Genome Resources provides its research to the public domain to improve the productivity and nutritional value of agricultural crops grown in the United States.

I am pleased to work with the Appropriations Committee to advance a project that holds the promise of improving agricultural crop quality, nutrition, and production.

Mr. BYRD. Mr. President, I congratulate Senator KOHL, chairman of the Agriculture Appropriations Subcommittee, and Senator COCHRAN, ranking member, for presenting to the Senate the fiscal year 2002 appropriations bill for Agriculture, Rural Development, the Food and Drug Administration, and Related Agencies.

This bill provides $73.9 billion in new budget authority for both mandatory and discretionary programs under the subcommittee's jurisdiction and is within the 302(b) allocation. This is a good bill and deserves the support of all Senators.

This bill includes programs important to the farming community and to all Americans. This bill supports agriculture research and conservation programs that protect our soil, water, and air resources. This bill also supports rural communities through economic development programs and assistance for basic needs such as housing, electricity, safe drinking water and waste disposal systems.

This bill also provides funding for the Food and Drug Administration which helps protect the safety of our food supply and helps make lower cost medications available to Americans as quickly as possible. In addition, funding in this bill supports many nutrition and public health related programs. These include the Food Stamp, School Lunch, and other nutrition assistance programs such as the Women, Infants, and Children Program—WIC.

This bill provides $2.794 billion for rural development programs. This is an increase of $318 million from the fiscal year 2001 level. Of this amount, slightly more than $1 billion is for the Rural Community Advancement Program, which includes the rural water and waste water loan and grants program, and is an increase of $243 million from last year's level.

This bill also provides funding to support activities that promote animal welfare. At my request, the bill includes increased funding to deal with the problem of animal cruelty. The bill includes $13,767,000 for animal welfare inspectors, an increase of $1,627,000 above last year's level. This bill also includes $8,101,000 for regulatory and enforcement activities in connection with animal welfare investigations, which is an increase of $1,852,000 above last year's level. This increased funding builds on my $3 million initiative that I included in the FY 2001 supplemental to improve the enforcement of the Animal Welfare Act and the enforcement of humane slaughter practices.

Together, these programs, and others in this bill, will work to help meet the expectation of the American people that animals, whether as an integral element of our nation's livestock industry, or in other aspects, will be treated properly and humanely.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, in anticipation of getting this bill done shortly, I want to thank the Senate for cooperating and moving this bill so quickly and efficiently. I especially want to thank Senator COCHRAN. His knowledge of this bill, and its many complicated issues, is unsurpassed. His evenhanded, bipartisan approach to legislating are the key reasons we have such a good product in the Senate Agriculture appropriations bill.

I also want to thank his fine and dedicated staff—Rebecca Davies, Martha Scott Poindexter, and Rachelle Schroder. All of our staff have had to operate in very difficult conditions these last few weeks, but you wouldn't know it from the fine quality of their work. Senators talk often about keeping the work of the Nation going here in the Senate, but it is these dedicated staff people who do the work that makes us look good—even if it means operating out of cardboard boxes and back basement rooms, without computers, telephones, or even windows.

I also want to thank the members of my staff who have worked on this bill: Ben Miller, my agriculture LA, who handles issue as diverse as satellites and sugar beets with the same skill and good humor. Paul Bock, my chief of staff, who is an essential part of anything that goes well in our office. Les Spivey, Jessica Arden, and Dan Daggert, who have labored all year to bring this bill to the floor.

And last, but certainly not least, Galen Fountain, the Agriculture Appropriations clerk. His knowledge and skill are exemplary, even legendary in the Senate. He has done everything in getting this bill together, from working out countless amendments to writing up my comprehensive opening statement. I firmly believe that, without him, we would have no Agriculture appropriations bill.

Mr. President, I again thank the Senate for its help in moving this bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. CARNAHAN). Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that the only amendment in order prior to third reading be the managers' amendment. The managers' amendment will have to be cleared by both managers.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Georgia, Mr. MILLER, is recognized.

Mr. MILLER. Mr. President, I'd like to add my voice to those in Congress who think that we should take action on a farm bill this year.

We need to act now for several reasons. First, the House took action on the farm bill in expeditious fashion and passed it faster than most folks expected. I know many Senators—including this one—were surprised and impressed by Chairman COMBEST's pace in completing his bill.

This quick action led many in the industry to believe that we would have a new farm bill this year that they could plan around. The result in Georgia has been industry reactions detrimental to growers. Georgia peanut shellers, in anticipation of a new program, have make market decisions which could result in record area pool losses, which by law the growers themselves have to cover. A new farm bill could avert this problem.

Our Nation's newly discovered economic woes have been on the farm for some time now. Rural America always feels these pressures much sooner and longer than other segments of society. Commodity prices have not improved, input costs are still sky high and morale among farmers is the lowest I have seen it in my career in public service. Fewer and fewer young people want to take over the family farm and continue this honorable way of life. We all want to stimulate the economy, I have a great place for us to start—on our farms. The stimulus coming from a new farm bill would not only be only felt in tractor, chemical and irrigation sales. It would filter into the local banks, car dealerships, restaurants and department stores. This is why I hope the Administration will get behind the effort to write a farm bill before we adjourn for the year.

Also, I want to act this year because of the budget ramifications. We fought hard during consideration of our current budget resolution to obtain nearly $74 billion extra which is necessary to meet our long term obligations to American farmers. It would also prevent us from having to pass emergency relief bills, as has been the case over the last few years. I am concerned that this money may not be there for us next year. If OMB's reaction to the House bill is any indicator, we have every reason to be worried.

From all indications, we have only a few weeks left in this session and many pressing issues such as appropriations matters and the war on terrorism. But I want to send a clear message to my colleagues—put me in the camp that says let's act now on the farm bill.

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

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

AMENDMENTS NOS. 1988 THROUGH 2016, EN BLOC

Mr. KOHL. I ask unanimous consent the managers' amendment be considered and agreed to, the motion to reconsider be laid upon the table, the bill be read the third time, and the Senate vote on passage of the bill, and, upon passage, the Senate insist on its amendment, requesting a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, with no intervening action or debate.

Mr. BYRD. Madam President, reserving the right to object, has the amendment been sent to the desk?

The PRESIDING OFFICER. The amendment is at the desk.

Mr. BYRD. Has the amendment been read?

The PRESIDING OFFICER. It has not.

Mr. BYRD. Could the clerk state the amendment.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself and Mr. COCHRAN, proposes amendments numbered 1988 through 2016, en bloc.

The amendments are as follows:

AMENDMENT NO. 1988

On page 78, between lines 2 and 3, insert the following:

SEC. . SUGAR MARKETING ASSESSMENT.

Notwithstanding subsection (f) of section 156 of the Agricultural Market Transition Act (7 U.S.C. 7272(f)), any assessment imposed under that subsection for marketings of raw cane sugar or beet sugar for the 2002 fiscal year shall not be required to be remitted to the Commodity Credit Corporation before September 2, 2002.

AMENDMENT NO. 1989

On page 78, after line 2, insert the following new section:

''SEC. . Notwithstanding any other provision of law, the Secretary of Agriculture, acting through the Natural Resources Conservation Service, shall provide financial assistance from available funds from the Emergency Watershed Protection Program in Arkansas, in an amount not to exceed $0.4 million for completion of the current construction phase of the Kuhn Bayou (Point Remove) Project.''

AMENDMENT NO. 1990

(Purpose: To provide funding for rural development)

Strike section 740 and insert the following new section:

''SEC. 740. Notwithstanding any other provision of law, $3,000,000 shall be made available from funds under the rural business and cooperative development programs of the Rural Community Advancement Program for a grant for an integrated ethanol plant, feedlot, and animal waste digestion unit, to the extent matching funds from the Department of Energy are provided if a commitment for such matching funds is made prior to July 1, 2002: Provided, That such funds shall be released to the project after the farmer-owned cooperative equity is in place, and a formally executed commitment from a qualified lender based upon receipt of necessary permits, contract, and other appropriate documentation has been secured by the project.''

AMENDMENT NO. 1991

At the appropriate place in Title VIII, insert the following:

SEC. . (a) TEMPORARY USE OF EXISTING PAYMENTS TO STATES TABLE.—

Notwithstanding section 101(a)(1) of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393; 16 U.S.C. 500 note), for the purpose of making the first fiscal year's payments under section 102 of such Act to eligible States and eligible counties, the full payment amount for each eligible State and eligible county shall be deemed to be equal to the full payment amount calculated for that eligible state or eligible county in the Forest Service document entitled ''P.L. 106–393, Secure Rural Schools and Community Self-Determination Act'', dated July 31, 2001.

(b) REVISION OF TABLE.—For the purpose of making payments under section 102 of such Act to eligible States and eligible counties of subsequent fiscal years, the Secretary of Agriculture shall provide for the revision of the table referred to in subsection (a) to accurately reflect the average of the three highest 25-percent payments and safety net payments made to eligible States for the fiscal years of the eligibility period, as required by section 101(a)(1) of such Act. If the revisions are not completed by the time payments under section 102 of such Act are due to be made for a subsequent fiscal year, the table referred to in subsection (a) shall again be used for the purpose of making the payments for that fiscal year. The Forest Service shall provide the Senate Energy and Natural Resources Committee and the House of Representatives Agriculture Committee with a report on the progress of the correction by March 1, 2002.

(c) ADDITIONAL OPT-OUT OPTION.—Notwithstanding section 102(b)(2) of P.L. 106–393, if the revision of the table referred to in subsection (a) results in a lower full payment amount to a country that has elected under section 102(a)(2) the full payment amount, then that county may revisit their election under section 102(b)(1).

(d) DEFINITIONS.—In this section, the terms ''eligible State'', ''eligible county'', ''eligibility period'', ''25-period payment'', and ''safety net payments'' have the meanings given such terms in sections 3 of such Act.

(e) TREATMENT OF CERTAIN MINERAL LEASING RECEIPTS.—An eligible county that elects under section 102(b) to receive its share of an eligible State's full payment amount shall continue to receive its share of any payments made to that State from a lease for mineral resources issued by the Secretary of Interior under the last paragraph under the heading 'FOREST SERVICE' in the Act of March 4, 1917 (Chapter 179; 16 U.S.C. 520).''

(f) Section 6(b) of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355(b)) is amended by inserting after the first sentence the following new sentence: ''The preceeding sentence shall also apply to any payment to a State derived from a lease for mineral resources issued by the Secretary of the Interior under the last paragraph under the heading 'FOREST SERVICE' in the Act of March 4, 1917 (Chapter 179; 16 U.S.C. 520).''

AMENDMENT NO. 1992

(Purpose: To amend the definition of income in the Housing Act of 1949)

At the appropriate place, insert the following:

SEC. . ALASKA PERMANENT FUND.

Section 501(b) of the Housing Act of 1949 (42 U.S.C. 1471) is amended in paragraph (5)—

(1) by striking ''(5)'' and inserting ''(5)(A)''; and

(2) by adding at the end the following:

''(B) For purposes of this title, for fiscal years 2002 and 2003 the term ''income does not include dividends received from the Alaska Permanent Fund by a person who was

under the age of 18 years when that person qualified for the dividend.''.

AMENDMENT NO. 1993

(Purpose: To support funding for 1890 land-grant institutions)

On page 13, line 18, strike beginning with ''$32,604,000'' all down through and including ''West Virginia'' on line 20 and insert in lieu thereof ''$34,604,000, of which $1,507,496 shall be made available only for the purpose of ensuring that each institution shall receive no less than $1,000,000''.

On page 13, line 24, strike ''$137,000,000'' and insert ''$135,492,000''.

On page 17, line 13, strike beginning with ''$28,181,000'' all down through and including ''West Virginia'' on line 15 and insert in lieu thereof ''$31,181,000, of which $1,724,884 shall be made available only for the purpose of ensuring that each institution shall receive no less than $1,000,000''.

On page 17, line 22, strike ''$15,021,000'' and insert ''$11,529,000''.

AMENDMENT NO. 1994

(Purpose: To provide funding for the National 4–H Program Centennial Initiative)

On page 16, line 11 strike ''$275,940,000'' and insert in lieu thereof the following: ''$275,940,000, of which $3,600,000 may be used to carry out Public Law 107–19''.

AMENDMENT NO. 1995

On page 40, line 19, insert the following: '': *Provided further*, That of the funds appropriated by this Act to the Rural Community Advancement Program for guaranteed business and industry loans, funds may be transferred to direct business and industry loans as deemed necessary by the Secretary and with prior approval of the Committee on Appropriations of both Houses of Congress.''

AMENDMENT NO. 1996

(Purpose: To increase reserves of the Food Stamps Program)

On page 52, line 17, strike ''$21,091,986,000'' and insert in lieu thereof ''$22,991,986,000''.

On page 52, line 18, strike ''$100,000,000'' and insert in lieu thereof ''$2,000,000,000''.

AMENDMENT NO. 1997

(Purpose: To strike a limitation relating to the Kyoto Protocol)

Strike section 727 and renumber subsequent sections as appropriate.

AMENDMENT NO. 1998

(Purpose: To make West Virginia State College at Institute, West Virginia, an 1890 Institution)

On page 78, after line 2, insert the following:

SEC. . Hereafter, any provision of any Act of Congress relating to colleges and universities eligible to receive funds under the Act of August 30, 1890, including Tuskegee University, shall apply to West Virginia State College at Institute, West Virginia: *Provided*, That the Secretary may waive the matching funds' requirement under section 1449 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d) for fiscal year 2002 for West Virginia State College if the Secretary determines the State of West Virginia will be unlikely to satisfy the matching requirement.

AMENDMENT NO. 1999

(Purpose: To authorize a Natural Resources Conservation Service watershed project)

On page 78, line 3, insert the following:

SEC. . Notwithstanding any other provision of law, the Secretary, acting through the Natural Resources Conservation Service, shall provide financial and technical assistance to the Tanana River bordering the Big Delta State Historical Park.

AMENDMENT NO. 2000

(Purpose: To restrict the importation of certain fish and fish products)

On page 78, after line 2, insert the following:

SEC. . None of the funds appropriated or otherwise made available by this Act to the Food and Drug Administration shall be used to allow admission of fish or fish products labeled wholly or in part as ''catfish'' unless the products are taxonomically from the family Ictaluridae.

AMENDMENT NO. 2001

At the appropriate place, insert:

SEC. . The Secretary of Agriculture is authorized to accept any unused funds transferred to the Alaska Railroad Corporation for avalanche control and retransfer up to $499,000 of such funds as a direct lump sum payment to the City of Valdez to construct an avalanche control wall to protect a public school.

AMENDMENT NO. 2002

At the appropriate place in the bill, insert the following:

SEC. . Of funds previously appropriated to the Bureau of Land Management under the heading 'Wildland Fire Management,' up to $5,000,000 is transferred to the Department of Agriculture, Farm Service Agency, for reimbursement for crop damage resulting from the Bureau's use of herbicides in the State of Idaho. Provided, that nothing in this section shall be construed to constitute an admission of liability in any subsequent litigation with respect to the Bureau's use of such herbicides.

AMENDMENT NO. 2003

(Purpose: To clarify that emerging vegetation in water may be enrolled in the pilot program for enrollment of wetland and buffer acreage in the conservation reserve)

At the appropriate place, insert the following:

SEC. . PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.

(a) IN GENERAL.—Section 1231(h)(4)(B) of the Food Security Act of 1985 (16 U.S.C. 3831(h)(4)(B)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

(b) CONFORMING AMENDMENT.—Section 1232(a)(4) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(4)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

AMENDMENT NO. 2004

(Purpose: To provide assistance for certain specialty crops)

At the appropriate place, insert the following:

SEC. ___. SPECIALTY CROPS.

(a) GRADING OF PRICE-SUPPORT TOBACCO.—

(1) IN GENERAL.—Not later than March 31, 2002, the Secretary of Agriculture (referred to in this section as the ''Secretary'') shall conduct a referendum among producers of each kind of tobacco that is eligible for price support under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) to determine whether the producers favor the mandatory grading of the tobacco by the Secretary.

(2) MANDATORY GRADING.—If the Secretary determines that mandatory grading of each kind of tobacco described in paragraph (1) is favored by a majority of the producers voting in the referendum, effective for the 2002 and subsequent marketing years, the Secretary shall ensure that all kinds of the tobacco are graded at the time of sale.

(3) JUDICIAL REVIEW.—A determination by the Secretary under this subsection shall not be subject to judicial review.

(b) QUOTA REDUCTION FOR CONSERVATION RESERVE ACREAGE.—

(1) IN GENERAL.—Section 1236 of the Food Security Act of 1985 (16 U.S.C. 3836) is amended—

(A) by striking subsection (a);

(B) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively;

(C) in subsection (b) (as so redesignated), by striking ''subsection (b)'' and inserting ''subsection (a)''; and

(D) in subsection (c) (as so redesignated), by striking ''subsection (c)'' and inserting ''subsection (b)''.

(2) CONFORMING AMENDMENT.—Section 1232(a)(5) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(5)) is amended by striking ''section 1236(d)'' and inserting ''section 1236(c)''.

(3) APPLICATION.—The amendments made by this subsection shall apply beginning with the 2002 crop.

(c) HORSE BREEDER LOANS.—

(1) DEFINITION OF HORSE BREEDER.—In this subsection, the term ''horse breeder'' means a person that, as of the date of enactment of this Act, derives more than 70 percent of the income of the person from the business of breeding, boarding, raising, training, or selling horses, during the shorter of—

(A) the 5-year period ending on January 1, 2001; or

(B) the period the person has been engaged in such business.

(2) LOAN AUTHORIZATION.—The Secretary shall make loans to eligible horse breeders to assist the horse breeders for losses suffered as a result of mare reproductive loss syndrome.

(3) ELIGIBILITY.—A horse breeder shall be eligible for a loan under this subsection if the Secretary determines that, as a result of mare reproductive loss syndrome—

(A) during the period beginning January 1 and ending October 1 of any of calendar years 2000, 2001, or 2002—

(i) 30 percent or more of the mares owned by the horse breeder failed to conceive, miscarried, aborted, or otherwise failed to produce a live healthy foal; or

(ii) 30 percent or more of the mares boarded on a farm owned, operated, or leased by the horse breeder failed to conceive, miscarried, aborted, or otherwise failed to produce a live healthy foal;

(B) the horse breeder is unable to meet the financial obligations, or pay the ordinary and necessary expenses, of the horse breeder incurred in connection with breeding, boarding, raising, training, or selling horses; and

(C) the horse breeder is not able to obtain sufficient credit elsewhere, in accordance with subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

(4) AMOUNT.—

(A) IN GENERAL.—Subject to subparagraph (B), the amount of a loan made to a horse breeder under this subsection shall be determined by the Secretary on the basis of the amount of losses suffered by the horse breeder, and the financial needs of the horse breeder, as a result of mare reproductive loss syndrome.

(B) MAXIMUM AMOUNT.—The amount of a loan made to a horse breeder under this subsection shall not exceed the maximum amount of an emergency loan under section

324(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(a)).

(5) TERM.—

(A) IN GENERAL.—Subject to subparagraph (B), the term for repayment of a loan made to a horse breeder under this subsection shall be determined by the Secretary based on the ability of the horse breeder to repay the loan.

(B) MAXIMUM TERM.—The term of a loan made to a horse breeder under this subsection shall not exceed 20 years.

(6) INTEREST RATE.—The interest rate for a loan made to a horse breeder under this subsection shall be the interest rate for emergency loans prescribed under section 324(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(b)(1)).

(7) SECURITY.—A loan to a horse breeder under this subsection shall be made on the security required for emergency loans under section 324(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(d)).

(8) APPLICATION.—To be eligible to obtain a loan under this subsection, a horse breeder shall submit an application for the loan to the Secretary not later than September 30, 2002.

(9) FUNDING.—The Secretary shall carry out this subsection using funds made available to make emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

(10) TERMINATION.—The authority provided by this subsection to make a loan terminates effective September 30, 2003.

AMENDMENT NO. 2005

(Purpose: To improve crop insurance coverage for sweet potatoes during fiscal year 2002)

On page 78, between lines 2 and 3, insert the following:

SEC. 7 . SWEET POTATO CROP INSURANCE.

During fiscal year 2002, subsection (a)(2) of section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) shall be applied as though the term ''and potatoes'' read as follows: '', potatoes, and sweet potatoes''.

AMENDMENT NO. 2006

(Purpose: To provide funds for repairs to the Beltsville Agricultural Research Center in the State of Maryland)

At the appropriate place in title VII, insert the following:

SEC. 7 . BELTSVILLE AGRICULTURAL RESEARCH CENTER, MARYLAND.

Within 30 days of the date of enactment of this Act, the Secretary of Agriculture shall submit a reprogramming request to the House and Senate Appropriations Committees to address the $21.7 million in tornado damages incurred at the Henry A. Wallace Beltsville Agricultural Research Center.

AMENDMENT NO. 2007

At the appropriate place in title VII, insert the following:

SEC. . CITRUS CANKER ERADICATION.

(a) IN GENERAL.—Section 810 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549A–52) is amended—

(1) in subsection (a) by striking ''The'' and inserting ''Subject to subsection (e), the''; and

(2) in subsection (e), by striking ''2001'' and inserting ''2002''.

(b) EFFECTIVE DATE.—The amendments in subsection (a) shall take effect as if enacted on September 30, 2001.

AMENDMENT NO. 2008

At the appropriate place, insert:

SEC. . From the amount appropriated to the Animal and Plant Health Inspection Service, $300,000 shall be provided to monitor and prevent Mare Reproductive Loss Syndrome in cooperation with the University of Kentucky.

AMENDMENT NO. 2009

Amend section 306(a)(20) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(20)) is amended by adding at the end the following new subparagraph:

''(D) RURAL BROADBAND.—The Secretary may make grants to regulatory commissions in states with communities without dial-up internet access to establish a competitively neutral grant program to telecommunications carriers that establish facilities and services which, in the commission's determination, will result in the long-term availability to rural communities in such state of affordable broadband telecommunications services which can be used for the provision of high speed internet access.''.

AMENDMENT NO. 2010

On page 52, line 24 after the comma, strike ''not to'' and all through page 53, line 2 up to the colon and insert the following: ''not to exceed $3,000,000 shall be used to purchase bison meat for the FDPIR from producer owned cooperative organizations''.

AMENDMENT NO. 2011

On page 10, line 24, strike ''$1,004,738,000'' and insert ''$999,438,000''.

On page 32, line 21, strike ''$802,454,000'' and insert ''$807,454,000''.

On page 33, line 20, after ''(16 U.S.C. 590e–2)'' insert '': *Provided further,* That $5,000,000 shall be available to carry out a pilot program in cooperation with the Department of Interior Fish and Wildlife Service to determine migratory bird harvest, including population monitoring, harvest information, and field operations''.

AMENDMENT NO. 2012

(Purpose: To provide funding for the purchase of conservation easements in the State of Kentucky)

On page 78, line 3, insert the following:

''SEC. . Of the funds made available to the Conservation Reserve Enhancement Program for the State of Kentucky, $490,000, and of the funds made available for competitive research grants, $230,000, shall be made available to purchase conservation easements or other interests in land to not exceed 235 acres in Adair, Green and Taylor counties, Kentucky in accordance with the Farmland Protection Program.''

On page 13, line 24, strike ''$137,000,000'' and insert in lieu thereof, ''$136,770,000''.

AMENDMENT NO. 2013

(Purpose: To enhance FDA enforcement of the Dietary Supplement Health and Education Act of 1994)

Amend page 57, line 7, by increasing the sum by $1 million; and

Amend page 57, line 18, by increasing the sum by $1 million.

Amend page 60, line 22, by adding the following after the word ''offices:'': *Provided further:* $1 million to the Center for Food Safety and Nutrition to enhance enforcement of requirements under the Dietary Supplement Health and Education Act of 1994 related to the accuracy of product labeling, and the truthfulness and substantiation of claims.

Amend page 30 line 4: reduce the figure by $1 million.

AMENDMENT NO. 2014

(Purpose: To set aside funding for a generic drug public education campaign)

On page 59, line 25, after the semicolon, insert ''and of which not less than $500,000 shall be available for a generic drug public education campaign;''.

AMENDMENT NO. 2015

(Purpose: To provide a grant to Oklahoma State University to develop chemical and biological sensors, including food safety sensors)

On page 13, line 21, of which $500,000 should be for a grant for Oklahoma State University and its industrial partners to develop chemical and biological sensors, including chemical food safety sensors based on microoptoelectronic devices and techniques (such as laser diode absorption and cavity-ring-down spectroscopy with active laser illumination);''.

On page 13, line 24, decrease the amount by $500,000.

AMENDMENT NO. 2016

On page 13, line 24, decrease the amount by the amount by $500,000.

On page 13, line 21, increase the amount by $500,000 and insert ''of which $500,000 is for the Environmental Biotechnology initiative at the University of Rhode Island''.

AMENDMENT NO. 1999

Mr. COCHRAN. Mr. President, the catfish industry in the United States is being victimized by a fish product from Vietnam that is labeled as farm-raised catfish. Since 1997, the volume of Vietnamese frozen fish filets has increased from 500,000 pounds to over 7 million pounds per year.

U.S. Catfish farm production, which is located primarily in Mississippi, Arkansas, Alabama, and Louisiana, accounts for 50 percent of the total value of all U.S. aquaculture production. Catfish farmers in the Mississippi Delta region have spent $50 million to establish a market for North American Catfish.

The Vietnamese fish industry is penetrating the United States fish market by labeling fish products to create the impression they are farm-raised catfish. The Vietnamese ''Basa'' fish that are being imported from Vietnam are grown in cages along the Mekong River Delta. Unlike other imported fish, Basa fish are imported as an intended substitute for U.S. farm-raised catfish, and in some instances, their product packaging imitates U.S brands and logos. this false labeling of Vietnamese Basa fish is misleading American consumers at supermarkets and restaurants.

According to a taxonomy analysis from the National Warmwater Aquaculture Center, the Vietnamese Basa fish is not even of the same family or species as the North American Channel Catfish.

This amendment will prevent the Food and Drug Administration from allowing admission of fish or fish products not taxonomically in the same family as North American farm-raised catfish. U.S. catfish farmers have invested millions of dollars to develop a market for the North American catfish. This amendment will help ensure that fish products are properly identified so that consumers are not deceived by the improper labeling.

Mr. SARBANES. Mr. President, I rise today to support an amendment to the fiscal 2002 Agriculture Appropriations bill to address the emergency needs of the Henry A. Wallace Beltsville Agricultural Research Center (BARC) and ensure that the critical work done at this world-renowned facility can carry on without delay.

In the early evening of September 24, BARC, the United States Department of Agriculture's flagship research center, was severely impacted by a tornado which had just ripped through the University of Maryland College Park, killing two students and contributing to the death of a volunteer firefighter. While thankfully none of the 500 employees working on BARC's stricken western campus were injured, the facility itself sustained significant damage.

All 90 of BARC's greenhouses, housing innovative and important research were damaged, with 40,000 square feet of greenhouse space being totally destroyed and another 90,000 square feet receiving severe to moderate damage. Each of the 15 major buildings on BARC's West-campus suffered roof damage and many of these lost their windows, leading to rain damage in laboratories and offices. In addition, scientists lost over $3 million in equipment and reagents. In fact, in one newly renovated building, hazardous chemical spills precluded security windows against the rain or the use of emergency generators to run freezers, exacerbating the loss of experimental materials. As a result, critical research projects were set back from six months to as much as three years.

On Monday, I toured the facility with BARC Director Dr. Phyllis Johnson to see the tornado's damage firsthand. Nearly a month after this disaster, the impact of the storm is still terribly evident.

My amendment directs the Secretary of Agriculture, within 30 days after the date of enactment of this Act, to submit a reprogramming request to address the $21.7 million in damages at BARC. The majority of this funding, $12,250,000, will be used for greenhouse replacement and repair. The remaining funds will contribute to a variety of infrastructure needs, including roof repair, electrical and mechanical systems repair, and replacement of critical lab equipment and reagents. This funding is essential to allowing the scientists and researchers at BARC to continue to carry on BARC's mission of conducting research to develop and transfer solutions to agricultural problems of high national priority, including ensuring high-quality, safe food, sustaining a competitive agricultural economy, and providing economic opportunities for rural citizens, communities, and society as a whole. In my view, it is critical that the staff at BARC have the tools and facilities to be able to continue this vital mission, one that benefits all Americans.

I urge my colleagues to join me in supporting this measure.

AMENDMENT NO. 2013

Mr. HARKIN. Mr. President, I rise to urge my colleagues' support for the amendment that Senator HATCH and I are offering today.

The Harkin-Hatch amendment provides $1 million to Center for Food Services and Applied Nutrition at the Food and Drug Administration to enhance enforcement of requirements under the Dietary Supplement Health and Education Act related to the accuracy of product labeling and the truthfulness and substantiation of claims.

This is an area of extreme importance to American consumers, literally millions of whom regularly take dietary supplements to maintain their health.

I was extremely proud to author the Dietary Supplement Health and Education Act with Senator HATCH back in 1994. I think this law has helped consumers reap the tremendous benefits of safe dietary supplements that are doing to much so improve public health.

When we passed DSHEA unanimously, we noted that improving the health status of American citizens ranked at the top of the government's national priorities. Never was that statement more true.

Over the past decade, the importance of nutrition and the benefits of dietary supplements to health promotion and disease prevention have been documented increasingly in scientific studies.

And, we should not forget that healthy lifestyles, including proper nutrition, can mitigate the need for expensive medical procedures.

Almost daily, we are seeing exciting new reports about the health benefits that dietary supplements offer our citizens.

For example, a recent study showed that the specific combination of vitamins C, E, and beta-carotene, and the minerals zinc and copper, can slow age-related macular degeneration, an eye disease that afflicts some eight million Americans and is a leading cause of visual impairment, blindness, and loss of independence in those over age 65.

According to the Alliance for Aging Research, the U.S. currently spends more than $26 billion annually in additional health care costs for people over age 65 who lose their ability to live independently. Obviously, slowing this loss of independence due to blindness for even one year not only dramatically improves quality of life for the aging population, but it can save the Federal government potentially billions of dollars.

Mr. HATCH. Will the Senator yield?

Mr. President, I rise in strong support of this amendment as well, and just wanted to follow up with a few comments on what Senator HARKIN has just said.

Seven years ago, my colleague from Iowa and I joined with then-Representative Bill Richardson to enact this law, the Dietary Supplement Health and Education Act, that set up a rational, consumer-friendly framework for the regulation of dietary supplements. Our colleague from Nevada, Senator REID, joined us in this effort as the original cosponsor of our bill.

Since that time, dietary supplements are being integrated more and more into mainstream medicine, a fact of which I am proud.

By any measure, a majority of Americans regularly rely on dietary supplements to enhance and maintain their healthy lifestyles. A study by Prevention Magazine last year found that approximately 151 million consumers currently take dietary supplement products. A study this year found that the most common reason consumers use these vitamins, minerals, herbs and amino acids is for overall health and general well-being.

I am aware that an April, 2001, study from the Journal of Clinical Endocrinology and Metabolism demonstrated that vitamin D and calcium supplementation plays an important role in reducing systolic blood pressure and maintaining thyroid hormone levels.

In addition, a January, 2001 Lancet article showed that patients with knee osteo-arthritis who took glucosamine supplements reduced painful and often disabling symptoms.

Not only are dietary supplements an essential component of a healthy lifestyle, I believe, but they represent a vital industry in our country as well. In my home state of Utah, the dietary supplement industry has grown to an estimated $2 billion in annual sales; and one estimate I have seen places the national level at $12 billion.

I thank the Senator for allowing me to add those compelling facts.

We have become increasingly alarmed over reports that unsafe or mislabeled dietary supplement products are being marketed.

We have also been concerned about the increasing use of so-called ''performance-enhancing products'' by our youth. Many of these products are being marketed as dietary supplements, although it is not clear they fall within the legal definition of dietary supplement.

I think the Aging Committee, under the very capable leadership of Senators JOHN BREAUX and LARRY CRAIG, did us all a great service in pointing up some of the areas where we need improvement.

Mr. HARKIN. There is no question that there are some problems here, but I believe the majority of dietary supplements are upstanding products that are safe and accurately labeled. What we hope to convince our colleagues, though, is that problems in the marketplace are largely a failure of enforcement, and not of the law.

I want to make clear to our colleagues that the bill we passed unanimously in both houses—seven years ago—and I might add that the Senate passed it unanimously, not once, but twice contains all the tools the government needs to address these concerns, as we will outline.

But just don't take my word for it. The Commissioner of Food and Drugs in the Clinton Administration—Jane Henney, a physician who we all respect a great deal—has assured the Congress on more than one occasion that she believed the law provided her with adequate authority to act against unsafe or mislabeled products. Commissioner Henney assured me both publicly and privately that she was confident the law is sufficient to allow the FDA to act against any bad actors in the dietary supplement marketplace. It might be beneficial for us to review some of the authorities that the FDA has.

First, the law allows the Food and Drug Administration to deem any dietary supplement product adulterated if the label fails to list any of the ingredients contained within and the quantities of those ingredients. This provision is contained within section 403(s)(1) and (2) of the Federal Food, Drug and Cosmetic Act.

If a product is adulterated, it cannot be legally sold. So, a mislabeled dietary supplement product is, quite simply, illegal.

Mr. HATCH. Let me add one point. Many of us were disturbed over reports that Olympic athletes or prospective Olympic athletes became disqualified after they took ''banned substances'' which were alleged to have been dietary supplements that contained substances not listed on the bottle.

I have no way of verifying those reports. What I can say is this. The International Olympic Committee sets the rules for what products may be taken by athletes. This is not a matter of U.S. law. If the IOC wanted to ban orange juice, it is perfectly within its rights.

But, obviously, athletes—as with all consumers—should be able to rest assured that they know what they are ingesting.

I was dismayed to read last week that the I.O.C. warned athletes to avoid dietary supplements because of what it called ''lax quality control and labeling.'' This is a situation that should not be occurring, and our amendment today will help rectify that situation.

The law is not inadequate in this area. It provides consumers with the assurance that they will know what they are buying. As the Senator from Iowa just said, amendments to U.S. law made by DSHEA make explicit that dietary supplement containers must be labeled accurately as to their contents.

The principal way that the FDA enforces this provision is through its Good Manufacturing Practice standards, or ''GMPs,'' which FDA inspectors use to make certain that manufacturing plants adhere to rigid guidelines for safe and sanitary processing of foods, including dietary supplements.

Mr. HARKIN. Let me follow up on that. The second tool DSHEA provided to FDA is the authority to promulgate new GMPs specifically for dietary supplements. Those regulations have been in development for the past several years, a source of great frustration to me and the Senator from Utah as well.

We have written, called, and implored the Office of Management and Budget and the Department of Health and Human Services to release these regulations, which we understand have been ready in near-final form for almost a year.

It is past time those regulations were issued.

Mr. HATCH. I want to add my strong concern about this as well. I don't know what else we can do to free up these regulations. They are an essential consumer protection of the law and they should be allowed to go into effect.

Another concern we have heard is that there are products on the market that are making false or misleading claims. That could be true for any product regulated by the FDA, be it a drug, a cosmetic, a food, or a medical device.

In fact, I recall vividly the 1993 hearing that the Labor and Human Resources Committee held on dietary supplements. Then-Commissioner David Kessler came up and testified for the FDA. He spread out a table-full of products he believed made non-truthful claims. The reason I remember this so well was that I was so angry the Commissioner had brought this ''show and tell'' display to the Congress rather than take action against the products.

The question I asked him then remains operative today. If the FDA thinks there are products on the market that are inaccurately labeled, then why doesn't it remove them from the market?

Mr. HARKIN. So that there was absolutely no question about the FDA's authority in this area, during the debate on DSHEA we made clear that the FDA maintained its ability to act against false and misleading claims under section 343(a)(1) of the Federal Food, Drug and Cosmetic Act. This is the third important tool FDA maintains to assure consumers that they are taking safe and accurately labeled dietary supplement products.

I worked very hard to make certain that we provided the FDA with adequate authority in this area, but that we did not open up the opportunity for the agency to twist and torture the law as they had done in years past.

Mr. HATCH. Another concern related to the accuracy of claims is that of the manufacturer's ability to substantiate the claims made. Health claims made with respect to a product's ability to treat, mitigate or cure disease must be pre-approved by the FDA under a ''significant scientific agreement'' standard mandated by the Nutrition Labeling and Education Act (NLEA).

Claims not subject to this preapproval, that is, claims which describe the product's effect on the structure or function of the body, must be substantiated under the fourth tool we provided the FDA in DSHEA. Under section 343(r)(6)(B) of the FFD&CA, manufacturers must be able to substantiate the accuracy of their claims made. That is an important consumer protection.

Mr. HARKIN. It is amazing to me, and a complete indication of how little-enforced DSHEA is, that the FDA has apparently never invoked this section of the law. We hope to correct that deficiency with our amendment today.

Mr. HATCH. I mention another important consumer protection included in the law. Questions have also been raised about the safety of supplements in the marketplace. In DSHEA, we added a fifth tool to FDA's arsenal—section 402(f)(1)(A), which deems that a dietary supplement is adulterated if it presents a significant or unreasonable risk of illness or injury under the conditions of use recommended or suggested in labeling. If no conditions of use are suggested or recommended in the labeling, then the FDA could act against a supplement that presented a significant or unreasonable risk of illness or injury under ordinary conditions or use.

This safety standard was carefully developed in close consultation with Senator KENNEDY and Congressmen JOHN DINGELL and HENRY WAXMAN, all of whom worked with us to assure we had the strongest possible measure.

Mr. HARKIN. If I could just amplify on that. To address any lingering concerns our colleagues might have that the FDA did not have adequate authority to act against an unsafe supplement, we provided an additional sixth tool to the Secretary of Health and Human Services. We gave the Secretary emergency authority to act against any supplement he believes poses an ''imminent hazard'' to public health.

Mr. HATCH. Indeed. That authority, contained within section 402(f)(1)(C) of the FFD&CA, allows the Secretary to act immediately, no questions asked, to remove a product from the market if he believes there is a safety problem. Similar emergency authority is contained within the drug law.

I must take this opportunity to reject the many press accounts, which have so irresponsibly and inaccurately alleged that the Dietary Supplement Health and Education Act ''deregulated'' dietary supplements, or falsely stated that ''FDA's hands were tied'' by our Act. Nothing is further from the truth, as we have just explained in outlining all the authorities provided to FDA to make certain dietary supplements are safe and accurately labeled.

Mr. HARKIN. I am in complete agreement. It astounds me that we could add so many new authorities to the law and have it called ''deregulation.'' I am affronted by any suggestion that the majority of both bodies of Congress could have endangered the public health in a way these news reports have falsely claimed. That simply was not the case, and I hope whomever is planting all these inaccuracies will stop.

Mr. HATCH. So, with all of these tools in FDA's arsenal, legitimate questions have been raised about why unsafe or mislabeled products are being sold. Indeed, many of us are asking, ''What is the problem? Why are these products still on the market?''

Mr. HARKIN. Implementation of this Act has not been a top priority of the Food and Drug Administration.

Mr. HATCH. I did a little research on this, and I found some information which may be of interest to my colleague, since he is the very capable chair of the Labor-HHS Subcommittee.

It might interest my colleagues to learn that the FDA, the government's most important consumer protection agency since it regulates over one-quarter of each dollar in goods sold, is severely at a disadvantage when its funding is compared to its sister public health agencies.

For the past three fiscal years, the FDA's appropriation has grown an average of 6.9 percent.

By comparison, the Centers for Disease Control's appropriation has grown an average of 12.5 percent; in fact, it grew 15.5 percent between fiscal year 2000 and fiscal year 2001.

The National Institutes of Health's budget has grown an average of 14.5 percent.

Mr. HARKIN. I am aware of this, and this is a situation we must work to rectify. Despite the best efforts of those of us who serve on the Appropriations Committee, the FDA is not getting the budget it deserves.

In fact, Senator HATCH and I had hoped to use our amendment as a vehicle for adding funds to the FDA's budget, but we were reluctant to divert funds from the many agriculture programs funded within this bill.

For that reason, we are offering this amendment today, in the hopes that it will focus FDA's efforts on better enforcement of the law.

Mr. HATCH. It is our hope that the House-Senate conferees may be able to work to add funds for dietary supplement enforcement, so that other programs of the FDA are not penalized through addition of our language.

Mr. HARKIN. That is correct.

Mr. President, so what our amendment does today is help the FDA make enforcement of DSHEA a top priority.

I want to emphasize as Senator HATCH did that the vast majority of dietary supplements are marketed safely and legally, by manufacturers who care deeply about the public and its health. However, for the few bad actors who are giving industry a bad name, who are taking advantage of a trusting public, I say ''it is time to get tough.''

In so doing, we admonish the agency not to wield the heavy hand it did for over three decades, the over-bearing attitude which led Congress to pass DSHEA so overwhelmingly in the first place.

Mr. HATCH. There is a reason that over two-thirds of both the House and Senate cosponsored our legislation, and that reason is quite simple:

Many of us recall FDA's efforts to classify vitamins as over-the-counter drugs if they exceeded 150 percent of the Recommended Daily Allowance, an effort which would have rendered 200 milligrams of vitamin C a drug. Congress rejected that with the Proxmire amendment in 1976.

More recently, many of us recall FDA's efforts to ban the supplement black currant oil by saying it was an unsafe food additive. The FDA's logic was that the black current oil was added to a food—the gelatin capsule in which it was contained. The Seventh Circuit rejected this logic, terming the FDA's scheme ''Alice in Wonderland.'' The First Circuit also described FDA's approach as ''nonsensical.''

It was nonsensical, and we are all grateful that wiser heads have prevailed since.

So, let me make clear that the intent of our amendment is not to forearm the FDA so it can embark on another of these fairy-tale journeys, but rather to help it take enforcement actions against those who are clearly violative of three aspects of the law: whether products are accurately labeled; whether claims are truthful and non-misleading; and whether claims are substantiated.

Mr. HARKIN. It is our hope that the funding provided in our amendment will allow the FDA to devote additional staff to this effort. In so doing, we will be making great strides toward assuring Americans—be they farmers in Iowa, athletes in Utah, stay-at-home moms throughout the U.S., or even members of Congress—that the dietary supplement products they take are safe and accurately labeled.

Mr. HATCH. The FDA simply has to get serious about enforcing this law. We cannot allow the very few products of poor quality to cast a negative shadow over the rest of the industry, which is so law-abiding.

Before I yield the floor, I want to recognize the great efforts of my partner in this endeavor—Senator HARKIN. I am appreciative of his hard work here, and the fact that we can count on him for non-partisan leadership on behalf of both his constituents and the American consumers.

Mr. HARKIN. I am appreciative of the Senator from Utah's efforts as well. It is no secret here that he is the world's number one proponent of dietary supplements. He has done an effective job of helping promote the public health through safe dietary supplements and I am pleased we have joined together today in this amendment.

Mr. REID. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Madam President, did the unanimous consent agreement adopt the managers' amendment?

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object, does anybody here know what is in the managers' amendment? Could we have at least a brief summary from the managers as to what is in the managers' amendment? How many amendments are there? How many?

Mr. KOHL. Do you want me to read off several?

Mr. MCCAIN. How many are there?

Mr. KOHL. There are about 35.

Mr. REID. Has the managers' amendment been agreed to yet?

The PRESIDING OFFICER. It has not.

Mr. REID. I ask unanimous consent that be agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object, and I will not object, but we should not be proud of this way of doing business, my friends. Thirty-five amendments that nobody has seen, except the two managers, that I know of; maybe someone else has, but I seriously doubt it. Thirty-five amendments. No Member has seen them. They may be technical in nature; they may be very substantive in nature.

I tell my colleagues, I will not agree to this again. We have several more appropriations bills. I will not agree to this again without at least knowing what the amendments are.

I remove my objection.

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

The amendments (Nos. 1988 through 2016) were agreed to en bloc.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), is necessarily absent.

Mr. NICKLES. I announce that the Senator from Kentucky (Mr. BUNNING), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mrs. HUTCHISON) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote ''yea.''

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

The result was announced—yeas 91, nays 5, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—91

Akaka	Bennett	Brownback
Allard	Biden	Burns
Allen	Bingaman	Byrd
Baucus	Bond	Campbell
Bayh	Breaux	Cantwell

Carnahan	Grassley	Nelson (FL)
Carper	Hagel	Nelson (NE)
Chafee	Harkin	Nickles
Cleland	Hatch	Reed
Clinton	Helms	Reid
Cochran	Hollings	Roberts
Collins	Hutchinson	Rockefeller
Conrad	Inhofe	Santorum
Corzine	Inouye	Sarbanes
Craig	Jeffords	Schumer
Crapo	Johnson	Sessions
Daschle	Kennedy	Shelby
Dayton	Kerry	Smith (NH)
DeWine	Kohl	Smith (OR)
Dodd	Landrieu	Snowe
Domenici	Leahy	Specter
Dorgan	Levin	Stabenow
Durbin	Lieberman	Thomas
Edwards	Lincoln	Thompson
Enzi	Lott	Thurmond
Feingold	Lugar	Torricelli
Feinstein	McConnell	Warner
Fitzgerald	Mikulski	Wellstone
Frist	Miller	Wyden
Graham	Murkowski	
Gramm	Murray	

NAYS—5

Ensign	Kyl	Voinovich
Gregg	McCain	

NOT VOTING—4

Boxer	Hutchison
Bunning	Stevens

The bill (H.R. 2330) was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. COCHRAN. Madam President, I thank all staff who worked so hard to make this bill possible and to assist Senators during the deliberation of the bill, particularly those who have worked as members of my staff on this side of the aisle for the Appropriations Committee, Subcommittee on Agriculture: Rebecca Davies, who is the chief clerk; Martha Scott Poindexter; and Rachelle Schroeder.

I also want to commend a member of my personal staff who was on the floor and contributed in a very important way to the work on this bill, Hunter Moorhead.

Without their good assistance it would not have been possible to have such a good work product as this bill represents.

It was a pleasure working for the first time with the distinguished Senator from Wisconsin as chairman of the subcommittee, Senator KOHL. He did an excellent job, he and his fine staff, particularly Mr. Fountain, with whom we have worked for several years, and the others.

We appreciate very much their cooperation and their excellent professional assistance.

I hope Senators appreciate the fact that without the staff we have, their talent, their hard work, and their experience, it would have been impossible to get to the point we did tonight for final passage of this bill. For that, I am very grateful to all of them.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, is the Senate in a quorum call?

The PRESIDING OFFICER. It is not.

Pursuant to the previous order, the Senate insists on its amendments, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair appoints Mr. KOHL, Mr. HARKIN, Mr. DORGAN, Mrs. FEINSTEIN, Mr. DURBIN, Mr. JOHNSON, Mrs. MURRAY, Mr. BYRD, Mr. COCHRAN, Mr. SPECTER, Mr. BOND, Mr. MCCONNELL, Mr. BURNS, Mr. CRAIG, and Mr. STEVENS conferees on the part of the Senate.

The Senator from Louisiana.

EXPLANATION OF VOTES

Ms. LANDRIEU. Madam President, I was unable to cast my vote on H.R. 2506 and H.R. 3162. It would not change the outcome of either of the votes, so I ask unanimous consent that the RECORD reflect I would have voted in the affirmative on both of those measures had I been here.

Mr. COCHRAN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. I withdraw my reservation.

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

The Senator from Nevada.

A VERY PRODUCTIVE WEEK

Mr. REID. Madam President, this has been a very productive week for the Senate. We have completed two appropriations bills and the counterterrorism bill. We should feel very good about what we have been able to do. There was cooperation on both sides.

Next week I hope we will be just as productive. We have a lot of very important work to do in the short period before Thanksgiving. The majority leader has talked to all of us, and I think we should be reminded how important it is we complete our work.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent there now be a period of morning business, with Senators permitted to speak for up to 5 minutes each.

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

AMERICAN TRAVEL INDUSTRY STABILIZATION ACT

Mr. DORGAN. Mr. President, earlier I introduced the American Travel Industry Stabilization Act on behalf of myself, Senator CONRAD, Senator REID, Senator INOUYE, and Senator SPECTER. I wish to simply explain the purpose for this. As we proceed to think through the economic stimulus package that we will put together to try to provide lift to this economy, we need to consider what has happened to the travel and tourism industry in this country. I had a hearing on this subject in the commerce subcommittee that I chair. We know we have provided some loan guarantees to the airlines, and they were very much needed loan guarantees, and I supported them.

But, there are a range of other travel and tourism businesses and industries in this country that are in desperate trouble. We propose some loan guarantees to try to be helpful to them during these difficult times. Their businesses are directly tied to the airline industry. When this country shut down the airline industry, we, of course, had a significant impact on the ancillary businesses attached to that industry as well.

I want to call attention to this bill today in the hope that my colleagues who are interested in this subject—and I know there are many of them—may consider cosponsoring this legislation. I know my colleague, Senator REID, who is in the Chamber may well wish to say a few words as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I applaud and commend the Senator from North Dakota for his leadership on this issue. The travel industry needs help. This bill will give the travel industry the shot in the arm it needs. Whether it is travel agents, whether it is rental car agencies, or the myriad of other people who support the tourism industry, we must start someplace. This is certainly a start.

In 30 States, the No. 1, No. 2, or No. 3 economic driving force in those States is tourism and we have kind of ignored tourism since September 11. We can no longer afford to do that.

I look forward to working with my colleagues who are sponsors of this legislation and the rest of the Senate. This is essential legislation and I hope we can move it very quickly.

AVIATION SECURITY

Mr. KERRY. Mr. President, it is Thursday of almost the fifth or sixth week since September 11. We still have not passed aviation security in the U.S. Congress. I cannot impress upon my colleagues enough how much I hear from aviation personnel, from law enforcement personnel, and from people throughout our country, how we are beginning to press the line of irresponsibility in our not having moved on this.

There is a reason our economy is still hurting. There are many reasons. None of them are going to be solved by any one single component. We understand that. We began September with a huge overhang in the telecommunications industry. All of us knew the stocks in the marketplace were significantly overvalued. There was almost a decline taking place prior to September 11. But we have a responsibility to do everything in our power to begin to turn the economy around and to protect a lot of our citizens who are beginning to feel a lot of economic pain.

One of the principal ways we can do that is in the stimulus package itself, as well as in passing aviation security.

I have heard some of my colleagues on the other side of the aisle in the

House suggest publicly that one of the reasons they don't want to pass the aviation federalization is because some of these folks may be in a union; they may join a union. Are we really so far away already from the events of September 11 that people around here have forgotten that the firemen and the police officers and a lot of the medical technicians and other folks who lost their lives on September 11 were members of a union?

We do an extraordinary insult to that event and to what has happened since by having ideology and politics suddenly come back to prevent us from doing something that almost every person in the industry accepts is the best way to provide the highest level of security to the American people.

I respectfully suggest the best way we can provide a stimulus to this country is not by turning around and putting $1.4 billion into the coffers of IBM and billions more dollars into the coffers of a whole host of energy companies and other large corporations—not because they are bad, not because we think they don't deserve help in some way or another, they have received a lot of it, but because a stimulus package is supposed to do the most you can not to reward past investments or make up for past mistakes but put money, cash, into the hands of Americans now, to create jobs now in order to turn the economy around.

What we have staring us in the face is a whole set of requirements to make our post offices more secure, to make our trains more secure, to make our airlines more secure, to make countless of numbers of components of our health system more capable of responding to the potential of disease. When all of these security needs are staring us in our face, there ought to be a stimulus package that is security-oriented, that has some spending in it that puts people to work now at those tasks we know we have to embrace.

To see this package that came out of the House of Representatives with its extraordinary amount of giveaway, I find it an insult to the purpose of the Congress, to the weight of this moment of history, and to the obligation that we all have to bring security to our country and jobs to our citizens.

I hope we are going to do a better job in the course of the next weeks.

I yield the floor.

U.S.-CHINA COOPERATION IN THE WAR ON TERRORISM

Mr. KYL. Mr. President, following the terrorist attacks in New York and Washington, Chinese officials pledged to join the global effort against terrorism. But comments made by Chinese officials following the attacks indicate that they may try to exact policy concessions from the United States in exchange for support for anti-terrorism efforts. For example, according to a Reuters article on September 18, China's Foreign Ministry Spokesman Zhu Bangzao stated, ''The United States has asked China to provide assistance in the fight against terrorism. China, by the same token, has reasons to ask the United States to give its support and understanding in the fight against terrorism and separatists.'' He went on to discuss the importance of combating Taiwan's independence activists. And more recently—at the Asia-Pacific Economic Cooperation summit in Shanghai—press reports have indicated that China's support is lukewarm at best.

It is my hope that the Chinese government will ultimately choose to offer support in our war effort; however, it is important that as we seek China's assistance, we not lose sight of the myriad concerns that remain regarding the communist regime's failure to abide by internationally recognized norms of behavior—including Beijing's proliferation of technology used to make ballistic missiles and weapons of mass destruction, and military buildup aimed at our long-standing, democratic ally, Taiwan.

The Chinese government's continuing sale of arms and other assistance to many of the countries on the State Department's list of state sponsors of terrorism is of particular concern. Beijing has sold ballistic missile technology to Iran, North Korea, Syria, Libya, and Pakistan. It has sold nuclear technology to Iran and Pakistan. It has sold Iran advanced cruise missiles and aided that country's chemical weapons program. And it has provided technological assistance to Iraq.

We should also keep a close eye on the Chinese military's continued modernization and buildup—the immediate focus of which is to build a military force capable of subduing Taiwan, and capable of defeating it swiftly enough to prevent American intervention. According to the Department of Defense's Annual Report on the Military Power of the People's Republic of China, released in June 2000, ''A cross-strait conflict between China and Taiwan involving the United States has emerged as the dominant scenario guiding [the Chinese Army's] force planning, military training, and war preparation.''

Amidst China's alarming behavior, on October 17, the Washington Post reported that the Administration was considering a waiver on the sanctions placed on China following the Tiananmen Square crackdown that would have allowed the U.S. sale to China of spare parts for Blackhawk helicopters. Richard Fisher, editor of the China Brief newsletter at the Jamestown Foundation, addressed that possibility in an op-ed published in the Washington Times on October 21. He stated.

. . . it is not time to end Tiananmen massacre sanctions on arms sales to China, such as allowing the sale of spare parts for U.S.-made Blackhawk helicopters. The Administration is considering this move to reward China and to allow it to rescue U.S. pilots that may be downed over Afghanistan. China has plenty of good Russian helicopters to do the job, and it makes no sense to revive military-technology sales to China as it still prepares for war against Taiwan.

The Washington Post later reported that the administration is not planning to waive sanctions that would allow the sale of the helicopter parts. And it is my hope that the United States—in our effort to gain China's support for our war on terrorism—will not consider such a move as long as China fails to live up to its international commitments. As Richard Fisher also stated in his op-ed, ''...to qualify as a U.S. ally in the war on terrorism, China must stop lying about its nuclear and missile technology proliferation and prevent states like Pakistan and Iran from fielding nuclear missiles. Also, China must end its economic and military commerce with regimes that assist terrorists, like the Taliban and Iraq. In addition, China must halt its preparations for war against Taiwan, a war that will likely involve U.S. forces.''

The past month has seen longtime foes, at least for now, espouse a common goal in America's efforts against terrorism. Scores of nations have taken the side of America in a battle to eradicate terrorists of global reach—but the most populous nation on the globe must truly back its words with actions. Until it does so, Beijing should not be rewarded by any relaxation of U.S. restrictions aimed at curbing the communist regime's unacceptable behavior.

Mr. President, I ask unanimous consent that the full text of that op-ed be included in the CONGRESSIONAL RECORD.

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

[From the Washington Times, Oct. 21, 2001]

LOOKING TO A NON-ALLY IN CHINA

(By Richard Fisher)

While the United States is correct to seek Chin's assistance in what will be a long war against terrorism, it should harbor no illusions that China will share all of the same goals in this fight, or that China will cease being a longer term adversary.

Yes, Chinese President Jiang Zemin was swift to condemn the Sept. 11 terrorist attacks in the United States, and China has shared some counterterrorism intelligence. And it would be welcome to have Beijing's full cooperation for the many battles ahead. But as he meets Jiang Zemin in Shanghai, President Bush should be mindful that any future Chinese assistance in the war on terror can only be effective if China reverses the aid that it has given to a number of rogue states. For example, should Osama bin Laden or his allies obtain a nuclear weapon in the future, it is likely that many of its components will come via Pakistan or Iran, and could very well carry the stamp ''Made in China.'' China's assistance to Pakistan's nuclear weapons program dates back to the mid-1970s and includes the training of engineers, provision of nuclear-fuel-reprocessing components, and perhaps even the plans to make nuclear weapons. China has sold Pakistan more than 30 of the 180-mile range M–11 ballistic missiles. China has also sold Pakistan the means to build solid-fuel 450-mile-range Shaheen–1 and 1,200-mile-range Shaheen–II missiles.

China has sold Iran nuclear-reactor and nuclear-fuel-reprocessing components and cruise missiles that could conceivably carry a small nuclear device.

For more than a decade the United States has been ''engaging'' Chinese officials in a repetitive pattern of U.S. complaints, Chinese denials and promises not to proliferate, occasional U.S. slap-on-the-wrist sanctions, but with no definitive cessation of Chinese proliferation. So far, Beijing is correct to question U.S. resolve. It took the Bush administration until August this year to impose some sanctions on Chines companies selling Shaheen missile parts to Pakistan, a program that likely began early in the Clinton administration, which produced no Shaheen-related sanctions during its two terms.

This failure to stop Chinese proliferation helped fuel the nuclear missile race between India and Pakistan. And as the later weakens under pressure from radical pro-Taliban forces, the danger increases that nuclear weapon technology could fall into the hands of terrorist groups like bin Laden's. But rather than isolate radical Islamic regimes that harbor or aid terrorists, Beijing engages them, too. In recent months, China has been caught red handed helping Saddam Hussein to build new fiber-optic communications networks that will enable his missiles to better shoot down U.S. aircraft. Beginning in late 1998, according to some reports, after they gave Beijing some unexploded U.S. Tomahawk cruise missiles, the Taliban began receiving economic and military aid from China.

The more important subtext is that China engages these regimes because it shares their goal of cutting down U.S. power. And, incredibly, China may be attracted to using their methods as well. Bin Laden himself has a fan club in some quarters of China's People's Liberation Army (PLA). In their 1999 book ''Unrestricted Warfare,'' two PLA political commissars offer praise for the tactics of bin Laden. They note that bin Laden's tactics are legitimate as the tactics that Gen. Norman Schwartzkopf used in the Persian Gulf war. Of bin Laden, they state that the ''American military is inadequately prepared to deal with this type of enemy.''

While some U.S. analysts downplay ''Unrestricted Warfare'' as written by officers with no operational authority, it is well known that the PLA is preparing to wage unconventional warfare, especially cyber warfare. Should China attack Taiwan, the PLA would want to shut down the U.S. air transport system.

The PLA now knows this can be done with four groups of terrorists, or perhaps by computer hackers that can enter the U.S. air traffic control system and cause four major airline collisions.

So to qualify as a U.S. ally in the war on terrorism, China must stop lying about its nuclear and missile technology proliferation and prevent states like Pakistan and Iran from fielding nuclear missiles. Also, China must end its economic and military commerce with regimes that assist terrorists, like the Taliban and Iraq. In addition, China must halt its preparations for a war against Taiwan, a war that will very likely involve U.S. forces.

In this regard, it is not time to end Tiananmen massacre sanctions on arms sales to China, such as allowing the sale of spare parts for U.S.-made Blackhawk helicopters. The administration is considering this move to reward China and to allow it to rescue U.S. pilots that may be downed over Afghanistan. China has plenty of good Russian helicopters to do that job, it makes no sense to revive military technology sales to China as it still prepares for war against Taiwan.

In his Sept. 20 speech, Mr. Bush correctly declared that ''any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime.'' China's aid to the Taliban and its continued nuclear proliferation are not friendly actions. The United States should press China to undo all it has done to strengthen the sources of terrorism.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS—CONFERENCE REPORT

LYTTON RANCHERIA

Mr. BURNS. Mr. President, would the Chairman agree that the conference sought to address an issue dealing with the exceptional and unique circumstances which led to the enactment of Sec. 819 of P.L. 106–568 with regard to land taken into Federal trust status prior to 1988 for the Lytton Rancheria of California?

Mr. BYRD. Mr. President, the ranking member is correct. In Sec. 128, the Committee recognizes the exceptional and unique circumstances surrounding the enactment of Sec. 819 of P.L. 106–568. The circumstances do not, however, diminish the requirement that the tribe fully comply with the provisions of the Indian Gaming Regulatory Act and in particular, with respect to class III gaming, the compact provisions of Sec. 2710(d) or any relevant Class III gaming procedures. The Committee further recognized that nothing in Sec. 819 of P.L. 106–568 be construed as permitting off-reservation gaming except in strict compliance with the Indian Gaming Regulatory Act.

CLEAN COAL POWER INITIATIVE

Mr. SANTORUM. Mr. President, in the Statement of the Managers accompanying the Interior and Related Agencies Conference Report, there is language on page 117 that sets certain limitations on the types of projects eligible to compete for Clean Coal Power Initiative funds. Specifically, the language states; ''Further, all co-production projects must provide at least half of their output in the form of electricity.'' This language could have the effect of precluding certain innovative co-production projects from competing for the funds appropriated. Can the Chairman explain the intent of this language?

Mr. BYRD. This language was included based on information provided to the Committees that these limitations were consistent with the fiscal year 2001 solicitation. We have since learned that this is not the case. While the draft solicitation contained a minimum thresh-hold for power production, the final solicitation contained no such thresh-hold. We have since consulted with the Department of Energy, and the Department agrees that there should be no minimum thresh-hold for power production in the next solicitation. Because the language in the Statement of Managers was based on inaccurate information, it is my view that this particular language should not apply. Program applicants should keep in mind, however, that improved electric reliability is the focus of the program. Would my colleague, Senator BURNS, concur?

Mr. BURNS. I concur with the statement of Senator BYRD.

DEPARTMENT OF TRANSPORTATION APPROPRIATIONS

Mr. STEVENS. Mr. President, on August 1, the Senate passed it's version of H.R. 2299, the fiscal year 2002 Department of Transportation Appropriations Act. The Senate has not yet appointed conferees on this bill, which provides vitally needed funding for aviation, the Coast Guard, highways and rail programs.

A key issue of contention in that bill has been the standards and practices governing highway truck movement between our Nation and Mexico, under the provisions of the North American Free Trade Agreement.

Recently, discussion with the White House have produced a framework for compromise which I believe responds to the concerns for safety and equity voiced by many in the Senate and the other body, and I intend to support this compromise in the conference. It is my hope that the conferees on the bill will proceed along the lines of this proposal to strike a final agreement which will secure support in the Senate, and the signature of the President.

AMERICAN COMPANIES DOING BUSINESS IN COLOMBIA

Mr. LEAHY. Mr. President, yesterday, during consideration of the fiscal year 2002 foreign operations, export financing, and related programs appropriations bill, a colloquy between myself and Senator MCCONNELL concerning American companies doing business in Colombia was printed in the Record. That colloquy was incomplete, and should not have been included in the RECORD in that form. Among other things, it omitted a copy of an amendment that Senator MCCONNELL and I had considered offering to the foreign operation bill. Therefore, I ask unanimous consent that our complete colloquy, a well as our proposed amendment, be printed in the RECORD.

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

AMENDMENT NO. —

On page 144, line 3, after the colon insert the following: ''*Provided further,* That of the funds appropriated under this heading for Colombia, $10,000,000 shall not be obligated or expended until the Government of Colombia resolves outstanding international arbitration decisions which favor United States corporations more than 50 percent owned and controlled by United States citizens:''.

Mr. LEAHY. Mr. President, we often hear from American companies whose investments in developing countries have gone sour. That is the risk of doing business, and nobody disputes that. But international arbitration was

created in order to mitigate the risks of overseas investments and to avoid depending on shaky legal institutions in those countries. Arbitration has been one of the principal building blocks to the extraordinary growth in international trade. It has brought investments to countries which would have otherwise been considered too risky because it gives investors and sovereign nations an agreed-upon mechanism to resolve disputes. Key to its success is the agreement by all parties that arbitration can only work if it is binding.

It recently came to my and Senator MCCONNELL's attention that at least two American companies, Sithe Energies, Inc., and Nortel Networks, have participated in binding arbitration to resolve disputes with the Colombian Government. According to information we have received, Sithe and Nortel, and, we are told, companies from Mexico and Germany, have won clear, unambiguous rulings through binding arbitration, only to have the Colombian Government renege on its commitment to honor the arbitration decision.

We have not had an opportunity to discuss these matters with the Colombian Government, but if our information is correct, that American companies have agreed to binding arbitration and prevailed, only to have the Colombian Government refuse to pay, that is unacceptable. We want to help Colombia's economy develop in an environment where the rule of law is respected. This is crucial to Colombia's future. If Colombia flaunts the rules of the private market, it is will have increasing difficulty attracting private investment because it cannot be trusted.

Representatives of these companies have urged us to withhold a portion of U.S. assistance to Colombia until the Colombian Government fulfills its legal obligations to these companies. We considered offering such an amendment, because of the importance we give to the fair treatment of American companies, respect for the rule of law, and the international arbitration process. I ask unanimous consent that a copy of our proposed amendment be printed in the RECORD at the conclusion of my remarks.

We decided no to offer the amendment, because of the precedent it could set. But we want to emphasize that respecting binding, internationally sanctioned arbitration is essential to the investment that will ultimately be the engine for Colombia's economic development. No amount of foreign assistance can do that. The pattern of Colombia's apparent abuse of the international arbitration process is very disturbing, and by conveying our concern about it we mean to strongly encourage the Colombian Government to act expeditiously to resolve these matters.

Finally, I would note that the Andean Trade Preferences Act addresses this issue directly. Section 203 of that act makes clear that the President shall not designate any country a beneficiary under the ATPA, if the country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of U.S. citizens or a company which is 50 percent or more beneficially owned by U.S. citizens. The ATPA is up for extension or expansion, and Senator MCCONNELL and I will be following this issue closely, as well as discussing it with Colombian Ambassador Moreno and U.S. Ambassador Patterson, both of whom I have the utmost respect for.

Mr. MCCONNELL. Let me just add a word or two to Senator LEAHY's comments. Few would disagree that Colombia's long term political and economic development resides in its ability to forge a lasting peace, establish the rule of law, and attract foreign investment. No service is done to the nation or the people of Colombia when the Colombian government refuses to recognize the legitimacy of an arbitration award to international businesses. The leadership in Bogota should understand that such action further erodes confidence in the overall investment climate in Colombia within the international business community—and in foreign capitals. It is my hope that the Colombian government takes note of the amendment Senator LEAHY and I contemplated offering and initiates corrective action in the very near future.

FREEDOM SUPPORT ACT

ARMENIA

Mr. MCCONNELL. Mr. President, I want to take a brief moment to share with my colleagues the tremendous effort to craft an agreement which preserves section 907 of the FREEDOM Support Act while permitting Azerbaijan to assist with America's war on terrorism. In the closing minutes of the Senate's debate on the FY 2002 Foreign Operations bill yesterday, Senators SARBANES, BROWNBACK, and I reached agreement on my amendment which strikes a balance between our counter terrorism needs and vital ongoing efforts to negotiate a peace between Armenia and Azerbaijan with respect to the Nagorno-Karabakh conflict.

I want to thank my colleagues for their constructive input into my amendment. In addition, the Administration deserves our gratitude for their willingness to work with Congress on finding a compromise which addressed the concerns of all sides of this complicated issue. It is no secret in the halls of Congress that there was serious consideration of a certification under section 907 as a means of securing the legal authority to provide counter terrorism assistance to Azerbaijan. Such a certification would have permanently eliminated section 907 as a means to support the sensitive ongoing negotiations between Armenia and Azerbaijan. Despite some carveouts over the years, this was the most serious challenge to section 907 since its inception. Senator SARBANES and I, in particular, strongly believe that section 907 is vital to ongoing peace efforts and that such a certification was an unacceptable option.

I also want to recognize the invaluable input and encouragement of patriotic Armenian-Americans who understand the importance of supporting America's efforts to fight terrorism on every front. But, cooperating with Azerbaijan should not mean that the negotiations on Nagorno-Karabakh should be disrupted. Here again, the amendment provides protection. Counter terrorism assistance to Azerbaijan will not be forthcoming unless the President determines and certifies to Congress that the assistance ''will not undermine or hamper ongoing efforts to negotiate a peaceful settlement between Armenia and Azerbaijan or be used for offensive purposes against Armenia.'' The Administration has assured us that they support peaceful negotiations and that none of our counter-terrorism efforts will disrupt these talks.

In addition to the amendment preserving section 907, I sponsored an amendment to provide assistance to Armenia under the Foreign Military Financing and the International Military Education and Training programs. This historic amendment will for the first time provide Armenia with valuable military assistance. The IMET funding will allow the U.S. to work with and train with the Armenian military thereby improving America's ability to work with Armenia on a host of security issues. This will ensure that Armenia remains a strong ally and coalition partner in the war against terrorism.

We will have an opportunity to revisit issues relating to Armenian and Azeri relations on the FY 2003 Foreign Operations bill, and I want to make clear to my colleagues and the Administration that I will be closely following developments in Azerbaijan and Turkey to lift the blockades against Armenia. I encourage these countries to fully understand the importance and necessity of lifting their blockades.

ARCTIC NATIONAL WILDLIFE REFUGE

Mr. BAUCUS. Mr. President, the horrific terrorist attacks of September 11, and America's response to those attacks have shifted our sense of priorities about what's important for our Nation. But, as we move forward with the challenging task of eliminating terrorism and securing the safety of our citizens, we must not lose sight of other values that make our Nation great.

Some are using the shock and fear caused by the September 11 attacks to call for renewed focus on our energy security, and more particularly to renew their calls to open the Arctic National Wildlife Refuge to exploration and

drilling. While I agree that it is high time we developed a strategy to reduce our dependence on imported oil and secure the Nation's energy resources and infrastructure, we should all know by now that developing ANWR will not achieve this goal.

I have followed the Arctic debate closely for many, many years. I've spoken to this body on a number of occasions about this subject. The facts and best evidence on the main points at issue persuade me, as they have in the past, that drilling in the Arctic is both unnecessary and unwise.

First, there is no oil bonanza in the Arctic that will impact or enhance the Nation's energy security, and neither the Senate nor the Nation should be rushed to an ill-fated judgement based on wildly inflated claims to the contrary.

At peak production, many years down the road, the arctic coastal plain might at best replace about 5–9 percent of the foreign oil imported by the U.S. Oil from the arctic refuge will not have any meaningful impact on either the price of gasoline or on our demand for imported oil. It would do nothing to secure energy independence for our Nation.

Arctic oil is also expensive to produce and transport to the lower 48. Which is why, until Congress banned oil exports, the oil companies shipped a lot of that oil to foreign markets. If those exports bans are ever lifted, we'll likely see any oil from the refuge shipped overseas. There's a reason America imports so much OPEC oil, it's cheap.

In short, our energy security lies in reducing our dependence on oil, period. The more efficiently our Nation uses oil, gas and other energy resources, the more we depend upon alternative energy resources and renewable resources, the less vulnerable our country will be to oil supply disruptions and price spikes.

Moreover, the arctic refuge's coastal plain is the last 5 percent of the entire Alaskan coastal plain that is not already open to oil drilling. The remaining 95 percent of the Alaskan coastal plain is not only open to drilling, but vast tracts of it have yet to be explored for their potential oil reserves.

What's so special about this last 5 percent, preserved since the Eisenhower Administration? It's the heart of all the wildlife diversity in the entire Arctic National Wildlife Refuge. That 5 percent is the central calving ground for the porcupine caribou herd, the exact same landscape that would be scarred with oil wells, drill pads, roads and pipelines if drilling is allowed. That 5 percent is essential migratory habitat for 135 species of birds and waterfowl. That 5 percent is home to polar bears, musk oxen, grizzly bears, wolves, 36 species of fish, and more than 100 other species of wildlife. In fact, ANWR is the most important polar bear denning area in Alaska.

That 5 percent is also a desert compared to the rest of the arctic coastal plain. I have yet to hear a satisfactory explanation from the oil companies about how they will deal with the fact that there is not enough water to build ice roads in ANWR. If you can't build ice roads that ''disappear'' in the spring, you have to build gravel roads. Given what we have been told about the dispersed nature of recoverable oil in the refuge, the oil companies will need to build a lot of roads, roads that will crisscross the refuge, disrupting the natural flow of water during the spring, marring the wild character of the refuge and interfering with wildlife migration patterns.

In Montana, we know we must have working landscapes where we encourage oil and gas development, promote timber harvest and grow our Nation's food and fiber. We know such landscapes, if carefully managed, can also produce abundant wildlife populations and much recreational opportunity. Balancing appropriate development with the need to protect special places, for ourselves and for our children, is a dance Montanans know well.

So too the Arctic National Wildlife Refuge. We have far too many other options open to us right now to secure our energy future than any that may or may not materialize from drilling in ANWR. Americans aren't ready to drill, and America doesn't need to. I hold that the Arctic refuge is too wild to waste.

I would also like to address briefly some concerns I have with some of the energy proposals made by our colleagues in the House. I am particularly concerned with provisions that affect oil and gas leasing procedures on public lands.

The House suggests that we replace the current public process surrounding oil and gas leasing on public lands with a centralized federal mandate that would remove any meaningful public involvement from oil and gas leasing decisions on national forest lands.

In the 1980's, many Montanans traveled to Washington, DC to urge passage of legislation to bring the public into oil and gas leasing decisions on national forest and public lands. Their efforts and those of many others resulted in the passage of the 1987 Federal Onshore Oil and Gas Leasing Reform Act.

Under current law, the forest supervisor analyzes likely impacts, considers surface resources and consults with the public before determining (1) where Federal oil and gas leasing is authorized and, (2) under what circumstances it should occur. Even if a lease is offered, it often contains provisions to protect wildlife and the environment through stipulations that limit roads and other industrial developments.

Legislation endorsed by our colleagues in the House would eliminate the existing public involvement process.

That legislation would strip national forest supervisors of existing authority to make decisions regarding oil and gas leasing. The local supervisor's authority would be transferred and centralized under the Secretary of Agriculture who is directed to ''ensure that unwarranted denials and stays of lease issuance and unwarranted restrictions'' on all oil and gas exploration or development operations ''are eliminated'' from oil and gas operations ''on Federal land.'' This seems out of character with the often repeated pledge from the Administration and others, that local communities should have a greater voice in the public lands decisions that directly affect them.

Other language would direct the Secretaries of Agriculture and Interior to order a rewrite of oil and gas leasing plans to remove limits or restraints on oil and gas exploration and development. This would include local Montana decisions that limit oil and gas development designed to protect native trout streams.

Still more language would give the oil and gas industry the power to force a review of previous decisions to limit oil and gas development on national forest and BLM lands, including written explanations showing ''whether the reasons underlying the previous decision are still persuasive.''

In Montana, such decisions authorized millions of acres for leasing while protecting municipal drinking water sources for Helena, Red Lodge, and East Helena, popular hunting areas, key habitat and wild lands in the Elkhorns Wildlife Management Area, Line Creek Plateau and along Montana's Rocky Mountain Front. Montanans invested years in each of these decisions. They have been well debated, they have withstood legal challenge. They do not need to be reopened by Congress.

In short, I want to express my opposition to any similar provisions that may arise in the Senate. As I have outlined above, what may seem like obscure language to other members of this body is vitally important to Montanans, and could have an enormous impact on my state, and the landscapes Montanans have declared too precious to develop.

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 June 15, 2000 in Denver, CO. First-degree murder charges were filed against Samuel Grauman, 21, who was accused of killing, Daniel O'Brien, 36, because O'Brien was gay. Grauman and another man were believed to have befriended gay men they thought would be easy robbery targets.

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

FIFTY CALIBER—WEAPON OF CHOICE FOR CRIMINALS

Mr. LEVIN. Mr. President, I am a cosponsor S. 505, a bill introduced by Senator FEINSTEIN to strengthen the regulation of long-range fifty caliber sniper weapons. These weapons are among the most powerful, and least regulated, firearms legally available. Information provided by the Violence Policy Center demonstrates why Senator FEINSTEIN's legislation is so important.

According to the VPC's analysis, the ease with which fifty caliber weapons are purchased has made them popular with criminals and fringe groups. For example, in February of 1992, a Wells Fargo armored delivery truck was attacked in a ''military style operation'' in Chamblee, Georgia, by several men using a smoke grenade and a fifty caliber sniper rifle. Two employees were wounded. And according to the General Accounting Office, fifty caliber sniper rifles have been found in the armories of drug dealers in California, Missouri, and Indiana.

In March of 1998, in my home State of Michigan, Federal law enforcement officers arrested three members of a radical group known as the North American Militia. The men were charged with plotting to bomb Federal office buildings, destroy highways, utilities and public roads, and assassinate a number of Federal officials. A fifty caliber sniper rifle was among the weapons found in their possession.

Fifty caliber weapons are too powerful and too accessible to be ignored any longer. Tighter regulations are needed. I urge my colleagues to support Senator FEINSTEIN's bill.

ADDITIONAL STATEMENTS

TRIBUTE TO ADMIRAL JAKE SHUFORD

● Mr. GRAMM. Mr. President, I rise today to recognize Rear Admiral (Select) Jake Shuford, United States Navy, for the outstanding performance, dedication, and leadership he has exhibited over the last two years as the Director of Senate Liaison for the Navy. Admiral Shuford is a sailor's sailor.

Since receiving his commission as a Naval officer over 27 years ago, Jake Shuford has distinguished himself through his tactical acumen, seamanship, and ''can-do'' attitude. He commanded the hydrofoil USS *Aries*, PHM 5, the guided missile frigate USS *Rodney M. Davis*, FFG 60, and the guided missile cruiser USS *Gettysburg*, CG 64. During Admiral Shuford's command of the *Gettysburg*, the ship won the prestigious Battle ''E'' Efficiency award while successfully firing 69 Tomahawk missiles during strike operations in Iraq and Kosovo.

Admiral Shuford took the conn of the Navy's Senate Liaison Office in September 1999, earning the admiration of Senators who have worked with him. Admiral Shuford epitomizes what is best in our Navy and in America, and the Senate, the Navy, and the American people are indebted to him for his many years of distinguished service. He will soon leave the Senate for his first flag officer assignment in charge of duty assignments for all 375,000 officers and enlisted personnel in the Navy. As he departs Washington, D.C. and the Senate, I know that my colleagues wish the very best for Jake, his wife, Cathy; their daughter, Campbell; and their sons, Bennett and John.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON A DRAFT OF PROPOSED LEGISLATION TO IMPLEMENT THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF TERRORIST BOMBINGS AND THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM—MESSAGE FROM THE PRESIDENT—PM 51

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

Enclosed for the consideration of the Congress is a legislative proposal to implement the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism. Also enclosed is a detailed explanation of the bill's provisions.

Title I of the bill is entitled the ''Terrorist Bombings Convention Implementation Act of 2001.'' It would implement the International Convention for the Suppression of Terrorist Bombings, which was signed by the United States on January 12, 1998, and which was transmitted to the Senate for its advice and consent to ratification on September 8, 1999. In essence, the Convention imposes binding legal obligations upon State Parties either to submit for prosecution or to extradite any person within their jurisdiction who unlawfully and intentionally delivers, places, discharges, or detonates an explosive or other lethal device in, into, or against a place of public use, a State or government facility, a public transportation system, or an infrastructure facility. A State Party is subject to these obligations without regard to the place where the alleged act covered by the Convention took place. Twenty-eight States are currently party to the Convention, which entered into force internationally on May 23, 2001.

Title II of the bill is entitled the ''Suppression of the Financing of Terrorism Convention Implementation Act of 2001.'' It would implement the International Convention for the Suppression of the Financing of Terrorism, which was signed by the United States on January 10, 2000, and which was transmitted to the Senate for its advice and consent to ratification on October 12, 2000. The Convention imposes binding legal obligations upon State Parties either to submit for prosecution or to extradite any person within their jurisdiction who unlawfully and wilfully provides or collects funds with the intention that they should be used to carry out various terrorist activities. A State Party is subject to these obligations without regard to the place where the alleged act covered by the Convention took place. The Convention is not yet in force internationally, but will enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval, or accession with the Secretary General of the United Nations.

I urge the prompt and favorable consideration of this proposal.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 25, 2001.*

REPORT ON A PROPOSED PROTOCOL AMENDING THE AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE KINGDOM OF MOROCCO CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 52

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123b. and 123d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)) (the ''Act''), the text of a proposed Protocol

Amending the Agreement for Cooperation Between the Government of the United States of America and the Government of the Kingdom of Morocco Concerning Peaceful Uses of Nuclear Energy signed at Washington on May 30, 1980. I am also pleased to transmit my written approval, authorization, and determination concerning the Protocol, and an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Protocol. (In accordance with section 123 of the Act, as amended by title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277), a classified Annex to the NPAS, prepared by the Secretary of State in consultation with the Director of Central Intelligence, summarizing relevant classified information, will be submitted to the Congress separately.) The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed.

I am informed that the proposed Protocol has been negotiated to be in accordance with the Act and other applicable law, to meet all statutory requirements, and to advance the nonproliferation and other foreign policy interests of the United States.

The Protocol amends the Agreement for Cooperation Between the Government of the United States of America and the Government of the Kingdom of Morocco Concerning Peaceful Uses of Nuclear Energy in two respects:

1. It extends the Agreement, which expired by its terms on May 16, 2001, for an additional period of 20 years, with a provision for automatic extensions thereafter in increments of 5 years each unless either Party gives timely notice to terminate the Agreement; and

2. It updates certain provisions of the Agreement relating to the physical protection of nuclear material subject to the Agreement.

As amended by the proposed Protocol, I am informed that the Agreement will continue to meet all requirements of U.S. law.

Morocco is in the early stages of developing a nuclear research program, with support from the United States and the International Atomic Energy Agency (IAEA). The United States firm, General Atomics, is currently building the country's first reactor, a small (2 megawatt) TRIGA Mark II research reactor that will use low-enriched uranium fuel. General Atomics' completion of the project cannot occur without an Agreement for Cooperation in force.

Morocco is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and has an agreement with the IAEA for the application of full-scope safeguards to its nuclear program. Morocco is a signatory to (but has not yet ratified) the Convention on the Physical Protection of Nuclear Material, which establishes international standards of physical protection for the storage and transport of nuclear material.

I have considered the views and recommendations of the interested agencies in reviewing the proposed protocol and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the protocol and authorized its execution and urge that the Congress give it favorable consideration.

This transmission shall constitute a submittal for purposes for both sections 123b. and 123d. of the Atomic Energy Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations Committee and House International Relations Committee as provided in section 123b. Upon completion of the 30-day continuous session period provided for in section 123b., the 60-day continuous session period provided for in section 123d. shall commence.

GEORGE BUSH.

THE WHITE HOUSE, *October 24, 2001.*

MESSAGES FROM THE HOUSE

At 12:33 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 70. Joint resolution making continuing appropriations for the fiscal year 2002, and for other purposes.

At 1:59 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 71. Joint resolution amending title 36, United States Code, to designate September 11 as Patriot Day.

ENROLLED BILLS SIGNED

At 3:25 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3162. An act to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes.

The following enrolled bill, previously signed by the Speaker of the House, was signed today, October 25, 2001, by the President pro tempore (Mr. BYRD):

H.R. 2217. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 1552. An act to extend the moratorium enacted by the Internet Tax Freedom Act through 2006, and for other purposes.

S. 1573. A bill to authorize the provisional and health care assistance to the women and children of Afghanistan.

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–4496. A secret communication from the Assistant Secretary of Legislative Affairs, transmitting, pursuant to law, a report relative to Tajikistan; to the Committee on Armed Services.

EC–4497. A communication from the Deputy Secretary of Defense, transmitting, a report relative to the Fiscal Year 2001 National Defense Authorization Act provision on Major Headquarters Activities; to the Committee on Armed Services.

EC–4498. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–4499. 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 ''Section 1374 Timber Ruling'' (Rev. Rul. 2001–50, 2001–43) received on October 9, 2001; to the Committee on Finance.

EC–4500. A communication from the Secretary of Veterans Affairs and the Secretary of Defense, transmitting jointly, pursuant to law, a report relative to the Department of Veterans Affairs and Department of Defense Health Resources Sharing and Emergency Operations Act for Fiscal Year 2000; to the Committee on Veterans' Affairs.

EC–4501. A communication from the Congressional Liaison Officer, United States Trade and Development Agency, transmitting, pursuant to law, a report relative to a Port Expansion Project in Columbia; to the Committee on Appropriations.

EC–4502. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a status report relative to the Herger-Feinstein Quincy Library Group Forest Recovery Act Pilot Project for Fiscal Year 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4503. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the Report on the Status of the State Small Business Stationary Source Technical and Environmental Compliance Programs for the Reporting Period, January through December 1999; to the Committee on Environment and Public Works.

EC–4504. A communication from the Assistant Director for Executive and Political Personnel, Department of the Army, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary of the Army, Civil Works, received on October 5, 2001; to the Committee on Environment and Public Works.

EC–4505. A communication from the General Counsel, Office of Management and Budget, transmitting, pursuant to law, the report of a rule entitled ''Regulations for Air Carrier Safety Guarantee Loan Program under Section 101(a)(1) of the Air Transportation Safety and System Stabilization Act'' received on October 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4506. A communication from the Director for Executive Budgeting and Assistance

Management, Office of the Secretary, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations'' (RIN0605–AA09) received on October 1, 2001; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN for the Committee on Foreign Relations.

*Kent R. Hill, of Massachusetts, to be an Assistant Administrator of the United States Agency for International Development.

*John F. Turner, of Wyoming, to be Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

*Joseph M. DeThomas, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Estonia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Joseph Michael DeThomas.

Post: Estonia.

Contributions, Amount, Date, and Donee:

1. Self: Joseph M. DeThomas, none.

2. Spouse: Leslie K. Davidson, none.

3. Children and Spouses: Benjamin J. DeThomas, none; Gabrielle DeThomas (deceased).

4. Parents: Arthur DeThomas, none; Teresa DeFranco (deceased).

5. Grandparents: None (deceased).

6. Brothers and Spouses: None.

7. Sisters and Spouses: None.

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*Brian E. Carlson, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Latvia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Brian E. Carlson.

Post: Latvia.

Contributions: Amount, Date, and Donee:

1. Self: None.

2. Spouse: None.

3. Children and Spouses: Marinn F. Carlson, None.

4. Parents: Conrad V. Carlson—deceased; Charlotte G. Carlson, none.

5. Grandparents: Elmer E. Carlson, Amelia J. Carlson, Grady K. Griffith, Ellen Hill Griffith—all deceased.

6. Brothers and Spouses: Grady K. Carlson: 1997—$253 to HWPAC (VA. registration number VA–910106); 1998—$180 to HWPAC (VA. registration number VA–910106); 1999—$231 to HWPAC (VA. registration number VA–910106); 2000—$174 to HWPAC (VA. registration number VA–910106).

Barbara A. Carlson: 10/22/99, Friends of Bob Dix, $100.00; 3/17/01, Tom Davis for Congress, $50.00. Joint Barbara A. Carlson/Grady K. Carlson: 2/5/98, Republican National Finance Committee; $35.00; 5/18/99, Republican National Finance Committee; $86.00; 3/18/00, Friends of George Allen; $50.00; 5/8/00, Friends of George Allen; $25.00; 6/30/00, Bush for President; $25.00; 1/7/01, Bush Cheney Presidential Transition Fund, Inc.; $25.00.

7. Sisters and Spouses: None.

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*John N. Palmer, of Mississippi, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Portugal.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: John Norris Palmer, Sr.

Post: U.S. Ambassador to Portugal.

Contributions, Amount, Date, and Donee:

1. Self: John N. Palmer, Sr.—Contributions for the year ended December 31, 1997: Capital Foundation (RNSEC), 1/12/97, $1,000; Coverdell for Good Government, 11/21/97, $500; Pickering for Congress, 6/20/97, $1,000; RNSEC, 5/12/97, $5,000; Republican National Committee, 5/12/97, $20,000; Scott McInnis for Congress, 12/31/97, $1,000 (Total: $28,500).

Contributions for the year ended December 31, 1998: Anti-defamation league, 10/9/98, $1,000; Campaign America, 3/10/98, $1,000; Charlie Williams Campaign, 12/22/98, $1,000; Delbert Hoseman for Congress, 3/26/98, $1,000; Delbert Hoseman for Congress, 6/10/98, $1,000; Delbert Hoseman for Congress, 8/28/98, $1,000; Fay Boozeman for Senate, 9/4/98, $1,000; FACPAC, 12/31/98, $1,000; Heath Hall for Congress, 4/10/98, $1,000; Murkowski '98 Campaign, 9/21/98, $1,000; Phillip Davis for Congress, 3/4/98, $1,000; Phillip Davis for Congress, 6/10/98, $1,000; Pickering for Congress, 9/17/98, $500; R.N.S.E.C., 10/28/98, $100,000; Senate Majority Celebration, 9/17/98, $15,000; Spirit of America PAC, 3/20/98, $1,000; The Majority Leader Fund, 3/20/98, $1,000; Victory '98, 8/28/98, $500 (Total: $130,000).

Contributions for the year ended December 31, 1999: Alexander for President, 2/15/99, $1,000; AmSouth PAC, 10/6/99, $1,000; Ashcroft 2000, 5/6/99, $1,000; Friends of Conrad Burns, 3/20/99, $1,000; Friends of Nick Walters, 8/14/99, $500; Friends of Roger Wicker/RW for Congress, 4/7/99, $1,000; Friends of Roger Wicker/RW for Congress, 6/15/99, $2,000; Friends of Roger Whicker 6/15/99, ($1,000); G.W. Bush Presidential Expl. Comm., 4/15/99, $1,000; G.W. Bush Presidential Expl. Comm., 11/23/99, $2,000; G.W. Bush Presidential Expl. Comm., ($1,000); George Allen Exploratory Committee, 4/7/99, $500; 1999 Republican Senate House Dinner, 6/9/99, $5,000; 1999 State Victory Fund, 12/14/99, $12,000; Pickering for Congress, 5/6/99, $1,000; R.N.S.E.C., 4/22/99, $25,000; The Smith Committee, 6/9/99, $1,000; Walter Michel Senate Campaign, 8/14/99, $250 (Total: $53,250).

Contributions for the year December 31, 2000: Ashcroft 2000, 7/21,00, $1,000; Bush/Cheney Recount Fund, 11/13/00, $5,000; Dunn Lampton for Congress, 2/23/00, $500; Dunn Lampton for Congress, 3/14/00, $500; Dunn Lampton for Congress, 4/8/00, $1,000; Friends of George Allen, 4/20/00, $500; Jay Dickey for Congress, 3/17/00, $1,000; Pickering for Congress, 4/20/00, $1,000; Pickering for Congress, 10/16/00, $1,000; R.N.S.E.C., 7/7/00, $65,000; Russ Francis for Congress, 8/8/00, $500; Trent Lott for Mississippi, 3/10/00, $1,000 (Total: $78,000).

2. Spouse; Clementine B. Palmer—Contributions for the year ended December 31, 1997: Pickering for Congress, $1,000, 6/25/97, National Republican Senatorial Committee, $15,000, 12/31/97 (Total: $16,000).

Contributions for the year ended December 31, 1998: Friends of Phil Davis, $1,000, 03/04/98; Delbert Hosemann for Congress Committee, $1,000, 09/21/98; National Republican Congressional Committee, $5,000, 03/02/98; Hollings for Senate, $1,000, 05/12/98 (Total: $8,000).

Contributions for the year ended December 31, 1999: Pickering for Congress, $1,000, 05/14/99; Friends of Roger Wicker, $1,000, 06/15/99; Friends of Roger Wicker, $1,000, 06/15/99; Bush for President Inc., $1,000, 04/21/99; Forbes 2000 Inc., $1,000, 07/13/99 (Total: $5,000).

Contributions for the year ended December 31, 2000: Dunn Lampton for Congress, $1,000, 8/14/00; Pickering for Congress, $1,000, 10/20/00; Republican National Committee, $10,000, 7/21/00; Dunn Lampton for Congress, $500, 2/23/00 (Total: $12,500).

3. Children and Spouses: John N. Palmer, Jr. (Son)—Contributions for the period beginning January 1, 1997, and ending March 31, 2001: Pickering for Congress, 6/30/97, $1,000; Bush for President, Inc., 4/21/99, $1,000; Pickering for Congress, 11/1/00, $1,000; Walter Michel, 1998, $1,000; Victory 2000 (Bush campaign), 9/1/00, $10,000 (Total: $14,000).

Stacy R. Palmer (Daughter in law)—Congributions for the period beginning January 1, 1997, and ending March 31, 2001: Bush for President, Inc., 4/21/99, $1,000 (Total: $1,000).

James B. Palmer (Son)—Contributions for the period beginning January 1, 1997, and ending March 31, 2001: Pickering for Congress; 6/25/97, $1,000; Delbert Hosemann for Congress, 9/21/98, $1,000; George W. Bush Exploratory Committ, 4/21/99, $1,000; Pickering for Congress, 10/27/00, $1,000 (Total: $4,000).

Tui V. Palmer (Daughter in law)—Contributions for the period beginning January 1, 1997, and ending March 31, 2001: Bush for President, Inc., 4/21/99, $1,000 (Total: $1,000).

Patricia Palmer McClure (Daughter)—Contributions for the period beginning January 1, 1997, and ending March 31, 2001: Delbert Hosemann for Congress Cmte, 9/21/98, $1,000; Bush for President, Inc., 4/21/99, $1,000; Pickering for Congress, 10/20/00, $1,000 (Total: $3,000).

J. Justin McClure (Son in law)—Contributions for the period beginning January 1, 1997, and ending March 31, 2001: Delbert Hosemann for Congress Cmte, 9/21/98, $1,000; Bush for President, Inc., 11/1/00, $2,000; Pickering for Congress, 10/20/00, $1,000 (Total: $4,000).

Susan Palmer Amaro (Daughter)—Contributions for the period beginning January 1, 1997, and ending March 31, 2001: Delbert Hosemann for Congress Cmte, 9/21/98, $1,000; Bush for President, Inc., 4/21/99, $1,000; Bush for President, Inc., 6/6/00, $1,000; (Total: $3,000).

Francisco J. Amaro (Son in law)—Contributions for the period beginning January 1, 1997, and ending March 31, 2001: Bush for President, Inc., 4/21/99, $1,000 (Total: $1,000).

4. Parents: David M. Palmer (deceased); Veva Bell Palmer (decreased).

5. Grandparents: Estelle Smith Bell (deceased); James Y. Bell (deceased); Mamie Norris Palmer (deceased); David M. Palmer (deceased).

6. Brothers and Spouses: David M. Palmer (Brother)—Contributions for the period beginning January 1, 1997, and ending March 31, 2001: Bush for President, Inc., 12/22/99, $1,000 (Total: $1,000).

Grizelda Palmer (Sister-in-law): No political contributions.

James Y. Palmer (Brother)—Contributions for the period beginning January 1, 1997, and ending March 31, 2001: Friends of Phil Davis, 5/15/98, $1,000; Delbert Hosemann Congress, 5/20/98, $1,000; Friends of Phil Davis, 6/16/98, $1,000; George W. Bush Exploratory Committee, 4/14/99, $1,000; Ronnie Shows, 8/29/00, $1,000; Dick Cheney Vice Presidential, 9/6/00, $2,000 (Total: $7,000).

Sheila C. Palmer (Sister-in-law)—Contributions for the period beginning January

1, 1997, and ending March 31, 2001: Friends of Phil Davis, 5/15/98, $1,000; George W. Bush Exploratory Committee, 4/14/99, $1,000 (Total: $2,000).

7. Sisters and Spouses: Not applicable.

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*John Malcolm Ordway, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Armenia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: John Ordway.

Post: Armenia.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: None.

3. Children and spouses: Christopher, none; Julia, none.

4. Parents: Deceased.

5. Grandparents: Deceased.

6. Brothers and spouses: Stephen Ordway, none; Mark and Frances Ordway, none.

Sisters and Spouses: None.

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*Bonnie McElveen-Hunter, of North Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Bonnie McElveen-Hunter.

Post: U.S. Ambassador to the Republic of Finland.

Contributions, amount, date, and donee:

1. Self: $500, 4/6/98, Faircloth for Senate 1998; $1,000, 3/1/99, Elizabeth Dole Exploratory Committee; $250, 11/23/99, Sixth District GOP; $1,000, 2/10/00, Bush for President; $500, 4/12/00, N.C. Republican Party; $1,000, 7/12/00, Christine Toretti Reception; $100,000, 7/13/00 RNC Convention Gala; $300, 7/27/00, Tribute to Laura Bush (tickets); $5,000, 11/14/00, Bush-Cheney Recount Fund; $475, 1/4/01, Presidential Inaugural Committee (tickets); $260, 1/4/01, Presidential Inaugural Committee (tickets).

2. Spouse: Bynum M. Hunter (husband): $50, 3/17/97, National Republican Congressional Committee; $1,000, 5/13/97, Lauch Faircloth for Senate; $100, 10/1/97, Republican Majority Fund; $100, 12/14/97, National Tax Summit (GOP); $500, 4/2/98, Lauch Faircloth for Senate; $25, 4/24/98, Republican National Convention; $100, 6/12/98, National Republican Congressional Committee; $50, 6/12/98, Matt Fong, U.S. Senate Campaign; $50, 9/14/98, National Republican Congressional Committee; $250, 9/22/98, Faircloth for Senate; $50, 9/23/98, Faircloth for Senate; $1,000, 6/10/99, Elizabeth Dole for President, $50, 9/21/99, Friends of Guiliani; $250, 11/24/99, 6th District Republican Party; $100, 2/9/00, Republican Presidential Committee; $100, 4/10/00, RNC Victory 2000; $250, 5/3/00, National Republican Congressional Committee; $100, 7/11/00; Lazio 2000; $100, 9/22/00, National Republican Congressional Committee; $10,000, 10/12/00, Presidential Trust (President George H.W. Bush Luncheon); $200, 10/16/00, House Managers PAC; $1,000, 9/7/00, Bush for President; $50, 10/23/00, Lazio 2000; $100, Republican Congressional Committee.

3. Children and spouses: Not applicable.

4. Parents: Madeline McElveen (mother): $1,000, 5/28/99, Elizabeth Dole; $1,000, 2/8/00, George W. Bush.

5. Grandparents: Not applicable.

6. Brothers and spouses: Not applicable.

7. Sisters and spouses: D.A. Tweed McElveen (sister): $1,000, 5/28/99, Elizabeth Dole; $1,000, 2/9/00, Bush for President, Inc.; $1,000, 2/29/00, Alan Clemmons (SC Senate); $1,000, 9/18/00, Alan Clemmons (SC Senate); $5,000, 10/12/00, Victory 2000.

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*Robert V. Royall, of South Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Robert Venning Royall.

Post: Ambassador to Tanzania.

Contributions, amount, date, and donee:

1. Self: $1,000, 12/05/95, Dole for President, Inc.; $1,000, 11/14/95; Reelect Strom Thurmond; $233, 07/09/96, Safari Club Intl. PAC; $1,000, 05/29/96, Strom Thurmond Re-election; $500, 06/27/97, Mike Fair for Congress; $300, 05/27/98, Synovus Financial Corp. Committee for Good Leadership; $530, 06/10/98, Citizens Committee for Ernest F. Hollings; $469, 10/28/98, Citizens Committee for Ernest F. Hollings; $500, 03/24/99, Henry E. Brown, Jr. for Congress; $1,000, 05/20/99, Bush for President, Inc.; $500, 07/12/99, Mark Sanford for Congress; $500, 11/22/99, Floyd Spence for Congress; $500, 11/22/99, Bush-Cheney 2000 Compliance Committee, Inc.; $20,000, 08/24/00, Republican National Committee; $500, 05/19/00, Synovus Financial Corp. Committee for Good Leadership; $1,000, 09/22/00, Henry E. Brown, Jr. for Congress; $5,000, 11/13/00, Bush-Cheney Recount Fund; $5,000, 11/30/00, Bush-Cheney Presidential Trust Foundation, Inc.

2. Spouse: Edith F. Royall: $530, 06/10/98, Ernest F. Hollings; $469, 10/28/98, Ernest F. Hollings; $1,000, 05/20/99, Bush for President, Inc.; $500, 11/22/99, Bush-Cheney 2000 Compliance Committee, Inc.

3. Children and spouses: Eleanor R. Parker: $1,000, 07/09/99, Bush for President, Inc.

Russell G. Parker: $1,000, 07/09/99, Bush for President, Inc.

Margaret R. Shore: $1,000, 07/09/99, Bush for President, Inc.; $200, 10/10/00, S.C. Republican Party.

Edith R. Smith: $1,000, 07/09/99, Bush for President, Inc.

R. Champion D. Smith: $1,000, 07/09/99, Bush for President, Inc.

4. Parents: Robert Venning Royall—deceased; Eleanor Williams Royall—deceased.

5. Grandparents: George W. Williams—deceased; Eula Lowery Williams—deceased; Edward Manly Royall—deceased; Harriett Maybank Royall—deceased.

6. Brothers and spouses: Edward Manly Royall, none; Helen Johnson Royall, none.

7. Sisters and spouses: None.

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*J. Edward Fox, of Ohio, to be an Assistant Administrator of the United States Agency for International Development.

*E. Anne Peterson, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

*Margaret K. McMillion, of the District of Columbia, Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Margaret K. McMillion.

Post: Kigali, Rwanda.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: Not applicable.

3. Children and spouses: Not applicable.

4. Parents: Margaret Jane Houlette McMillion, none.

5. Grandparents: Deceased.

6. Brothers and spouses: John L. and Karen R. McMillion, none.

7. Sisters and spouses: Not applicable.

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*Wanda L. Nesbitt, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Madagascar.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Wanda L. Nesbitt.

Post: Antanarivo, Madagascar.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: James E. Stejskal, none.

3. Children and spouses: No children.

4. Parents: James W. Nesbitt—deceased; Edna Pearson Nesbitt—deceased.

5. Grandparents: All grandparents deceased since 1964.

6. Brothers and spouses: James W. Nesbitt, Jr., none.

7. Sisters and spouses: Cheryl D. Nesbitt, none; Lynn Nesbitt, none; Natalie Nesbitt, none.

*Clifford M. Sobel, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Clifford M. Sobel.

Post: Ambassador to the Netherlands.

Amount, date, and donee:

1. Self: $1,000, 3/6/97, Americans for Hope, Growth and Opportunity; $5,000, 5/30/97,Campaign America, Inc.; $500, 6/23/97, Citizens Committee for Gilman for Congress; $25,000, 6/26/97, RNC Republican National State Elections Committee; $5,000, 10/20/97, Republican Leadership Council (FKA) Committee for Responsible Government; $1,000, 11/11/97, Friends of Jim Saxton (primary); $10,000, 11/20/97, GOPAC; $1,000, 12/5/97, Friends of Senator D'Amato; $1,500, 8/11/97, New Jersey Republican State Committee; $1,000, 10/29/97, Citizens for Arlen Specter; $5,000, 12/19/97, Republican Party of Florida Campaign Account; $500, 3/4/98, Friends of Dylan Glenn; $1,000, 3/28/98, Mike Ferguson for Congress (primary); $1,000, 3/28/98, Mike Ferguson for Congress (general); $1,000, 6/30/98, Lonegan for Congress; $5,000, 6/3/98, Freedom and Free Enterprise PAC; $500, 7/15/98, Friends of Newt Gingrich; $5,000, 9/30/98, Republican Leadership Council (FKA) Committee for Responsible Government; $1,000 10/13/98, Committee to Re-Elect Congresswoman Marge Roukema; $1,000, 10/14/98, Friends of Jim Saxton (general); $1,000, 10/21/98, Fox for Congress Committee; $25,000, 10/21/98, RNC Republican National State Elections Committee; $2,000, 2/18/99, RNC Republican National State Elections Committee; $2,000, 2/18/99, RNC Republican National State Elections Committee; $1,000, 3/29/99, Jon Kyl for

U.S. Senate; $1,000, 5/7/99, Whitman for U.S. Senate (primary); $1,000, 5/7/99, Whitman for U.S. Senate (general); $2,000, 5/17/99, The WISH List; $2,000, 6/15/99, Friends of Giuliani Exploratory Committee (primary); $1,000, 5/21/99, Trent Lott for Mississippi; $1,000, 5/13/99, Friends of Conrad Burns—2000; $1,000, 6/30/99, Zimmer 2000 Inc. (primary); $1,000, 6/30/99, Zimmer 2000 Inc. (general); $1,000, 8/11/99, Friends of Giuliani Exploratory Committee (general); −$1,000, 8/11/99, Friends of Giuliani Exploratory Committee (general), refund of $1,000; −$1,000, 9/21/99, Whitman for U.S. Senate (general), refund of $1,000; −$650, 10/19/99, Whitman for U.S. Senate (primary), refund of $650; $25,000, 10/21/99, RNC Republican National State Elections Committee; $1,000, 11/12/99, Friends of George Allen (primary); $1,000, 11/12/99, Friends of George Allen (general); $423, 12/7/99, New Jersey Republican State Committee; $657, 12/7/99, Republican Federal Committee of Pennsylvania; $1,521, 12/7/99, California State Republican Party; $621, 12/7/99, Illinois Republican Party; $513, 12/7/99, Michigan Republic State Committee; $927, 12/7/99, New York Republican Federal Campaign Committee; $594, 12/7/99, Ohio State Republican Party; $225, 12/7/99, Republican Party of Kentucky; $369, 12/7/99, Republican Party of Virginia Inc.; $315, 12/7/99, Washington State Republican Party-Federal Account; $342, 12/7/99, Massachusetts Republican State Congressional Committee; $225, 12/7/99, Arizona Republican Party; $10,000, 12/7/99, 1999 State Victory Fund Committee; $711, 12/7/99, Republican Party of Florida Federal Campaign Account; $395, 12/30/99, Republican Party of Florida Federal Campaign Account; $5,000, 12/30/99, 1999 State Victory Fund Committee; $330, 12/30/99, Ohio State Republican Party; $515, 12/30/99, New York Republican Federal Campaign Committee; $285, 12/30/99, Michigan Republican State Committee; $845, 12/30/99, California State Republican Party; $1,000, 12/20/99, Weingarten for Congress; $235, 12/30/99, New Jersey Republican State Committee; $365, 12/30/99, Republican Federal Committee of Pennsylvania; $345, 12/30/99, Illinois Republican Party; $205, 12/30/99, Republican Party of Virginia Inc.; $1,000, 1/18/00, Bush-Cheney 2000 Compliance Committee Inc.; $5,000, 1/20/00, Republican Leadership Council (FKA) Cmte for Responsible Government; $20,000, 2/4/00, Republican Leadership Council; $500, 3/7/00, Don Payne for Congress; $1,000, 3/27/00, Friends of Mark Foley for Congress; $1,000, 3/27/00, Abraham Senate 2000; $1,000, 3/31/00, Roth Senate Committee; $1,000, 4/17/00, Committee to Re-Elect Congresswoman Marge Roukema; −$1,000, 6/30/00, Friends of Giuliani Exploratory Committee (primary), refund of $1,000; $75,000, 6/30/00, RNC Republican National State Elections Committee; $1,000, 6/30/00, Bob Franks for U.S. Senate Inc. (primary); $1,000, 6/30/00, Bob Franks for U.S. Senate Inc. (general); $100, 8/2/00, RNC Republican National State Elections Committee; $1,000, 8/15/00, Lazio 2000 Inc.; $1,000, 9/29/00, Bush for President Inc.; $25,000, 10/6/00, Republican Leadership Council; $10,000, 10/31/00, RNC Republican National State Elections Committee; $5,000, 11/12/00, Bush-Cheney Recount Fund; $2,061, 1/30/01, RNC Republican National State Elections Committee; $3,206, 1/30/01, RNC Republican National State Elections Committee; $2,061, 1/30/01, RNC Republican National State Elections Committee; $1,350, 2/1/01, RNC Republican National State Elections Committee; $5,000, 3/6/01, RNC Republican National State Elections Committee; $1,000, 3/8/01, Friends of Mike Ferguson; $5,000, 3/27/01, The WISH List.

2. Spouse, Barbara Sobel: $1,000, 8/8/97, WISH List; $1,000, 3/2/98, WISH List; $5,000, 4/20/98, Campaign America Inc.; $1,000, 6/2/98, Mike Ferguson for Congress (primary); $1,000, 6/2/98, Mike Ferguson for Congress (general); $1,000, 6/4/98, Michigan Republican State Committee; $1,000, 5/1/99, Don Payne for Congress (primary); $1,000, 5/7/99, Whitman for U.S. Senate (primary); $1,000, 5/7/99, Whitman for U.S. Senate (general); $1,000, 6/30/99, Zimmer 2000 Inc. (primary); $1,000, 6/30/99, Zimmer 2000 Inc. (general); −$1,000, 9/21/99, Whitman for U.S. Senate (general) (refunded $1,000); $5,000, 9/30/99, New Jersey Republican State Committee; −$650, 10/19/99, Whitman for U.S. Senate (primary) (refunded $650); $1,000, 11/12/99, Friends of George Allen; $10,000, 12/7/99, 1999 State Victory Fund Committee; $423, 12/7/99, New Jersey Republican State Committee; $711, 12/7/99, Republican Party of Florida Federal Campaign Account; $657, 12/7/99, Republican Federal Committee of Pennsylvania; $1,521, 12/7/99, California State Republican Party; $621, 12/7/99, Illinois Republican Party; $513, 12/7/99, Michigan Republican State Committee; $927, 12/7/99, New York Republican Federal Campaign Committee; $594, 12/7/99, Ohio State Republican Party; $225, 12/7/99, Republican Party of Kentucky; $369, 12/7/99, Republican Party of Virginia Inc.; $315, 12/7/99, Washington State Republican Party Federal Account; $342, 12/7/99, Massachusetts Republican State Congressional Committee; $225, 12/7/99, Arizona Republican Party; $1,000, 12/13/99, Bill Nelson for U.S. Senate (final recipient of contribution to Florida 2000); $1,000, 12/13/99, Florida 2000 (joint fundraising committee final recipient was Bill Nelson for U.S. Senate); $1,000, 12/20/99, Weingarten for Congress; $205, 12/30/99, Republican Party of Virginia Inc.; $330, 12/30/99, Ohio State Republican Party; $515, 12/30/99, New York Republican Federal Campaign Committee; $285, 12/30/99, Michigan Republican State Committee; $345, 12/30/99, Illinois Republican Party; $845, 12/30/99, California State Republican Party; $5,000, 12/30/99, 1999 State Victory Fund Committee; $1,000, 12/30/99, Friends of Giuliani Exploratory Committee (primary); $235, 12/30/99, New Jersey Republican State Committee; $365, 12/30/99, Republican Federal Committee of Pennsylvania; $395, 12/30/99, Republican Party of Florida Federal Campaign Account; $1,000, 12/31/99, Friends of Giuliani Exploratory Committee (primary); $1,000, 2/1/00, Friends of Giuliani Exploratory Committee (general); −$1,000, 2/1/00, Friends of Giuliani Exploratory Committee (primary) ($1,000 refunded); $500, 3/14/00, Don Payne for Congress (general); $1,000, 3/29/00, Abraham Senate 2000; $5,000, 4/10/00, The WISH List; $1,000, 4/28/00, Friends of Dylan Glenn; $1,000, 6/30/00, Snowe for Senate (contribution was made to ''The WISH List'' but earmarked for and passed through to ''Snowe for Senate''); $1,000, 6/5/00, WISH List (earmarked for and passed on to the Snowe for Senate'' Campaign); $25, 6/8/00, Republican Presidential Task Force/National Republican Senatorial Committee; $1,000, 6/30/00, Friends of Giuliani Exploratory Committee (general) (refunded $1,000); $1,000 6/30/00, Bob Franks for U.S. Senate Inc. (primary); $1,000, 6/30/00, Bob Franks for U.S. Senate Inc. (general); $5,000, 7/10/00, New Jersey Republican State Committee; $1,000, 7/11/00, Gormley for Senate Primary Election Fund; $30, 8/14/00, Republican Presidential Task Force/National Republican Senatorial Committee; $1,000, 9/29/00, Bush for President Inc.; $60, 10/17/00, Republican Presidential Task Force/National Republican Senatorial Committee; $1,000, 11/3/00, Friends of Jim Saxton; $1,000, 3/8/00, Friends of Mike Ferguson; $5,000, 4/17/00, NORPAC; −$658, 8/15/01, New Jersey Republican State Committee (refund).

3. Children and spouses: Scott Sobel (son): $1,000, 7/19/99, Bush for President Inc.; $20,000, 12/30/99, 1999 State Victory Fund Committee; $940, 12/30/99, New Jersey Republican State Committee; $1,460, 12/30/99, Republican Federal Committee of Pennsylvania; $3,380, 12/30/99, California State Republican Party; $1,380, 12/30/99, Illinois Republican Party; $1,140, 12/30/99, Michigan Republican State Committee; $2,060, 12/30/99, New York Republican Federal Campaign Committee; $1,320 12/30/99, Ohio State Republican Party; $500, 12/30/99, Republican Party of Kentucky; $820, 12/30/99, Republican Party of Virginia Inc.; $700, 12/30/99, Washington State Republican Party—Federal Account; $440, 12/30/99, Republican Party of Iowa; $760, 12/30/99, Massachusetts Republican State Congressional Committee; $500, 12/30/99, Arizona Republican Party; $1,580, 12/30/99, Republican Party of Florida Federal Campaign Account; $1,000, 3/31/00, Abraham Senate 2000; $5,000, 7/6/00, New Jersey Republican State Committee; $10,000, 9/22/00, Republican National Committee—RNC; $1,000, 10/25/00, Bob Franks for Senate Inc.; $1,000, 11/3/00, Friends of Jim Saxton. Jonathan Sobel (son): $1,000, 6/18/99, Bush for President; $1,000, 8/19/00, Bob Franks for Senate; $1,000, 10/30/00, Friends of Jim Saxton. Julie Sobel (daughter): $1,000, 6/8/99, Bush for President, Inc.; $1,000, 8/19/00, Bob Franks for Senate; $1,000, 10/30/00, Friends of Jim Saxton.

4. Parents: Theodore Sobel (father): $1,000, 6/8/99, George Bush Campaign; $250, 7/8/99, Joint Action Committee for Political Affairs; $1,000, 10/26/99, George W. Bush for President, −$1,000, 1/10/00, Bush for President, Inc., refund of $1,000; $250, 9/22/00, Joint Action Committee for Political Affairs; $1,000, 10/1/00, Bob Franks for U.S. Senate; $1,000, 10/1/00, Friends of Jim Saxton. Claire Sobel (mother): $1,000, 10/26/99, George W. Bush for President; $1,000, 10/1/00, Bob Franks for U.S. Senate; $1,000, 10/1/00, Friends of Jim Saxton.

5. Grandparents: Not applicable.

6. Brothers and spouses: Peter Sobel (brother): None. Elizabeth Sobel (sister-in-law): $250, 2/97, Bill Clinton (campaign debt).

7. Sisters and spouses: Wendy Sobel Barr (sister): None. Aaron Barr (brother-in-law): None.

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*Cameron R. Hume, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of South Africa.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Cameron R. Hume.

Post: Pretoria.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: None.

3. Children and spouses: Laura Penn, Heather Hume, Jasmin Hume, Ivy Hume, Rigmor Spang: None.

4. Parents (deceased).

5. Grandparents (deceased).

6. Brothers and Spouses: Duncan and Joan Hume: None.

7. Sisters and Spouses: Not applicable.

*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.

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 Mrs. HUTCHISON (for herself, Ms. MIKULSKI, Mrs. BOXER, Ms. CANTWELL, Mrs. CARNAHAN, Mrs. CLINTON, Ms. COLLINS, Mrs. FEINSTEIN, Ms. LANDRIEU, Mrs. LINCOLN, Mrs. MURRAY, Ms. SNOWE , and Ms. STABENOW):

S. 1573. A bill to authorize the provision of educational and health care assistance to the women and children of Afghanistan; read the first time.

By Mr. ROCKEFELLER:

S. 1574. A bill to ensure that hospitals that participate in the medicare program under title XVIII of the Social Security Act are able to appropriately recognize and respond to epidemics resulting from natural causes and bioterrorism; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. HAGEL, and Mr. BOND):

S. 1575. A bill to provide new discretionary spending limits for fiscal year 2002, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. ROCKEFELLER:

S. 1576. A bill to amend section 1710 of title 38, United States Code, to extend the eligibility for health care of veterans who served in Southwest Asia during the Persian Gulf War; to the Committee on Veterans' Affairs.

By Mrs. HUTCHISON:

S. 1577. A bill to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself, Mr. SPECTER, Mr. CONRAD, Mr. INOUYE, and Mr. REID):

S. 1578. A bill to preserve the continued viability of the United States travel industry; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ENZI:

S. 1579. A bill to expand the applicability of daylight saving time; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND:

S. 1580. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel M/V Adios; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI:

S. 1581. A bill to amend the Internal Revenue Code of 1986 to allow a business deduction for the purchase and installation of qualifying security enhancement property; to the Committee on Finance.

By Mr. NELSON of Florida:

S. 1582. A bill to amend the Internal Revenue Code of 1986 to delay for 1 year the mandatory beginning date for distributions from individual retirement plans, and to accelerate the effective date for modifications of the AGI limit for conversions of Roth IRAs; to the Committee on Finance.

By Mr. NELSON of Florida:

S. 1583. A bill to amend the Internal Revenue Code of 1986 to provide a refundable tax credit for recreational travel costs, and for other purposes; to the Committee on Finance.

By Mr. CRAIG (for himself, Mr. BAUCUS, and Mr. COCHRAN):

S. 1584. A bill to provide for review in the Court of International Trade of certain determinations of binational panels under the North American Free Trade Agreement; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 1502

At the request of Mr. JEFFORDS, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of 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.

S. 1546

At the request of Mr. ROBERTS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1546, a bill to provide additional funding to combat bioterrorism.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON (for herself, Ms. MIKULSKI, Mrs. BOXER, Ms. CANTWELL, Mrs. CARNAHAN, Mrs. CLINTON, Ms. COLLINS, Mrs. FEINSTEIN, Ms. LANDRIEU, Mrs. LINCOLN, Mrs. MURRAY, Ms. SNOWE, and Ms. STABENOW):

S. 1573. A bill to authorize the provision of educational and health care assistance to the women and children of Afghanistan; read the first time.

Mrs. HUTCHISON. Mr. President, no one in America can have read a newspaper or seen a television report about the plight of women in Afghanistan, and children, without being horrified. All 13 women of the Senate, led by myself and Senator MIKULSKI, are introducing a bill today that would authorize the President to give education, health care benefits, and other help to the women and children of Afghanistan, and to those in refugee camps, at the first opportunity we possibly can.

Women are not able to be educated under the Taliban. Women are not able to get health care under the Taliban. They are not able to work.

I am going to talk about some of the things that have happened. But my colleague from Maryland and my colleague from the State of Washington have other commitments, and I want to yield to my colleague from Maryland who is a cosponsor of this bill. Every woman in the Senate is sponsoring this bill: Senator BOXER, Senator COLLINS, Senator LANDRIEU, Senator FEINSTEIN, Senator STABENOW, Senator CLINTON, Senator CANTWELL, Senator SNOWE, Senator MURRAY, Senator LINCOLN, Senator CARNAHAN, and of course my key cosponsor, Senator MIKULSKI from Maryland.

Mr. President, I yield the floor to the Senator from Maryland.

The PRESIDENT pro tempore. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President I rise to be a proud original cosponsor with Senator KAY BAILEY HUTCHISON in introducing the Afghan Women and Children Relief Act. This act will provide education and assistance and health care to the women and children of Afghanistan.

I have stood with the Senator from Texas on other issues related to the employment of women. We worked on economic security, pension security, health care opportunity, and educational opportunity for women and children as we worked on other issues related to the economic issues of our own States. Today I join with her, speaking on behalf of all of the women of the Senate—and I know all of the men of the Senate who will join with us—to see this crisis in Afghanistan is an opportunity to lift up the women and children from what has happened under the Taliban regime.

The Taliban regime represents repression of all people and particularly is most brutal to women and children. Taliban restrictions on women's participation in society make it nearly impossible for women to exercise their basic human rights. Restrictions on Afghan freedom of expression, association, and movement deny women full participation in their society. They don't even have access to the basic ability to work, go to school, and have health care.

The facts speak for themselves. Afghanistan has one of the highest infant mortality rates in the world. Only 5 percent of the rural people have access to safe drinking water. It is estimated hat 42 percent of all deaths in Afghanistan, up until this terrible situation was because of contaminated food and water. Over one-third of the Afghan children under 5 suffer from malnutrition.

I could go on with the data from the World Health Organization and others. This is not about statistics, this is about the people of Afghanistan, particularly the women. Because their human rights have been denied, we need to work with our own Government and the NGOs to make sure, as we work to create a new world order in Afghanistan, that women and children will have access to education and health care.

Often people have said the women face these repressions under the guise of traditional customs. Let me say this: I don't believe that. In an article in the New York Times by scholars Jane Goodwin and Jessica Neuwirth entitled ''The Rifle and the Veil,'' they point out that the very visible repression against women is not about religion, ''it is a political tool for achieving and consolidating power.''

I ask unanimous consent that that op-ed be printed in the RECORD at the end of my statement.

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

(See Exhibit 1)

Mr. MIKULSKI. They point out that under the guise of religion, using a distorted view of the Koran, women are forced into subjugation. Women in Afghanistan can't work in their own professions. Women and girls can't go to school. Women who are capable of teaching in school are forbidden to do so. Widows, who are deprived of their ability to earn a living, have been beaten when they have resorted to begging to feed themselves and their children.

Afghan women and children have fled to escape this repression, but their plight as refugees is not much better. At the camps, either in Pakistan or other countries or in no-man's land, they depend on international assistance for survival, but their future is bleak. Secretary Albright went to those Afghan camps. I spoke to her about it. She talked about those dire circumstances. And she led the effort to help the Afghan people.

We now have an opportunity to create a new world order. This is what this legislation is all about. America will demonstrate our solidarity and our support to these women and children. As America leads the international coalition against al-Qaida and the Taliban regime, let's use this as the opportunity to help the women and children there.

Let me conclude by saying this. As our Govenment—and I salute President Bush on what he is doing—works to create a new government in Afghanistan, if we are having a new government, let us insist that there not be the old rules, the old repression. We respect religion, we respect the traditions of the Muslim Community, but I do not believe that includes denying health care and education to the women.

If we are going to have a new world order, let's start with making sure we help the women and children. I thank Senator HUTCHISON for taking the lead on this legislation.

On a personal note, I particularly want to thank Senator HUTCHISON at this time, when I have been displaced from my own office, for the wonderful courtesy she has extended to my staff to be able to work in some of her rooms at the Russell Building. I say to you, Senator HUTCHISON, not only has the space meant a lot to us, but so did your graciousness in making it available.

See, Mr. President, this is what the terrorists don't understand. They can't stop us. We are the red, white, and blue party. If you look at HUTCHISON, MIKULSKI, and the other 11 women of the Senate, the Taliban can't stop us from helping the women of the world. I yield the floor.

EXHIBIT 1

[From the New York Times, Oct. 19, 2001]

THE RIFLE AND THE VEIL

(By Jan Goodwin and Jessica Neuwirth)

Anyone who has paid attention to the situation of women in Afghanistan should not have been surprised to learn that the Taliban are complicit in terrorism. When radical Muslim movements are on the rise, women are the canaries in the mines. The very visible repression of forced veiling and loss of hard-won freedoms coexists naturally with a general disrespect for human rights. This repression of women is not about religion; it is a political tool for achieving and consolidating power.

Sher Abbas Stanakzai, then the Taliban regime's deputy foreign minister, admitted as much in a 1997 interview. ''Our current restrictions of women are necessary in order to bring the Afghan people under control,'' he said. ''We need these restrictions until people learn to obey the Taliban.''

In the same way that many Islamic extremist crusades use the oppression of women to help them gain control over wider populations, the Taliban and Osama bin Laden are now employing the tactics of terrorism to gain control.

The Taliban did not start the oppression of Afghan women, nor have they been its only practitioners.

In 1989, Arab militants working with the Afghan resistance to the Soviet Union based in Peshawar, Pakistan—and helping to finance the resistance fighters—issued a fatwa, or religious ruling stating that Afghan women would be killed if they worked for humanitarian organizations. At that time, a third of the Afghan population of 15 million were displaced from their homes, and many were heavily dependent on humanitarian groups for food and other necessities. Among the 3.5 million of these refugees who were then living in Pakistan, many were war widows supporting their families by working for the aid groups. After the fatwa, Afghan women going to work were shot at and several were murdered. Some international aid groups promptly stopped employing Afghan women, and though many women were infuriated, most complied after being intimidated by the violent attacks. Soon afterward, another edict in Peshawar forbade Afghan women to ''walk with pride'' or walk in the middle of the street and said they must wear the hijab, the Arab black head and body covering and half-face veil. Again, most women felt they had no choice but to comply.

In 1990, a fatwa from Afghan leaders in Peshawar decreed that women should not attend schools or become educated, and that if they did, the Islamic movement would meet with failure. The document measured 2 feet by 3 feet to accommodate the signatures of about 200 mullahs and political leaders representing the majority of the seven main mujahedeen parties of Afghanistan. The leading school for Afghan girls in Peshawar, where many Afghan refugees still lived, was sprayed with Kalashnikov gunfire. It closed for months, and its principal was forced into hiding.

When an alliance of mujahedeen groups took over in Kabul in 1992, it forced women out of news broadcasting and government ministry jobs and required them to wear veils. But it was the Taliban who institutionalized the total oppression of women after Kabul fell to them four years later, and who required the total coverage of the now familiar burqa.

Now, as Afghans, Pakistanis and Americans look to the future of Afghanistan, most plans call for a broad based new government giving representation to all of Afghanistan's ethnic groups and major political parties, including the Taliban. No one, however, has called for the participation of women, even though women, after many years of war, now almost certainly make up the majority in the adult Afghan population.

Afghan women gradually gained rights in the first decades of 20th century. Women helped write their country's Constitution in 1964. They served in parliament and the cabinet and were diplomats, academics, professionals, judges and even army generals. All of this happened well before the Soviets arrived in 1979, with their much-touted claim of liberating Afghan women.

Many of the forces now opposing the Taliban include signatories of the later fatwas that deprived Afghan women of their rights. History is repeating itself.

Any political process that moves forward without the representation and participation of women will undermine any chances that the principles of democracy and human rights will take hold in Afghanistan. It will be the first clue that little has changed.

The PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Maryland for her kind remarks. We are all in this, and one of the things we are trying to do is help our colleagues who still are out of their offices, who have not received mail for over a week, who do not have the places. We are happy to do that and especially because my colleague from Maryland has had two postal workers who have died at the Brentwood Station. At a time of huge crisis in her State, she is left without an office. We all want to back her and help her and help her constituents in every possible way.

I will take a few moments, because I deferred to the Senator from Maryland, to talk about some of the statistics in Afghanistan that have caused us to highlight this issue. We have seen repression of women in other countries, but we have never seen the repression that is happening in Afghanistan today. The pictures of women being beaten on the streets because their burqa was opened a little bit by the wind, or beaten on the streets because the religion police heard a clicking of heels of shoes on the sidewalk and believed the woman must be wearing high-heeled shoes—this is unbelievable.

In one account I read in a journal, a widow who did not have a male relative to escort her to the hospital watched her small son die of dehydration. She tried to make the journey to the hospital by herself but was beaten by the religion police as she left her home.

This is not a country that should be allowed, with the Taliban, to do this to its own people. That is why we are standing here today to say we want to come in and make sure the women and children of this country have opportunities for health care, for education. We are not trying to put our religion on other people. We are not trying to say you have to do it our way. But there are some basic human rights that everyone accepts, and they are that a woman is equal to a man, that a woman should be able to have basic health care, she should be able to take her children to see a physician, she herself should be able to go to a physician. That is not the case today in Afghanistan. She can't see a physician because she is not allowed to see a male physician and the woman physicians are gone because the Taliban will not allow women to work.

Afghanistan today has a 16-percent infant mortality rate and a 25-percent children mortality rate.

We cannot allow that to stand. That is why the women of the Senate are standing together to say when the aid comes in that we want to make sure the women get the aid in health care, that they are allowed to be educated, and that they will be allowed to support themselves and their children in a respectful way, and not be required to beg on the streets and sell themselves into prostitution, which is happening today.

That is why we feel so strongly abut this and why we are standing together and hoping that we can pass this bill with the help of the Foreign Relations Committee very quickly—so the women and children in the refugee camps in Afghanistan know that when America helps, it will be help for them too because they are also equal people.

I yield up to 3 minutes to the Senator from Michigan.

The PRESIDENT pro tempore. The Senator from Michigan, Ms. STABENOW, is recognized for 3 minutes.

Ms. STABENOW. Thank you, Mr. President.

I want to, first, thank my colleague, Senator HUTCHISON, for her leadership and for the eloquent words of Senator MIKULSKI who spoke earlier.

This is a wonderful example for working together. We are in the Chamber today not as Democrats or Republicans but as the women of the Senate speaking because we believe it is our responsibility to speak up on behalf of the women and children of Afghanistan who are being terrorized by their own government, the Taliban.

Senator HUTCHISON spoke very eloquently about the statistics and about what is happening. I am honored to represent in Michigan a very large Muslim-American population. They assure me this is not Islam. It is not the words of the Koran. This is an extremist, perverted group of people who have twisted the words. They hide behind the religion, which is a very perverse and twisted view of the world that is disenfranchising half of their population.

We come together to indicate that, as they move to a new coalition government, we expect and we will demand on behalf of the women and the children of the world that the women and children of Afghanistan are not left out of this new government; that the women who are physicians in Afghanistan will be allowed to treat their patients; that the country will benefit from the women who have been educated and who have the skills to help rebuild that country; and, that we empower the next generation of girls by making sure they are educated and will have the skills and knowledge they need to help rebuild the country of Afghanistan.

We know that once the Taliban has been defeated there will be much work to be done. If they continue to exclude half of their population, they are not only committing a travesty against them but they are placing their own country in jeopardy by not using the talents and the abilities that are there.

I, once again, thank all of my colleagues. It is wonderful to see everyone in the Chamber and to see a unified effort. I know we will continue to stay focused until we make sure the outrageous violence and atrocities that have been committed are stopped, and that the women and children of Afghanistan have the opportunity to live and be healthy and successful in their country.

I yield the floor.

Mrs. HUTCHISON. Mr. President, I yield 2 minutes to the Senator from Maine.

The PRESIDENT pro tempore. The Senator from Maine, Ms. COLLINS, is recognized for 2 minutes.

Ms. COLLINS. Thank you, Mr. President.

Mr. President, I commend my colleague from Texas and my colleague from Maryland for their extraordinary leadership in shining the spotlight on a very dark, dark part of the Earth.

We, the women of the Senate, represent different States, different ideologies, and are from different backgrounds, but we are united in our determination to expose the horrendous treatment of the women and children of Afghanistan. We are determined to help them in every way possible.

It was our colleague from Louisiana, MARY LANDRIEU, who first brought to my attention an excellent CNN documentary called ''Women Behind the Veil,'' which demonstrated the appalling treatment by the Taliban of the women of Afghanistan. Women are not allowed to be educated.

That, to me, says it all because by denying women an education, you are denying them knowledge, awareness, and opportunity.

I am happy to join with the Senator from Texas, my colleague, Mrs. HUTCHISON, and the Senator from Maryland, my colleague, Ms. MIKULSKI, in this excellent initiative. I hope all of our colleagues will join in supporting this legislation.

Thank you, Mr. President.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Maine for her remarks, and the Senator from Michigan.

I yield 2 minutes to the Senator from California.

The PRESIDENT pro tempore. The Senator from California, Mrs. BOXER, is recognized for 2 minutes.

Mrs. BOXER. Thank you very much, Mr. President.

Let me add my thanks to Senators HUTCHISON and MIKULSKI for their leadership on this important piece of legislation. Let me pledge to my friend from Texas and my friend from Maryland, and all the women in the Senate who are behind this, as the only woman on the Foreign Relations committee, that I will work with them to ensure we move this forward to markup.

The committee has a very good record when it comes to dealing with this issue. In 1999, Senator Brownback and I coauthorized a resolution condemning the practices of the Taliban. It went through the Senate very fast. We pointed out some of the issues that my colleagues have pointed out today about the treatment of women. It said the United States should never recognize the Taliban if they continue this type of treatment of women.

Yesterday, in the Foreign Operations Appropriations Act, Senator BROWNBACK and I were able to pass two amendments: one that called for women to be part of a new postwar Afghanistan government; and, second, a training program.

We actually funded that for women leaders in Afghanistan. But unless we pass this bill ensuring the health of the women in Afghanistan who have been denied health care—there is a law under the Taliban that says a woman may not go to a male doctor. She may not go to a male doctor. Yet they have said to the women doctors that they can no longer practice and they can no longer learn medicine.

What kind of situation is this? Women are forced to wear the burqas. You see them more and more on television. I put one on to get the sense of how it feels. I say to my friend from Texas that it feels as if you are nonexistent. It feels as if you are a nobody. You are no one.

In closing, let me say that this important piece of legislation must be heard soon by the Foreign Relations Committee. We must act on it. We must ensure that women who have been mistreated and who have been made, in essence, invisible must get the health care they deserve as well as their children. To carry that out, the Boxer-Brownback amendment which we agreed to yesterday must be part of an emerging new government.

My thanks to my friend from Texas. This a very strong bill. It has bipartisan support. I am proud to be a cosponsor.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from California for her efforts, along with Senator BROWNBACK, to bring the plight of Afghan women to the forefront. The bill that we have before us I hope can be moved expeditiously. I want any dollars that go to Afghanistan or to the refugees who are Afghans in camps outside the country to help these women who have been so abused.

I am stunned at some of the statistics. Forty-two percent of all deaths in Afghanistan are due to diarrheal diseases caused by contaminated food and water. This is 2001. Contaminated food and water is the most preventable kind of affliction that we could ever imagine. We have clean food and water. Forty-two percent of the people who die from something so preventable is just stunning.

As we have said, before the Taliban came, women could be educated. Schools were coeducational. Women accounted for 7 percent of the teaching force. Women represented 50 percent of government workers, and 40 percent of the physicians were women. But today, the Taliban prohibits women from working in any occupation.

Clearly, the Afghan people, before the Taliban, had basic human rights. The women and children were treated at least with respect. But when the Taliban came in and prevented women

from being educated, prevented women from working, and prevented them from having health care, you wonder what kind of beasts are these? What kind of beasts would do this to other human beings? What kind of beast would let a little child die because the mother had no one to escort them to the hospital?

We cannot conceive of this kind of terrorism to the people who are their own people, much less what they have harbored against America.

So, Mr. President, I am proud the women of the Senate are coming together to speak for the women of Afghanistan, to say that our dollars are going to come and help rebuild Afghanistan.

We have no problem with the people of Afghanistan. We feel sorry for the people of Afghanistan living under this regime of the Taliban. That is why we are trying to root the Taliban out because they have harbored terrorists who have killed innocent Americans and innocent people from around the world. But when we do, we are going to make sure that women and children have the basic respect and the basic human rights that everyone in the world should have, and American dollars coming in will be dollars that will help bring a quality of life that is the basic decency that we all expect in our lives.

I know the bill will stay at the desk. I hope to work with the members of the Foreign Relations Committee to have an expedited procedure.

Ms. CANTWELL. Mr. President, I rise today with the other 13 women Senators and Senator KAY BAILEY HUTCHISON of Texas to introduce a bill that will authorize the use of existing funds in the foreign operations bill for the education and health care services of Afghan women.

There is no doubt that the Taliban regime has been particularly heinous to the women of Afghanistan. Women are not allowed in public, girls are not sent to school, and the basic human rights that are afforded to women across the world, especially women here in America, are denied.

The record is clear, women and girls in Afghanistan are abused regularly by the Afghan Government. It is my hope that the monies made available by this bill will help ameliorate the lives of the Afghan women by bettering their educational opportunities and increasing their access to necessary and vital health care services.

Mrs. FEINSTEIN. Mr. President, I rise this morning alongside my colleagues Senators HUTCHISON and MIKULSKI to voice my support for the Afghan Women and Children's Relief Act of 2001, which I am proud to cosponsor.

This bill authorizes the President to provide educational and health care assistance to the women and children living in Afghanistan and as refugees in neighboring countries. This is an important new front in our war against terrorism—and for the people of Afghanistan—and a much overdue one at that.

For over twenty years Afghanistan has known little but violence, bloodshed, and civil war. It has seen mass killings, disappearances, land mines, child soldiers, and one of the world's largest refugee outflows and internally displaced populations in history.

And, since the Taliban takeover in 1996, Afghanistan has also been witness to a horrifying war against women.

Until the accession of the Taliban women in Afghanistan were involved in public life, had access to education, were able to travel freely within their own country, and had access to jobs. Indeed, many were professionals—doctors, nurses, and teachers.

But under the Taliban women have been systematically denied access to education and health care. They have been denied access to employment. They have been forced to wear burkas, an all-encompassing garment, if they go out in public—something they can only do if accompanied by a male relative. Indeed, without a male relative to accompany them, many are even denied access to humanitarian aid and food assistance.

In short, under the Taliban Afghan women have been systematically denied their basic and fundamental human rights.

At the same time Afghanistan has witnessed a burgeoning humanitarian crisis. Two decades of war have destroyed or degraded much of the housing stock in Afghanistan's major cities. Afghan war-widows have been forced to become the primary bread-winners for their families and children, but, under Taliban law, are often prevented from working. As a result, tens of thousands of Afghan children are undernourished or malnourished. Most Afghans do not have access to safe drinking water. It has one of the highest infant mortality rates in the world. Millions of Afghans have fled to neighboring countries, and millions more are internally displaced within their own country.

I first became concerned about the plight of Afghan women five years ago, during the 105th Congress, when, shortly after the Taliban takeover of Kabul, I first started to hear the horror stories of what was transpiring in a country which at that time rarely made the news section of American newspapers.

As a member of the Foreign Relations Committee I held a public hearing on women's rights in Afghanistan to learn more about what was happening, and I introduced legislation which condemned the Taliban, called on the United States to provide additional humanitarian assistance to the people of Afghanistan, and stated that the U.S. government should not recognize any government of Afghanistan which systematically maltreated women.

Alongside a handful of my colleagues—Senators BOXER and BROWNBACK foremost among them—I have continued to try to bring attention to this issue in the years since, addressing it in letters to the President, addressing it every year in statements on International Woman's Day, cosponsoring further legislation in the Senate, and, earlier this year, urging the Administration to consider additional emergency assistance for the people of Afghanistan, with an emphasis on the special needs of women and children.

For too many years, however, all too few people listened.

But I would argue that how a regime treats its women and children can be seen as an early warning indicator that can alert us to larger systemic problems that demand our attention.

Indeed, as I stated before the Foreign Relations Committee in addressing this issue in 1998, ''The conditions of near-anarchy that have resulted from the sectional fighting and civil war have created in Afghanistan an environment well-suited for the training of terrorists and the production and shipment of drugs. It is no coincidence that Osama bin Laden has chosen Afghanistan as a base of operations . . . .''

Today, tragically, we have all become experts on Afghanistan and its tumultuous recent history.

The ''Afghan Women and Children's Relief Act of 2001'' is an important statement of the United States commitment to the future of Afghanistan and its people. A commitment to make sure that Afghanistan's women and children, who have borne the brunt of the Taliban's brutality for the past half-decade, will receive the assistance they need, and have the opportunity for a future.

As we continue to push forward in our effort to combat international terrorism I can think of few tasks more valuable than making sure that Afghanistan will never again face conditions which have made it an ideal base for terrorist operations, and that the people of Afghanistan will never again face the human suffering that they have been subject to for the past two decades.

I urge my colleague to join with Senators HUTCHISON and MIKULSKI in support of this important piece of legislation.

Ms. LANDRIEU. Mr. President, I rise today in support of this very important piece of legislation. I would like to commend my colleagues, Senators HUTCHISON, MIKULSKI, and BOXER, for their leadership not only on this bill, but also in these issues generally. Women and children make up 80 percent of refugees worldwide. In Afghanistan, twenty years of civil war, political turmoil, continuing human rights violations and recent drought have already displaced more than five million of the Afghani population. Some four million refugees are displaced in neighboring countries and across the world, while another one million people are internally displaced within Afghanistan. Before September 11, severe drought had brought the country to the verge of famine and existing Taliban

restrictions on relief agencies had severely hampered the delivery of assistance and civilian access to basic services. Approximately 1 million people, the majority of them women and children, will die of starvation if aid is not given to them before the winter arrives.

In addition to being denied physical needs, the women and children of Afghanistan have long been denied the freedom and respect that are also necessary to sustain human life. The oppressive rule of the Taliban removes from their lives the very freedoms we embrace, education, free speech, and the opportunity to make a living. The Taliban restrictions are so severe that they make it nearly impossible for women to exercise these and other basic human rights. Under this rule, the very lives of women are in danger. There are hundreds of stories of women being executed, raped, or beaten. Just recently, RAWA reported that at least four women in the last six months were burned alive by their husbands for their alleged infringements of Taliban law. They received no trial for these offenses and their husbands were praised, not punished for these horrible acts.

The women members of the Senate and many of our colleagues have called on the U.S. to act to bring an end to these violations of basic human rights. Over the past several years, Senator BOXER, myself and others have called on the Foreign Relations Committee to take immediate action to ratify the Convention to End Discrimination Against Women, a treaty designed to stamp out this type of behavior worldwide. Over the last two months, Americans have been reminded of the importance of their freedoms. Many are prepared to die to protect them for all Americans. Yet if we are to be the true and lasting democracy that we hope to be, democracy and freedom cannot end at our borders. We must work to ensure that men, women and children everywhere know what it is like to be truly free.

This bill recognizes that the war to preserve freedom must be fought on two fronts. First, through military action designed to bring an end to oppressive rule. Secondly, through targeted humanitarian aid designed to provide education, health care, food and support to the citizens so that they may one day form the base of a new and free society. In providing this type of support to the women and children of Afghanistan, the United States is protecting the principles upon which this country was founded, that each and every individual in this world is ''endowed by their creator with certain unalienable rights that among these are, life liberty and the pursuit of happiness.

Again, I am proud to join Senators HUTCHISON and MIKULSKI in support of this important legislation and I urge that we pass it into law as soon as possible.

AFGHANISTAN WOMEN AND CHILDREN RELIEF ACT OF 2001

Mrs. MURRAY. Mr. President, I am pleased to join my colleagues today to again raise the plight of women, girls and children in Afghanistan. I commend Senator HUTCHISON and Senator MIKULSKI for taking the initiative to introduce the Afghan Women and Children Relief Act of 2001.

Many of us have been working since the Taliban seized control in Afghanistan to give voice to women who have been silenced, beaten, harassed and even executed.

Afghanistan has been in a cycle of war and conflict for more than twenty years. These two decades have been hard on the Afghani people but especially difficult for women, young girls and children. When the Taliban seized control in Afghanistan, the plight of women, girls and children went from a crisis existence to a catastrophic one.

As noted in our bill and mentioned by my colleagues, women in Kabul, Afghanistan represented 70 percent of the teachers when the Taliban came to power. Women in Kabul represented 50 percent of the public employees and more than 40 percent of the medical professionals including doctors. Women students made up 50 percent of the student body at Kabul universities.

Throughout Afghan society women served their country, their culture and their families as scientists and professors, as members of parliament, as leaders of their communities. The Taliban changed all of that quickly and cruelly with little consideration for the rights of women or the many roles played in Afghan society by women.

The Taliban now bans women from working as teachers, doctors or for that matter, in any profession.

The Taliban closed schools to women. Not just the teachers. But to all young girls. It is against the law for a young girl to attend a school in Afghanistan. To attend school, women and young girls in Afghanistan risk floggings, death by stoning, or single shot execution.

Women cannot leave their homes without the heavy veil style clothing. They must be accompanied by a male. Women must not laugh or make noise in public. The punishment for violating Taliban law as we have now seen in several informative documentary pieces can be deadly. Many of my constituents have contacted me shocked and outraged at the video clip of the woman ushered into a soccer stadium to the jeers of a crowd. She's forced onto the playing field on her knees where she is quickly executed by a single shot from a rifle.

Women in Afghanistan, every generation now living, is suffering under the Taliban rule. Some have been forced from meaningful lives to absolute poverty. Others now see no future in Afghanistan for themselves and their children. Still others, war widows and elderly women, are forced into prostitution or forced to sell all of their possessions to feed themselves.

Yesterday, we passed the Foreign Operations Appropriations bill. I served on this subcommittee for a long time and its many programs offer hope to women in Afghanistan. The Afghan Women and Children's Relief Act notes many of these programs.

We provide assistance to help educate and immunize young girls in the world. We provide assistance in the form of maternal health care and family planning in the most needy areas of the world. We support microcredit lending, particularly to women led households, in many impoverished areas of the world.

We support international organizations from UNICEF and other UN entities to non-governmental organizations based here in the United States and throughout the world. Our bill would include Afghani women and girls in these vital programs.

As we look to aid women, young girls and children in Afghanistan, we must not assume that simply ending the Taliban rule will cure the problem. We walked away from Afghanistan when the Cold War ended, we cannot do that again when the Taliban goes. We must ensure that women and children are fully protected in the Afghan government which will eventually follow the Taliban. Women in Afghanistan must be brought back—fully brought back—into Afghani society. All of Afghanistan will be better when women are allowed again to teach, to serve publicly, and to treat illness.

Mr. President, I thank my colleagues for raising this issue. I join them as an original cosponsor of this legislation and I urge its prompt passage. Further, I call on all of our colleagues to support the appropriate funding levels which will ultimately make a great difference in the lives of Afghani women, young girls and children.

Ms. SNOWE. Mr. President, I rise today in support of a bill sponsored by Senators HUTCHISON and MIKULSKI that would authorize the use of Federal resources to increase the education, health and living standards for women and children in living in Afghanistan, and as refugees in neighboring countries. Importantly, it also specifies that this assistance is provided in a way that protects and promotes the human rights of all people in Afghanistan.

Allow me to begin by praising the work and leadership of my colleague from Texas, Senator HUTCHISON, on behalf of women both at home and abroad. This legislation is entirely consistent with her strong beliefs and leadership to extend opportunities to women throughout the world, and I am proud to join her in support of this effort.

It is simply unconscionable that we should even have to consider such a measure in this day and age. But there should be no mistake, the facts show that Congressional support for women in Afghanistan is nothing short of a moral imperative.

This issue is not simply a matter of cultural differences, of imposing a particular viewpoint on another country or people. This is a core human rights issue, and to ignore the plight of Afghan women is to turn our backs on a terrible wrong that we have the power and I would say the obligation as fellow human beings to help right.

This is a matter of basic justice, and it's basic justice denied under the current Taliban regime.

Prior to the Taliban's assent to power, Afghani women enjoyed both stature and freedom. In fact, many Americans may be unaware that Afghani women were not only well educated, they constituted 70 percent of the nation's school teachers, half of the government's civilian workers, and 40 percent of the doctors in its capital.

But that all changed, or, more accurately, came to a crashing and tragic halt, with the seizure of the Afghanistan capital in September of 1996, when the Taliban began a regime of gender-based apartheid. It's a regime, I'm sad to say, that's been enforced with the most extreme brutality.

Talk about going backwards, what's happened in Afghanistan hasn't just turned back the clock, it's turned back the centuries. While the calendars tell us it's a new millennium, you'd never know it from the graphic and disturbing footage we see from the Taliban-occupied regions of Afghanistan, which paint a very different picture of Afghanistan than even five years ago.

Today, women have been banished from the work force, flat out not allowed to work . . . to earn a living . . . or to support themselves or their family. And let's not forget that, according to an October 23 article in the Chicago Tribune, and I quote, ''Tens of thousands of women were said to be widowed by Afghanistan's long-running battle against Soviet occupation in the 1980's. Many have had to turn to begging and prostitution.''

Under the Taliban, girls aren't allowed to go to school. And women have been expelled from the universities. In fact, incredibly, women are prohibited from leaving their homes at all unless accompanied by a close male relative, even in the event of a medical emergency for themselves or their children. These women are under house arrest, they are prisoners of their own homes.

And if that's not bad enough, they are prisoners within themselves, with the Taliban going to great and inhumane lengths to strip Afghani women's sense of self and personhood. As the world has seen over and over again in the past five years and even more so since the start of the military campaign on October 7th, Afghani women are forced to wear a burqa, leaving only a mesh hole from which they can view the world in which they cannot participate.

And heaven help those who dare to tread upon or flout these laws. Penalties for violations of Taliban laws range from beatings to public floggings to killings, all state sanctioned. While these tragedies are not new, with the world's focus on the plight of the Afghani women, it is time for us to stand up and be counted.

For myself, I have continually supported efforts to improve the lot of women in Afghanistan, cosponsoring a resolution in the last Congress to condemn the systemic human rights abuses that are being committed against women and girls in Afghanistan, and supported a similar resolution this year that passed unanimously.

We've been a leader in assisting the people of Afghanistan, in fact, the U.S. is the largest single provider of assistance to the Afghan people, and we should continue our leadership, now more than ever, as the Taliban has brought even greater woe upon the Afghan people.

It is imperative that we distinguish between the Afghan people and the oppressive ruling Taliban that harbors terrorists within their borders. This bill highlights the ongoing plight of the Afghani women.

By authorizing the President to provide educational and health care assistance to women and children living in Afghanistan, and as refugees in neighboring countries, we recognize that women must have a future in Afghanistan. This potential for prosperity can only be realized if, as in the United States, both men and women have an opportunity to participate and contribute. That's what this bill is all about, and I hope that my colleagues will join us in supporting it.

By Mr. ROCKEFELLER:

S. 1574. A bill to ensure that hospitals that participate in the medicare program under title XVIII of the Social Security Act are able to appropriately recognize and respond to epidemics resulting from natural causes and bioterrorism; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I do not have to tell my colleagues here in the Senate that bioterrorism has become a reality. Here, and throughout the Nation, we are frightened and frustrated by the lack of clear information on what the threats are, and how we are to find the resources to protect ourselves. With this need in mind, I proudly offer the ''Public Health Emergency Planning and Information Act of 2001,'' a bill which would provide grants to hospitals to prepare for public health emergencies, and that would fund programs to provide the public and medical providers with accurate information about potential biological attacks.

As we have seen in the past few weeks, the first line of defense against the threat of bioterrorism relies upon swift action by local health care providers and public health officials. The quick response of doctors in Florida to that first case of anthrax on October 4th gave the medical community and the public a warning of what was to come. Despite this recognition, and despite a small number of additional actual anthrax cases, we are currently struggling with how to respond, who to treat, what to expect next, and what information we can trust. We cannot simply wait to see what happens next, we must face this new and terrifying threat immediately.

Epidemics, whether natural or the result of deliberate attacks, unfold in communities, and may happen without warning. Our hospitals, and our physicians and nurses, must be prepared to detect outbreaks, diagnose diseases, treat patients, and activate state and federal response systems. They must be able to care for the public without becoming ill themselves.

These tasks will be made more challenging by the sadly diminished public health care infrastructure. The legacy of this chronic underfunding of state and local health departments has become all too obvious in the past few days. Last year, Congress passed legislation authored by my colleagues, Senators KENNEDY and FRIST, to begin supplying the Centers for Disease Control and Prevention and our State and local health departments with the funding that they so desperately need. I applaud this goal, and trust that we can continue to build on those efforts.

I remain concerned, however, about the resources available to local hospitals. Under pressures to contain the costs of health care, providers have shifted emphasis from hospital-based care to outpatient treatment over the last decade. This change, accompanied by ever shrinking staffing levels, has eroded our ability to care for a large number of patients at once. Annual epidemics of influenza already overwhelm the capacity of local health care systems, and now hospitals struggle to care for the ill while preparing for the unthinkable. Providers in small communities, particularly, have been less involved in Federal disaster training, and are most likely to lack the resources to accommodate a surge of patients during a deliberate or natural epidemic. Many caregivers from my own State of West Virginia have contacted me in recent weeks, desperate for resources to aid their preparations.

Current standards established by accrediting organizations and the Centers for Disease Control and Prevention outline basic steps in emergency preparedness that should, or must, for accreditation purposes, be undertaken by all hospitals and health care facilities. However, almost all Federal funding for medical disasters has been released in response to emergencies, rather than to prepare for them. Hospitals have seen little financial incentive for purchasing equipment or supplies that might never be used, especially in the climate of managed care.

The legislation that I introduce today would provide funding to aid these hospitals in preparing for emergencies, and to equip and train medical

professionals to protect themselves and their patients during a public health crisis. My bill allows the Secretary of Health and Human Services to award grants directly to Medicare-eligible hospitals to meet emergency preparedness standards. These funds could be used to train personnel, increase communications between hospitals and local emergency response systems, and purchase necessary supplies or equipment. This bill would also protect hospitals that meet the public's need in a designated disaster area by covering the costs of replacing safety equipment and caring for the uninsured, so hospitals are not bankrupted by supporting public health.

In addition to preparing our medical professionals for the possibility of an epidemic, we must prepare ourselves. The past week has revealed a glaring flaw in our public health response: the failure to provide essential facts about the symptoms and best responses to suspected bioterrorist attacks. Even here, in the United States Senate, staff who might have been exposed to a biological threat have wrestled with a lack of information and with misinformation. Poor information about basic personal safety, and about symptoms and risk, has made a bad situation worse, and the panic has spread from the Capitol throughout the Nation.

During a public health crisis, such as a deliberate act of bioterrorism or a natural epidemic, qualified professionals should be able to deliver accurate and timely information to the public. We cannot ask individuals to make good decisions about protecting themselves and their families without helping them to understand the risks and the realities of potential outbreaks. We must act to ensure that American citizens can turn to a reliable, understandable source of information on agents such as anthrax.

My legislation would provide funding for public health crisis education and information, and would require publication of educational materials for use by medical professionals and the general public. These materials would be designed to prepare the public for the most likely foreseeable events in order to avert panic, and to promote good public health.

These programs will help hospitals and the public prepare not only for the threat of bioterrorism, but for the equally demanding tasks of controlling now-familiar epidemics of influenza and food-borne illnesses. We have been forced to confront our vulnerability to attacks that were until recently unthinkable, and to seek new ways to prepare and to protect ourselves, not only for the anthrax attack unfolding before us, but for the possible threats of the future. We must act now to prepare for whatever challenges lie ahead, as well as react to the fear at hand. I ask my colleagues to support this legislation, so that we may begin the steps necessary to protect the health of our Nation.

By Mr. DOMENICI (for himself, Mr. HAGEL, and Mr. BOND):

S. 1575. A bill to provide new discretionary spending limits for fiscal year 2002, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

Mr. DOMENICI. Mr. President, I rise today to introduce budget legislation to increase the discretionary spending limits for fiscal year 2002 and eliminate the current balances on the pay-go scorecard. While it is likely that this or similar language will be included in one of the remaining appropriations bills, I believe it is important to introduce this bill and have it referred to the Committee on the Budget in order to assert the committee's jurisdiction over such matters.

I ask unanimous consent that the text of the bill and a brief summary be printed in the RECORD.

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

S. 1575

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

SECTION 1. FY 2002 BUDGETARY PROVISIONS.

(a) DISCRETIONARY SPENDING LIMITS.—

(1) NEW DISCRETIONARY CAPS FOR 2002.—Section 251(c)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)) is amended by striking subparagraph (A) and inserting the following:

''(A) for the discretionary category: $681,441,000,000 in new budget authority and $670,447,000,000 in outlays;''.

(2) NEW ALLOCATION TO THE APPROPRIATIONS COMMITTEES.—Notwithstanding the provisions of H. Con. Res. 83, as agreed to on May 10, 2001 (107th Congress) and the joint statement of managers accompanying the conference report for the resolution, the budget authority and outlays for fiscal year 2002 allocated under section 302 of the Congressional Budget Act of 1974 (2 U.S.C. 633) to the Committees on Appropriations shall be as follows:

(In millions)

	Budget Authority	Outlays
General purpose discretionary	683,201	702,806
Memo:		
On-budget	679,622	699,281
Off-budget	3,579	3,525

(3) ENFORCEMENT OF BUDGET AGGREGATES.—Notwithstanding the provisions of H. Con. Res. 83, as agreed to on May 10, 2001 (107th Congress) and the joint statement of managers accompanying the conference report for the resolution, for the purpose of enforcing the provisions of section 311 of the Congressional Budget Act of 1974, the recommended levels and amounts set out in sections 101(2) and 101(3) with respect to fiscal year 2002 of that resolution shall be—

(A) $1,653,193,000,000 in new budget authority; and

(B) $1,615,308,000,000 in outlays.

(4) ADJUSTMENTS FOR EMERGENCIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in making any adjustments required by section 314(b)(1) of the Congressional Budget Act of 1974 and in preparing the report as required by section 254(f)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(f)(2)) with respect to fiscal year 2002, the adjustments required by section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall not exceed $2,200,000,000 in budget authority and $1,030,000,000 in outlays.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to legislation that is designated by the President and Congress as providing emergency funding in response to the terrorist attacks of September 11, 2001.

(b) TREATMENT OF PAY-GO SPENDING.—In preparing the final sequestration report required by section 254(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 2002, in addition to the information required by that section, the Director of the Office of Management and Budget shall change any balance of direct spending and receipts legislation for fiscal year 2002 under section 253 of that Act so as to eliminate any balances resulting from legislation enacted prior to the date of enactment of this Act. All legislation enacted subsequently shall be recorded in accordance with section 253 of that Act.

(c) REPEAL.—Section 203 of H. Con. Res. 83, agreed to May 10, 2001 (107th Congress) is repealed.

S. 1575—SUMMARY

Amends section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 to provide discretionary spending limits for fiscal year 2002 consistent with those negotiated by the Administration and Leaders of the House and Senate Committees on Appropriations.

Provides a new section 302(a) allocation to the Senate Committee on Appropriations consistent with the amended statutory limits.

Both the statutory limits and the allocation to the Committee on Appropriations in this bill are consistent with those set forth in the legislation reported on a bipartisan basis from the House Committee on the Budget, see H.R. 3084.

Provides new budget resolution aggregates with respect to new budget authority and outlays for fiscal year 2002, for enforcement of section 311 of the Budget Act.

Limits the congressional scorekeeping and statutory adjustments for emergency spending to $2.2 billion in keeping with the agreement between the Administration and the Appropriations Committees. Provides an exception for emergency spending related to the attacks of September 11, 2001.

Eliminates the balance on OMB's pay-go scorecard as of the date of enactment. Consequently requires any additional mandatory spending or revenue reductions to be either offset or designated as an emergency.

Repeals section 203 of the fiscal year 2002 budget resolution which created a mechanism for congressional implementation of a change in the statutory spending limits and a ''firewall'' between defense and non-defense discretionary spending.

By Mr. ROCKEFELLER:

S. 1576. A bill to amend section 1710 of title 38, United States Code, to extend the eligibility for health care of veterans who served in Southwest Asia during the Persian Gulf War; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, I am pleased today to introduce legislation that would ensure that Gulf War

veterans suffering from unexplained illnesses continue to get the care that they need. If we do not act quickly, these veterans will soon lose their priority eligibility for health care through the Department of Veterans Affairs, despite the sad fact that we still do not understand the causes of their symptoms.

As many of my colleagues know, servicemembers returning from the Gulf War in 1991 began to report a range of unexplained illnesses that many believed might have resulted from their service. Investigations by Congress, the Departments of Defense and Veterans Affairs, and the Institute of Medicine showed that the men and women who served in Operation Desert Storm might have been exposed to many battlefield hazards, including smoke from oil-well fires, pesticides, organic solvents, the drug pyridostigmine bromide, numerous vaccinations, and sarin nerve gas.

Unfortunately, our efforts to determine whether any or all of these hazards might be linked to specific symptoms have been limited by poor data, a lack of research into the long-term effects of low-dose exposures, and incomplete military recordkeeping. In response to concerns about the health of Gulf War veterans, Congress passed Public Law 102–585, authorizing health examinations, tasking the National Academy of Sciences to evaluate scientific evidence regarding potential Gulf War exposures, and establishing the Gulf War Veterans Health Registry, and Public Law 102–310, authorizing VA to provide health care services on a priority basis to Gulf War veterans through December 31, 2001.

Now, more than a decade after the war, scientific research has determined neither the causes of veterans' symptoms, nor the long-term health consequences of Gulf War-era exposures. In addition, the Department of Defense recently released new estimates of the number and locations of service personnel exposed to nerve agents. To meet the medical needs of these Gulf War veterans, now and as they continue to unfold, we must extend this period for providing health care services on a priority basis. The legislation that I have introduced would extend this period for 10 more years.

I ask my colleagues in joining me to extend this critical service for the men and women who served this Nation.

By Mrs. HUTCHISON:

S. 1577. A bill to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. HUTCHISON. 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. 1577

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 ''Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2001''.

SEC. 2. ADDITIONAL PROJECT AUTHORIZATIONS.

Section 4(a) of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106–576; 114 Stat. 3067) is amended by adding at the end the following:

''(5) In the United Irrigation District of Hidalgo County, Texas, a pipeline and pumping system, as identified in the study conducted by Sigler, Winston, Greenwood, and Associates, Inc., dated January 2001.

''(6) In the Cameron County, Texas, Irrigation District No. 2, proposed improvements to Canal C, as identified in the engineering report completed by Martin, Brown, and Perez, dated February 8, 2001.

''(7) In the Cameron County, Texas, Irrigation District No. 2, a proposed Canal C and Canal 13 Inner Connect, as identified in the engineering report completed by Martin, Brown, and Perez, dated February 12, 2001.

''(8) In Delta Lake Irrigation District of Hidalgo and Willacy Counties, Texas, proposed water conservation projects, as identified in the engineering report completed by AW Blair Engineering, dated February 13, 2001.

''(9) In the Hidalgo and Cameron County, Texas, Irrigation District No. 9, a proposed project to salvage spill water using automatic control of canal gates, as identified in the engineering report completed by AW Blair Engineering, dated February 14, 2001.

''(10) In the Brownsville Irrigation District of Cameron County, Texas, a proposed main canal replacement, as identified in the engineering report completed by Holdar-Garcia & Associates, dated February 14, 2001.

''(11) In the Hidalgo County, Texas, Irrigation District No. 16, a proposed off-district pump station project, as identified in the engineering report completed by Melden & Hunt, Inc., dated February 14, 2001.

''(12) In the Hidalgo County, Texas, Irrigation District No. 1, a proposed canal replacement of the North Branch East Main, as identified in the engineering analysis completed by Melden & Hunt, Inc., dated February 2001.

''(13) In the Donna (Texas) Irrigation District, a proposed improvement project, as identified in the engineering analysis completed by Melden & Hunt, Inc., dated February 13, 2001.

''(14) In the Hudspeth County, Texas, Conservation and Reclamation District No. 1—

''(A) the Alamo Arroyo Pumping Plant water quality project, as identified in the engineering report and drawings completed by Gebliard-Sarma and Associates, dated July 1996; and

''(B) the construction of a 1,000 acre-foot off-channel regulating reservoir for the capture and conservation of irrigation water, as identified in the engineering report by completed by AW Blair Engineering, dated March 2001.

''(15) In the El Paso County, Texas, Water Improvement District No. 1, the Riverside Canal Improvement Project Phase I, Reach A, a canal lining and water conservation project, as identified in the engineering report and drawings completed by AW Blair Engineering, dated November 1999.

''(16) In the Maverick County, Texas, Water Improvement and Control District No. 1, the concrete lining project of 12 miles of the Maverick Main Canal, as identified in the engineering report completed by AW Blair Engineering, dated March 2001.

''(17) In the Hidalgo County, Texas, Irrigation District No. 6, rehabilitation of 10.2 miles of concrete lining in the main canal between Lift Stations Nos. 2 and 3, as identified in the engineering report completed by AW Blair Engineering, dated March 2001.

''(18) In the Hidalgo County, Texas, Irrigation District No. 2, Wisconsin Canal Improvements, as identified in the engineering report completed by Sigler, Winston, Greenwood and Associates, Inc., dated February 2001.

''(19) In the Hidalgo County Irrigation District No. 2, Lateral 'A' Canal Improvements, as identified in the engineering report completed by Sigler, Winston, Greenwood and Associates, Inc., dated July 25, 2001.''.

SEC. 3. ADDITIONAL AMENDMENTS.

(a) LOWER RIO GRANDE WATER CONSERVATION AND IMPROVEMENT PROGRAM.—Section 3 of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106–576; 114 Stat. 3065) is amended—

(1) in the first sentence of subsection (a), by striking ''The Secretary'' and all that follows through ''in cooperation'' and inserting ''The Secretary, acting through the Commissioner of Reclamation, shall carry out a program under cooperative agreements'';

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

''(b) REVIEW AND EVALUATION.—The Secretary shall review and evaluate project proposals in accordance with the guidelines described in the document published by the Bureau of Reclamation entitled 'Guidelines for Preparing and Reviewing Proposals for Water Conservation and Improvement Projects Under Public Law 106–576', dated June 2000.'';

(3) in subsection (d), by inserting before the period at the end the following: '', including operation, maintenance, repair, and replacement'';

(4) in subsection (e), by striking ''the criteria established pursuant to this section'' and inserting ''the guidelines referred to in subsection (b)'';

(5) by striking subsection (f) and inserting the following:

''(f) REPORT PREPARATION; REIMBURSEMENT.—

''(1) IN GENERAL.—Subject to paragraph (2), project sponsors may choose to enter into 1 or more contracts with the Secretary under which the Secretary shall prepare the reports required under this section.

''(2) FEDERAL SHARE.—The Federal share of the cost of report preparation by the Secretary described in paragraph (1) shall not exceed 50 percent of the total cost of that preparation.''; and

(6) in subsection (g), by striking ''$2,000,000'' and inserting ''$8,000,000''.

(b) LOWER RIO GRANDE CONSTRUCTION AUTHORIZATION.—Section 4 of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106–576; 114 Stat. 3067) is amended—

(1) in subsection (b)—

(A) in the first sentence, by striking ''costs of any construction'' and inserting ''total project cost of any project''; and

(B) in the last sentence, by striking ''spent'' and inserting ''expended''; and

(2) in subsection (c), by striking ''$10,000,000'' and inserting ''$47,000,000, as adjusted to reflect the change, relative to September 30, 2001, in the Consumer Price Index for all urban consumers published by the Department of Labor''.

By Mr. DORGAN (for himself, Mr. SPECTER, Mr. CONRAD, Mr. INOUYE, and Mr. REID):

S. 1578. A bill to preserve the continued viability of the United States travel industry; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DORGAN. Mr. President, the ''Freedom to Travel'' is a basic freedom. And since September 11 we have given a great deal of focus, and rightfully so, to the airline industry. But I rise today to direct my colleague's attention to the rest of the travel industry which has also been deeply affected by the events of September 11.

In the part of the country I come from, we're familiar with disasters. We know what it's like when, through no fault of your own, the world falls out from under you as a result of natural disaster. There was nothing natural about the cowardly and deadly acts of September 11, but they were certainly unpredictable, unexpected and clearly beyond the control of anyone who was affected by them.

Just as America has generously responded to natural disasters, we must now respond to this new disaster and help our fellow countrymen and women rebuild their lives and livelihood. In the aftermath of the tragedy we acted quickly, and responsibly, to stabilize the airlines with a financial package of grants and loan guarantees. And we were right to pass the aviation security bill to dramatically increase the number of sky marshals, strengthen cockpit doors and federalize the screening of passengers and luggage at our airports because we need to make sure people feel it is safe to fly.

While I supported both of those measures, we now must address the devastating impact September 11 has had on the U.S. travel and tourism industry. The network of hotels, travel agents, car rental companies, restaurants, and attractions that make up the tourism industry, has also been hard hit, and needs our support. A huge segment of our economy, the travel and tourism industry is the third largest retail industry. It generates more than $582 billion in revenue each year, and directly and indirectly employed more than 19 million people.

North Dakota is a long way from Ground Zero in New York City, from the Pentagon in Virginia, and from that lonely farm field in Pennsylvania. But the violence that took place at each of those locations continues to be felt half a continent away in my home State, in our hearts and yes, in our State's tourism industry.

Let me share just two reports from North Dakota.

Randy Hatzenbuhler, executive director of the Theodore Roosevelt Medora Foundation, writes me to say this: his ''organization has great concerns about our 2002 season. We are preparing our business plans to anticipate significant decreases in visitation—10–25 percent.''

Katherine Satrom, of Satrom Travel and Tour in Bismarck, ND tells the story even more starkley. She writes that ''The week of September 11 and the week of September 17, our company's revenue was about 25 percent of normal at best. Following weeks have been about 50 percent of average revenue for the period.'' ''On September 26,'' she continues, ''our company cut all employee salaries by 10 percent and management salaries 20 percent in an effort to avoid a reduction in workforce.'' ''We have been a viable business for 23 years, providing jobs and contributing to the economy,'' she concludes. ''We now need some assistance to bridge this disaster-related downturn and regroup for the future.''

That's a measure of just how far-reaching, broad and deep the economic disaster now ripping through the tourism industry has grown. It reaches every State. And while what's going on in my State is serious and grave, what is happening closer to the scene of the attacks is much, much worse. So today, along with Senators SPECTER, CONRAD, INOUYE, and REID, I introduce the American Tourism Stabilization Act. Our bill follows through on a suggestion that came out of a hearing that we held in the Commerce Committee on how the travel industry is dealing with the impact of September 11. What we learned was not good. Almost uniformly we heard from rental car companies, hoteliers, travel agencies, who are struggling to stay in business as they try to cope with the sudden drop-off in business since September 11. We also heard from individual hotel workers from across the country that are part of the ⅓d of the hospitality industry that is now struggling to pay their bills since being laid-off after September 11.

Out of that hearing came the suggestion, that as we did with the airline industry, we provide loan guarantees to help the U.S. tourism industry function until business returns.

So, the American Tourism Stabilization Act would provide $5 billion worth of loan guarantees for eligible travel-related businesses. Building on the airline stabilization bill the American Tourism Stabilization Act would simply have the already created, Air Transportation Stabilization Board, process loan guarantees for eligible travel-related businesses that have been adversely affected by the government shutdown of the airline industry. Specifically the bill is intended to make loans available to travel agencies, rental car companies, airport concessionaires, and others with contractual relationships with the airlines that have been directly affected by the tragedies of September 11.

The purpose of the bill is to provide liquidity to businesses that have been hurt because of their direct ties to an air carrier such as travel agencies, and airline vendors or an airport concessionaires. It would do so by making loan guarantees available, based on the ability to repay, to help tide these businesses over until air traffic and pleasure travel returns to normal. I urge my colleagues to support our effort to help the 19 million people who work in the travel industry.

By Mr. ENZI:

S. 1579. A bill to expand the applicability of daylight saving time; to the Committee on Commerce, Science, and Transportation.

Mr. ENZI. Mr. President, I am pleased to introduce the Halloween Safety Act of 2001. The purpose of this act is to extend the end date of Daylight Saving Time from the last Sunday in October to the first Sunday in November to include the night of Halloween.

The idea of extending Daylight Saving Time was introduced to me by Sharon Rasmussen, a second grade teacher from Sheridan, WY, and her students. Ten years ago Mrs. Rasmussen's class began writing to Wyoming's representatives expressing their wish to have an extra hour of daylight on Halloween to increase the safety of small children. Each year I receive a packet of letters from Mrs. Rasmussen's class encouraging support for this reasonable proposal. Halloween is a time of great importance and excitement for youngsters throughout the United States and many celebrate by trick-or-treating door to door.

Legislation has been introduced in the past to extend Daylight Saving Time. Although many of the bills sought to change both the starting date and the ending date, the legislation I introduced today would simply extend it for one week.

The need to protect our children is apparent. According to the Insurance Institute for Highway Safety, nearly five thousand pedestrians died in 1999, that is an average of 13 deaths per day. Fatal pedestrian-motor vehicle collisions occur most often between 6 and 9 pm. Unfortunately, these general trends are highly magnified on Halloween given the considerable increase in pedestrians, most of whom are children. A study by the National Center for Injury Prevention and Control concluded that the occurrence of pedestrian deaths for children ages 5 to 14 is four times higher on Halloween than any other night of the year. School and communities encourage children and parents to use safety measures when children venture out on Halloween and the Halloween Safety Act can further help protect our Nation's youth.

When students take an interest in improving our Nation's laws, especially when it would serve to protect other children, I believe it is our duty to pay close attention. If children are concerned about their own safety and create a reasonable approach to make their world a little bit safer, I believe that accommodating their request is not too much to ask. The fact that second and third grade students in Sheridan, WY, have been working on this legislation shows that protecting the children of our country is a primary concern of these students, and it should be for all of us as lawmakers. If one life can be saved or one accident averted by extending Daylight Saving Time, it would be worthwhile. I encourage all my colleagues to support this

act for the important benefits the Halloween Safety Act of 2001 would have for children and their parents.

By Mr. MURKOWSKI:

S. 1581. A bill to amend the Internal Revenue Code of 1986 to allow a business deduction for the purchase and installation of qualifying security enhancement property; to the Committee on Finance.

Mr. MURKOWSKI. Mr. President, I am today introducing legislation that reflects the changed societal dynamic that we have witnessed since the attacks of September 11. This legislation, the American Security Enhancement Act of 2001, will allow every business in America to immediately write off the cost of security enhancements needed to keep their business operating in a safe and secure manner.

All one has to do is take a walk around the Capitol to see how much extra the Congress is spending to secure our facilities. Concrete barriers, higher security visibility, closer monitoring of cars, are just a few of the many security enhancements that have become an ordinary part of life on Capitol Hill now. The Postal Service will be spending millions to enhance the security of the mail. And the same will hold true for many businesses in this country.

It is not just the extras that airlines will have to spend. Every business in America knows that it can potentially confront threats of unknown proportions. They need to protect their employees and they need to protect their customers. In order to achieve greater security, American business is going to have to spend billions in the next several years.

My legislation attempts to alleviate some of the financial costs companies will inevitably incur whether they purchase high tech electronic monitoring equipment or low tech concrete barriers. Currently, such equipment must be depreciated over periods ranging from 5 to 15 years. Under my bill all security enhancement equipment purchased after September 11 can be expensed, written off immediately.

While investments in such equipment has become a fundamental cost of doing business; such equipment does absolutely nothing to enhance a company's profitability. Quite the contrary, it represents a cost that will have to be absorbed in the ultimate product or service the company provides.

It seems to this Senator that allowing companies to write off these costs when they purchase them is the fairest thing we can do to encourage companies to secure their employees and facilities.

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. 1581

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 ''American Security Enhancement Investment Act of 2001''.

SEC. 2. BUSINESS DEDUCTION FOR PURCHASE AND INSTALLATION OF QUALIFYING SECURITY ENHANCEMENT PROPERTY.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179A the following new section:

''SEC. 179B. SECURITY ENHANCEMENT PROPERTY.

''(a) ALLOWANCE OF DEDUCTION.—A taxpayer may elect to treat the cost of any qualifying security enhancement property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which such device is placed in service.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFYING SECURITY ENHANCEMENT PROPERTY.—The term 'qualifying security enhancement property' means security enhancement property—

''(A) to which section 168 applies,

''(B) which is acquired by purchase (as defined in section 179(d)(2)), and

''(C) which is installed or placed in service in or outside of a building which is owned or occupied by the taxpayer and which is located in the United States.

''(2) SECURITY ENHANCEMENT PROPERTY.—

''(A) IN GENERAL.—The term 'security enhancement property' means property which is specifically and primarily designed when installed in or outside of a building—

''(i) to detect or prevent the unlawful access by individuals into the building or onto its grounds,

''(ii) to detect or prevent the unlawful bringing into the building or onto its grounds of weapons, explosives, hazardous materials, or other property capable of harming the occupants of the building or damaging the building, or

''(iii) to protect occupants of the building or the building from the effects of property described in clause (ii).

''(B) CERTAIN PROPERTY INCLUDED.—The term 'security enhancement property' includes—

''(i) any security device, or

''(ii) any barrier to access to the building grounds.

''(3) SECURITY DEVICE.—The term 'security device' means any of the following:

''(A) An electronic access control device or system.

''(B) Biometric identification or verification device or system.

''(C) Closed-circuit television or other surveillance and security cameras and equipment.

''(D) Locks for doors and windows, including tumbler, key, and numerical or other coded devices.

''(E) Computers and software used to combat cyberterrorism.

''(F) Electronic alarm systems to provide detection notification and off-premises transmission of an unauthorized entry, attack, or fire.

''(G) Components, wiring, system displays, terminals, auxiliary power supplies, and other equipment necessary or incidental to the operation of any item described in subparagraph (A), (B), (C), (D), (E), or (F).

''(4) BUILDING.—The term 'building' includes any structure or part of a structure used for commercial, retail, or business purposes.

''(c) SPECIAL RULES.—

''(1) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to the purchase of a qualifying security device, the basis of such device shall be reduced by the amount of the deduction so allowed.

''(2) ONLY INCREMENTAL COST INCLUDED.—If qualifying security enhancement property has a use or function other than that described in subsection (b)(2), only the incremental cost of the use or function so described shall be taken into account.

''(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (3) and (4) of section 179(b), section 179(c), and paragraphs (3), (4), (8), and (10) of section 179(d), shall apply for purposes of this section.''

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 263(a)(1) of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by inserting after subparagraph (H) the following new subparagraph:

''(I) expenditures for which a deduction is allowed under section 179B.''

(2) Section 312(k)(3)(B) of such Code is amended—

(A) by striking ''or 179A'' and inserting '', 179A, or 179B'', and

(B) by striking ''OR 179A'' in the heading and inserting '', 179A, OR 179B''.

(3) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by inserting after paragraph (28) the following new paragraph:

''(29) to the extent provided in section 179B(c)(1),''.

(4) Section 1245(a) of such Code is amended by inserting ''179B,'' after ''179A,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 179A the following new item:

''Sec. 179B. Security enhancement property.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 10, 2001, in taxable years ending after September 10, 2001.

By Mr. CRAIG (for himself, Mr. BAUCUS, and Mr. COCHRAN):

S. 1584. A bill to provide for review in the Court of International Trade of certain determinations of binational panels under the North American Free Trade Agreement; to the Committee on Finance.

Mr. CRAIG. Mr. President, I rise to introduce important legislation designed to correct a fundamental flaw within the North American Free Trade Agreement, NAFTA, dispute resolution mechanism, known as Chapter 19. As many of my colleagues are aware, Chapter 19 has revealed itself to be unacceptable in its current form. The Integrity of the U.S. Courts Act, that I introduce today with my colleague Mr. BAUCUS, is necessary to make certain bilateral dispute resolution decisions from the NAFTA are made pursuant to U.S. trade laws.

At present, antidumping and countervailing duty determinations made

by NAFTA members are appealed to ad hoc panels of private individuals, instead of impartial courts created under national constitutions. These panels are supposed to apply the same standard of review as a U.S. court in order to determine whether a decision is supported by substantial evidence on the agency record, and is otherwise in accordance with the law. This standard requires that the agency's factual findings and legal interpretations be given significant deference. Unfortunately, in spite of the panels' mandate, they all too often depart from their directive and fail to ensure that the correct standard of review is applied.

The Integrity of the U.S. Courts Act would permit any party to a NAFTA dispute involving a U.S. agency decision to remove appellate jurisdiction from the Extraordinary Challenge Committee, ECC, to the U.S. Court of International Trade. Doing so would resolve some of the constitutional issues raised by the Chapter 19 system, expedite resolution of cases, and ensure conformity with U.S. law.

The infirmities of Chapter 19 are real, and have been problematic from the beginning. The Justice Department, the Senate Finance Committee, and other authorities are on record of having expressed serious concern about giving private panelists, sometimes a majority of whom are foreign nationals, the authority to issue decisions about U.S. domestic law that have the binding force of law. These appointed panelists, coming from different legal and cultural disciplines and serving on an ad hoc basis, do not necessarily have the interest that unbiased U.S. courts have in maintaining the efficacy of the laws, as Congress wrote them.

One of the most egregious examples of the flaws of Chapter 19 is reflected in a case from early in this process, reviewing a countervailing duty finding that Canadian lumber imports benefit from enormous subsidies. Three Canadian panelists outvoted two leading U.S. legal experts to eliminate the countervailing duty based on patently erroneous interpretations of U.S. law—interpretations that Congress had expressly rejected only two months before. Two of the Canadian panelists served despite undisclosed conflicts of interest. The matter was then argued before a Chapter 19 appeals committee, and the two committee members outvoted the one U.S. member to once again insulate the Canadian subsidies from U.S. law.

The U.S. committee member was Malcolm Wilkey, the former Chief Judge of the federal Court of Appeals for the D.C. Circuit, and one of the United States' most distinguished jurists. In his opinion, Judge Wilkey wrote that the lumber panel decision ''may violate more principles of appellate review of agency action than any opinion by a reviewing body which I have ever read.'' Judge Wilkey and former Judge Charles Renfrew, also a Chapter 19 appeals committee member, have since expressed serious constitutional reservations about the system. While some have claimed that Chapter 19 decides many cases well, its inability to resolve appropriately large disputes, and its constitutional infirmity, demand a remedy.

It is clear that the time is long past due to remedy Chapter 19. From the outset, the NAFTA agreement contemplated that given the sensitive and unusual subject matter, signatories might have to alter their obligations under Chapter 19. The Integrity of the U.S. Courts Act is a reasonable solution to a serious problem.

I urge my colleagues to join Senators BAUCUS and COCHRAN and me in our effort to fix this problem that is unfairly harming American industry, and more important, the U.S. Constitution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1969. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes.

SA 1970. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, supra.

SA 1971. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, supra.

SA 1972. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, supra.

SA 1973. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, supra.

SA 1974. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, supra.

SA 1975. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, supra.

SA 1976. Mr. SMITH, of Oregon (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1977. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1978. Mr. LEVIN (for himself, Ms. COLLINS, Ms. SNOWE, Mrs. CLINTON, Mrs. MURRAY, Mr. SCHUMER, Mr. LEAHY, Ms. STABENOW, Ms. CANTWELL, Mr. KENNEDY, Mr. JEFFORDS, Mr. KERRY, Mr. EDWARDS, and Mr. SMITH, of Oregon) submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra.

SA 1979. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1980. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1981. Mr. SMITH, of Oregon (for himself and Mr. WYDEN) proposed an amendment to the bill H.R. 2330, supra.

SA 1982. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1983. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1984. Mr. HARKIN proposed an amendment to the bill H.R. 2330, supra.

SA 1985. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1986. Mr. STEVENS (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1987. Mr. NELSON, of Nebraska (for himself and Mr. MILLER) proposed an amendment to amendment SA 1984 proposed by Mr. HARKIN to the bill (H.R. 2330) supra.

SA 1988. Mr. KOHL (for Mr. DORGAN) proposed an amendment to the bill H.R. 2330, supra.

SA 1989. Mr. KOHL (for Mrs. LINCOLN) proposed an amendment to the bill H.R. 2330, supra.

SA 1990. Mr. KOHL (for Mr. JOHNSON) proposed an amendment to the bill H.R. 2330, supra.

SA 1991. Mr. KOHL (for Mr. WYDEN (for himself and Mr. CRAIG)) proposed an amendment to the bill H.R. 2330, supra.

SA 1992. Mr. COCHRAN (for Mr. STEVENS) proposed an amendment to the bill H.R. 2330, supra.

SA 1993. Mr. KOHL (for Ms. LANDRIEU) proposed an amendment to the bill H.R. 2330, supra.

SA 1994. Mr. KOHL (for Mr. HARKIN) proposed an amendment to the bill H.R. 2330, supra.

SA 1995. Mr. COCHRAN proposed an amendment to the bill H.R. 2330, supra.

SA 1996. Mr. KOHL proposed an amendment to the bill H.R. 2330, supra.

SA 1997. Mr. KOHL proposed an amendment to the bill H.R. 2330, supra.

SA 1998. Mr. KOHL (for Mr. BYRD) proposed an amendment to the bill H.R. 2330, supra.

SA 1999. Mr. COCHRAN (for Mr. STEVENS) proposed an amendment to the bill H.R. 2330, supra.

SA 2000. Mr. COCHRAN (for himself, Mrs. LINCOLN, Mr. SESSIONS, Mr. SHELBY, Mr. HUTCHINSON, and Mr. LOTT) proposed an amendment to the bill H.R. 2330, supra.

SA 2001. Mr. COCHRAN (for Mr. STEVENS) proposed an amendment to the bill H.R. 2330, supra.

SA 2002. Mr. COCHRAN (for Mr. CRAIG) proposed an amendment to the bill H.R. 2330, supra.

SA 2003. Mr. KOHL (for Mr. HARKIN) proposed an amendment to the bill H.R. 2330, supra.

SA 2004. Mr. COCHRAN (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 2330, supra.

SA 2005. Mr. KOHL (for Mr. BREAUX) proposed an amendment to the bill H.R. 2330, supra.

SA 2006. Mr. KOHL (for Mr. SARBANES (for himself and Ms. MIKULSKI)) proposed an amendment to the bill H.R. 2330, supra.

SA 2007. Mr. KOHL (for Mr. GRAHAM (for himself and Mr. NELSON, of Florida)) proposed an amendment to the bill H.R. 2330, supra.

SA 2008. Mr. COCHRAN (for Mr. BUNNING) proposed an amendment to the bill H.R. 2330, supra.

SA 2009. Mr. COCHRAN (for Mr. STEVENS) proposed an amendment to the bill H.R. 2330, supra.

SA 2010. Mr. KOHL (for Mr. DORGAN) proposed an amendment to the bill H.R. 2330, supra.

SA 2011. Mr. COCHRAN proposed an amendment to the bill H.R. 2330, supra.

SA 2012. Mr. COCHRAN (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 2330, supra.

SA 2013. Mr. KOHL (for Mr. HARKIN (for himself and Mr. HATCH)) proposed an amendment to the bill H.R. 2330, supra.

SA 2014. Mr. COCHRAN (for Mr. VOINOVICH) proposed an amendment to the bill H.R. 2330, supra.

SA 2015. Mr. COCHRAN (for Ms. COLLINS (for himself and Mr. NICKLES)) proposed an amendment to the bill H.R. 2330, supra.

SA 2016. Mr. KOHL (for Mr. REED) proposed an amendment to the bill H.R. 2330, supra.

TEXT OF AMENDMENTS

SA 1969. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $75,000 for employment under 5 U.S.C. 3109, $2,992,000: *Provided*, That not to exceed $11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out section 793(c)(1)(C) of Public Law 104–127: *Provided further*, That none of the funds made available by this Act may be used to enforce section 793(d) of Public Law 104–127.

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), and including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $7,648,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $25,000 is for employment under 5 U.S.C. 3109, $12,766,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $6,978,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $10,261,000.

COMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm and Foreign Agricultural Service and Rural Development mission areas for information technology, systems, and services, $59,369,000, to remain available until expended, for the capital asset acquisition of shared information technology systems, including services as authorized by 7 U.S.C. 6915–16 and 40 U.S.C. 1421–28: *Provided*, That obligation of these funds shall be consistent with the Department of Agriculture Service Center Modernization Plan of the county-based agencies, and shall be with the concurrence of the Department's Chief Information Officer.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $5,335,000: *Provided*, That the Chief Financial Officer shall actively market and expand cross-servicing activities of the National Finance Center.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded by this Act, $647,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for alterations and other actions needed for the Department and its agencies to consolidate unneeded space into configurations suitable for release to the Administrator of General Services, and for the operation, maintenance, improvement, and repair of Agriculture buildings, $187,581,000, to remain available until expended: *Provided*, That in the event an agency within the Department should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 5 percent of the funds made available for space rental and related costs to or from this account.

HAZARDOUS MATERIALS MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq., and the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., $15,665,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department for Hazardous Materials Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, $37,079,000, to provide for necessary expenses for management support services to offices of the Department and for general administration and disaster management of the Department, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), $3,493,000, to remain available until expended.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison within the executive branch, $3,684,000: *Provided*, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: *Provided further*, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

OFFICE OF COMMUNICATIONS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, $8,894,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, $70,839,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, including not to exceed $50,000 for employment under 5 U.S.C. 3109; and including not to exceed $125,000 for certain confidential operational expenses, including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $32,627,000.

OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION AND ECONOMICS

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State

Research, Education, and Extension Service, $573,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $67,200,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, marketing surveys, and the Census of Agriculture, as authorized by 7 U.S.C. 1621–1627, Public Law 105–113, and other laws, $113,786,000, of which up to $25,350,000 shall be available until expended for the Census of Agriculture: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, and for land exchanges where the lands exchanged shall be of equal value or shall be equalized by a payment of money to the grantor which shall not exceed 25 percent of the total value of the land or interests transferred out of Federal ownership, $1,004,738,000: *Provided,* That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed $375,000, except for headhouses or greenhouses which shall each be limited to $1,200,000, and except for 10 buildings to be constructed or improved at a cost not to exceed $750,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or $375,000, whichever is greater: *Provided further,* That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further,* That appropriations hereunder shall be available for granting easements at the Beltsville Agricultural Research Center, including an easement to the University of Maryland to construct the Transgenic Animal Facility which upon completion shall be accepted by the Secretary as a gift: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

In fiscal year 2002, the agency is authorized to charge fees, commensurate with the fair market value, for any permit, easement, lease, or other special use authorization for the occupancy or use of land and facilities (including land and facilities at the Beltsville Agricultural Research Center) issued by the agency, as authorized by law, and such fees shall be credited to this account, and shall remain available until expended for authorized purposes.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $99,625,000, to remain available until expended (7 U.S.C. 2209b): *Provided,* That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing any research facility of the Agricultural Research Service, as authorized by law.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, $542,580,000, as follows: to carry out the provisions of the Hatch Act (7 U.S.C. 361a–i), $180,148,000; for grants for cooperative forestry research (16 U.S.C. 582a–a7), $21,884,000; for payments to the 1890 land-grant colleges, including Tuskegee University (7 U.S.C. 3222), $32,604,000, of which $998,000 shall be made available to West Virginia State College in Institute, West Virginia; for special grants for agricultural research (7 U.S.C. 450i(c)), $84,040,000; for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)), $14,691,000; for competitive research grants (7 U.S.C. 450i(b)), $137,000,000; for the support of animal health and disease programs (7 U.S.C. 3195), $5,098,000; for supplemental and alternative crops and products (7 U.S.C. 3319d), $898,000; for grants for research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977 (7 U.S.C. 3318), $800,000, to remain available until expended; for the 1994 research program (7 U.S.C. 301 note), $998,000, to remain available until expended; for higher education graduate fellowship grants (7 U.S.C. 3152(b)(6)), $2,993,000, to remain available until expended (7 U.S.C. 2209b); for higher education challenge grants (7 U.S.C. 3152(b)(1)), $4,340,000; for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), $998,000, to remain available until expended (7 U.S.C. 2209b); for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241), $3,492,000; for noncompetitive grants for the purpose of carrying out all provisions of 7 U.S.C. 3242 (Section 759 of Public Law 106–78) to individual eligible institutions or consortia of eligible institutions in Alaska and in Hawaii, with funds awarded equally to each of the States of Alaska and Hawaii, $3,000,000; for a secondary agriculture education program and 2-year post-secondary education (7 U.S.C. 3152(h)), $1,000,000; for aquaculture grants (7 U.S.C. 3322), $4,000,000; for sustainable agriculture research and education (7 U.S.C. 5811), $13,000,000; for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University, $9,479,000, to remain available until expended (7 U.S.C. 2209b); for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103–382, $1,549,000; and for necessary expenses of Research and Education Activities, of which not to exceed $100,000 shall be for employment under 5 U.S.C. 3109, $20,568,000.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products: *Provided,* That this paragraph shall not apply to research on the medical, biotechnological, food, and industrial uses of tobacco.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For the Native American Institutions Endowment Fund authorized by Public Law 103–382 (7 U.S.C. 301 note), $7,100,000: *Provided,* That hereafter, any distribution of the adjusted income from the Native American Institutions Endowment Fund is authorized to be used for facility renovation, repair, construction, and maintenance, in addition to other authorized purposes.

EXTENSION ACTIVITIES

For payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa, $434,038,000, as follows: payments for cooperative extension work under the Smith-Lever Act, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93–471, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $275,940,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)), $3,273,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,566,000; payments for the pest management program under section 3(d) of the Act, $10,759,000; payments for the farm safety program under section 3(d) of the Act, $4,700,000; payments to upgrade research, extension, and teaching facilities at the 1890 land-grant colleges, including Tuskegee University, as authorized by section 1447 of Public Law 95–113 (7 U.S.C. 3222b), $13,500,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $1,000,000; payments for youth-at-risk programs under section 3(d) of the Act, $8,481,000; for youth farm safety education and certification extension grants, to be awarded competitively under section 3(d) of the Act, $499,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978, $5,000,000; payments for Indian reservation agents under section 3(d) of the Act, $1,996,000; payments for sustainable agriculture programs under section 3(d) of the Act, $4,500,000; payments for rural health and safety education as authorized by section 2390 of Public Law 101–624 (7 U.S.C. 2661 note, 2662), $2,622,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326 and 328) and Tuskegee University, $28,181,000, of which $998,000 shall be made available to West Virginia State College in Institute, West Virginia; and for Federal administration and coordination including administration of the Smith-Lever Act, and the Act of September

29, 1977 (7 U.S.C. 341–349), and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301 note), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $15,021,000: *Provided,* That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, shall not be paid to any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

INTEGRATED ACTIVITIES

For the integrated research, education, and extension competitive grants programs, including necessary administrative expenses, as authorized under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626), $42,350,000, as follows: payments for the water quality program, $12,971,000; payments for the food safety program, $14,967,000; payments for the national agriculture pesticide impact assessment program, $4,531,000; payments for the Food Quality Protection Act risk mitigation program for major food crop systems, $4,889,000; payments for the crops affected by Food Quality Protection Act implementation, $1,497,000; payments for the methyl bromide transition program, $2,495,000; and payments for the organic transition program, $1,000,000.

OFFICE OF THE UNDER SECRETARY FOR MARKETING AND REGULATORY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service; the Agricultural Marketing Service; and the Grain Inspection, Packers and Stockyards Administration; $654,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947 (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Acts of March 2, 1931 (46 Stat. 1468) and December 22, 1987 (101 Stat. 1329–1331) (7 U.S.C. 426–426c); and to protect the environment, as authorized by law, $602,754,000, of which $4,096,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions; of which $79,157,000 shall be used for the boll weevil eradication program for cost share purposes or for debt retirement for active eradication zones: *Provided,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as may be deemed necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, and section 102 of the Act of September 21, 1944, and any unexpended balances of funds transferred for such emergency purposes in the preceding fiscal year shall be merged with such transferred amounts: *Provided further,* That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 2002, the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

Of the total amount available under this heading in fiscal year 2002, $84,813,000 shall be derived from user fees deposited in the Agricultural Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $5,189,000, to remain available until expended.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry out services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States, including field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $90,000 for employment under 5 U.S.C. 3109, $71,430,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $60,596,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided,* That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $13,874,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,347,000.

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, including field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 for employment under 5 U.S.C. 3109, $34,000,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $42,463,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided,* That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, $476,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, including not to exceed $50,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $715,747,000, of which no less than $608,730,000 shall be available for Federal food inspection; and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1017 of Public Law 102–237: *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7

U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, $606,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, $939,030,000: *Provided*, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further*, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $1,000,000 shall be available for employment under 5 U.S.C. 3109.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987 (7 U.S.C. 5101–5106), $3,993,000.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of: (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer; or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968 (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $100,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of the farmer's willful failure to follow procedures prescribed by the Federal Government: *Provided further*, That this amount shall be transferred to the Commodity Credit Corporation: *Provided further*, That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $1,146,996,000, of which $1,000,000,000 shall be for guaranteed loans; operating loans, $2,616,729,000, of which $1,500,000,000 shall be for unsubsidized guaranteed loans and $505,531,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; for emergency insured loans, $25,000,000 to meet the needs resulting from natural disasters; and for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, $100,000,000.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $8,366,000, of which $4,500,000 shall be for guaranteed loans; operating loans, $175,780,000, of which $52,650,000 shall be for unsubsidized guaranteed loans and $68,550,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $118,400; and for emergency insured loans, $3,362,500 to meet the needs resulting from natural disasters.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $280,595,000, of which $272,595,000 shall be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses''.

Funds appropriated by this Act to the Agricultural Credit Insurance Program Account for farm ownership and operating direct loans and guaranteed loans may be transferred among these programs with the prior approval of the Committees on Appropriations of both Houses of Congress.

RISK MANAGEMENT AGENCY

For administrative and operating expenses, as authorized by the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 6933), $74,752,000: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act, such sums as may be necessary, to remain available until expended (7 U.S.C. 2209b).

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 2002, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a–11).

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

(LIMITATION ON EXPENSES)

For fiscal year 2002, the Commodity Credit Corporation shall not expend more than $5,000,000 for site investigation and cleanup expenses, and operations and maintenance expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, 42 U.S.C. 6961.

TITLE II

CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, $730,000.

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed $100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $802,454,000, to remain available until expended (7 U.S.C. 2209b), of which not less than $8,515,000 is for snow survey and water forecasting, and not less than $9,849,000 is for operation and establishment of the plant materials centers: *Provided*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed $250,000: *Provided further*, That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1592(c)): *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2).

WATERSHED SURVEYS AND PLANNING

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954 (16 U.S.C. 1001–1009), $10,960,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $110,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited

to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954 (16 U.S.C. 1001–1005 and 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $100,413,000, to remain available until expended (7 U.S.C. 2209b) (of which up to $15,000,000 may be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701 and 16 U.S.C. 1006a)): *Provided*, That not to exceed $45,514,000 of this appropriation shall be available for technical assistance: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

WATERSHED REHABILITATION PROGRAM

For necessary expenses to carry out rehabilitation of structural measures, in accordance with section 14 of the Watershed Protection and Flood Prevention Act approved August 4, 1954 (16 U.S.C. 1001 et seq.), as amended by section 313 of Public Law 106–472, November 9, 2000 (16 U.S.C. 1012), and in accordance with the provisions of laws relating to the activities of the Department, $10,000,000, to remain available until expended.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1011; 76 Stat. 607); the Act of April 27, 1935 (16 U.S.C. 590a–f); and the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $48,048,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized by the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $7,811,000, to remain available until expended, as authorized by that Act.

TITLE III

RURAL DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, $623,000.

RURAL COMMUNITY ADVANCEMENT PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, 1926d, and 1932, except for sections 381E–H, 381N, and 381O of the Consolidated Farm and Rural Development Act, $1,004,125,000, to remain available until expended, of which $83,903,000 shall be for rural community programs described in section 381E(d)(1) of such Act; of which $842,254,000 shall be for the rural utilities programs described in sections 381E(d)(2), 306C(a)(2), and 306D of such Act; and of which $77,968,000 shall be for the rural business and cooperative development programs described in sections 381E(d)(3) and 310B(f) of such Act: *Provided*, That of the total amount appropriated in this account, $24,000,000 shall be for loans and grants to benefit Federally Recognized Native American Tribes, of which $1,000,000 shall be available for rural business opportunity grants under section 306(a)(11) of that Act (7 U.S.C. 1926(a)(11)); $4,000,000 shall be available for community facilities grants for tribal college improvements under section 306(a)(19) of that Act (7 U.S.C. 1926(a)(19)); $16,000,000 shall be available for grants for drinking water and waste disposal systems pursuant to section 306C of such Act (7 U.S.C. 1926(c)) to benefit Federally Recognized Native American Tribes that are not eligible to receive funds under any other rural utilities program set-aside under the rural community advancement program; and $3,000,000 shall be available for rural business enterprise grants under section 310B(c) of that Act (7 U.S.C. 1932(c)), of which $250,000 shall be available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development: *Provided further*, That of the amount appropriated for rural community programs, $6,000,000 shall be available for a Rural Community Development Initiative: *Provided further*, That such funds shall be used solely to develop the capacity and ability of private, nonprofit community-based housing and community development organizations, low-income rural communities, and Federally Recognized Native American tribes to undertake projects to improve housing, community facilities, community and economic development projects in rural areas: *Provided further*, That such funds shall be made available to qualified private, nonprofit and public intermediary organizations proposing to carry out a program of financial and technical assistance: *Provided further*, That such intermediary organizations shall provide matching funds from other sources, including Federal funds for related activities, in an amount not less than funds provided: *Provided further*, That of the amount appropriated for the rural business and cooperative development programs, not to exceed $500,000 shall be made available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development; and $2,000,000 shall be for grants to Mississippi Delta Region counties: *Provided further*, That of the amount appropriated for rural utilities programs, not to exceed $20,000,000 shall be for water and waste disposal systems to benefit the Colonias along the United States/Mexico borders, including grants pursuant to section 306C of such Act; not to exceed $24,000,000 shall be for water and waste disposal systems for rural and native villages in Alaska pursuant to section 306D of such Act, with up to one percent available to administer the program and up to one percent available to improve interagency coordination may be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''; not to exceed $17,215,000 shall be for technical assistance grants for rural water and waste systems pursuant to section 306(a)(14) of such Act; and not to exceed $9,500,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That of the total amount appropriated, not to exceed $37,624,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones, of which $1,163,000 shall be for the rural community programs described in section 381E(d)(1) of such Act, of which $27,431,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act, and of which $9,030,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act: *Provided further*, That of the amount appropriated for rural community programs, not to exceed $25,000,000 shall be to provide grants for facilities in rural communities with extreme unemployment and severe economic depression: *Provided further*, That of the amount appropriated $30,000,000 shall be to provide grants in rural communities with extremely high energy costs: *Provided further*, That any prior year balances for high cost energy grants authorized by section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 901(19)) shall be transferred to and merged with the ''Rural Utilities Service, High Energy Costs Grants'' account.

RURAL DEVELOPMENT SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; $133,722,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $1,000,000 may be used for employment under 5 U.S.C. 3109: *Provided further*, That not more than $10,000 may be expended to provide modest nonmonetary awards to non-USDA employees: *Provided further*, That any balances available from prior years for the Rural Utilities Service, Rural Housing Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this account.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: $4,233,014,000 for loans to section 502 borrowers, as determined by the Secretary, of which $3,137,968,000 shall be for unsubsidized guaranteed loans; $32,324,000 for section 504 housing repair loans; $99,770,000 for section 538 guaranteed multi-family housing loans; $114,068,000 for section 515 rental housing; $5,090,000 for section 524 site loans; $11,778,000 for credit sales of acquired property, of which up to $1,778,000 may be for multi-family credit sales; and $5,000,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $184,274,000 of which $40,166,000 shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $10,386,000; section 538 multi-family housing guaranteed loans, $3,921,000; section 515 rental housing,

$48,274,000; section 524 site loans, $28,000; multi-family credit sales of acquired property, $750,000; and section 523 self-help housing land development loans, $254,000: *Provided,* That of the total amount appropriated in this paragraph, $11,656,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $422,241,000, which shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, $708,504,000; and, in addition, such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided,* That of this amount, not more than $5,900,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further,* That agreements entered into or renewed during fiscal year 2002 shall be funded for a 5-year period, although the life of any such agreement may be extended to fully utilize amounts obligated.

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $35,000,000, to remain available until expended (7 U.S.C. 2209b): *Provided,* That of the total amount appropriated, $1,000,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

RURAL HOUSING ASSISTANCE GRANTS

For grants and contracts for very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, 1479(c), 1490e, and 1490m, $38,914,000, to remain available until expended: *Provided,* That of the total amount appropriated, $1,200,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

FARM LABOR PROGRAM ACCOUNT

For the cost of direct loans, grants, and contracts, as authorized by 42 U.S.C. 1484 and 1486, $28,431,000, to remain available until expended, for direct farm labor housing loans and domestic farm labor housing grants and contracts.

RURAL BUSINESS-COOPERATIVE SERVICE

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, $16,494,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), of which $1,724,000 shall be for Federally Recognized Native American Tribes and of which $3,449,000 shall be for Mississippi Delta Region counties (as defined by Public Law 100–460): *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans of $38,171,000: *Provided further,* That of the total amount appropriated, $2,730,000 shall be available through June 30, 2002, for the cost of direct loans for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses to carry out the direct loan programs, $3,733,000 shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING RESCISSION OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $14,966,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $3,616,000.

Of the funds derived from interest on the cushion of credit payments in fiscal year 2002, as authorized by section 313 of the Rural Electrification Act of 1936, $3,616,000 shall not be obligated and $3,616,000 are rescinded.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), $8,000,000, of which $2,000,000 shall be available for cooperative agreements for the appropriate technology transfer for rural areas program: *Provided,* That not to exceed $1,497,000 of the total amount appropriated shall be made available to cooperatives or associations of cooperatives whose primary focus is to provide assistance to small, minority producers and whose governing board and/or membership is comprised of at least 75 percent minority.

RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES GRANTS

For grants in connection with a second round of empowerment zones and enterprise communities, $14,967,000, to remain available until expended, for designated rural empowerment zones and rural enterprise communities as authorized in the Taxpayer Relief Act of 1997.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) shall be made as follows: 5 percent rural electrification loans, $121,107,000; 5 percent rural telecommunications loans, $74,827,000; cost of money rural telecommunications loans, $300,000,000; municipal rate rural electric loans, $500,000,000; and loans made pursuant to section 306 of that Act, rural electric, $2,700,000,000 and rural telecommunications, $120,000,000; and $750,000,000 for Treasury rate direct electric loans.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936, as follows: cost of rural electric loans, $3,689,000, and the cost of telecommunication loans, $2,036,000: *Provided,* That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $36,000,000, which shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

RURAL TELEPHONE BANK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out its authorized programs. During fiscal year 2002 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be $174,615,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936 (7 U.S.C. 935), $3,737,000.

In addition, for administrative expenses, including audits, necessary to carry out the loan programs, $3,082,000, which shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

DISTANCE LEARNING AND TELEMEDICINE PROGRAM

For the cost of direct loans and grants, as authorized by 7 U.S.C. 950aaa et seq., $51,941,000, to remain available until expended, to be available for loans and grants for telemedicine and distance learning services in rural areas: *Provided,* That, $25,000,000 may be available for a loan and grant program to finance broadband transmission and local dial-up Internet service in areas that meet the definition of ''rural area'' used for the Distance Learning and Telemedicine Program authorized by 7 U.S.C. 950aaa: *Provided,* That the cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

LOCAL TELEVISION LOAN GUARANTEE PROGRAM ACCOUNT

For gross obligations for the principal amount of guaranteed loans, as authorized by Title X of Public Law 106–553 for the purpose of facilitating access to signals of local television stations for households located in nonserved areas and underserved areas, $322,580,000.

For the cost of guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $25,000,000.

In addition, for administrative expenses necessary to carry out the guaranteed loan program, $2,000,000, which shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

TITLE IV

DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, $587,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; $10,087,246,000, to remain available through September 30, 2003, of which $4,746,538,000 is hereby appropriated and $5,340,708,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further,* That of the funds made available under this heading, $500,000 shall be for a School Breakfast Program startup grant pilot program for the State of Wisconsin: *Provided further,* That up to $4,507,000 shall be available for independent verification of school food service claims.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $4,247,086,000, to remain available through September 30, 2003: *Provided,* That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further,* That of the total amount available, the Secretary shall obligate $20,000,000 for the farmers' market nutrition program within 45 days of the enactment of this Act, and an additional $5,000,000 for the farmers' market nutrition program upon a determination by the Secretary that funds are available to meet caseload requirements: *Provided further,* That notwithstanding section 17(h)(10)(A) of such Act, up to $14,000,000 shall be available for the purposes specified in section 17(h)(10)(B), no less than $6,000,000 of which shall be used for the development of electronic benefit transfer systems: *Provided further,* That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: *Provided further,* That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of such Act: *Provided further,* That none of the funds provided shall be available for activities that are not fully reimbursed by other Federal Government departments or agencies unless authorized by section 17 of such Act: *Provided further,* That once the amount for fiscal year 2001 carryover funds has been determined by the Secretary, any funds in excess of $110,000,000 may be transferred by the Secretary of Agriculture to the Rural Community Advancement Program and shall remain available until expended.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), $21,091,986,000, of which $100,000,000 shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided,* That of the funds made available under this heading and not already appropriated to the Food Distribution Program on Indian Reservations (FDPIR) established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)), not to exceed $3,000,000 shall be used to purchase bison for the FDPIR: *Provided further,* That the Secretary shall purchase such bison from Native American producers and Cooperative Organizations without competition: *Provided further,* That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further,* That of funds that may be reserved by the Secretary for allocation to State agencies under section 16(h)(1) of such Act to carry out Employment and Training programs, not more than $145,000,000 made available in previous years may be obligated in fiscal year 2002: *Provided further,* That funds made available for Employment and Training under this heading shall remain available until expended, as authorized by section 16(h)(1) of the Food Stamp Act: *Provided further,* That funds provided under this heading may be used to procure food coupons necessary for program operations in this or subsequent fiscal years until electronic benefit transfer implementation is complete.

COMMODITY ASSISTANCE PROGRAM

(INCLUDING RESCISSION)

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) and the Emergency Food Assistance Act of 1983, $139,991,000, to remain available through September 30, 2003: *Provided,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program: *Provided further,* That $5,300,000 of unobligated balances available at the beginning of fiscal year 2002 are hereby rescinded.

FOOD DONATIONS PROGRAMS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973; special assistance for the nuclear affected islands as authorized by section 103(h)(2) of the Compacts of Free Association Act of 1985, as amended; and section 311 of the Older Americans Act of 1965, $150,749,000, to remain available through September 30, 2003.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $127,546,000, of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp benefit delivery, and assisting in the prevention, identification, and prosecution of fraud and other violations of law and of which not less than $6,500,000 shall be available to improve integrity in the Food Stamp and Child Nutrition programs: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $158,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $121,563,000: *Provided,* That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1737) and the foreign assistance programs of the United States Agency for International Development.

None of the funds in the foregoing paragraph shall be available to promote the sale or export of tobacco or tobacco products.

PUBLIC LAW 480 TITLE I PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of agreements under the Agricultural Trade Development and Assistance Act of 1954, and the Food for Progress Act of 1985, including the cost of modifying credit arrangements under said Acts, $130,218,000, to remain available until expended.

In addition, for administrative expenses to carry out the credit program of title I, Public Law 83–480, and the Food for Progress Act of 1985, to the extent funds appropriated for Public Law 83–480 are utilized, $2,005,000, of which $1,033,000 may be transferred to and merged with the appropriation for ''Foreign Agricultural Service, Salaries and Expenses'', and of which $972,000 may be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses''.

PUBLIC LAW 480 TITLE I OCEAN FREIGHT DIFFERENTIAL GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, $20,277,000, to remain available until expended, for ocean freight differential costs for the shipment of agricultural commodities under title I of said Act: *Provided,* That funds made available for the cost of title I agreements and for title I ocean freight differential may be used interchangeably between the two accounts with prior notice to the Committees on Appropriations of both Houses of Congress.

PUBLIC LAW 480 TITLE II GRANTS

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, $850,000,000, to remain available until expended, for commodities supplied in connection with dispositions abroad under title II of said Act.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $4,014,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which $3,224,000 may be transferred to and merged with the appropriation for ''Foreign Agricultural Service, Salaries and Expenses'', and of which $790,000 may be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses''.

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration which are included in this Act; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $1,344,386,000, of which not to exceed $161,716,000 to be derived from prescription drug user fees authorized by 21 U.S.C. 379(h), including any such fees assessed prior to the current fiscal year but credited during the current year, in accordance with section 736(g)(4), shall be credited to this appropriation and remain available until expended: *Provided*, That fees derived from applications received during fiscal year 2002 shall be subject to the fiscal year 2002 limitation: *Provided further*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further*, That of the total amount appropriated: (1) $310,926,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) $350,578,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs, of which no less than $14,207,000 shall be available for grants and contracts awarded under section 5 of the Orphan Drug Act (21 U.S.C. 360ee); (3) $155,431,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office of Regulatory Affairs; (4) $81,182,000 shall be for the Center for Veterinary Medicine and for related field activities in the Office of Regulatory Affairs; (5) $178,761,000 shall be for the Center for Devices and Radiological Health and for related field activities in the Office of Regulatory Affairs; (6) $36,984,000 shall be for the National Center for Toxicological Research; (7) $31,798,000 shall be for Rent and Related activities, other than the amounts paid to the General Services Administration, of which $6,000,000 for costs related to occupancy of new facilities at White Oak, Maryland shall remain available until September 30, 2003; (8) $105,116,000 shall be for payments to the General Services Administration for rent and related costs; and (9) $93,610,000 shall be for other activities, including the Office of the Commissioner; the Office of Management and Systems; the Office of the Senior Associate Commissioner; the Office of International and Constituent Relations; the Office of Policy, Legislation, and Planning; and central services for these offices: *Provided further*, That funds may be transferred from one specified activity to another with the prior approval of the Committees on Appropriations of both Houses of Congress.

In addition, mammography user fees authorized by 42 U.S.C. 263(b) may be credited to this account, to remain available until expended.

In addition, export certification user fees authorized by 21 U.S.C. 381 may be credited to this account, to remain available until expended.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $34,281,000, to remain available until expended (7 U.S.C. 2209b).

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109, $70,400,000, including not to exceed $2,000 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $36,700,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: *Provided*, That this limitation shall not apply to expenses associated with receiverships.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for fiscal year 2002 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 379 passenger motor vehicles, of which 378 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 703. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by sections 1 and 10 of the Act of June 29, 1935 (7 U.S.C. 427, 427i; commonly known as the Bankhead-Jones Act), subtitle A of title II and section 302 of the Act of August 14, 1946 (7 U.S.C. 1621 et seq.), and chapter 63 of title 31, United States Code, shall be available for contracting in accordance with such Acts and chapter.

SEC. 704. The Secretary of Agriculture may transfer unobligated balances of funds appropriated by this Act or other available unobligated balances of the Department of Agriculture to the Working Capital Fund for the acquisition of plant and capital equipment necessary for the delivery of financial, administrative, and information technology services of primary benefit to the agencies of the Department of Agriculture: *Provided*, That none of the funds made available by this Act or any other Act shall be transferred to the Working Capital Fund without the prior approval of the agency administrator: *Provided further*, That none of the funds transferred to the Working Capital Fund pursuant to this section shall be available for obligation without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 705. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, fruit fly program, integrated systems acquisition project, boll weevil program, up to 25 percent of the screwworm program, and up to $2,000,000 for costs associated with colocating regional offices; Food Safety and Inspection Service, field automation and information management project; Cooperative State Research, Education, and Extension Service, funds for competitive research grants (7 U.S.C. 450i(b)), funds for the Research, Education and Economics Information System (REEIS), and funds for the Native American Institutions Endowment Fund; Farm Service Agency, salaries and expenses funds made available to county committees; Foreign Agricultural Service, middle-income country training program and up to $2,000,000 of the Foreign Agricultural Service appropriation solely for the purpose of offsetting fluctuations in international currency exchange rates, subject to documentation by the Foreign Agricultural Service.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of August 28, 1954 (7 U.S.C. 1766b; commonly known as the Agricultural Act of 1954).

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 710. None of the funds in this Act shall be available to pay indirect costs charged against competitive agricultural research, education, or extension grant awards issued by the Cooperative State Research, Education, and Extension Service that exceed 19 percent of total Federal funds provided under each award: *Provided*, That notwithstanding section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310), funds provided by this Act for grants awarded competitively by the Cooperative State Research, Education, and Extension Service shall be available to pay full allowable indirect costs for each grant awarded under section 9 of the Small Business Act (15 U.S.C. 638).

SEC. 711. Notwithstanding any other provision of this Act, all loan levels provided in this Act shall be considered estimates, not limitations.

SEC. 712. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in fiscal year 2002 shall remain available until expended to cover obligations made in fiscal year 2002 for the following accounts: the rural development loan fund program account; the Rural Telephone Bank program account; the rural electrification and telecommunications loans program account; the local television loan guarantee program; the Rural Housing Insurance Fund Program Account; and the rural economic development loans program account.

SEC. 713. Notwithstanding chapter 63 of title 31, United States Code, marketing services of the Agricultural Marketing Service; the Grain Inspection, Packers and Stockyards Administration; the Animal and Plant

Health Inspection Service; and the food safety activities of the Food Safety and Inspection Service may use cooperative agreements to reflect a relationship between the Agricultural Marketing Service; the Grain Inspection, Packers and Stockyards Administration; the Animal and Plant Health Inspection Service; or the Food Safety and Inspection Service and a state or cooperator to carry out agricultural marketing programs, to carry out programs to protect the nation's animal and plant resources, or to carry out educational programs or special studies to improve the safety of the nation's food supply.

SEC. 714. None of the funds in this Act may be used to retire more than 5 percent of the Class A stock of the Rural Telephone Bank or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has not specifically been authorized by statute: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 715. Of the funds made available by this Act, not more than $1,800,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 716. None of the funds appropriated by this Act may be used to carry out section 410 of the Federal Meat Inspection Act (21 U.S.C. 679a) or section 30 of the Poultry Products Inspection Act (21 U.S.C. 471).

SEC. 717. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 718. None of the funds appropriated or otherwise made available to the Department of Agriculture shall be used to transmit or otherwise make available to any non-Department of Agriculture employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

SEC. 719. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be transferred to the Office of the Chief Information Officer without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 720. (a) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2002, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2002, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(c) The Secretary of Agriculture shall notify the Committees on Appropriations of both Houses of Congress before implementing a program or activity not carried out during the previous fiscal year unless the program or activity is funded by this Act or specifically funded by any other Act.

SEC. 721. With the exception of funds needed to administer and conduct oversight of grants awarded and obligations incurred prior to enactment of this Act, none of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out section 793 of Public Law 104–127, the Fund for Rural America (7 U.S.C. 2204f).

SEC. 722. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out the transfer or obligation of fiscal year 2002 funds under the provisions of section 401 of Public Law 105–185, the Initiative for Future Agriculture and Food Systems (7 U.S.C. 7621).

SEC. 723. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel to carry out a conservation farm option program, as authorized by section 1240M of the Food Security Act of 1985 (16 U.S.C. 3839bb).

SEC. 724. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate, or to plan to close or relocate, the Food and Drug Administration Division of Pharmaceutical Analysis in St. Louis, Missouri, outside the city or county limits of St. Louis, Missouri.

SEC. 725. None of the funds made available to the Food and Drug Administration by this Act shall be used to reduce the Detroit, Michigan, Food and Drug Administration District Office below the operating and full-time equivalent staffing level of July 31, 1999; or to change the Detroit District Office to a station, residence post or similarly modified office; or to reassign residence posts assigned to the Detroit District Office: *Provided*, That this section shall not apply to Food and Drug Administration field laboratory facilities or operations currently located in Detroit, Michigan, except that field laboratory personnel shall be assigned to locations in the general vicinity of Detroit, Michigan, pursuant to cooperative agreements between the Food and Drug Administration and other laboratory facilities associated with the State of Michigan.

SEC. 726. None of the funds appropriated by this Act or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the user fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2003 appropriations Act.

SEC. 727. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan.

SEC. 728. None of the funds made available by this Act or any other Act may be used to close or relocate a state Rural Development office unless or until cost effectiveness and enhancement of program delivery have been determined.

SEC. 729. Of any shipments of commodities made pursuant to section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Secretary of Agriculture shall, to the extent practicable, direct that tonnage equal in value to not more than $25,000,000 shall be made available to foreign countries to assist in mitigating the effects of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome on communities, including the provision of—

(1) agricultural commodities to—

(A) individuals with Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome in the communities, and

(B) households in the communities, particularly individuals caring for orphaned children; and

(2) agricultural commodities monetized to provide other assistance (including assistance under microcredit and microenterprise programs) to create or restore sustainable livelihoods among individuals in the communities, particularly individuals caring for orphaned children.

SEC. 730. In addition to amounts otherwise appropriated or made available by this Act, $1,996,000 is appropriated for the purpose of providing Bill Emerson and Mickey Leland Hunger Fellowships through the Congressional Hunger Center.

SEC. 731. Refunds or rebates received on an on-going basis from a credit card services provider under the Department of Agriculture's charge card programs may be deposited to and retained without fiscal year limitation in the Departmental Working Capital Fund established under 7 U.S.C. 2235 and used to fund management initiatives of general benefit to the Department of Agriculture bureaus and offices as determined by the Secretary of Agriculture or the Secretary's designee.

SEC. 732. Notwithstanding section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f) any balances available to carry out title III of such

Act as of the date of enactment of this Act, and any recoveries and reimbursements that become available to carry out title III of such Act, may be used to carry out title II of such Act.

SEC. 733. Of the funds made available under section 27(a) of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the Secretary may use up to $5,000,000 for administrative costs associated with the distribution of commodities.

SEC. 734. Notwithstanding any other provision of law, the Secretary may transfer up to $26,000,000 in funds provided for the Environmental Quality Incentives Program authorized by Chapter 4, Subtitle D, Title XII of the Food Security Act of 1985, for technical assistance to implement the Conservation Reserve Program authorized by subchapter B, Chapter 1, Title XII of the Food Security Act of 1985, with funds to remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary may elect to enroll no more than 340,000 acres for continuous signup, conservation reserve enhancement, or wetland pilot purposes and no acres for regular enrollment into the Conservation Reserve Program authorized by subchapter B, Chapter 1, Title XII of the Food Security Act of 1985, during fiscal year 2002 and any savings derived from such action may be transferred, not to exceed $18,000,000, for technical assistance to implement the Conservation Reserve Program, with funds to remain available until expended.

SEC. 735. Notwithstanding any other provision of law, the City of St. Joseph, Missouri, shall be eligible for grants and loans administered by the rural development mission area of the Department of Agriculture relating to an application submitted to the Department by a farmer-owned cooperative, a majority of whose members reside in a rural area, as determined by the Secretary, and for the purchase and operation of a facility beneficial to the purpose of the cooperative.

SEC. 736. ELIGIBILITY OF PRIVATE ORGANIZATIONS UNDER CHILD AND ADULT CARE FOOD PROGRAM. (a) Section 17(a)2(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(a)(2)(B) is amended by striking ''2001'' and inserting ''2002''.

SEC. 737. Notwithstanding any other provision of law, the Natural Resources Conservation Service shall provide financial and technical assistance in the amount of $150,000 to the Mallard Pointe project in Madison County, Mississippi.

SEC. 738. Notwithstanding any other provision of law, the Secretary of Agriculture shall, in cooperation with the State of Illinois, develop and implement a pilot project utilizing conservation programs of the Department of Agriculture for soil, water, wetlands, and wildlife habitat enhancement in the Illinois River Basin: *Provided*, That no funds shall be made available to carry out this section unless they are expressly provided for a program in this Act or any other Act for obligation in fiscal year 2002: *Provided further*, That any conservation reserve program enrollments made pursuant to this section shall be subject to section 734 of this Act.

SEC. 739. Notwithstanding any other provision of law, the Natural Resources Conservation Service shall provide $450,000 for a wetlands restoration and water conservation project in the vicinity of Jamestown, Rhode Island.

SEC. 740. Notwithstanding any other provision of law, up to $3,000,000 may be made available from funds under the rural business and cooperative development programs of the Rural Community Advancement Program for a grant to the extent matching funds from the Department of Energy are provided if a commitment for such matching funds is made prior to July 1, 2002.

This Act may be cited as the ''Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002''.

SA 1970. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 5, line 16, strike ''in the event an agency within the Department should require modification of space needs,''.

On page 5, line 21, after ''appropriation,'' insert ''to cover the costs of new or replacement space for such agency,''.

SA 1971. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 15, strike all beginning with '': *Provided*,'' on line 20 down through and including ''purposes'' on line 24.

SA 1972. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 47, after ''1997'' at the end of line 2, insert the following: ''and Public Law 105–277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999''

SA 1973. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 47, after ''1936'' on line 20, insert ''(7 U.S.C. 935 and 936)''.

SA 1974. Mr. KOLH (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 49, after ''for'' at the end of line 6, insert ''the continuation of a pilot project for'' and also on page 49, after ''*Provided*'' on line 11, insert ''*further*''.

SA 1975. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 78, after line 2, insert the following:

''SEC. . Hereafter, notwithstanding any other provision of law, the Administrator of the Rural Utilities Service shall use the authorities provided in the Rural Electrification Act of 1936 to finance the acquisition of existing generation, transmission and distribution systems and facilities serving high cost, predominantly rural areas by entities capable of and dedicated to providing or improving service in such areas in an efficient and cost effective manner.''

SA 1976. Mr. SMITH of Oregon (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert the following:

''In addition to amounts otherwise available, $38,000,000 from amounts pursuant to 15 U.S.C. 713a–4, for the Secretary of Agriculture to make available financial assistance to eligible producers in the Klamath Basin, as determined by the Secretary.

''$6,500,000 will be available for the acquisition of lands, interests in lands or easements in the Upper Klamath River Basin from willing sellers for the purposes of enhancing water storage or improving water quality in the Upper Basin.

''$2,500,000 will be available through the rural utilities account to fund the drilling of wells for landowners currently diverting surface water upstream of Upper Klamath Lake, Oregon.

''Funding for this program will come from the sale of Pershing Hall, a Department of Veterans' Affairs building in Paris, France.''

SA 1977. Mr. BUNNING submitted a amendment intended to be proposed by him to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

''From the amount appropriated to the Animal and Plant Health Inspection Service, $300,000 shall be provided to monitor and prevent Mare Reproductive Loss Syndrome in cooperation with the University of Kentucky.''

SA 1978. Mr. LEVIN (for himself, Ms. COLLINS, Ms. SNOWE, Mrs. CLINTON, Mrs. MURRAY, Mr. SCHUMER, Mr. LEAHY, Ms. STABENOW, Ms. CANTWELL, Mr. KENNEDY, Mr. JEFFORDS, Mr. KERRY, Mr. EDWARDS, and Mr. SMITH of Oregon) submitted an amendment intended to be proposed by him to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. MARKET LOSS ASSISTANCE FOR APPLE PRODUCERS.

(a) ASSISTANCE AVAILABLE.—The Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation, in an amount not to exceed $150,000,000, to make payments, as soon as

practicable after the date of the enactment of this Act, to apple producers to provide relief for the loss of markets during the 2000 crop year.

(b) PAYMENT QUANTITY.—

(1) IN GENERAL.—Subject to paragraph (2), the payment quantity of apples for which the producers on a farm are eligible for payments under this section shall be equal to the quantity of the 2000 crop of apples produced by the producers on the farm.

(2) MAXIMUM QUANTITY.—The payment quantity of apples for which the producers on a farm are eligible for payments under this section shall not exceed 5,000,000 pounds of apples produced on the farm.

(c) LIMITATIONS.—Subject to subsection (b)(2), the Secretary shall not establish a payment limitation, or gross income eligibility limitation, with respect to payments made under this section.

(d) APPLICABILITY.—This section applies only with respect to the 2000 crops of apples and producers of that crop.

SA 1979. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Flood and Drug Administration, and Related Agencies 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.___. CITRUS CANKER ERADICATION.

(a) IN GENERAL.—Section 810 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549A–52) is amended—

(1) in subsection (a), by striking ''The'' and inserting ''Subject to subsection (c), the''; and

(2) in subsection (c), by striking ''2001'' and inserting ''2002''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on September 30, 2001.

SA 1980. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . INCOME LIMITATION.

Notwithstanding any provision of this Act to the contrary, no funds appropriated or otherwise made available under this Act (or by any amendment made by this Act) may be used to provide a payment, loan, loan guarantee, or other financial assistance to a person with qualifying gross revenues (as defined in section 196(i)(1) of the Agriculture Market Transition Act (7 U.S.C. 7333(i)(1)) derived from for-profit farming, ranching, or forestry operations in excess of $1,000,000 during any taxable year ending on or after the date of enactment of this Act.

SA 1981. Mr. SMITH of Oregon (for himself and Mr. WYDEN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

''In addition to amounts otherwise available, $38,000,000 from amounts pursuant to 15 U.S.C. 713a–4, for the Secretary of Agriculture to make available financial assistance to eligible producers in the Klamath Basin, as determined by the Secretary.

''$6,500,000 will be available for the acquisition of lands, interests in lands or easements in the Upper Klamath River Basin from willing sellers for the purposes of enhancing water storage or improving water quality in the Upper Basin.

''$2,500,000 will be available through the rural utilities account to fund the drilling of wells for landowners currently diverting surface water upstream of Upper Klamath Lake, Oregon.

''Funding for this program will come from the sale of Pershing Hall, a Department of Veterans' Affairs building in Paris, France.''

SA 1982. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 26, line 18, strike ''$939,030,000'' and insert ''$938,720,000''.

On page 13, line 21, strike ''$84,040,000'' and insert ''$84,350,000, of which $500,000 is for the Environmental Biotechnology initiative at the University of Rhode Island''.

SA 1983. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, between lines 6 and 7, insert the following:

In addition, for the Food and Drug Administration to improve imported and domestic food safety inspections to protect against bioterrorism threats and reduce the incidence of foodborne illnesses and food allergies, $100,000,000.

On page 78, between lines 2 and 3, insert the following:

SEC. 741. IMPOSITION OF TARIFF-RATE QUOTAS ON CERTAIN CASEIN AND MILK CONCENTRATES.

(a) CASEIN AND CASEIN PRODUCTS.—

(1) IN GENERAL.—The Additional U.S. notes to chapter 35 of the Harmonized Tariff Schedule of the United States are amended—

(A) in note 1, by striking ''subheading 3501.10.10'' and inserting ''subheadings 3501.10.05, 3501.10.15, and 3501.10.20''; and

(B) by adding at the end the following new note:

''2. The aggregate quantity of casein, caseinates, milk protein concentrate, and other casein derivatives entered under subheadings 3501.10.15, 3501.10.65, and 3501.90.65 in any calendar year shall not exceed 54,051,000 kilograms. Articles the product of Mexico shall not be permitted or included under this quantitative limitation and no such article shall be classifiable therein.''.

(2) RATES FOR CERTAIN CASEINS, CASEINATES, AND OTHER DERIVATIVES AND GLUES.—Chapter 35 of the Harmonized Tariff Schedule of the United States is amended by striking subheadings 3501.10 through 3501.90.60, inclusive, and inserting the following new subheadings with article descriptions for subheadings 3501.10 and 3501.90 having the same degree of indentation as the article description for subheading 3502.20.00:

''	3501.10	Casein:			
		Milk protein concentrate:			
	3501.10.05	Described in general note 15 of the tariff schedule and entered pursuant to its provisions	0.37¢/kg	Free (A*, CA, E, IL, J, MX)	12¢/kg
	3501.10.15	Described in additional U.S. note 2 to this chapter and entered according to its provisions	0.37¢/kg	Free (A*, CA, E, IL, J)	12¢/kg
	3501.10.20	Other	$2.16/kg	Free (MX)	$2.81/kg
		Other:			
	3501.10.55	For industrial uses other than the manufacture of food for humans or other animals or as ingredients in such food	Free	Free (A*, CA, E, IL, J, MX)	Free
		Other:			
	3501.10.60	Described in general note 15 of the tariff schedule and entered pursuant to its provisions	Free	Free (A*, CA, E, IL, J, MX)	12¢/kg
	3501.10.65	Described in additional U.S. note 2 to this chapter and entered according to its provisions	0.37¢/kg	Free (A*, CA, E, IL, J)	12¢/kg
	3501.10.70	Other	$2.16/kg	Free (MX)	$2.81/kg
	3501.90	Other:			
	3501.90.05	Casein glues	6%	Free (A*, CA, E, IL, J, MX)	30%
		Other:			
	3501.90.30	For industrial uses other than the manufacture of food for humans or other animals or as ingredients in such food	6%	Free (A*, CA, E, IL, J, MX)	30%
		Other:			
	3501.90.55	Described in general note 15 of the tariff schedule and entered pursuant to its provisions	0.37¢/kg	Free (A*, CA, E, IL, J, MX)	12.1¢/kg
	3501.90.65	Described in additional U.S. note 2 to this chapter and entered according to its provisions	0.37¢/kg	Free (A*, CA, E, IL, J)	12.1¢/kg

3501.90.70	Other	$2.16/kg	Free (MX)	$2.81/kg	''.

(b) MILK PROTEIN CONCENTRATES.—

(1) IN GENERAL.—The Additional U.S. notes to chapter 4 of the Harmonized Tariff Schedule of the United States are amended—

(A) in note 13, by striking ''subheading 0404.90.10'' and inserting ''subheadings 0404.90.05, 0404.90.15, and 0404.90.20''; and

(B) by adding at the end the following new note:

''27. The aggregate quantity of milk protein concentrates entered under subheading 0404.90.15 in any calendar year shall not exceed 15,818,000 kilograms. Articles the product of Mexico shall not be permitted or included under this quantitative limitation and no such article shall be classifiable therein.''.

(2) RATES FOR CERTAIN MILK PROTEIN CONCENTRATES.—Chapter 4 of the Harmonized Tariff Schedule of the United States is amended by striking subheading 0404.90 through 0404.90.10, inclusive, and inserting the following new subheadings with the article description for subheading 0404.90 having the same degree of indentation as the article description for subheading 0405.10 and the article description for subheadings 0404.90.05, 0404.90.15, and 0404.90.20 having the same degree of indentation as the article description for subheading 0405.20.40:

''	0404.90	Other:			
		Milk protein concentrates:			
	0404.90.05	Described in general note 15 of the tariff schedule and entered pursuant to its provisions	0.37¢/kg	Free (A*, CA, E, IL, J, MX)	12¢/kg
	0404.90.15	Described in additional U.S. note 27 to this chapter and entered pursuant to its provisions	0.37¢/kg	Free (A*, CA, E, IL, J)	12¢/kg
	0404.90.20	Other	$1.56/kg	Free (MX)	$2.02/kg

''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to goods entered, or withdrawn from warehouse for consumption, on or after the first day of the first month after the date that is 15 days after the date of enactment of this Act.

SEC. 742. COMPENSATION AUTHORITY.

(a) IN GENERAL.—If the provisions of section 741 require, the President—

(1) may enter into a trade agreement with any foreign country or instrumentality for the purpose of granting new concessions as compensation in order to maintain the general level of reciprocal and mutually advantageous concessions; and

(2) may proclaim such modification or continuance of any existing duty, or such continuance of existing duty-free or excise treatment, as the President determines to be required or appropriate to carry out any such agreement.

(b) LIMITATIONS.—

(1) IN GENERAL.—No proclamation shall be made pursuant to subsection (a) decreasing any rate of duty to a rate which is less than 70 percent of the existing rate of duty.

(2) SPECIAL RULE FOR CERTAIN DUTY REDUCTIONS.—If the rate of duty in effect at any time is an intermediate stage under section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988, the proclamation made pursuant to subsection (a) may provide for the reduction of each rate of duty at each such stage proclaimed under section 1102(a) by not more than 30 percent of such rate of duty, and may provide for a final rate of duty which is not less than the 70 percent of the rate of duty proclaimed as the final stage under section 1102(a).

(3) ROUNDING.—If the President determines that such action will simplify the computation of the amount of duty computed with respect to an article, the President may exceed the limitations provided in paragraphs (1) and (2) by not more than the lesser of—

(A) the difference between such limitation and the next lower whole number, or

(B) one-half of one percent ad valorem.

SA 1984. Mr. HARKIN proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 78, between lines 2 and 3, insert the following:

SEC. 7 . PATHOGEN REDUCTION PERFORMANCE STANDARDS.

(a) None of the funds appropriated or otherwise made available by this Act may be used by the Secretary of Agriculture to label, mark, stamp, or tag as ''inspected and passed'' meat, meat food products, poultry, or poultry products under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) produced in establishments that do not meet pathogen reduction performance standards (including regulations), as determined by the Secretary in accordance with applicable rules of practice.

(b) RULEMAKING.—Not later than May 31, 2002 the Secretary shall initiate public rulemaking to ensure the scientific basis for any such pathogen reduction performance standard.

SA 1985. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

Amend section 306(a)(20) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(20)) is amended by adding at the end the following new subparagraph:

''(D) RURAL BROADBAND.—The Secretary may make grants to regulatory commissions in states with more than 25 communities without dial-up internet access to establish a competively neutral grant program to telecommunications carriers that establish facilities and services which, in the commission's determination, will result in the long-term availability to rural communities in such state of affordable broadband telecommunications services which can be used for the provision of high speed internet access.''.

SA 1986. Mr. STEVENS (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed by him to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . WILD SEAFOOD.—The Secretary of Commerce shall have the sole federal authority to develop, publish, and implement regulations providing for the certification and labeling of wild seafood caught in the waters of a State or of the United States, including organic wild seafood, and shall publish such final regulations within twelve months of the date of enactment of this Act. In developing these regulations, the Secretary of Commerce shall, notwithstanding any provision of law to the contrary, accommodate the nature of the commercial harvesting and processing of wild fish in the United States.

SA 1987. Mr. NELSON of Nebraska (for himself and Mr. MILLER) proposed an amendment to amendment SA 1984 proposed by Mr. HARKIN to the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Strike all after the word ''sec'' and insert the following:

None of the funds appropriated or otherwise made available by this Act shall be used by the Secretary of Agriculture shall be available for application of the mark of inspection to any meat or poultry product that is shown to be adulterated: *Provided further*, That the Secretary of Agriculture shall prepare a report, which is to be submitted by May 15, 2002, to the Committee on Appropriations of the Senate and the House of Representatives, regarding the role of microbiological monitoring and standards relating to indicator organisms and pathogens in determining the effectiveness and adequacy of Food Safety and Inspection Service Hazard Analysis and Critical Control Point (HACCP) meat and poultry safety programs, including relevant points of general scientific agreement regarding such monitoring, and analysis of the microbiological data accumulated by the Secretary to identify opportunities to further enhance food safety, as well as any modification of regulations or statutory enforcement authority that may advance food safety: *Provided further*, That not later than August 1, 2002, the Secretary shall initiate public rulemaking to improve the effectiveness and adequacy of the Hazard Analysis and Critical Control Point (HAACP) System established under part 417 of title 9, Code of Federal Regulations.

SA 1988. Mr. KOHL (for Mr. DORGAN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 78, between lines 2 and 3, insert the following:

SEC. 7 . SUGAR MARKETING ASSESSMENT.

Notwithstanding subsection (f) of section 156 of the Agricultural Market Transition Act (7 U.S.C. 7272(f)), any assessment imposed under that subsection for marketings of raw cane sugar or beet sugar for the 2002 fiscal year shall not be required to be remitted to the Commodity Credit Corporation before September 2, 2002.

SA 1989. Mr. KOHL (for Mrs. LINCOLN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for fiscal year ending September 30, 2002, and for other purposes; as follows:

''SEC. . Notwithstanding any other provision of law, the Secretary of Agriculture, acting through the Natural Resources Conservation Service, shall provide financial assistance from available funds from the Emergency Watershed Protection Program in Arkansas, in an amount not to exceed $0.4 million for completion of the current construction phase of the Kuhn Bayou (Point Remove) Project.''

SA 1990. Mr. KOHL (for Mr. JOHNSON), proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Strike section 740 and insert the following new section:

SEC. 740. Notwithstanding any other provision of law, $3,000,000 shall be made available from funds under the rural business and cooperative development programs of the Rural Community Advancement Program for a grant for an integrated ethanol plant, feedlot, and animal waste digestion unit, to the extent matching funds from the Department of Energy are provided if a commitment for such matching funds is made prior to July 1, 2002: Provided, That such funds shall be released to the project after the farmer-owned cooperative equity is in place, and a formally executed commitment from a qualified lender based upon receipt of necessary permits, contract, and other appropriate documentation has been secured by the project.''

SA 1991. Mr. KOHL (for Mr. WYDEN (for himself and Mr. CRAIG)) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in Title VII, insert the following:

SEC. . (a) TEMPORARY USE OF EXISTING PAYMENTS TO STATES TABLE.—Notwithstanding section 101(a)(1) of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393; 16 U.S.C. 500 note), for the purpose of making the first fiscal year's payments under section 102 of such Act to eligible States and eligible counties, the full payment amount for each eligible State and eligible county shall be deemed to be equal to the full payment amount calculated for that eligible state or eligible county in the Forest Service document entitled ''P.L. 106–393, Secure Rural Schools and Community Self-Determination Act'', dated July 31, 2001.

(b) REVISION OF TABLE.—For the purpose of making payments under section 102 of such Act to eligible States and eligible counties of subsequent fiscal years, the Secretary of Agriculture shall provide for the revision of the table referred to in subsection (a) to accurately reflect the average of the three highest 25-percent payments and safety net payments made to eligible States for the fiscal years of the eligibility period, as required by section 101(a)(1) of such Act. If the revisions are not completed by the time payments under section 102 of such Act are due to be made for a subsequent fiscal year, the table referred to in subsection (a) shall again be used for the purpose of making the payments for that fiscal year. The Forest Service shall provide the Senate Energy and Natural Resources Committee and the House of Representatives Agriculture Committee with a report on the progress of the correction by march 1, 2002.

(c) ADDITIONAL OPT-OUT OPTION.—Notwithstanding section 102(b)(2) of P.L. 106–393, if the revision of the table referred to in subsection (a) results in a lower full payment amount to a county that has elected under section 102(a)(2) the full payment amount, then that county may revisit their election under section 102(b)(1).

(d) DEFINITIONS.—In this section, the terms ''eligible State'', ''eligible county'', ''eligibility period'', ''25-period payment'', and ''safety net payments'' have the meanings given such terms in section 3 of such Act.

(e) TREATMENT OF CERTAIN MINERAL LEASING RECEIPTS.—An eligible county that elects under section 102(b) to receive its share of an eligible State's full payment amount shall continue to receive its share of any payments made to that State from a lease for mineral resources issued by the Secretary of Interior under the last paragraph under the heading 'FOREST SERVICE' in the Act of March 4, 1917 (Chapter 179; 16 U.S.C. 520).''

(f) Section 6(b) of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355(b)) is amended by inserting after the first sentence the following new sentence: ''The preceeding sentence shall also apply to any payment to a State derived from a lease for mineral resources issued by the Secretary of the Interior under the last paragraph under the heading 'FOREST SERVICE' in the Act of March 4, 1917 (Chapter 179; 16 U.S.C. 520).''

SA 1992. Mr. COCHRAN (for Mr. STEVENS) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . ALASKA PERMANENT FUND.

Section 501(b) of the Housing Act of 1949 (42 U.S.C. 1471) is amended in paragraph (5)—

(1) by striking ''(5)'' and inserting ''(5)(A)''; and

(2) by adding at the end the following:

''(B) For purposes of this title, for fiscal years 2002 and 2003 the term 'income' does not include dividends received from the Alaska Permanent Fund by a person who was under the age of 18 years when that person qualified for the dividend.''.

SA 1993. Mr. KOHL (for Ms. LANDRIEU) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 13, line 18, strike beginning with ''$32,604,000'' all down through and including ''West Virginia'' on line 20 and insert in lieu thereof ''$34,604,000, of which $1,507,496 shall be made available only for the purpose of ensuring that each institution shall receive no less than $1,000,000''.

On page 13, line 24, strike ''$137,000,000'' and insert ''$135,492,000''.

On page 17, line 13, strike beginning with ''$28,181,000'' all down through and including ''West Virginia'' on line 15 and insert in lieu thereof ''$31,181,000, of which $1,724,884 shall be made available only for the purpose of ensuring that each institution shall receive no less than $1,000,000''.

On page 17, line 22, strike ''$15,021,000'' and insert ''$11,529,000''.

SA 1994. Mr. KOHL (for Mr. HARKIN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 16, line 11 strike ''$275,940,000'' and insert in lieu thereof the following: ''$275,940,000, of which $3,600,000 may be used to carry out Public Law 107–19''.

SA 1995. Mr. COCHRAN proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 40, line 19, insert the following: '': *Provided further*, That of the funds appropriated by this Act to the Rural Community Advancement Program for guaranteed business and industry loans, funds may be transferred to direct business and industry loans as deemed necessary by the Secretary and with prior approval of the Committees on Appropriations of both Houses of Congress.''

SA 1996. Mr. KOHL proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 52, line 17, strike ''$21,091,986,000'' and insert in lieu thereof ''$22,991,986,000''.

On page 52, line 18, strike ''$100,000,000'' and insert in lieu thereof ''$2,000,000,000''.

SA 1997. Mr. KOHL proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Strike section 727 and renumber subsequent sections as appropriate.

SA 1998. Mr. KOHL (for Mr. BYRD) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related

Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 78, after line 2, insert the following:

SEC. . Hereafter, any provision of any Act of Congress relating to colleges and universities eligible to receive funds under the Act of August 30, 1890, including Tuskegee University, shall apply to West Virginia State College at Institute, West Virginia: *Provided,* That the Secretary may waive the matching funds' requirement under section 1449 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d) for fiscal year 2002 for West Virginia State College if the Secretary determines the State of West Virginia will be unlikely to satisfy the matching requirement.

SA 1999. Mr. COCHRAN (for Mr. STEVENS) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 78, line 3, insert the following:

''Sec. . Notwithstanding any other provision of law, the Secretary, acting through the Natural Resources Conservation Service, shall provide financial and technical assistance to the Tanana River bordering the Big Delta State Historical Park.''

SA 2000. Mr. COCHRAN (for himself, Mrs. LINCOLN, Mr. SESSIONS, Mr. SHELBY, Mr. HUTCHINSON, and Mr. LOTT) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 78, after line 2, insert the following:

''SEC. . None of the funds appropriated or otherwise made available by this Act to the Food and Drug Administration shall be used to allow admission of fish or fish products labeled wholly or in part as ''catfish'' unless the products are taxonomically from the family Ictaluridae.''

SA 2001. Mr. COCHRAN (for Mr. STEVENS) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert:

SEC. . The Secretary of Agriculture is authorized to accept any unused funds transferred to the Alaska Railroad Corporation for avalanche control and retransfer up to $499,000 of such funds as a direct lump sum payment to the City of Valdez to construct an avalanche control wall to protect a public school.

SA 2002. Mr. COCHRAN (for Mr. CRAIG) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

''SEC. . Of funds previously appropriated to the Bureau of Land Management under the heading 'Wildland Fire Management,' up to $5,000,000 is transferred to the Department of Agriculture, Farm Service Agency, for reimbursement for crop damage resulting from the Bureau's use of herbicides in the State of Idaho. Provided, that nothing in this section shall be construed to constitute an admission of liability in any subsequent litigation with respect to the Bureau's use of such herbicides.''

SA 2003. Mr. KOHL (for Mr. HARKIN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.

(a) IN GENERAL.—Section 1231(h)(4)(B) of the Food Security Act of 1985 (16 U.S.C. 3831(h)(4)(B)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

(b) CONFORMING AMENDMENTS.—Section 1232(a)(4) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(4)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

SA 2004. Mr. COCHRAN (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. SPECIALTY CROPS.

(a) GRADING OF PRICE-SUPPORT TOBACCO.—

(1) IN GENERAL.—Not later than March 31, 2002, the Secretary of Agriculture (referred to in this section as the ''Secretary'') shall conduct a referendum among producers of each kind of tobacco that is eligible for price support under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) to determine whether the producers favor the mandatory grading of the tobacco by the Secretary.

(2) MANDATORY GRADING.—If the Secretary determines that mandatory grading of each kind of tobacco described in paragraph (1) is favored by a majority of the producers voting in the referendum, effective for the 2002 and subsequent marketing years, the Secretary shall ensure that all kinds of the tobacco are graded at the time of sale.

(3) JUDICIAL REVIEW.—A determination by the Secretary under this subsection shall not be subject to judicial review.

(b) QUOTA REDUCTION FOR CONSERVATION RESERVE ACREAGE.—

(1) IN GENERAL.—Section 1236 of the Food Security Act of 1985 (16 U.S.C. 3836) is amended—

(A) by striking subsection (a);

(B) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively;

(C) in subsection (b) (as so redesignated), by striking ''subsection (b)'' and inserting ''subsection (a)''; and

(D) in subsection (c) (as so redesignated), by striking ''subsection (c)'' and inserting ''subsection (b)''.

(2) CONFORMING AMENDMENT.—Section 1232(a)(5) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(5)) is amended by striking ''section 1236(d)'' and inserting ''section 1236(c)''.

(3) APPLICATION.—The amendments made by this subsection shall apply beginning with the 2002 crop.

(c) HORSE BREEDER LOANS.—

(1) DEFINITION OF HORSE BREEDER.—In this subsection, the term ''horse breeder'' means a person that, as of the date of enactment of this Act, derives more than 70 percent of the income of the person from the business of breeding, boarding, raising, training, or selling horses, during the shorter of—

(A) the 5-year period ending on January 1, 2001; or

(B) the period the person has been engaged in such business.

(2) LOAN AUTHORIZATION.—The Secretary shall make loans to eligible horse breeders to assist the horse breeders for losses suffered as a result of mare reproductive loss syndrome.

(3) ELIGIBILITY.—A horse breeder shall be eligible for a loan under this subsection if the Secretary determines that, as a result of mare reproductive loss syndrome—

(A) during the period beginning January 1 and ending October 1 of any of calendar years 2000, 2001, or 2002—

(i) 30 percent or more of the mares owned by the horse breeder failed to conceive, miscarried, aborted, or otherwise failed to produce a live healthy foal; or

(ii) 30 percent or more of the mares boarded on a farm owned, operated, or leased by the horse breeder failed to conceive, miscarried, aborted, or otherwise failed to produce a live healthy foal;

(B) the horse breeder is unable to meet the financial obligations, or pay the ordinary and necessary expenses, of the horse breeder incurred in connection with breeding, boarding, raising, training, or selling horses; and

(C) the horse breeder is not able to obtain sufficient credit elsewhere, in accordance with subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

(4) AMOUNT.—

(A) IN GENERAL.—Subject to subparagraph (B), the amount of a loan made to a horse breeder under this subsection shall be determined by the Secretary on the basis of the amount of losses suffered by the horse breeder, and the financial needs of the horse breeder, as a result of mare reproductive loss syndrome.

(B) MAXIMUM AMOUNT.—The amount of a loan made to a horse breeder under this subsection shall not exceed the maximum amount of an emergency loan under section 324(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(a)).

(5) TERM.—

(A) IN GENERAL.—Subject to subparagraph (B), the term for repayment of a loan made to a horse breeder under this subsection shall be determined by the Secretary based on the ability of the horse breeder to repay the loan.

(B) MAXIMUM TERM.—The term of a loan made to a horse breeder under this subsection shall not exceed 20 years.

(6) INTEREST RATE.—The interest rate for a loan made to a horse breeder under this subsection shall be the interest rate for emergency loans prescribed under section 324(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(b)(1)).

(7) SECURITY.—A loan to a horse breeder under this subsection shall be made on the security required for emergency loans under section 324(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(d)).

(8) APPLICATION.—To be eligible to obtain a loan under this subsection, a horse breeder shall submit an application for the loan to the Secretary not later than September 30, 2002.

(9) FUNDING.—The Secretary shall carry out this subsection using funds made available to make emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

(10) TERMINATION.—The authority provided by this subsection to make a loan terminates effective September 30, 2003.

SA 2005. Mr. KOHL (for Mr. BREAUX) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 78, between lines 2 and 3, insert the following:

SEC. 7 . SWEET POTATO CROP INSURANCE.

During fiscal year 2002, subsection (a)(2) of section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) shall be applied as though the term ''and potatoes'' read as follows: '', potatoes, and sweet potatoes''.

SA 2006. Mr. KOHL (for Mr. SARBANES (for himself and Ms. MIKULSKI)) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in title VII, insert the following:

SEC. 7 . BELTSVILLE AGRICULTURAL RESEARCH CENTER, MARYLAND.

Within 30 days of the date of enactment of this Act, the Secretary of Agriculture shall submit a reprogramming request to the House and Senate Appropriations Committees to address the $21.7 million in tornado damages incurred at the Henry A. Wallace Beltsville Agricultural Research Center.

SA 2007. Mr. KOHL (for Mr. GRAHAM (for himself and Mr. NELSON of Florida)) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place in title VII, insert the following:

SEC. . CITRUS CANKER ERADICATION.

(a) IN GENERAL.—Section 810 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549A–52) is amended—

(1) in subsection (a) by striking ''The'' and inserting ''Subject to subsection (e), the''; and

(2) in subsection (e), by striking ''2001'' and inserting ''2002''.

(B) EFFECTIVE DATE.—The amendments in subsection (a) shall take effect as if enacted on September 30, 2001.

SA 2008. Mr. COCHRAN (for Mr. BUNNING) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert:

SEC. . From the amount appropriated to the Animal and Plant Health Inspection Service, $300,000 shall be provided to monitor and prevent Mare Reproductive Loss Syndrome in cooperation with the University of Kentucky.

SA 2009. Mr. COCHRAN (for Mr. STEVENS) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Amend section 306(a)(20) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(20)) by adding at the end the following new subparagraph:

''(D) RURAL BROADBAND.—The Secretary may make grants to regulatory commissions in states with communities without dial-up internet access to establish a competitively neutral grant program to telecommunications carriers that establish facilities and services which, in the commission's determination, will result in the long-term availability to rural communities in such state of affordable broadband telecommunications services which can be used for the provision of high speed internet access.''.

SA 2010. Mr. KOHL (for Mr. DORGAN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 52, line 24 after the comma, strike ''not to'' and all through page 53, line 2 up to the colon and insert the following: ''not to exceed $3,000,000 shall be used to purchase bison meat for the FDPIR from producer owned cooperative organizations''.

SA 2011. Mr. COCHRAN proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 10, line 24, strike ''$1,004,738,000'' and insert ''$999,438,000''.

On page 32, line 21, strike ''$802,454,000'' and insert ''$807,454,000''.

On page 33, line 20, after ''(16 U.S.C. 590e-2)'' insert '': *Provided further*, That $5,000,000 shall be available to carry out a pilot program in cooperation with the Department of Interior Fish and Wildlife Service to determine migratory bird harvest, including population monitoring, harvest information, and field operations''.

SA 2012. Mr. COCHRAN (for Mr. MCCONNEL) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 78, line 3, insert the following:

''SEC. . Of the funds made available to the Conservation Reserve Enhancement Program for the State of Kentucky, $490,000, and of the funds made available for competitive research grants, $230,000, shall be made available to purchase conservation easements or other interests in land to not exceed 235 acres in Adair, Green and Taylor counties, Kentucky in accordance with the Farmland Protection Program.''

On page 13, line 24, strike ''$137,000,000'' and insert in lieu thereof, ''$136,770,000''.

SA 2013. Mr. KOHL (for Mr. HARKIN (for himself and Mr. HATCH)) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Amend page 57, line 7, by increasing the sum by $1 million and

Amend page 57, line 18, by increasing the sum by $1 million.

Amend page 60, line 22, by adding the following after the word ''offices:'' : *Provided further:* $1 million to the Center for Food Safety and Nutrition to enhance enforcement of requirements under the dietary Supplement Health and Education Act of 1994 related to the accuracy of product labeling, and the truthfulness and substantiation of claims.

Amend page 30 line 4: reduce the figure by $1 million.

SA 2014. Mr. COCHRAN (for Mr. VOINOVICH) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; and follows:

On page 59, line 25, after the semicolon, insert ''and of which not less than $500,000 shall be available for a generic drug public education campaign;''.

SA 2015. Mr. COCHRAN (for Ms. COLLINS (for herself and Mr. NICKLES)) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 13, line 21, should be for a grant for Oklahoma State University and its industrial partners to develop chemical and biological sensors, including chemical food safety sensors based on microoptoelectronic devices and techniques (such as laser diode absorption and cavity-ring-down spectroscopy with active laser illumination);''.

On page 13, line 24, decrease the amount by $500,000.

SA 2016. Mr. KOHL (for Mr. REED) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 13, line 24, decrease the amount by $500,000.

On page 13, line 21, increase the amount by $500,000 and insert ''of which $500,000 is for the Environmental Biotechnology initiative at the University of Rhode Island.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LEVIN. 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 25, 2001, at 2:30 p.m., in open session to receive testimony on the role of the Department of Defense in homeland security.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEVIN. 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 October 25, 2001, for the purpose of holding a hearing on terrorism insurance.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. 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 25, 2001, at 2 p.m., to hold a hearing titled, ''The International Campaign Against Terrorism''.

Witness: The Honorable Colin Powell, Secretary of State, Washington, DC.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. 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 25, 2001, at a time to be determined to hold a business meeting.

Agenda

The Committee will consider and vote on the following nominations: Mr. Brian Carlson, of Virginia, to be Ambassador to the Republic of Latvia; Mr. Joseph DeThomas, of Pennsylvania, to be Ambassador to the Republic of Estonia; Mr. Edward Fox, of Ohio, to be an Assistant Administrator (Legislative and Public Affairs) of the United States Agency for International Development; Mr. Kent Hill, of Massachusetts, to be an Assistant Administrator (for Europe and Eurasia) of the United States Agency for International Development; Mr. Cameron Hume, of New York, to be Ambassador to the Republic of South Africa; Ms. Bonnie McElveen-Hunter, of North Carolina, to be Ambassador to the Republic of Finland; Ms. Margaret McMillion, of the District of Columbia, to be Ambassador to the Republic of Rwanda; Ms. Wanda Nesbitt, of Pennsylvania, to be Ambassador to the Republic of Madagascar; Mr. John Ordway, of California, to be Ambassador to the Republic of Armenia; Mr. John Palmer, of Mississippi, to be Ambassador to the Republic of Portugal; Ms. Anne Peterson, of Virginia, to be an Assistant Administrator (Global Health) of the United States Agency for International Development; Mr. Robert Royall, of South Carolina, to be Ambassador to the United Republic of Tanzania; Mr. Clifford Sobel, of New Jersey, to be Ambassador to the Kingdom of the Netherlands; and Mr. John Turner, of Wyoming, to be Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

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

COMMITTEE ON THE JUDICIARY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to conduct a hearing on nominations on Thursday, October 25, 2001, at 2 p.m., in room 385 of the Russell Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate Select Committee On Intelligence be authorized to hold a closed hearing on intelligence matters on Thursday, October 25, 2001, at 2:30 p.m., in room S–407 in the Capitol.

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

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, October 25, 2001, at 10 a.m., in closed and open session to receive testimony on the dark winter scenario and bioterrorism.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT AND MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia of the Committee on Governmental Affairs be authorized to meet on Thursday, October 25, 2001, at 9:30 a.m., for a hearing entitled 'Promoting the Best Interests of Children: Proposals to Establish a Family Court in the District of Columbia Superior Court.''

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

PRIVILEGE OF THE FLOOR

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Jimmy Keenan, a fellow in my office, be granted floor privileges during morning business.

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

Mr. LEAHY. Mr. President, I ask unanimous consent that David James and John Elliff, both valued members of the Judiciary Committee staff, who have contributed to this measure, be granted floor privileges throughout Senate consideration of and voting on H.R. 3162.

The PRESIDENT pro tempore. Without objection, the request of the Senator from Vermont is so ordered.

Mr. SARBANES. Mr. President, I ask unanimous consent that Vince Meehan of my staff have the privilege of the floor.

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

Mr. KOHL. Mr. President, I ask unanimous consent that the following Appropriations Committee staff members be granted floor privileges during consideration of the fiscal year 2002 Agriculture Appropriations bill and any votes that may occur in relation thereto: Jessica Arden, Dan Dagger, Rebecca Davies, Galen Fountain, Martha Scott Poindexter, Rachelle Schroeder, and Les Spivey.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. JOHNSON. Mr. President, I ask unanimous consent that Katy Ziegler of my staff be granted floor privileges during the remainder of the day.

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

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2002

On October 24, 2001, the Senate passed H.R. 2506, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2506) entitled ''An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes.'', do pass with the following amendment:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: Provided, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country, other than a nuclear-weapon state as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act, that has detonated a nuclear explosive after the date of the enactment of this Act.

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, $727,323,000 to remain available until September 30, 2005: Provided, That

such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That such sums shall remain available until September 30, 2020 for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 2002, 2003, 2004, and 2005: Provided further, That none of the funds appropriated by this Act or any prior Act appropriating funds for foreign operations, export financing, or related programs for tied-aid credits or grants may be used for any other purpose except through the regular notification procedures of the Committees on Appropriations: Provided further, That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, any Baltic State or any agency or national thereof.

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $30,000 for official reception and representation expenses for members of the Board of Directors, $64,000,000: Provided, That necessary expenses (including special services performed on a contract or fee basis, but not including other personal services) in connection with the collection of moneys owed the Export-Import Bank, repossession or sale of pledged collateral or other assets acquired by the Export-Import Bank in satisfaction of moneys owed the Export-Import Bank, or the investigation or appraisal of any property, or the evaluation of the legal or technical aspects of any transaction for which an application for a loan, guarantee or insurance commitment has been made, shall be considered nonadministrative expenses for the purposes of this heading: Provided further, That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 2002.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: Provided, That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $38,608,000: Provided further, That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

Such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $50,024,000, to remain available until September 30, 2003.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 2002, unless otherwise specified herein, as follows:

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, family planning/reproductive health, assistance to combat tropical and other infectious diseases, and related activities, in addition to funds otherwise available for such purposes, $1,510,500,000, to remain available until expended: Provided, That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health, nutrition, water and sanitation programs, and related education programs; (4) assistance for displaced and orphaned children; (5) programs for the prevention, treatment, and control of, and research on, HIV/AIDS, tuberculosis, malaria, polio and other infectious diseases; and (6) family planning/reproductive health: Provided further, That none of the funds appropriated under this heading may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health programs: Provided further, That of the funds appropriated under this heading, not to exceed $125,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: Provided further, That the following amounts should be allocated as follows: $325,000,000 for child survival and maternal health; $25,000,000 for vulnerable children; $450,000,000 for HIV/AIDS including $90,000,000 which may be made available, notwithstanding any other provision of law, for a United States contribution to a global fund to combat HIV/AIDS, malaria, and tuberculosis, and not less than $15,000,000 which should be made available to support the development of microbicides as a means for combating HIV/AIDS; $185,000,000 for other infectious diseases, of which not less than $65,000,000 should be made available for the prevention, treatment, and control of, and research on, tuberculosis, and of which not less than $65,000,000 should be made available to combat malaria; $120,000,000 for UNICEF: Provided further, That of the funds appropriated under this Act, not less than $450,000,000 shall be made available to carry out the purposes of section 104(b) of the Foreign Assistance Act of 1961, including in areas where population growth threatens biodiversity or endangered species, of which not less than $395,000,000 shall be made available from funds appropriated under this heading and not less than $55,000,000 shall be made available from funds appropriated under other headings in this title: Provided further, That of the funds appropriated under this heading, up to $50,500,000 may be made available for a United States contribution to The Vaccine Fund, and up to $10,000,000 may be made available for the International AIDS Vaccine Initiative: Provided further, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: Provided further, That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions: Provided further, That none of the funds made available under this Act may be used to lobby for or against abortion: Provided further, That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations of the Senate and the House of Representatives, a report containing a description of such violation and the corrective action taken by the Agency: Provided further, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: Provided further, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term ''motivate'', as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: Provided further, That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961.

DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103, 105, 106, and 131, and chapter 10 of part I of the Foreign Assistance Act of 1961, $1,245,000,000, to remain available until September 30, 2003: Provided, That $135,000,000 should be allocated for children's basic education: Provided further, That none of the funds appropriated under this heading may be made available for any activity which is in contravention to the Convention on International Trade in Endangered Species of Flora and Fauna: Provided further, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed $35,000, in addition to funds otherwise available for such purposes, may be used to

monitor and provide oversight of such programs: Provided further, That of the aggregate amount of the funds appropriated by this Act that are made available for agriculture and rural development programs, $30,000,000 should be made available for plant biotechnology research and development: Provided further, That not less than $2,300,000 should be made available for core support for the International Fertilizer Development Center: Provided further, That of the funds appropriated under this heading, not less than $500,000 shall be made available for support of the United States Telecommunications Training Institute: Provided further, That of the funds appropriated under this heading, not less than $19,000,000 shall be made available for the American Schools and Hospitals Abroad program: Provided further, That, of the funds appropriated under this heading, up to $100,000 should be made available for an assessment of the causes of the flooding along the Volta River in Accra, Ghana, and to make recommendations for solving the problem: Provided further, That, of the funds appropriated under this heading or under ''Child Survival and Health Programs Fund'', $5,000,000 should be made available for activities in South and Central Asia aimed at reintegrating ''child soldiers'' and other war-affected youth.

ENVIRONMENT, CLEAN ENERGY, AND ENERGY CONSERVATION PROGRAMS FUND

Of the funds appropriated under the heading ''Development Assistance'', not less than $295,000,000 should be made available for programs and activities which directly protect tropical forests, biodiversity and endangered species, promote the sustainable use of natural resources, and promote a wide range of clean energy and energy conservation activities, including the transfer of cleaner and environmentally sustainable energy technologies, and related activities: Provided, That of the funds appropriated by this Act, not less than $175,000,000 should be made available to support policies and actions in developing countries and countries in transition that measure, monitor, report, verify, and reduce greenhouse gas emissions; increase carbon sequestration activities; and enhance climate change mitigation programs.

CYPRUS

Of the funds appropriated under the heading ''Economic Support Fund'', not less than $15,000,000 shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus.

LEBANON

Of the funds appropriated under the heading ''Economic Support Fund'', not less than $35,000,000 should be made available for Lebanon to be used, among other programs, for scholarships and direct support of the American educational institutions in Lebanon: Provided, That, notwithstanding section 534(a) of this Act, none of the funds appropriated under the heading ''Economic Support Fund'' may be made available for assistance for the Central Government of Lebanon until the Secretary of State determines and certifies to the Committees on Appropriations that the Government of Lebanon has enforced the custody and international pickup orders, issued during calendar year 2001, of Lebanon's civil courts regarding abducted American children in Lebanon.

INDONESIA

Of the funds appropriated under the headings ''Economic Support Fund'', ''Child Survival and Health Programs Fund'' and ''Development Assistance'', not less than $135,000,000 should be made available for Indonesia: Provided, That not less than $10,000,000 should be made available for humanitarian, economic rehabilitation, and reconstruction, political reconciliation, and related activities in Aceh, Papua, West Timor, and Malukus: Provided further, That funds made available in the previous proviso may be transferred to and merged with the appropriation for Transition Initiatives.

BURMA

Of the funds appropriated under the heading ''Economic Support Fund'', not less than $6,500,000 shall be made available to support democracy activities in Burma, democracy and humanitarian activities along the Burma-Thailand border, and for Burmese student groups and other organizations located outside Burma: Provided, That funds made available for Burma-related activities under this heading may be made available notwithstanding any other provision of law: Provided further, That none of the funds appropriated by this Act may be used to provide humanitarian assistance inside Burma by any individual, group, or association unless the Secretary of State certifies and reports to the Committees on Appropriations that the provision of such assistance includes the direct involvement of the democratically elected National League for Democracy: Provided further, That the provision of such funds shall be made available subject to the regular notification procedures of the Committees on Appropriations: Provided further, That Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, as enacted by section 101(a) of Public Law 106–429, is amended, under the heading ''Burma'', by inserting '', 'Child Survival and Disease Programs Fund','' after ''Fund''.

LAOS

Of the funds appropriated under the headings ''Child Survival and Health Programs Fund'' and ''Development Assistance'', $5,000,000 should be made available for Laos: Provided, That funds made available under this heading should be made available only through nongovernmental organizations.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended, $245,000,000, to remain available until expended.

TRANSITION INITIATIVES

For necessary expenses for international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, $52,500,000, to remain available until expended, to support transition to democracy and to long-term development of countries in crisis: Provided, That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: Provided further, That the United States Agency for International Development shall submit a report to the Committees on Appropriations at least 5 days prior to beginning a new program of assistance.

DEVELOPMENT CREDIT AUTHORITY

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans and loan guarantees, up to $25,000,000, as authorized by sections 108 and 635 of the Foreign Assistance Act of 1961: Provided, That such funds shall be derived by transfer from funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, and under the heading ''Assistance for Eastern Europe and the Baltic States'': Provided further, That such funds shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: Provided further, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this heading. In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, $7,500,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: Provided further, That funds appropriated under this heading shall remain available until expended.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the ''Foreign Service Retirement and Disability Fund'', as authorized by the Foreign Service Act of 1980, $44,880,000.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $549,000,000: Provided, That none of the funds appropriated under this heading may be made available to finance the construction (including architect and engineering services), purchase, or long term lease of offices for use by the United States Agency for International Development, unless the Administrator has identified such proposed construction (including architect and engineering services), purchase, or long term lease of offices in a report submitted to the Committees on Appropriations at least 15 days prior to the obligation of these funds for such purposes: Provided further, That the previous proviso shall not apply where the total cost of construction (including architect and engineering services), purchase, or long term lease of offices does not exceed $1,000,000: Provided further, That of the funds appropriated under this heading, up to $10,000,000 may remain available until expended for overseas facilities construction, leasing, and other security-related costs.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $32,000,000, to remain available until September 30, 2003, which sum shall be available for the Office of the Inspector General of the United States Agency for International Development.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $2,239,500,000, to remain available until September 30, 2003: Provided, That of the funds appropriated under this heading, not less than $720,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of the enactment of this Act or by October 31, 2001, whichever is later: Provided further, That not less than $655,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $160,000,000 shall be provided as Commodity Import Program assistance: Provided further, That in exercising the authority to provide cash transfer assistance for Israel, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to such country and that Israel enters into a side letter agreement in an amount proportional to the fiscal year 1999 agreement: Provided further, That of the funds appropriated under this heading, $150,000,000 shall be made available for assistance for Jordan: Provided further, That of the funds appropriated under this heading, not less than $25,000,000 shall be made available for assistance for East

Timor of which up to $1,000,000 may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: Provided further, That of the funds appropriated under this heading, $12,000,000 should be made available for Mongolia: Provided further, That up to $10,000,000 of the funds appropriated under this heading may be used, notwithstanding any other provision of law, to provide assistance to the National Democratic Alliance of Sudan to strengthen its ability to protect civilians from attacks, slave raids, and aerial bombardment by the Sudanese Government forces and its militia allies, and the provision of such funds shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That in the previous proviso, the term ''assistance'' includes non-lethal, non-food aid such as blankets, medicine, fuel, mobile clinics, water drilling equipment, communications equipment to notify civilians of aerial bombardment, non-military vehicles, tents, and shoes: Provided further, That of the funds appropriated under this heading, not less than $250,000 should be made available for assistance for the Documentation Center of Cambodia: Provided further, That not later than 60 days after the enactment of this Act, the Secretary of State shall report to the Committees on Appropriations on a 3-year funding strategy for the Documentation Center of Cambodia.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $615,000,000, to remain available until September 30, 2003, which shall be available, notwithstanding any other provision of law, for assistance and for related programs for Eastern Europe and the Baltic States, of which not to exceed $28,000,000 shall be available for the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for the Federal Republic of Yugoslavia: Provided, That funds made available for assistance for Kosovo from funds appropriated under this heading and under the headings ''Economic Support Fund'' and ''International Narcotics Control and Law Enforcement'' should not exceed 15 percent of the total resources pledged by all donors for calendar year 2002 for assistance for Kosovo as of March 31, 2002: Provided further, That none of the funds made available under this Act for assistance for Kosovo shall be made available for large scale physical infrastructure reconstruction.

(b) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(c) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

(d) With regard to funds appropriated under this heading for the economic revitalization program in Bosnia and Herzegovina, and local currencies generated by such funds (including the conversion of funds appropriated under this heading into currency used by Bosnia and Herzegovina as local currency and local currency returned or repaid under such program) the Administrator of the United States Agency for International Development shall provide written approval for grants and loans prior to the obligation and expenditure of funds for such purposes, and prior to the use of funds that have been returned or repaid to any lending facility or grantee.

(e) The provisions of section 529 of this Act shall apply to funds made available under subsection (d) and to funds appropriated under this heading: Provided, That notwithstanding any provision of this or any other Act, including provisions in this subsection regarding the application of section 529 of this Act, local currencies generated by, or converted from, funds appropriated by this Act and by previous appropriations Acts and made available for the economic revitalization program in Bosnia may be used in Eastern Europe and the Baltic States to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989.

(f) The President is authorized to withhold funds appropriated under this heading made available for economic revitalization programs in Bosnia and Herzegovina, if he determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has not complied with article III of annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between Iranian officials and Bosnian officials has not been terminated.

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapters 11 and 12 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the Independent States of the former Soviet Union and for related programs, $795,500,000, to remain available until September 30, 2003: Provided, That the provisions of such chapters shall apply to funds appropriated by this paragraph: Provided further, That of the funds made available for the Southern Caucasus region, notwithstanding any other provision of law, funds may be used for confidence-building measures and other activities in furtherance of the peaceful resolution of the regional conflicts, especially those in the vicinity of Abkhazia and Nagorno-Karabagh: Provided further, That of the funds appropriated under this heading not less than $20,000,000 shall be made available solely for the Russian Far East.

(b) Of the funds appropriated under this heading, not less than $180,000,000 should be made available for assistance for Ukraine: Provided, That of this amount, not less than $35,000,000 should be made available for nuclear reactor safety initiatives: Provided further, That not later than 60 days after the date of enactment of this Act, and 120 days thereafter, the Department of State shall submit to the Committees on Appropriations a report on progress by the Government of Ukraine in investigating and bringing to justice individuals responsible for the murders of Ukrainian journalists.

(c) Of the funds appropriated under this heading, not less than $90,000,000 shall be made available for assistance for Armenia: Provided, That of this amount, not less than $5,000,000 shall be made available to support an education initiative in Armenia to provide computer equipment and internet access to Armenian primary and secondary schools.

(d) Of the funds appropriated under this heading, not less than $90,000,000 shall be made available for assistance for Georgia, of which not less than $3,000,000 should be made available for a small business development project.

(e) Of the funds made available under this heading for nuclear safety activities, not to exceed 8 percent of the funds provided for any single project may be used to pay for management costs incurred by a United States agency or national lab in administering said project.

(f)(1) Of the funds appropriated under this heading that are allocated for assistance for the Government of the Russian Federation, 60 percent shall be withheld from obligation until the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation:

(A) has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability;

(B) is cooperating with international efforts to investigate allegations of war crimes and atrocities in Chechnya;

(C) is providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya; and

(D) is in compliance with article V of the Treaty on Conventional Armed Forces in Europe regarding forces deployed in the flank zone in and around Chechyna.

(2) Paragraph (1) shall not apply to—

(A) assistance to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons; and

(B) activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

(g) Of the funds appropriated under this heading, not less than $45,000,000 should be made available, in addition to funds otherwise available for such purposes, for assistance for child survival, environmental and reproductive health, and to combat HIV/AIDS, tuberculosis, and other infectious diseases, and for related activities.

INDEPENDENT AGENCIES

PEACE CORPS

For necessary expenses to carry out the provisions of the Peace Corps Act (75 Stat. 612), $275,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: Provided, That none of the funds appropriated under this heading shall be used to pay for abortions: Provided further, That funds appropriated under this heading shall remain available until September 30, 2003.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make commitments without regard to fiscal year limitations, as provided by 31 U.S.C. 9104(b)(3), $13,106,950.

AFRICAN DEVELOPMENT FOUNDATION

For expenses necessary to carry out title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533, and to make commitments without regard to fiscal year limitations, as provided by 31 U.S.C. 9104(b)(3), $16,542,000: Provided, That funds made available to grantees may be invested pending expenditure for project purposes when authorized by the President of the Foundation: Provided further, That interest earned shall be used only for the purposes for which the grant was made: Provided further, That this authority applies to interest earned both prior to and following enactment of this provision: Provided further, That notwithstanding section 505(a)(2) of the African Development Foundation Act, in exceptional circumstances the board of directors of the Foundation may waive the $250,000 limitation contained in that section with respect to a project: Provided further, That the Foundation shall provide a report to the Committees on Appropriations after each time such waiver authority is exercised.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, $217,000,000, to remain available until expended: Provided, That any funds made available under this heading for anti-crime programs and activities shall be made available subject to the regular notification procedures of the Committees on Appropriations: Provided further, That during fiscal year 2002, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: Provided further, That of the funds appropriated under this heading, not less than $10,000,000 should be made available for anti-trafficking in persons programs, including trafficking prevention, protection and assistance for victims, and prosecution of traffickers: Provided further, That of the funds appropriated under this heading, not more than $16,660,000 shall be available for administrative expenses.

ANDEAN COUNTERDRUG INITIATIVE

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 solely to support counterdrug activities in the Andean region of South America, $547,000,000, to remain available until expended: Provided, That of the amount appropriated under this heading, not less than $101,000,000 shall be made available for Bolivia, and not less than $35,000,000 shall be made available for Ecuador: Provided further, That of the amount appropriated under this heading, not less than $200,000,000 shall be apportioned directly to the United States Agency for International Development, to be used for economic and social programs: Provided further, That of the amount appropriated under this heading, up to $2,000,000 should be made available to support democracy-building activities in Venezuela: Provided further, That funds appropriated by this Act that are used for the procurement of chemicals for aerial coca fumigation programs may be made available for such programs only if the Secretary of State, after consultation with the Administrator of the Environmental Protection Agency and the Director of the Centers for Disease Control and Prevention, determines and reports to the Committees on Appropriations that (1) the chemicals used in the aerial fumigation of coca, in the manner in which they are being applied, do not pose an undue risk to human health or safety; (2) that aerial coca fumigation is being carried out in accordance with Colombian laws and regulations, and health, safety, and usage procedures recommended by the Environmental Protection Agency, the Centers for Disease Control and Prevention, and the manufacturers of the chemicals; (3) effective mechanisms are being utilized to evaluate claims of local citizens that their health was harmed or their licit agricultural crops were damaged by such aerial coca fumigation, and to provide fair compensation for meritorious claims; and (4) within 6 months of the date of enactment of this Act alternative development programs have been developed, in consultation with communities and local authorities in the departments in which such aerial coca fumigation is planned, and in the departments in which such aerial coca fumigation has been conducted, such programs are being implemented within 6 months of the date of enactment of this Act: Provided further, That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: Provided further, That assistance provided with funds appropriated under this heading that is made available notwithstanding section 482(b) of the Foreign Assistance Act of 1961, as amended, shall be made available subject to the regular notification procedures of the Committees on Appropriations: Provided further, That section 3204(b) of the Emergency Supplemental Act, 2000 (Public Law 106–246) shall be applicable to funds appropriated by this Act: Provided further, That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of any illegal self-defense group or illegal security cooperative, such helicopter shall be immediately returned to the United States: Provided further, That funds made available under this heading shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That, in addition to funds otherwise available for such purposes, of the funds appropriated under this heading, not more than $14,240,000 shall be available for administrative expenses of the Department of State, and not more than $4,500,000 shall be available for administrative expenses of the United States Agency for International Development.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, $735,000,000, which shall remain available until expended: Provided, That not more than $16,000,000 shall be available for administrative expenses: Provided further, That not less than $60,000,000 of the funds made available under this heading shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $15,000,000, to remain available until expended: Provided, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Act which would limit the amount of funds which could be appropriated for this purpose.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For necessary expenses for nonproliferation, anti-terrorism and related programs and activities, $318,500,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA) and a voluntary contribution to the Korean Peninsula Energy Development Organization (KEDO), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: Provided, That the Secretary of State shall inform the Committees on Appropriations at least 10 days prior to the obligation of funds for the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: Provided further, That of this amount not to exceed $14,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: Provided further, That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so following consultation with the appropriate committees of Congress: Provided further, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: Provided further, That of the funds appropriated under this heading, $40,000,000 should be made available for demining, clearance of unexploded ordnance, and related activities: Provided further, That of the funds made available for demining and related activities, not to exceed $500,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: Provided further, That of the funds appropriated under this heading, $3,500,000 should be made available to support the Small Arms Destruction Initiative.

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For necessary expenses to carry out the provisions of section 129 of the Foreign Assistance Act of 1961 (relating to international affairs technical assistance activities), $6,000,000, to remain available until expended, which shall be available notwithstanding any other provision of law.

DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts owed to the United States as a result of concessional loans made to eligible countries, pursuant to parts IV and V of the Foreign Assistance Act of 1961, and of modifying concessional credit agreements with least developed countries, as authorized under section 411 of the Agricultural Trade Development and Assistance Act of 1954, as amended, and concessional loans, guarantees and credit agreements, as authorized under section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), and of canceling amounts owed, as a result of loans or guarantees made pursuant to the Export-Import Bank Act of 1945, by countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113, $235,000,000, to remain available until expended: Provided, That not less than $11,000,000 of the funds appropriated under this heading shall be made available to carry out the provisions of part V of the Foreign Assistance Act of 1961, and up to $14,000,000 of unobligated balance of funds available under this heading from prior year appropriations acts should be made available to carry out such provisions: Provided further, That funds appropriated or otherwise made available under this heading in this Act may be used by the Secretary of the Treasury to pay to the Heavily Indebted Poor Countries (HIPC) Trust Fund administered by the International Bank for Reconstruction and Development amounts for the benefit of countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law

by section 1000(a)(5) of Public Law 106–113: Provided further, That amounts paid to the HIPC Trust Fund may be used only to fund debt reduction under the enhanced HIPC initiative by—

(1) the Inter-American Development Bank;

(2) the African Development Fund;

(3) the African Development Bank; and

(4) the Central American Bank for Economic Integration:

Provided further, That funds may not be paid to the HIPC Trust Fund for the benefit of any country if the Secretary of State has credible evidence that the government of such country is engaged in a consistent pattern of gross violations of internationally recognized human rights or in military or civil conflict that undermines its ability to develop and implement measures to alleviate poverty and to devote adequate human and financial resources to that end: Provided further, That on the basis of final appropriations, the Secretary of the Treasury shall consult with the Committees on Appropriations concerning which countries and international financial institutions are expected to benefit from a United States contribution to the HIPC Trust Fund during the fiscal year: Provided further, That the Secretary of the Treasury shall inform the Committees on Appropriations not less than 15 days in advance of the signature of an agreement by the United States to make payments to the HIPC Trust Fund of amounts for such countries and institutions: Provided further, That the Secretary of the Treasury may disburse funds designated for debt reduction through the HIPC Trust Fund only for the benefit of countries that—

(a) have committed, for a period of 24 months, not to accept new market-rate loans from the international financial institution receiving debt repayment as a result of such disbursement, other than loans made by such institution to export-oriented commercial projects that generate foreign exchange which are generally referred to as ''enclave'' loans; and

(b) have documented and demonstrated their commitment to redirect their budgetary resources from international debt repayments to programs to alleviate poverty and promote economic growth that are additional to or expand upon those previously available for such purposes:

Provided further, That any limitation of subsection (e) of section 411 of the Agricultural Trade Development and Assistance Act of 1954 shall not apply to funds appropriated under this heading: Provided further, That none of the funds made available under this heading in this or any other appropriations Acts shall be made available for Sudan or Burma unless the Secretary of Treasury determines and notifies the Committees on Appropriations that a democratically elected government has taken office: Provided further, That the authority provided by section 572 of Public Law 100–461 may be exercised only with respect to countries that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as ''IDA-only'' countries.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $75,000,000, of which up to $5,000,000 may remain available until expended: Provided, That the civilian personnel for whom military education and training may be provided under this heading may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights: Provided further, That funds appropriated under this heading for military education and training for Zimbabwe, Indonesia and Guatemala may only be available for expanded international military education and training and funds made available for Zimbabwe, Cote D'Ivoire, The Gambia, the Democratic Republic of the Congo, Algeria, Indonesia and Guatemala may only be provided through the regular notification procedures of the Committees on Appropriations: Provided further, That of the funds appropriated by this paragraph, not less than $600,000 shall be made available for assistance for Armenia.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,674,000,000: Provided, That of the funds appropriated under this heading, not less than $2,040,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be made available for grants only for Egypt: Provided further, That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act or by October 31, 2001, whichever is later: Provided further, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $535,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: Provided further, That of the funds appropriated by this paragraph, not less than $75,000,000 shall be made available for assistance for Jordan: Provided further, That of the funds appropriated by this paragraph, not less than $10,000,000 shall be made available for assistance for Tunisia: Provided further, That of the funds appropriated by this paragraph, not less than $2,300,000 shall be made available for assistance for Thailand: Provided further, That of the funds appropriated by this paragraph, not less than $4,000,000 shall be made available for assistance for Armenia: Provided further, That during fiscal year 2002, the President is authorized to, and shall, direct the draw-downs of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training of an aggregate value of not less than $5,000,000 under the authority of this proviso for Tunisia for the purposes of part II of the Foreign Assistance Act of 1961 and any amount so directed shall count toward meeting the earmark in the preceding proviso: Provided further, That funds appropriated by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: Provided further, That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: Provided, That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: Provided further, That none of the funds appropriated under this heading shall be available for assistance for Sudan and Liberia: Provided further, That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: Provided further, That none of the funds appropriated under this heading shall be available for assistance for Guatemala: Provided further, That only those countries for which assistance was justified for the ''Foreign Military Sales Financing Program'' in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: Provided further, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: Provided further, That not more than $35,000,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: Provided further, That not more than $348,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2002 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: Provided further, That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2002 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act or by October 31, 2001, whichever is later: Provided further, That the ninth proviso under the heading ''Foreign Military Financing Program'' in title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, as enacted by Public Law 106–429, is amended by inserting ''or 2002'' after ''2001''.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $140,000,000: Provided, That none of the funds appropriated under this heading shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

GLOBAL ENVIRONMENT FACILITY

For the United States contribution for the Global Environment Facility, $109,500,000, to the International Bank for Reconstruction and Development as trustee for the Global Environment Facility, by the Secretary of the Treasury, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $775,000,000, to remain available until expended: Provided, That in negotiating United States participation in the next replenishment of the International Development Association, the Secretary of the Treasury shall accord high priority to providing the International Development Association with the policy flexibility to provide new grant assistance to countries eligible for debt reduction under the enhanced HIPC Initiative: Provided further, That the Secretary of the Treasury shall instruct the United States executive director to the International Bank for Reconstruction and Development to vote against any water or sewage project in India that does not prohibit the use of scavenger labor.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Multilateral Investment Guarantee Agency may subscribe without fiscal year limitation for the callable capital portion of the United States share of such capital stock in an amount not to exceed $50,000,000.

CONTRIBUTION TO THE INTER-AMERICAN INVESTMENT CORPORATION

For payment to the Inter-American Investment Corporation, by the Secretary of the Treasury, $20,000,000, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended, $103,017,050, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, $5,100,000, for the United States paid-in share of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation for the callable capital portion of the United States share of such capital stock in an amount not to exceed $79,991,500.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the African Development Fund, $100,000,000, to remain available until expended.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $35,778,717, for the United States share of the paid-in portion of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $123,237,803.

CONTRIBUTION TO THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

For the United States contribution by the Secretary of the Treasury to increase the resources of the International Fund for Agricultural Development, $20,000,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $218,000,000: Provided, That not less than a total of $18,000,000 should be made available for the International Panel on Climate Change, the United Nations Framework Convention on Climate Change, the World Conservation Union, the International Tropical Timber Organization, the Convention on International Trade in Endangered Species, the Ramsar Convention on Wetlands, the Convention to Combat Desertification, the United Nations Forum on Forests, and the Montreal Process on Criteria and Indicators for Sustainable Forest Management: Provided further, That not less than $6,000,000 should be made available to the World Food Program: Provided further, That of the funds appropriated under this heading, not less than $40,000,000 shall be made available for the United Nations Fund for Population Activities (UNFPA): Provided further, That none of the funds appropriated under this heading that are made available to UNFPA shall be made available for activities in the People's Republic of China: Provided further, That with respect to any funds appropriated under this heading that are made available to UNFPA, UNFPA shall be required to maintain such funds in a separate account and not commingle them with any other funds: Provided further, That none of the funds appropriated under this heading may be made available to the Korean Peninsula Energy Development Organization (KEDO) or the International Atomic Energy Agency (IAEA).

TITLE V—GENERAL PROVISIONS

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 501. Except for the appropriations entitled ''International Disaster Assistance'', and ''United States Emergency Refugee and Migration Assistance Fund'', not more than 15 percent of any appropriation item made available by this Act shall be obligated during the last month of availability.

PRIVATE AND VOLUNTARY ORGANIZATIONS

SEC. 502. (a) None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 percent of its total annual funding for international activities from sources other than the United States Government: Provided, That the Administrator of the United States Agency for International Development, after informing the Committees on Appropriations, may, on a case-by-case basis, waive the restriction contained in this subsection, after taking into account the effectiveness of the overseas development activities of the organization, its level of volunteer support, its financial viability and stability, and the degree of its dependence for its financial support on the agency.

(b) Funds appropriated or otherwise made available under title II of this Act should be made available to private and voluntary organizations at a level which is at least equivalent to the level provided in fiscal year 1995.

LIMITATION ON RESIDENCE EXPENSES

SEC. 503. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the United States Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

LIMITATION ON EXPENSES

SEC. 504. Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the United States Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505. Of the funds appropriated or made available pursuant to this Act, not to exceed $95,000 shall be available for representation allowances for the United States Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: Provided further, That of the funds made available by this Act for general costs of administering military assistance and sales under the heading ''Foreign Military Financing Program'', not to exceed $2,000 shall be available for entertainment expenses and not to exceed $100,000 shall be available for representation allowances: Provided further, That of the funds made available by this Act under the heading ''International Military Education and Training'', not to exceed $50,000 shall be available for entertainment allowances: Provided further, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: Provided further, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: Provided further, That of the funds made available by this Act under the heading ''Trade and Development Agency'', not to exceed $2,000 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 506. None of the funds appropriated or made available (other than funds for ''Nonproliferation, Anti-terrorism, Demining and Related Programs'') pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used, except for purposes of nuclear safety, to finance the export of nuclear equipment, fuel, or technology.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Iraq, Libya, North Korea, Iran, Sudan, or Syria, or to the government of any nation which the President determines harbored or is harboring, or provided or is providing financing for, individuals or organizations involved in the September 11, 2001 terrorist attacks in the United States: Provided, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 508. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected head of government is deposed by decree or military coup: Provided, That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 509. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 510. Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: Provided, That the authority of this subsection may not be used in fiscal year 2002.

AVAILABILITY OF FUNDS

SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: Provided, That funds appropriated for the purposes of chapters 1, 8, 11, and 12 of part I, section 667, chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, section 23 of

the Arms Export Control Act, and funds provided under the heading ''Assistance for Eastern Europe and the Baltic States'', shall remain available for an additional four years from the date on which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: Provided further, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to the government of such country by the United States pursuant to a program for which funds are appropriated under this Act unless the President determines, following consultations with the Committees on Appropriations, that assistance to such country is in the national interest of the United States.

COMMERCE AND TRADE

SEC. 513. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: Provided, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity, and the Chairman of the Board so notifies the Committees on Appropriations.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: Provided, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SURPLUS COMMODITIES

SEC. 514. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 515. (a) For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds made available under this Act for ''Child Survival and Health Programs Fund'', ''Development Assistance'', ''International Organizations and Programs'', ''Trade and Development Agency'', ''International Narcotics Control and Law Enforcement'', ''Andean Counterdrug Initiative'', ''Assistance for Eastern Europe and the Baltic States'', ''Assistance for the Independent States of the Former Soviet Union'', ''Economic Support Fund'', ''Peacekeeping Operations'', ''Operating Expenses of the United States Agency for International Development'', ''Operating Expenses of the United States Agency for International Development Office of Inspector General'', ''Nonproliferation, Anti-terrorism, Demining and Related Programs'', ''Foreign Military Financing Program'', ''International Military Education and Training'', ''Peace Corps'', and ''Migration and Refugee Assistance'', shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings unless the Appropriations Committees of both Houses of Congress are previously notified 15 days in advance: Provided, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: Provided further, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 10 percent of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: Provided further, That the requirements of this section or any similar provision of this Act or any other Act, including any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: Provided further, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: Provided further, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

(b) Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 516. Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assistance Act of 1961, shall remain available for obligation until September 30, 2003.

INDEPENDENT STATES OF THE FORMER SOVIET UNION

SEC. 517. (a) None of the funds appropriated under the heading ''Assistance for the Independent States of the Former Soviet Union'' shall be made available for assistance for a government of an Independent State of the former Soviet Union—

(1) unless that government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, respect for commercial contracts, and equitable treatment of foreign private investment; and

(2) if that government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures.

Assistance may be furnished without regard to this subsection if the President determines that to do so is in the national interest.

(b) None of the funds appropriated under the heading ''Assistance for the Independent States of the Former Soviet Union'' shall be made available for assistance for a government of an Independent State of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other Independent State of the former Soviet Union, such as those violations included in the Helsinki Final Act: Provided, That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States.

(c) None of the funds appropriated under the heading ''Assistance for the Independent States of the Former Soviet Union'' shall be made available for any state to enhance its military capability: Provided, That this restriction does not apply to demilitarization, demining or nonproliferation programs.

(d) Funds appropriated under the heading ''Assistance for the Independent States of the Former Soviet Union'' for the Russian Federation, Armenia, Georgia, and Ukraine shall be subject to the regular notification procedures of the Committees on Appropriations.

(e) Funds made available in this Act for assistance for the Independent States of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(f) Funds appropriated in this or prior appropriations Acts that are or have been made available for an Enterprise Fund in the Independent States of the Former Soviet Union may be deposited by such Fund in interest-bearing accounts prior to the disbursement of such funds by the Fund for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(g) In issuing new task orders, entering into contracts, or making grants, with funds appropriated in this Act or prior appropriations Acts under the heading ''Assistance for the Independent States of the Former Soviet Union'' and under comparable headings in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to the New Independent States and the implementing agency shall encourage the participation of and give

significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.

OVERSEAS PRIVATE INVESTMENT CORPORATION AND EXPORT-IMPORT BANK RESTRICTIONS

SEC. 518. (a) LIMITATION ON USE OF FUNDS BY OPIC.—None of the funds made available in this Act may be used by the Overseas Private Investment Corporation to insure, reinsure, guarantee, or finance any investment in connection with a project involving the mining, polishing or other processing, or sale of diamonds in a country that fails to meet the requirements of subsection (c).

(b) LIMITATION ON USE OF FUNDS BY THE EXPORT-IMPORT BANK.—None of the funds made available in this Act may be used by the Export-Import Bank of the United States to guarantee, insure, extend credit, or participate in an extension of credit in connection with the export of any goods to a country for use in an enterprise involving the mining, polishing or other processing, or sale of diamonds in a country that fails to meet the requirements of subsection (c).

(c) REQUIREMENTS.—The requirements referred to in subsection (a) and (b) are that the country concerned is implementing a system of controls on the export and import of rough diamonds that—

(1) is consistent with United Nations General Assembly Resolution 55/56 adopted on December 1, 2000.

(2) the President determines to be functionally equivalent to the system of controls specified in subparagraph (1); or

(3) meets the requirements of an international agreement which requires controls specified in subparagraph (1) and to which the United States is a party.

EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 519. Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 2002, for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs, and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: Provided, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520. None of the funds appropriated by this Act shall be obligated or expended for Burma, Colombia, Haiti, Liberia, Serbia, Sudan, Ethiopia, Eritrea, Zimbabwe, Pakistan, or the Democratic Republic of the Congo except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521. For the purpose of this Act, ''program, project, and activity'' shall be defined at the appropriations Act account level and shall include all appropriations and authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, ''program, project, and activity'' shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the United States Agency for International Development ''program, project, and activity'' shall also be considered to include central program level funding, either as: (1) justified to the Congress; or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within 30 days of the enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

CHILD SURVIVAL AND HEALTH ACTIVITIES

SEC. 522. Up to $15,500,000 of the funds made available by this Act for assistance under the heading ''Child Survival and Health Programs Fund'', may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the United States Agency for International Development for the purpose of carrying out activities under that heading: Provided, That up to $3,500,000 of the funds made available by this Act for assistance under the heading ''Development Assistance'' may be used to reimburse such agencies, institutions, and organizations for such costs of such individuals carrying out other development assistance activities: Provided further, That funds appropriated by this Act that are made available for child survival activities or disease programs including activities relating to research on, and the prevention, treatment and control of, HIV/AIDS may be made available notwithstanding any other provision of law: Provided further, That funds appropriated under title II of this Act may be made available pursuant to section 301 of the Foreign Assistance Act of 1961 if a primary purpose of the assistance is for child survival and related programs.

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 523. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Cuba, Iraq, Libya, Iran, Syria, North Korea, or Sudan, or to the government of any nation which the President determines harbored or is harboring, or provided or is providing financing for, individuals or organizations involved in the September 11, 2001 terrorist attacks in the United States, unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 524. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (f) of that section: Provided, That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees if such defense articles are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or are valued (in terms of original acquisition cost) at $7,000,000 or more, or if notification is required elsewhere in this Act for the use of appropriated funds for specific countries that would receive such excess defense articles: Provided further, That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 525. Funds appropriated by this Act, except funds appropriated under the headings ''Peace Corps'' and ''Trade and Development Agency'', may be obligated and expended notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

DEMOCRACY PROGRAMS

SEC. 526. Funds appropriated by this Act that are provided to the National Endowment for Democracy may be made available notwithstanding any other provision of law or regulation: Provided, That notwithstanding any other provision of law, of the funds appropriated by this Act to carry out provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $10,000,000 shall be made available for assistance for the People's Republic of China for activities to support democracy, human rights, and the rule of law in that country, of which not less than $5,000,000 should be made available for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights and Labor, Department of State, for such activities, and of which not to exceed $2,500,000 may be made available to nongovernmental organizations located outside the People's Republic of China to support activities which preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities in Tibet: Provided further, That notwithstanding any other provision of law or regulation, funds appropriated by this or any other Act making appropriations pursuant to part I of the Foreign Assistance Act of 1961 that are available for the United States-Asia Environmental Partnership, may be made available for activities in the People's Republic of China: Provided further, That funds made available pursuant to the authority of this section for programs, projects, and activities in the People's Republic of China shall be subject to the regular notification procedures of the Committees on Appropriations.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 527. (a) Funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to the enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism; or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least 15 days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

DEBT-FOR-DEVELOPMENT

SEC. 528. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including endowments, debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the United States Agency for International Development may place in interest bearing accounts funds made available under this Act or prior Acts or local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and any interest earned on such investment shall be used for the purpose for which the assistance was provided to that organization.

SEPARATE ACCOUNTS

SEC. 529. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated; and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the United States Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities; or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The United States Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) REPORTING REQUIREMENT.—The Administrator of the United States Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98–1159).

(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 530. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, ''international financial institutions'' are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

SEC. 531. None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq unless the President determines and so certifies to the Congress that—

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

AUTHORITIES FOR THE PEACE CORPS, INTERNATIONAL FUND FOR AGRICULTURE DEVELOPMENT, INTER-AMERICAN FOUNDATION AND AFRICAN DEVELOPMENT FOUNDATION

SEC. 532. (a) Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act or the African Development Foundation Act. The agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

(b) Unless expressly provided to the contrary, limitations on the availability of funds for ''International Organizations and Programs'' in this or any other Act, including prior appropriations Acts, shall not be construed to be applicable to the International Fund for Agriculture Development.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 533. None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States; or

(b) assistance for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: Provided, That in recognition that the application of this subsection should be commensurate with the level of development of the recipient country and sector, the provisions of this subsection shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

SPECIAL AUTHORITIES

SEC. 534. (a) AFGHANISTAN, LEBANON, MONTENEGRO, VICTIMS OF WAR, DISPLACED CHILDREN, AND DISPLACED BURMESE.—Funds appropriated in titles I and II of this Act that are made available for Afghanistan, Lebanon, Montenegro, and for victims of war, displaced children, and displaced Burmese, may be made available notwithstanding any other provision of law: Provided, That any such funds that are made available for Cambodia shall be subject to the provisions of section 531(e) of the Foreign Assistance Act of 1961 and section 906 of the International Security and Development Cooperation Act of 1985.

(b) TROPICAL FORESTRY AND BIODIVERSITY CONSERVATION ACTIVITIES.—Funds appropriated by this Act to carry out the provisions of sections 103 through 106, and chapter 4 of part II, of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and biodiversity conservation activities and energy programs aimed at reducing greenhouse gas emissions: Provided, That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) PERSONAL SERVICES CONTRACTORS.—Funds appropriated by this Act to carry out chapter 1 of part I, chapter 4 of part II, and section 667 of the Foreign Assistance Act of 1961, and title II of the Agricultural Trade Development and Assistance Act of 1954, may be used by the United States Agency for International Development to employ up to 25 personal services contractors in the United States, notwithstanding any other provision of law, for the purpose of providing direct, interim support for new or expanded overseas programs and activities and managed by the agency until permanent direct hire personnel are hired and trained: Provided, That not more than 10 of such contractors shall be assigned to any bureau or office: Provided further, That such funds appropriated to carry out the Foreign Assistance Act of 1961 may be made available for personal services contractors assigned only to the Office of Health and Nutrition; the Office of Procurement; the Bureau for Africa; the Bureau for Latin America and the Caribbean; the Bureau for Asia and the Near East; and for the Global Development Alliance initiative: Provided further, That such funds appropriated to carry out title II of the Agricultural Trade Development and Assistance Act of 1954, may be made available only for personal services contractors assigned to the Office of Food for Peace.

(d)(1) WAIVER.—The President may waive the provisions of section 1003 of Public Law 100–204 if the President determines and certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that it is important to the national security interests of the United States.

(2) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to paragraph (1) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(e) SPECIAL AUTHORITY.—During fiscal year 2002, the President may use up to $35,000,000 under the authority of section 451 of the Foreign Assistance Act, notwithstanding the funding ceiling in section 451(a).

(f) SMALL BUSINESS.—In entering into multiple award indefinite-quantity contracts with funds appropriated by this Act, the United States Agency for International Development may provide an exception to the fair opportunity process for placing task orders under

such contracts when the order is placed with any category of small or small disadvantaged business.

POLICY ON TERMINATING THE ARAB LEAGUE BOYCOTT OF ISRAEL AND NORMALIZING RELATIONS WITH ISRAEL

SEC. 535. It is the sense of the Congress that—

(1) the Arab League countries should immediately and publicly renounce the primary boycott of Israel and the secondary and tertiary boycott of American firms that have commercial ties with Israel and should normalize their relations with Israel;

(2) the decision by the Arab League in 1997 to reinstate the boycott against Israel was deeply troubling and disappointing;

(3) the fact that only three Arab countries maintain full diplomatic relations with Israel is also of deep concern;

(4) the Arab League should immediately rescind its decision on the boycott and its members should develop normal relations with their neighbor Israel; and

(5) the President should—

(A) take more concrete steps to encourage vigorously Arab League countries to renounce publicly the primary boycotts of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel and to normalize their relations with Israel;

(B) take into consideration the participation of any recipient country in the primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel when determining whether to sell weapons to said country;

(C) report to Congress annually on the specific steps being taken by the United States and the progress achieved to bring about a public renunciation of the Arab primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel and to expand the process of normalizing ties between Arab League countries and Israel; and

(D) encourage the allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ADMINISTRATION OF JUSTICE ACTIVITIES

SEC. 536. Of the funds appropriated or otherwise made available by this Act for ''Economic Support Fund'', assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean and in other regions consistent with the provisions of section 534(b) of the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act. Funds made available pursuant to this section may be made available notwithstanding section 534(c) and the second and third sentences of section 534(e) of the Foreign Assistance Act of 1961.

ELIGIBILITY FOR ASSISTANCE

SEC. 537. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10, 11, and 12 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading ''Assistance for Eastern Europe and the Baltic States'': Provided, That the President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this subsection, whether assistance in support of programs of nongovernmental organizations is in the national interest of the United States: Provided further, That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: Provided further, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) PUBLIC LAW 480.—During fiscal year 2002, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: Provided, That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to the government of a country that violates internationally recognized human rights.

EARMARKS

SEC. 538. (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act: Provided, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the United States Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: Provided, That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

CEILINGS AND EARMARKS

SEC. 539. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs. Earmarks or minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this Act.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 540. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of the enactment of this Act by the Congress: Provided, That not to exceed $750,000 may be made available to carry out the provisions of section 316 of Public Law 96–533.

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

SEC. 541. To the maximum extent practicable, assistance provided under this Act should make full use of American resources, including commodities, products, and services.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 542. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations or, from funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, the costs for participation of another country's delegation at international conferences held under the auspices of multilateral or international organizations.

NONGOVERNMENTAL ORGANIZATIONS—DOCUMENTATION

SEC. 543. None of the funds appropriated or made available pursuant to this Act shall be available to a nongovernmental organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the United States Agency for International Development.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 544. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES OWED BY FOREIGN COUNTRIES

SEC. 545. (a) IN GENERAL.—Of the funds made available for a foreign country under part I of the Foreign Assistance Act of 1961, an amount equivalent to 110 percent of the total unpaid fully adjudicated parking fines and penalties owed to the District of Columbia and New York City, New York by such country as of the date of the enactment of this Act shall be withheld from obligation for such country until the Secretary of State certifies and reports in writing to the appropriate congressional committees that such fines and penalties are fully paid to the governments of the District of Columbia and New York City, New York.

(b) DEFINITION.—For purposes of this section, 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.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 546. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307

of the Foreign Assistance Act of 1961 and that suspension is still in effect: Provided, That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

WAR CRIMES TRIBUNALS DRAWDOWN

SEC. 547. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assistance Act of 1961, as amended, of up to $35,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish or authorize to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: Provided, That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): Provided further, That funds made available for tribunals other than Yugoslavia or Rwanda shall be made available subject to the regular notification procedures of the Committees on Appropriations.

LANDMINES

SEC. 548. Notwithstanding any other provision of law, demining equipment available to the United States Agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe: Provided, That section 1365(c) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 22 U.S.C., 2778 note) is amended by striking ''During the 11-year period beginning on October 23, 1992'' and inserting ''During the 16-year period beginning on October 23, 1992''.

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 549. None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: Provided, That this restriction shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: Provided further, That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 550. None of the funds appropriated or otherwise made available by this Act under the heading ''International Military Education and Training'' or ''Foreign Military Financing Program'' for Informational Program activities or under the headings ''Child Survival and Health Programs Fund'', ''Development Assistance'', and ''Economic Support Fund'' may be obligated or expended to pay for—

(1) alcoholic beverages; or

(2) entertainment expenses for activities that are substantially of a recreational character, including entrance fees at sporting events and amusement parks.

SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 551. (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961;

(2) credits extended or guarantees issued under the Arms Export Control Act; or

(3) any obligation or portion of such obligation, to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89–808), or section 202 of the Agricultural Trade Act of 1978, as amended (Public Law 95–501).

(b) LIMITATIONS.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as ''Paris Club Agreed Minutes''.

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as ''IDA-only'' countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading ''Debt Restructuring''.

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 or section 321 of the International Development and Food Assistance Act of 1975.

AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

SEC. 552. (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as defined in section 702(6) of that Act or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with sections 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) ADMINISTRATION.—The Facility, as defined in section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President should consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading ''Debt Restructuring''.

HAITI COAST GUARD

SEC. 553. The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the Coast Guard: Provided, That the authority provided by this section shall be subject to the regular notification procedures of the Committees on Appropriations.

LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY

SEC. 554. (a) PROHIBITION OF FUNDS.—None of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 may be obligated or expended with respect to providing funds to the Palestinian Authority.

(b) WAIVER.—The prohibition included in subsection (a) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that waiving such prohibition is important to the national security interests of the United States.

(c) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to subsection (b) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

LIMITATION ON ASSISTANCE TO SECURITY FORCES

SEC. 555. None of the funds made available by this Act may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights, unless the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice: Provided, That nothing in this section shall be construed to withhold funds made available by this Act from any unit of the security forces of a foreign country not credibly alleged to be involved in gross violations of human rights: Provided further, That in the event that funds are withheld from any unit pursuant to this section, the Secretary of State shall promptly inform the foreign government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice.

GREENHOUSE GAS EMISSIONS REPORT

SEC. 556. Not later than the date on which the President's fiscal year 2003 budget request is submitted to Congress, the President shall submit a report to the Committees on Appropriations describing in detail the following—

(1) all Federal agency obligations and expenditures, domestic and international, for climate change programs and activities in fiscal year 2002, including an accounting of expenditures by agency with each agency identifying climate change activities and associated costs by line item as presented in the President's Budget Appendix;

(2) all fiscal year 2001 expenditures and fiscal year 2002 projected expenditures by the United States Agency for International Development to assist developing countries and countries in transition in adopting and implementing policies to measure, monitor, report, verify, and reduce greenhouse gas emissions, and to meet their responsibilities under the Framework Convention on Climate Change;

(3) all funds requested for fiscal year 2003 by the United States Agency for International Development to promote the measurement, monitoring, reporting, verification, and reduction of greenhouse gas emissions reductions, to promote the transfer and deployment of United States clean energy technologies and carbon capture and sequestration measures, and to develop assessments of the vulnerability to impacts of climate change and response strategies; and

(4) all fiscal year 2002 obligations and expenditures by the United States Agency for International Development for climate change programs and activities by country or central program and activity.

ZIMBABWE

SEC. 557. The Secretary of the Treasury shall instruct the United States executive director to each international financial institution to vote against any extension by the respective institution of any loans, to the Government of Zimbabwe, except to meet basic human needs or to promote democracy, unless the Secretary of State determines and certifies to the Committees on Appropriations that the rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech and association.

CENTRAL AMERICA RELIEF AND RECONSTRUCTION

SEC. 558. Funds made available to the Comptroller General pursuant to title I, chapter 4 of Public Law 106–31, to monitor the provision of assistance to address the effects of hurricanes in Central America and the Caribbean and the earthquake in Colombia, shall also be available to the Comptroller General to monitor earthquake relief and reconstruction efforts in El Salvador.

ENTERPRISE FUND RESTRICTIONS

SEC. 559. Prior to the distribution of any assets resulting from any liquidation, dissolution, or winding up of an Enterprise Fund, in whole or in part, the President shall submit to the Committees on Appropriations, in accordance with the regular notification procedures of the Committees on Appropriations, a plan for the distribution of the assets of the Enterprise Fund.

CAMBODIA

SEC. 560. (a) The Secretary of the Treasury shall instruct the United States executive directors of the international financial institutions to use the voice and vote of the United States to oppose loans to the Central Government of Cambodia, except loans to meet basic human needs.

(b)(1) None of the funds appropriated by this Act may be made available for assistance for the Central Government of Cambodia unless the Secretary of State determines and reports to the Committees on Appropriations that the Central Government of Cambodia—

(A) is making significant progress in resolving outstanding human rights cases, including the 1994 grenade attack against the Buddhist Liberal Democratic Party, and the 1997 grenade attack against the Khmer Nation Party;

(B) has held local elections that are deemed free and fair by international and local election monitors; and

(C) is making significant progress in the protection, management, and conservation of the environment and natural resources, including in the promulgation and enforcement of laws and policies to protect forest resources.

(2) A determination by the Secretary of State under paragraph (1) shall cease to be effective if it becomes known to the Secretary that the Central Government of Cambodia is no longer making significant progress under subparagraph (A) or (C).

(3) In the event the Secretary of State makes the determination under paragraph (1), assistance may be made available to the Central Government of Cambodia only through the regular notification procedures of the Committees on Appropriations.

(c) Notwithstanding subsection (b) of this section or any other provision of law, funds appropriated by this Act may be made available for assistance to the Government of Cambodia's Ministry of Women and Veteran's Affairs to combat human trafficking, subject to the regular notification procedures of the Committees on Appropriations.

FOREIGN MILITARY TRAINING REPORT

SEC. 561. (a) The Secretary of Defense and the Secretary of State shall jointly provide to the Congress by March 1, 2002, a report on all military training provided to foreign military personnel (excluding sales, and excluding training provided to the military personnel of countries belonging to the North Atlantic Treaty Organization) under programs administered by the Department of Defense and the Department of State during fiscal years 2001 and 2002, including those proposed for fiscal year 2002. This report shall include, for each such military training activity, the foreign policy justification and purpose for the training activity, the cost of the training activity, the number of foreign students trained and their units of operation, and the location of the training. In addition, this report shall also include, with respect to United States personnel, the operational benefits to United States forces derived from each such training activity and the United States military units involved in each such training activity. This report may include a classified annex if deemed necessary and appropriate.

(b) For purposes of this section a report to Congress shall be deemed to mean a report to the Appropriations and Foreign Relations Committees of the Senate and the Appropriations and International Relations Committees of the House of Representatives.

KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION

SEC. 562. (a) Of the funds made available under the heading ''Nonproliferation, Anti-terrorism, Demining and Related Programs'', not to exceed $95,000,000 may be made available for the Korean Peninsula Energy Development Organization (hereafter referred to in this section as ''KEDO''), notwithstanding any other provision of law, only for the administrative expenses and heavy fuel oil costs associated with the Agreed Framework.

(b) Such funds may be made available for KEDO only if, 15 days prior to such obligation of funds, the President certifies and so reports to Congress that—

(1) the parties to the Agreed Framework have taken and continue to take demonstrable steps to implement the Joint Declaration on Denuclearization of the Korean Peninsula;

(2) North Korea is complying with all provisions of the Agreed Framework; and

(3) the United States is continuing to make significant progress on eliminating the North Korean ballistic missile threat, including further missile tests and its ballistic missile exports.

(c) The President may waive the certification requirements of subsection (b) if the President determines that it is vital to the national security interests of the United States and provides written policy justifications to the appropriate congressional committees. No funds may be obligated for KEDO until 15 days after submission to Congress of such waiver.

(d) The Secretary of State shall, at the time of the annual presentation for appropriations, submit a report providing a full and detailed accounting of the fiscal year 2003 request for the United States contribution to KEDO, the expected operating budget of KEDO, proposed annual costs associated with heavy fuel oil purchases, including unpaid debt, and the amount of funds pledged by other donor nations and organizations to support KEDO activities on a per country basis, and other related activities.

(e) The final proviso under the heading ''International Organizations and Programs'' in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107) is repealed.

COLOMBIA

SEC. 563. (a) DETERMINATION AND CERTIFICATION REQUIRED.—Notwithstanding any other provision of law, funds appropriated by this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, may be made available for assistance for the Colombian Armed Forces only if the Secretary of State has made the determination and certification contained in subsection (b).

(b) DETERMINATION AND CERTIFICATION.—The determination and certification referred to in subsection (a) is a determination by the Secretary of State and a certification to the appropriate congressional committees that—

(1) the Commander General of the Colombian Armed Forces is suspending from the Armed Forces those members, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary groups, and is providing to civilian prosecutors and judicial authorities requested information, including the identity of the person suspended and the nature and cause of the suspension;

(2) the Colombian Armed Forces are cooperating with civilian prosecutors and judicial authorities (including providing unimpeded access to witnesses and relevant military documents and other information), in prosecuting and punishing in civilian courts those members of the Colombian Armed Forces, of whatever rank,

who have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary groups; and

(3) the Colombian Armed Forces are taking effective measures to sever links (including by denying access to military intelligence, vehicles, and other equipment or supplies, and ceasing other forms of active or tacit cooperation), at the command, battalion, and brigade levels, with paramilitary groups, and to execute outstanding arrest warrants for members of such groups.

(c) CONSULTATIVE PROCESS.—Ten days prior to making the determination and certification required by this section, and every 120 days thereafter, the Secretary of State shall consult with internationally recognized human rights organizations regarding progress in meeting the conditions contained in subsection (b).

(d) REPORT.—One hundred and twenty days after the enactment of this Act, and every 120 days thereafter, the Secretary of State shall submit a report to the Committees on Appropriations describing actions taken by the Colombian Armed Forces to meet the requirements set forth in subparagraphs (b)(1) through (3); and

(e) DEFINITIONS.—In this section:

(1) AIDED OR ABETTED.—The term ''aided or abetted'' means to provide any support to paramilitary groups, including taking actions which allow, facilitate, or otherwise foster the activities of such groups.

(2) PARAMILITARY GROUPS.—The term ''paramilitary groups'' means illegal self-defense groups and illegal security cooperatives.

ILLEGAL ARMED GROUPS

SEC. 564. (a) DENIAL OF VISAS TO SUPPORTERS OF COLOMBIAN ILLEGAL ARMED GROUPS.—Subject to subsection (b), the Secretary of State shall not issue a visa to any alien who the Secretary determines, based on credible evidence—

(1) has willfully provided any support to the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Self-Defense Forces of Colombia (AUC), including taking actions or failing to take actions which allow, facilitate, or otherwise foster the activities of such groups; or

(2) has committed, ordered, incited, assisted, or otherwise participated in the commission of gross violations of human rights, including extra-judicial killings, in Colombia.

(b) WAIVER.—Subsection (a) shall not apply if the Secretary of State determines and certifies to the appropriate congressional committees, on a case-by-case basis, that the issuance of a visa to the alien is necessary to support the peace process in Colombia or for urgent humanitarian reasons.

PROHIBITION ON ASSISTANCE TO THE PALESTINIAN BROADCASTING CORPORATION

SEC. 565. None of the funds appropriated or otherwise made available by this Act may be used to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

IRAQ

SEC. 566. Notwithstanding any other provision of law, funds appropriated under the heading ''Economic Support Fund'' may be made available for programs benefitting the Iraqi people and to support efforts to bring about a democratic transition in Iraq: Provided, That not more than 15 percent of the funds may be used for administrative and representational expenses, including expenditures for salaries, office rent and equipment: Provided further, That not later than 60 days after the date of enactment of this Act, the Secretary of State shall consult with the Committees on Appropriations regarding plans for the expenditure of funds under this section: Provided further, That funds made available under this heading are made available subject to the regular notification procedures of the Committees on Appropriations.

WEST BANK AND GAZA PROGRAM

SEC. 567. For fiscal year 2002, 30 days prior to the initial obligation of funds for the bilateral West Bank and Gaza Program, the Secretary of State shall certify to the appropriate committees of Congress that procedures have been established to assure the Comptroller General of the United States will have access to appropriate United States financial information in order to review the uses of United States assistance for the Program funded under the heading ''Economic Support Fund'' for the West Bank and Gaza.

INDONESIA

SEC. 568. (a) Funds appropriated by this Act under the headings ''International Military Education and Training'' and ''Foreign Military Financing Program'' may be made available for assistance for Indonesian Ministry of Defense or military personnel only if the President determines and submits a report to the appropriate congressional committees that the Government of Indonesia and the Indonesian Armed Forces are—

(1) taking effective measures to bring to justice members of the armed forces and militia groups against whom there is credible evidence of human rights violations in East Timor and Indonesia, including imposing just punishment for those involved in the murders of American citizen Carlos Caceres and two other United Nations humanitarian workers in West Timor on September 6, 2000;

(2) taking effective measures to bring to justice members of the armed forces against whom there is credible evidence of aiding or abetting militia groups in East Timor and Indonesia;

(3) allowing displaced persons and refugees to return home to East Timor, including providing safe passage for refugees returning from West Timor;

(4) not impeding the activities of the United Nations Transitional Authority in East Timor;

(5) demonstrating a commitment to preventing incursions into East Timor by members of militia groups in West Timor;

(6) demonstrating a commitment to accountability by cooperating with investigations and prosecutions of members of the armed forces and militia groups responsible for human rights violations in East Timor and Indonesia;

(7) demonstrating a commitment to civilian control of the armed forces by reporting to civilian authorities audits of receipts and expenditures of the armed forces;

(8) allowing United Nations and other international humanitarian and human rights workers and observers unimpeded access to West Timor, Aceh, West Papua, and Maluka; and

(9) releasing political detainees.

RESTRICTIONS ON ASSISTANCE TO GOVERNMENTS DESTABILIZING SIERRA LEONE

SEC. 569. (a) None of the funds appropriated by this Act may be made available for assistance for the government of any country for which the Secretary of State determines there is credible evidence that such government has provided lethal or non-lethal military support or equipment, directly or through intermediaries, within the previous 6 months to the Sierra Leone Revolutionary United Front (RUF), Liberian Armed Forces, or any other group intent on destabilizing the democratically elected government of the Republic of Sierra Leone.

(b) None of the funds appropriated by this Act may be made available for assistance for the government of any country for which the Secretary of State determines there is credible evidence that such government has aided or abetted, within the previous 6 months, in the illicit distribution, transportation, or sale of diamonds mined in Sierra Leone.

(c) None of the funds appropriated by this Act may be made available for assistance for the government of any country for which the Secretary of State determines there is credible evidence that such government has knowingly facilitated the safe passage of weapons or other equipment to the RUF, Liberian security forces, or any other group intent on destabilizing the democratically elected government of the Republic of Sierra Leone.

(d) Whenever the prohibition on assistance required under subsection (a), (b) or (c) is exercised, the Secretary of State shall notify the Committees on Appropriations in a timely manner.

VOLUNTARY SEPARATION INCENTIVES

SEC. 570. Section 579(c)(2)(D) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000, as enacted by section 1000(a)(2) of the Consolidated Appropriations Act, 2000 (Public Law 106–113), as amended, is amended by striking ''December 31, 2001'' and inserting in lieu thereof ''December 31, 2002''.

AMERICAN CHURCHWOMEN AND OTHER CITIZENS IN EL SALVADOR AND GUATEMALA

SEC. 571. (a) To the fullest extent possible information relevant to the December 2, 1980, murders of four American churchwomen in El Salvador, and the May 5, 2001, murder of Sister Barbara Ann Ford and the murders of six other American citizens in Guatemala since December 1999, should be investigated and made public.

(b) The Department of State is urged to pursue all reasonable avenues in assuring the collection and public release of information pertaining to the murders of the six American citizens in Guatemala.

(c) The President shall order all Federal agencies and departments, including the Federal Bureau of Investigation, that possess relevant information, to expeditiously declassify and release to the victims' families such information.

(d) In making determinations concerning declassification and release of relevant information, all Federal agencies and departments shall presume in favor of releasing, rather than of withholding, such information.

(e) All reasonable efforts should be taken by the American Embassy in Guatemala to work with relevant agencies of the Guatemalan Government to protect the safety of American citizens in Guatemala, and to assist in the investigations of violations of human rights.

BASIC EDUCATION ASSISTANCE FOR PAKISTAN

SEC. 572. Funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 may be made available for assistance for basic education programs for Pakistan, notwithstanding any provision of law that restricts assistance to foreign countries: Provided, That such assistance is subject to the regular notification procedures of the Committees on Appropriations.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 573. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

WAR CRIMINALS

SEC. 574. (a)(1) None of the funds appropriated or otherwise made available pursuant to this Act may be made available for assistance, and the Secretary of the Treasury shall instruct the United States executive directors to the international financial institutions to vote against any new project involving the extension by such institutions of any financial or technical assistance, to any country, entity, or municipality whose competent authorities have

failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations to apprehend and transfer to the International Criminal Tribunal for the former Yugoslavia (the ''Tribunal'') all persons in their territory who have been publicly indicted by the Tribunal and to otherwise cooperate with the Tribunal.

(2) The provisions of this subsection shall not apply to humanitarian assistance or assistance for democratization.

(b) The provisions of subsection (a) shall apply unless the Secretary of State determines and reports to the appropriate congressional committees that the competent authorities of such country, entity, or municipality are—

(1) cooperating with the Tribunal, including access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension; and

(2) are acting consistently with the Dayton Accords.

(c) Not less than 10 days before any vote in an international financial institution regarding the extension of financial or technical assistance or grants to any country or entity described in subsection (a), the Secretary of the Treasury, in consultation with the Secretary of State, shall provide to the Committees on Appropriations a written justification for the proposed assistance, including an explanation of the United States position regarding any such vote, as well as a description of the location of the proposed assistance by municipality, its purpose, and its intended beneficiaries.

(d) In carrying out this section, the Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of the Treasury shall consult with representatives of human rights organizations and all government agencies with relevant information to help prevent publicly indicted war criminals from benefiting from any financial or technical assistance or grants provided to any country or entity described in subsection (a).

(e) The Secretary of State may waive the application of subsection (a) with respect to a specific project within a country, entity, or municipality upon a written determination to the Committees on Appropriations that such assistance directly supports the implementation of the Dayton Accords, which include the obligation to apprehend and transfer indicted war criminals to the Tribunal and to provide all possible assistance to refugees and displaced persons and work to facilitate their voluntary return.

(f) DEFINITIONS.—As used in this section—

(1) COUNTRY.—The term ''country'' means Bosnia and Herzegovina, Croatia and Serbia.

(2) ENTITY.—The term ''entity'' refers to the Federation of Bosnia and Herzegovina, Kosovo, Montenegro and the Republika Srpska.

(3) MUNICIPALITY.—The term ''municipality'' means a city, town or other subdivision within a country or entity as defined herein.

(4) DAYTON ACCORDS.—The term ''Dayton Accords'' means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

FUNDING FOR SERBIA

SEC. 575. (a) Of funds made available in this Act, up to $115,000,000 may be made available for assistance for Serbia: Provided, That none of these funds may be made available for assistance for Serbia after March 31, 2002, unless the President has made the determination and certification contained in subsection (c).

(b) After March 31, 2002, the Secretary of the Treasury should instruct the United States executive directors to the international financial institutions to support loans and assistance to the Government of the Federal Republic of Yugoslavia subject to the conditions in subsection (c): Provided, That section 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as amended, shall not apply to the provision of loans and assistance to the Federal Republic of Yugoslavia through international financial institutions.

(c) The determination and certification referred to in subsection (a) is a determination by the President and a certification to the Committees on Appropriations that the Government of the Federal Republic of Yugoslavia is—

(1) cooperating with the International Criminal Tribunal for Yugoslavia including access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension;

(2) taking steps, additional to those undertaken in fiscal year 2001, that are consistent with the Dayton Accords to end Serbian financial, political, security and other support which has served to maintain separate Republika Srpska institutions; and

(3) taking steps, additional to those undertaken in fiscal year 2001, to implement policies which reflect a respect for minority rights and the rule of law, including the release of all political prisoners from Serbian jails and prisons.

(d) Subsections (b) and (c) shall not apply to Montenegro, Kosovo, humanitarian assistance or assistance to promote democracy in municipalities.

USER FEES

SEC. 576. The Secretary of the Treasury shall instruct the United States executive directors to the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act) and the International Monetary Fund to oppose any loan of such institutions that would require user fees or service charges on poor people for primary education or primary healthcare, including prevention and treatment efforts for HIV/AIDS, malaria, tuberculosis, and infant, child, and maternal well-being, in connection with the institutions' lending programs, and to oppose the approval or endorsement of such user fees or service charges in connection with any structural adjustment scheme or debt relief action, including any Poverty Reduction Strategy Paper.

HEAVILY INDEBTED POOR COUNTRIES TRUST FUND AUTHORIZATION

SEC. 577. Section 801(b)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (Public Law 106–429) is amended by striking ''$435,000,000'' and inserting ''$600,000,000''.

FUNDING FOR PRIVATE ORGANIZATIONS

SEC. 578. Notwithstanding any other provision of law, regulation, or policy, in determining eligibility for assistance authorized under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), foreign nongovernmental organizations—

(1) shall not be ineligible for such assistance solely on the basis of health or medical services including counseling and referral services, provided by such organizations with non-United States Government funds if such services do not violate the laws of the country in which they are being provided and would not violate United States Federal law if provided in the United States; and

(2) shall not be subject to requirements relating to the use of non-United States Government funds for advocacy and lobbying activities other than those that apply to United States nongovernmental organizations receiving assistance under part I of such Act.

PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 579. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations.

CUBA

SEC. 580. (a) AMOUNTS FOR COOPERATION WITH CUBA ON COUNTER-NARCOTICS MATTERS.—Subject to subsection (b), of the amounts appropriated or otherwise made available by this Act, $1,500,000 shall be available for purposes of preliminary work by the Department of State, or such other entities as the Secretary of State may designate, to establish cooperation with appropriate agencies of the Cuba Government on counter-narcotics matters, including matters relating to cooperation, coordination, and mutual assistance in the interdiction of illicit drugs being transported through Cuba airspace or over Cuba waters.

(b) LIMITATION.—The amount in subsection (a) shall not be available under that subsection until the President certifies to Congress the following:

(1) That Cuba has in place appropriate procedures to protect against loss of innocent life in the air and on the ground in connection with the interdiction of illicit drugs.

(2) That there is no evidence of the involvement of the Government of Cuba in drug trafficking.

REPORTS ON CONDITIONS IN HONG KONG

SEC. 581. (a) Section 301 of the United States-Hong Kong Policy Act (22 U.S.C. 5731) is amended by striking ''and March 31, 2000,'' and inserting: ''March 31, 2000, March 31, 2001, March 31, 2002, March 31, 2003, March 31, 2004, March 31, 2005, and March 31, 2006''.

(b) The requirement in section 301 of the United States-Hong Kong Policy Act, as amended by subsection (a), that a report under that section shall be transmitted not later than March 31, 2001, shall be considered satisfied by the transmittal of such report by August 7, 2001.

DISABILITY ACCESS

SEC. 582. Housing that is constructed with funds appropriated by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and to carry out the provisions of the Support for East European Democracy (SEED) Act of 1989, shall to the maximum extent feasible, be wheelchair accessible.

COMMUNITY-BASED POLICE ASSISTANCE

SEC. 583. (a) AUTHORITY.—Funds made available to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be used, notwithstanding section 660 of that Act, to enhance the effectiveness and accountability of civilian police authority in Jamaica through training and technical assistance in internationally recognized human rights, the rule of law, strategic planning, and through the promotion of civilian police roles that support democratic governance including programs to prevent conflict and foster improved police relations with the communities they serve.

(b) REPORT.—Twelve months after the initial obligation of funds for Jamaica for activities authorized under subsection (a), the Administrator of the United States Agency for International Development shall submit a report to the appropriate congressional committees describing the progress the program is making toward improving police relations with the communities they

serve and institutionalizing an effective community-based police program.

(c) NOTIFICATION.—Assistance provided under subsection (a) shall be subject to the regular notification procedures of the Committees on Appropriations.

SEPTEMBER 11 DEMOCRACY AND HUMAN RIGHTS PROGRAMS

SEC. 584. Of the funds appropriated by this Act under the heading ''Economic Support Fund'', not less than $15,000,000 shall be made available for programs and activities to foster democracy, human rights, press freedoms, and the rule of law in countries with a significant Muslim population, and where such programs and activities would be important to United States efforts to respond to, deter, or prevent acts of international terrorism: Provided, That funds appropriated under this section should support new initiatives or bolster ongoing programs and activities in those countries: Provided further, That not less than $2,000,000 of such funds shall be made available for programs and activities that train emerging Afghan women leaders in civil society development and democracy building: Provided further, That not less than $10,000,000 of such funds shall be made available for the Human Rights and Democracy Fund of the Bureau of Democracy Human Rights and Labor, Department of State, for such activities: Provided further, That funds made available pursuant to the authority of this section shall be subject to the regular notification procedures of the Committees on Appropriations.

UZBEKISTAN

SEC. 585. Not later than three months after the date of the enactment of this Act, and six months thereafter, the Secretary of State shall submit a report to the appropriate congressional committees describing the following:

(1) The defense articles, defense services, and financial assistance provided by the United States to Uzbekistan during the six-month period ending on the date of such report.

(2) The use during such period of defense articles and defense services provided by the United States by units of the Uzbek armed forces, border guards, Ministry of National Security, or Ministry of Internal Affairs.

(3) The extent to which any units referred to in paragraph (2) engaged in human rights violations, or violations of international law, during such period.

HUMANITARIAN ASSISTANCE FOR AFGHANISTAN

SEC. 586. It is the sense of the Senate that—

(1) Afghanistan's neighbors should reopen their borders to allow for the safe passage of refugees, and the international community must be prepared to contribute to the economic costs incurred by the flight of desperate Afghan civilians;

(2) as the United States engages in military action in Afghanistan, it must work to deliver assistance, particularly through overland truck convoys, and safe humanitarian access to affected populations, in partnership with humanitarian agencies in quantities sufficient to alleviate a large scale humanitarian catastrophe; and

(3) the United States should contribute to efforts by the international community to provide long-term, sustainable reconstruction and development assistance for the people of Afghanistan, including efforts to protect the basic human rights of women and children.

AUTHORIZATIONS

SEC. 587. The Secretary of the Treasury may, to fulfill commitments of the United States, contribute on behalf of the United States to the seventh replenishment of the resources of the Asian Development Fund, a special fund of the Asian Development Bank, and to the fifth replenishment of the resources of the International Fund for Agricultural Development. The following amounts are authorized to be appropriated without fiscal year limitation for payment by the Secretary of the Treasury: $412,000,000 for the Asian Development Fund and $30,000,000 for the International Fund for Agricultural Development.

DISCRIMINATION AGAINST MINORITY RELIGIOUS FAITHS IN THE RUSSIAN FEDERATION

SEC. 588. None of the funds appropriated or otherwise made available by this Act may be made available for the Government of the Russian Federation after the date that is 180 days after the date of the enactment of this Act, unless the President determines and certifies in writing to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives that the Government of the Russian Federation has not implemented any statute, executive order, regulation, or other similar government action that would discriminate, or would have as its principal effect discrimination, against religious groups or religious communities in the Russian Federation in violation of accepted international agreements on human rights and religious freedoms to which the Russian Federation is a party.

SENSE OF THE SENATE REGARDING THE IMPORTANT ROLE OF WOMEN IN THE FUTURE RECONSTRUCTION OF AFGHANISTAN

SEC. 589. (a) FINDINGS.—The Senate finds that:

(1) Prior to the rise of the Taliban in 1996, women throughout Afghanistan enjoyed greater freedoms, comprising 70 percent of school teachers, 50 percent of civilian government workers, and 40 percent of doctors in Kabul.

(2) In Taliban-controlled areas of Afghanistan, women have been banished from the work force, schools have been closed to girls and women expelled from universities, women have been prohibited from leaving their homes unless accompanied by a close male relative, and publicly visible windows of women's houses have been ordered to be painted black.

(3) In Taliban-controlled areas of Afghanistan, women have been forced to wear the burqa (or chadari)—which completely shrouds the body, leaving only a small mesh-covered opening through which to see.

(4) In Taliban-controlled areas of Afghanistan, women and girls have been prohibited from being examined by male physicians while at the same time, most female doctors and nurses have been prohibited from working.

(5) In Taliban-controlled areas of Afghanistan, women have been brutally beaten, publicly flogged, and killed for violating Taliban decrees.

(6) The United States and the United Nations have never recognized the Taliban as the legitimate government of Afghanistan, in part, because of their horrific treatment of women and girls.

(7) Afghan women and children now make up 75 percent of the millions of Afghan refugees living in neighboring countries in substandard conditions with little food and virtually no clean water or sanitation.

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

(1) Afghan women organizations must be included in planning the future reconstruction of Afghanistan.

(2) Future governments in Afghanistan should work to achieve the following goals:

(A) The effective participation of women in all civil, economic, and social life.

(B) The right of women to work.

(C) The right of women and girls to an education without discrimination and the reopening of schools to women and girls at all levels of education.

(D) The freedom of movement of women and girls.

(E) Equal access of women and girls to health facilities.

SENSE OF THE SENATE CONDEMNING SUICIDE BOMBINGS AS A TERRORIST ACT

SEC. 590. (a) FINDINGS.—The Senate finds that:

(1) Suicide bombings have killed and injured countless people throughout the world.

(2) Suicide bombings and the resulting death and injury demean the importance of human life.

(3) There are no circumstances under which suicide bombings can be justified, including considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

(4) Religious leaders, including the highest Muslim authority in Saudi Arabia, the Grand Mufti, have spoken out against suicide bombings.

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

(1) Suicide bombings are a horrific form of terrorism that must be universally condemned.

(2) The United Nations should specifically condemn all suicide bombings by resolution.

RESTRICTION ON FUNDING FOR CAMBODIAN GENOCIDE TRIBUNAL

SEC. 591. None of the funds appropriated or otherwise made available by this Act may be used to provide equipment, technical support, consulting services, or any other form of assistance to any tribunal established by the Government of Cambodia pursuant to a memorandum of understanding with the United Nations unless the President determines and certifies to Congress that the tribunal is capable of delivering justice for crimes against humanity and genocide in an impartial and credible manner.

EXCESS DEFENSE ARTICLES FOR CENTRAL AND SOUTHERN EUROPEAN COUNTRIES AND CERTAIN OTHER COUNTRIES

SEC. 592. Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during each of the fiscal years 2002 and 2003, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavia Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan: Provided, That section 105 of Public Law 104–164 is amended by striking ''2000 and 2001'' and inserting ''2002 and 2003''.

INCREASED PEACE CORPS PRESENCE IN MUSLIM COUNTRIES

SEC. 593.(a) FINDINGS.—Congress makes the following findings:

(1) In the aftermath of the terrorist attacks of September 11, 2001, it is more important than ever to foster peaceful relationships with citizens of predominantly Muslim countries.

(2) One way to foster understanding between citizens of predominantly Muslim countries and the United States is to send United States citizens to work with citizens of Muslim countries on constructive projects in their home countries.

(3) The Peace Corps mission as stated by Congress in the Peace Corps Act is to promote world peace and friendship.

(4) Within that mission, the Peace Corps has three goals:

(A) To assist the people of interested countries in meeting the need of those countries for trained men and women.

(B) To assist in promoting a better understanding of Americans on the part of the peoples served.

(C) To assist in promoting a better understanding of other peoples on the part of Americans.

(5) The Peace Corps has had significant success in meeting these goals in the countries in which the Peace Corps operates, and has already established mechanisms to put volunteers in place and sustain them abroad.

(6) The Peace Corps currently operates in very few predominantly Muslim countries.

(7) An increased number of Peace Corps volunteers in Muslim countries would assist in promoting peace and understanding between Americans and Muslims abroad.

(b) STUDY.—The Director of the Peace Corps shall undertake a study to determine—

(1) the feasibility of increasing the number of Peace Corps volunteers in countries that have a majority Muslim population;

(2) the manner in which the Peace Corps may target the recruitment of Peace Corps volunteers from among United States citizens who have an interest in those countries or who speak Arabic;

(3) appropriate mechanisms to ensure the safety of Peace Corps volunteers in countries that have a majority Muslim population; and

(4) the estimated increase in funding that will be necessary for the Peace Corps to implement any recommendation resulting from the study of the matters described in paragraphs (1) through (3).

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Director of the Peace Corps shall submit to the appropriate congressional committees a report containing the findings of the study conducted under subsection (b).

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

MACHINE READABLE PASSPORTS.

SEC. 594. (a) AUDITS.—The Secretary of State shall—

(1) perform annual audits of the implementation of section 217(c)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(2)(B));

(2) check for the implementation of precautionary measures to prevent the counterfeiting and theft of passports; and

(3) ascertain that countries designated under the visa waiver program have established a program to develop tamper-resistant passports.

(b) PERIODIC REPORTS.—Beginning one year after the date of enactment of this Act, and every year thereafter, the Secretary of State shall submit a report to Congress setting forth the findings of the most recent audit conducted under subsection (a)(1).

(c) ADVANCING DEADLINE FOR SATISFACTION OF REQUIREMENT.—Section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)) is amended by striking ''2007'' and inserting ''2003''.

(d) WAIVER.— Section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)) is amended—

(1) by striking ''On or after'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), on or after''; and

(2) by adding at the end the following:

''(B) LIMITED WAIVER AUTHORITY.—During the period beginning October 1, 2003, and ending September 30, 2007, the Secretary of State may waive the requirement of subparagraph (A) with respect to nationals of a program country (as designated under subsection (c)), if the Secretary of State finds that the program country—

''(i) is making progress toward ensuring that passports meeting the requirement of subparagraph (A) are generally available to its nationals; and

''(ii) has taken appropriate measures to protect against misuse of passports the country has issued that do not meet the requirement of subparagraph (A).''.

SUDAN

SEC. 595. (a) FINDINGS REGARDING THE NEED FOR HUMANITARIAN ASSISTANCE.—The Senate makes the following findings:

(1) The war in Sudan has cost more than 2,000,000 lives and has displaced more than 4,000,000 people.

(2) The victims of this 18-year war are not confined to one ethnic group or religion as moderate Moslems in eastern and western Sudan suffer greatly, as do Christians and animists in southern Sudan.

(3) Humanitarian assistance to the Sudanese is a cornerstone of United States foreign assistance policy and efforts to end the war in Sudan.

(4) The United States Government has been the largest single provider of humanitarian assistance to the Sudanese people, providing $1,200,000,000 in humanitarian assistance to war victims during the past 10 years, including $161,400,000 during fiscal year 2000 alone.

(5) Continued strengthening of United States assistance efforts and international humanitarian relief operations in Sudan are essential to bringing an end to the war.

(b) FINDINGS REGARDING THE NIF GOVERNMENT.—In addition to the findings under subsection (a), the Senate makes the following findings:

(1) The people of the United States will not abandon the people of Sudan, who have suffered under the National Islamic Front (NIF) government.

(2) For more than a decade, the NIF government has provided safe haven for well-known terrorist organizations, including to Osama bin Laden's al-Qaeda and the Egyptian Islamic Jihad.

(3) The NIF government has been engaged, and continues to engage, in gross human rights violations against the civilian population of Sudan, including the enslavement of women and children, the bombardment of civilian targets, and the scorched-earth destruction of villages in the oil fields of Sudan.

(c) SENSE OF THE SENATE.—In recognition of the sustained struggle for self-determination and dignity by the Sudanese people, as embodied in the Inter-Governmental Authority on Development (IGAD) Declaration of Principles, and the statement adopted by the United States Commission on International Religious Freedom on October 2, 2001, it is the sense of the Senate that—

(1) the National Islamic Front (NIF) government of Sudan should—

(A) establish an internationally supervised trust fund that will manage and equitably disburse oil revenues;

(B) remove all bans on relief flights and provide unfettered access to all affected areas, including the Nuba Mountains;

(C) end slavery and punish those responsible for this crime against humanity;

(D) end civilian bombing and the destruction of communities in the oil fields;

(E) honor the universally recognized right of religious freedom, including freedom from coercive religious conversions;

(F) seriously engage in an internationally sanctioned peace process based on the already adopted Declaration of Principles; and

(G) commit to a viable cease-fire agreement based on a comprehensive settlement of the political problems; and

(2) the President should continue to provide generous levels of humanitarian, development, and other assistance in war-affected areas of Sudan, and to refugees in neighboring countries, with an increased emphasis on moderate Moslem populations who have been brutalized by the Sudanese government throughout the 18-year conflict.

MODIFICATION TO THE ANNUAL DRUG CERTIFICATION PROCEDURES WITH RESPECT TO COUNTRIES IN THE WESTERN HEMISPHERE

SEC. 596. During fiscal year 2002 funds in this Act that would otherwise be withheld from obligation or expenditure under section 490 of the Foreign Assistance Act of 1961 with respect to countries in the Western Hemisphere may be obligated or expended provided that:

(1) REPORT.—Not later than November 30, 2001 the President has submitted to the appropriate congressional committees a report identifying each country in the Western Hemisphere determined by the President to be a major drug-transit country or major illicit drug producing country.

(2) DESIGNATION AND JUSTIFICATION.—In each report under paragraph (1), the President shall also—

(A) designate each country, if any, identified in such report that has failed demonstrably, during the previous 12 months, to make substantial efforts—

(i) to adhere to its obligations under international counternarcotics agreements; and

(ii) to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961; and

(B) include a justification for each country so designated.

(3) LIMITATION ON ASSISTANCE FOR DESIGNATED COUNTRIES.—In the case of a country identified in a report for fiscal year 2002 under paragraph (1) that is also designated under paragraph (2) in the report, United States assistance may be provided under this Act to such country in fiscal year 2002 only if the President determines and reports to the appropriate congressional committees that—

(A) provision of such assistance to the country in such fiscal year is vital to the national interests of the United States; or

(B) commencing at any time after November 30, 2001, the country has made substantial efforts—

(i) to adhere to its obligations under international counternarcotics agreements; and

(ii) to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961.

(4) INTERNATIONAL COUNTERNARCOTICS AGREEMENT DEFINED.—In this section, the term ''international counternarcotics agreement'' means—

(A) the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

(B) any bilateral or multilateral agreement in force between the United States and another country or countries that addresses issues relating to the control of illicit drugs, such as—

(i) the production, distribution, and interdiction of illicit drugs,

(ii) demand reduction,

(iii) the activities of criminal organizations,

(iv) international legal cooperation among courts, prosecutors, and law enforcement agencies (including the exchange of information and evidence),

(v) the extradition of nationals and individuals involved in drug-related criminal activity,

(vi) the temporary transfer for prosecution of nationals and individuals involved in drug-related criminal activity,

(vii) border security,

(viii) money laundering,

(ix) illicit firearms trafficking,

(x) corruption,

(xi) control of precursor chemicals,

(xii) asset forfeiture, and

(xiii) related training and technical assistance;

and includes, where appropriate, timetables and objective and measurable standards to assess the progress made by participating countries with respect to such issues.

(5) APPLICATION.—Section 490 (b)–(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) shall not apply during fiscal year 2002 with respect to any country in the Western Hemisphere identified in paragraph (1) of this section.

(6) STATUTORY CONSTRUCTION.—Nothing in this section supersedes or modifies the requirement in section 489(a) of the Foreign Assistance Act of 1961 (with respect to the International Control Strategy Report) for the transmittal of a report not later than March 1, 2002 under that section.–

(7) SENSE OF CONGRESS ON ENHANCED INTERNATIONAL NARCOTICS CONTROL.—It is the sense of Congress that—

(A) many governments are extremely concerned by the national security threat posed by illicit drug production, distribution, and consumption, and crimes related thereto, particularly those in the Western Hemisphere;

(B) an enhanced multilateral strategy should be developed among drug producing, transit, and consuming nations designed to improve cooperation with respect to the investigation and prosecution of drug related crimes, and to make available information on effective drug education and drug treatment;

(C) the United States should at the earliest feasible date convene a conference of representatives of major illicit drug producing countries, major drug transit countries, and major money laundering countries to present and review country by country drug reduction and prevention strategies relevant to the specific circumstances of each country, and agree to a program and timetable for implementation of such strategies; and

(D) not later than one year after the date of the enactment of this Act, the President should transmit to Congress any legislation necessary to implement a proposed multilateral strategy to achieve the goals referred to in subparagraph (B), including any amendments to existing law that may be required to implement that strategy.

CENTRAL AMERICA DISASTER RELIEF

SEC. 597. Of the funds appropriated under the headings ''International Disaster Assistance'', ''Development Assistance'', and ''Economic Support Fund'', not less than $35,000,000 should be made available for relief and reconstruction assistance for victims of earthquakes and drought in El Salvador and elsewhere in Central America.

PROJECTS HONORING VICTIMS OF TERRORIST ATTACKS

SEC. 598. The National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) is amended by inserting before title V the following:

''TITLE IV—PROJECTS HONORING VICTIMS OF TERRORIST ATTACKS

''(a) DEFINITION.—In this section, the term 'Foundation' means the Points of Light Foundation funded under section 301, or another nonprofit private organization, that enters into an agreement with the Corporation to carry out this section.

''(b) IDENTIFICATION OF PROJECTS.—

''(1) ESTIMATED NUMBER.—Not later than December 1, 2001, the Foundation, after obtaining the guidance of the heads of appropriate Federal agencies, such as the Director of the Office of Homeland Security and the Attorney General, shall—

''(A) make an estimate of the number of victims killed as a result of the terrorist attacks on September 11, 2001 (referred to in this section as the 'estimated number'); and

''(B) compile a list that specifies, for each individual that the Foundation determines to be such a victim, the name of the victim and the State in which the victim resided.

''(2) IDENTIFIED PROJECTS.—The Foundation shall identify approximately the estimated number of community-based national and community service projects that meet the requirements of subsection (d). The Foundation shall name each identified project in honor of a victim described in subsection (b)(1)(A), after obtaining the permission of an appropriate member of the victim's family and the entity carrying out the project.

(c) ELIGIBLE ENTITIES.—To be eligible to have a project named under this section, the entity carrying out the project shall be a political subdivision of a State, a business, or a nonprofit organization (which may be a religious organization, such as a Christian, Jewish, or Muslim organization).

''(d) PROJECTS.—The Foundation shall name, under this section, projects—

''(1) that advance the goals of unity, and improving the quality of life in communities; and

''(2) that will be planned, or for which implementation will begin, within a reasonable period after the date of enactment of this section, as determined by the Foundation.

''(e) WEBSITE AND DATABASE.—The Foundation shall create and maintain websites and databases, to describe projects named under this section and serve as appropriate vehicles for recognizing the projects.''.

WAIVER OF RESTRICTION ON ASSISTANCE TO AZERBAIJAN

SEC. 599. (a) Section 907 of the FREEDOM Support Act shall not apply to—

(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 or nonproliferation assistance;

(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

(4) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

(5) any financing provided under the Export-Import Bank Act of 1945; or

(6) humanitarian assistance.

(b) The President may waive section 907 of the FREEDOM Support Act if he determines and certifies to the Committees on Appropriations that to do so—

(1) is necessary to support United States efforts to counter terrorism; or

(2) is necessary to support the operational readiness of United States Armed Forces or coalition partners to counter terrorism; or

(3) is important to Azerbaijan's border security; and

(4) will not undermine or hamper ongoing efforts to negotiate a peaceful settlement between Armenia and Azerbaijan or be used for offensive purposes against Armenia.

(c) The authority of subsection (b) may only be exercised through December 31, 2002.

(d) The President may extend the waiver authority provided in subsection (b) on an annual basis on or after December 31, 2002 if he determines and certifies to the Committees on Appropriations in accordance with the provisions of subsection (b).

(e) The Committees on Appropriations shall be consulted prior to the provision of any assistance made available pursuant to subsection (b).

(f) Within 60 days of any exercise of the authority under subsection (b) the President shall send a report to the appropriate congressional committees specifying in detail the following—

(1) the nature and quantity of all training and assistance provided to the Government of Azerbaijan pursuant to subsection (b);

(2) the status of the military balance between Azerbaijan and Armenia and the impact of United States assistance on that balance; and

(3) the status of negotiations for a peaceful settlement between Armenia and Azerbaijan and the impact of United States assistance on those negotiations.

FEDERAL INVESTIGATION ENHANCEMENT ACT OF 2001

SEC. 599A. (a) SHORT TITLE.—This section may be cited as the ''Federal Investigation Enhancement Act of 2001''.

(b) UNDERCOVER INVESTIGATIVE PRACTICES CONDUCTED BY FEDERAL ATTORNEYS.—Section 530B(a) of title 28, United States Code, is amended by inserting after the first sentence, ''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.''.

KENNETH M. LUDDEN

SEC. 599B. This Act shall be cited as the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 2002.

This Act may be cited as the ''Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002''.

EXECUTIVE SESSION

EXECUTIVE CALENDAR AND DISCHARGE

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar No. 437, Benigno Reyna, to be Director of the United States Marshals Service, and that the HELP Committee be discharged from further consideration of the nomination of Charles Curie, to be Administrator of the Substance Abuse and Mental Health Services Administration; that the nominations be considered and confirmed en bloc, the motion to reconsider be laid upon the table en bloc, any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

Benigno G. Reyna, of Texas, to be Director of the United States Marshals Service.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Charles Curie, of Pennsylvania to be Administrator of the Substance Abuse and Mental Health Services Administration, Department of Health and Human Services.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MAKING FURTHER CONTINUING APPROPRIATIONS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of H.J. Res. 70, just received from the House and 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. 70) making further continuing appropriations for the fiscal year 2002, and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. Madam President, I ask unanimous consent that the joint resolution be read three times, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The joint resolution (H.J. Res. 70) was read the third time and passed.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to H.R. 2299, the Department of Transportation appropriations bill, that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer appointed Mrs. MURRAY, Mr. BYRD, Ms. MIKULSKI, Mr. REID, Mr. KOHL, Mr. DURBIN, Mr. LEAHY, Mr. INOUYE, Mr. SHELBY, Mr. SPECTER, Mr. BOND, Mr. BENNETT, Mr. CAMPBELL, Mrs. HUTCHISON, and Mr. STEVENS conferees on the part of the Senate.

MEASURE READ THE FIRST TIME—H.R. 1552

Mr. REID. Madam President, I understand that H.R. 1552, which was just received from the House, is at the desk. 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 (H.R. 1552) to extend the moratorium enacted by the Internet Tax Freedom Act through November 1, 2003, and for other purposes.

Mr. REID. Madam President, I ask for its second reading and object to my own request on behalf of a number of my colleagues.

The PRESIDING OFFICER. Objection is heard.

The bill will remain at the desk.

ORDERS FOR FRIDAY, OCTOBER 26, 2001 AND TUESDAY, OCTOBER 30, 2001

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10:30 a.m., Friday, October 26, for a pro forma session only; that following the Friday pro forma session, the Senate stand in adjournment until Tuesday, October 30, at 10 a.m.; immediately following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day, and the Senate begin consideration of Calendar No. 197, H.R. 3061, the Labor-HHS Appropriations Act; further that the Senate recess from 12:30 to 2:15 p.m. for the weekly party conferences.

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

PROGRAM

Mr. REID. Madam President, the majority leader has asked me to announce to the Senate that there will be no rollcall votes prior to 2:15 p.m. on Tuesday.

ADJOURNMENT UNTIL 10:30 A.M., FRIDAY, OCTOBER 26, 2001

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:37 p.m., adjourned until Friday, October 26, 2001, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 25, 2001:

DEPARTMENT OF STATE

EARL NORFLEET PHILLIPS, JR., OF NORTH CAROLINA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BARBADOS, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ST. KITTS AND NEVIS, SAINT LUCIA, ANTIGUA AND BARBUDA, THE COMMONWEALTH OF DOMINICA, GRENADA, AND SAINT VINCENT AND THE GRENADINES.

DEPARTMENT OF JUSTICE

JAMES A. MCDEVITT, OF WASHINGTON, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF WASHINGTON, FOR THE TERM OF FOUR YEARS, VICE JAMES PATRICK CONNELLY, RESIGNED.

JOHNNY KEANE SUTTON, OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF TEXAS, FOR THE TERM OF FOUR YEARS, VICE JAMES WILLIAM BLAGG, RESIGNED.

RICHARD S. THOMPSON, OF GEORGIA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF GEORGIA, FOR THE TERM OF FOUR YEARS, VICE HARRY DONIVAL DIXON, JR., RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

ROBERT A. JOHNSON, 0000
JEFFREY D. PAULSON, 0000
TERRANCE L. STRATTON, 0000
JOHN T. WASHINGTON III, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate October 25, 2001:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CHARLES CURIE, OF PENNSYLVANIA, TO BE ADMINISTRATOR OF THE SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF JUSTICE

BENIGNO G. REYNA, OF TEXAS, TO BE DIRECTOR OF THE UNITED STATES MARSHALS SERVICE.

WITHDRAWAL

Executive message transmitted by the President to the Senate on October 25, 2001, withdrawing from further Senate consideration the following nomination:

MICHELLE VAN CLEAVE, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 21, 2001.